



International Tribunal for the  
Prosecution of Persons  
Responsible for Serious Violations  
of International Humanitarian Law  
Committed in the Territory of the  
former Yugoslavia since 1991

Case No.: IT-05-88-T

Date: 1 July 2009

Original: English

**IN TRIAL CHAMBER II**

**Before:** Judge Carmel Agius, Presiding  
Judge O-Gon Kwon  
Judge Kimberly Prost  
Judge Ole Bjørn Støle – Reserve Judge

**Registrar:** Mr. John Hocking

**Order of:** 1 July 2009

**PROSECUTOR**

v.

**VUJADIN POPOVIĆ  
LJUBIŠA BEARA  
DRAGO NIKOLIĆ  
LJUBOMIR BOROVIČANIN  
RADIVOJE MILETIĆ  
MILAN GVERO  
VINKO PANDUREVIĆ**

***PUBLIC***

**DECISION ON MILETIĆ MOTION FOR ADMISSION OF RELEVANT  
INFORMATION PURSUANT TO RULE 85(A)(iv)**

**Office of the Prosecutor**

Mr. Peter McCloskey

**Counsel for the Accused**

Mr. Zoran Živanović and Ms. Mira Tapušковиć for Vujadin Popović  
Mr. John Ostojić and Mr. Predrag Nikolić for Ljubiša Beara  
Ms. Jelena Nikolić and Mr. Stéphane Bourgon for Drago Nikolić  
Mr. Aleksandar Lazarević and Mr. Christopher Gosnell for Ljubomir Borovčanin  
Ms. Natacha Fauveau Ivanović and Mr. Nenad Petrušić for Radivoje Miletić  
Mr. Dragan Krgović and Mr. David Josse for Milan Gvero  
Mr. Peter Haynes and Mr. Simon Davis for Vinko Pandurević

**THIS TRIAL CHAMBER** of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991 (“Tribunal”);

**BEING SEISED** of Miletić’s motion for the admission of relevant information pursuant to Rule 85(A)(vi) of the Rules of Procedure and Evidence of the Tribunal (“Rules”) filed on 2 June 2009 in the original French (“Motion”), wherein the Miletić Defence seeks the admission into evidence of four documents which are said to contain sentencing-related information (“Documents”);<sup>1</sup>

**NOTING** the “Prosecution Response to General Miletić’s Motion for Admission of Relevant Information Pursuant to Rule 85(A)(vi) of the Rules of Procedure and Evidence” filed on 16 June 2009 (“Prosecution Response”);

**NOTING** Rule 85(vi) of the Rules provides that “any relevant information that may assist the Trial Chamber in determining an appropriate sentence if the accused is found guilty on one or more of the charges in the indictment” may be presented;

**NOTING** Rule 89(C) provides that a Trial Chamber may admit any relevant evidence that it deems to have probative value;<sup>2</sup>

**NOTING** that the Miletić Defence submits the Documents are relevant for the sole purpose of determining Miletić’s potential sentence in the event he is convicted and do not, in any way, affect the other Accused in this case;

**NOTING** the Prosecution does not oppose the Motion;<sup>3</sup>

**CONSIDERING** that Trial Chambers have granted motions to admit documents into evidence where the party offering the evidence shows relevance by clearly and specifically explaining how

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<sup>1</sup> Original in French entitled “Requête du Général Miletić aux fins d’admission des informations pertinentes en application de l’article 85(A)(vi) du Règlement de procédure et de preuve”, 2 juin 2009.

<sup>2</sup> See also *Prosecutor v. Galić*, Case No. IT-98-29-AR.73.2, Decision on Interlocutory Appeal Concerning Rule 92bis(C), 7 June 2002, para. 35 (noting that evidence must be relevant and have probative value to be admitted); *Prosecutor v. Kordić and Čerkez*, Case No. IT-95-14/2-AR73.5, Decision on Appeal Regarding Statement of a Deceased Witness, 21 July 2000, para. 24; *Prosecutor v. Strugar*, Case No. IT-01-42-T, Decision on the Admissibility of Certain Documents, 26 May 2004, para. 12.

<sup>3</sup> Motion, para. 2.

each exhibit fits into the case and demonstrates that the documents have sufficient indicia of reliability;<sup>4</sup>

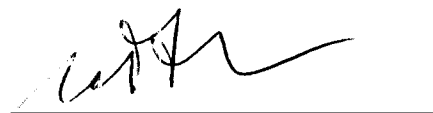
**CONSIDERING** that the Documents are relevant and present sufficient indicia of reliability;

**CONSIDERING** further that the document identified as 5D01442 is a detailed report on the health of Miletić's wife and should therefore be entered into the record under seal;

**PURSUANT TO** Rule 85(vi) and 89(C)

**HEREBY GRANTS** the Motion and **ADMITS** the Documents referenced in the Motion as 5D01442, 5D01443, 5D01444 and 5D01445.

Done in English and French, the English text being authoritative.



Carmel Agius  
Presiding

Dated this first day of July 2009  
At The Hague  
The Netherlands

[Seal of the Tribunal]

<sup>4</sup> See *Prosecutor v. Delić*, Case No. IT-04-83-T, Decision on Prosecution Submission on the Admission of Documentary Evidence, 16 January 2008, paras. 8, 9, 16; *Prosecutor v. Boškoski and Tarčulovski*, Case No. IT-04-82-T, Decision on Prosecution's Motion for Admission of Exhibits from the Bar Table with Confidential Annexes A to E, 14 May 2007, paras. 13-15, 22-23. See also *Prosecutor v. Blaškić*, Case No. IT-95-14-T, Judgement, 3 March 2000, para. 35.