

UNITED
NATIONS



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-05-87/1-T
Date: 3 November 2009
Original: English

IN TRIAL CHAMBER II

Before: Judge Kevin Parker, Presiding
Judge Christoph Flügge
Judge Melville Baird

Registrar: Mr John Hocking

Decision: 3 November 2009

PROSECUTOR

v.

VLASTIMIR ĐORĐEVIĆ

PUBLIC

**DECISION ON PROSECUTION MOTION RE EXHIBIT P1302
WITH ATTACHMENT A**

The Office of the Prosecutor:

Mr Chester Stamp
Ms Daniela Kravetz

Counsel for the Accused:

Mr Dragoljub Đorđević
Mr Veljko Đurđić

THIS TRIAL CHAMBER (“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 SEIZED OF the “Prosecution Motion Re Exhibit P1302 with Attachment A” filed by the Office of the Prosecutor (“Prosecution”) on 12 October 2009 (“Motion”), whereby the Prosecution submits that it has obtained a subtitled version of a video-recorded interview of witness Dren Čaka, MFI P1302, (“video”) and a new revised transcript from CLSS of this video previously marked for identification by the Chamber pending a complete transcript of what is being said in English and Albanian,¹ and seeks that the video and the associated transcript be admitted into evidence (“Motion”);²

NOTING the Prosecution’s submission that witness Dren Čaka has confirmed that he is the child on the video, that he has explained the identity of the other persons on the video and that he has indicated approximately when and where the video was filmed;³

NOTING “Vlastimir Đorđević’s Response to Prosecution’s Motion Re Exhibit P1302 with Attachment A” filed by Counsel for Vlastimir Đorđević (“Defence”) on 22 October 2009 (“Response”), whereby the Defence objects to the admission of MFI P1302, and submits that portions of the video from 0:42’ to 1:08’ are not transcribed nor translated, in particular the portion of the video where a child other than witness Dren Čaka is shown, and therefore submits that the English transcript of the video is incomplete;⁴

NOTING that the Defence submits that the translation of the transcript of the video-recorded interview has been generated in-house by the Prosecution and is therefore unofficial;⁵

NOTING further, that the Defence submits that there is no information pertaining to the identity of the author of the video, the identity of the interviewer, the purpose of the video and why the video stopped when the Witness was asked how he was wounded and when he was shot;⁶

NOTING also, that the Defence submits that it does not object to the relevant parts of the video being admitted without audio and transcript;⁷

¹ *Prosecutor v Vlastimir Đorđević*, Case No IT-05-87/1-T, court session of 31 August 2009, T 8655-8656.

² Motion, paras 1-2.

³ Motion, paras 3, 6.

⁴ Response, paras 4-5.

⁵ Response, para 3.

⁶ Response, para 5.

⁷ Response, para 6.

NOTING the Prosecution's "Reply to Vlastimir Dordevic's Response to Prosecution's Motion Re Exhibit P1302 with Attachment A" filed on 29 October ("Reply"), whereby the Prosecution requests leave to file the reply as set forth in the filing and submits that the transcript of the video attached to the Motion is a revised and real-time transcript prepared by the Prosecution's Document and Video Unit ("DVU"), that the Prosecution was unable to obtain a "real language transcript" of the video from CLSS which does not transcribe videos and that the English and B/C/S transcript attached to the Motion has been translated by CLSS;⁸

NOTING that the Prosecution's submission that the revised transcript contains a transcription of everything that is intelligible in the portion of the video from 0:42' to 1:08' and that the DVU does not possess the technological equipment required to filter the background noise and decipher what is said in the video;⁹

NOTING further, that the Prosecution submits that MFI P1302 is part of a lengthier video obtained by Prosecution's investigators during the investigation in Kosovo, that a Surrogate Sheet of the video in the e-Court system of MFI P1302 contains a description of the full video and that the entire and unedited video was disclosed to the Defence on 5 September 2008;¹⁰

CONSIDERING that the Chamber is satisfied that the revised transcript constitutes a complete transcription of the intelligible language spoken by all persons heard in the video and that an official translation of that transcript had been provided by CLSS;

CONSIDERING that the Chamber is satisfied that the document has been shown to be sufficiently reliable to justify its admission;

For the foregoing reasons, the Chamber

⁸ Reply, para 4.

⁹ Reply, para 5.

¹⁰ Reply, para 6.

GRANTS leave to the Prosecution to file the Reply;

GRANTS the Motion and **DECIDES** to admit the subtitled version of the video and the associated revised transcript of this video in English and in B/C/S, as Exhibit P1302.

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

Dated this third day of November 2009
At The Hague
The Netherlands



Judge Kevin Parker
Presiding

[Seal of the Tribunal]