



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-05-88/2-T
Date: 1 September 2011
Original: English

IN TRIAL CHAMBER II

Before: Judge Christoph Flügge, Presiding
Judge Antoine Kesia-Mbe Mindua
Judge Prisca Matimba Nyambe

Registrar: Mr. John Hocking

Order of: 1 September 2011

PROSECUTOR

v.

ZDRAVKO TOLIMIR

PUBLIC

**ORDER REGARDING ADMISSION OF RULE 92 *bis*
ASSOCIATED EXHIBITS**

Office of the Prosecutor
Mr. Peter McCloskey

The Accused
Zdravko Tolimir

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”);

NOTING the “Prosecution’s Motion for Admission of Written Evidence in Lieu of *Viva Voce* Testimony Pursuant to Rule 92 *bis*”, filed on 13 February 2009 (“Rule 92 *bis* Motion”), in which the Prosecution tendered exhibits associated with the testimony of witnesses in prior proceedings;

NOTING the Chamber’s “Decision on Prosecution’s Motion for Admission of Written Evidence Pursuant to Rules 92 *bis* And 94 *bis*” filed on 7 July 2010 (“7 July Decision”), in which the Chamber ordered the following:

- (2)(a) The written statements and/or transcripts of prior testimony tendered in the Rule 92 *bis* Motion, Appendix B for Witnesses Nos. 24, 25, 28, 45, 46, 57, 64, 65, 66, 68, 69, 70, 71, 73, 74, 75, 76, 77, 78, 79, 97, 101, 104, 106, 111, 113, 116, 118, 119, 120, 123, 124, 146, 147, 154, 155, 157, 159, 160, 161, 163, 164, 165, 166, 167, 168, 169, 170, 173, 178, and 181 shall be provisionally admitted into evidence pursuant to Rule 92 *bis*(A) and/or (B) without requiring the witnesses to appear for cross-examination subject to the Prosecution, within 30 days of the date of this Decision, providing the corresponding Rule 65 *ter* numbers in the present case and replacing all transcripts headed “Not Official; Not Corrected” with transcripts reflecting the official record;
 - (2)(b) *The associated exhibits tendered in the Rule 92 bis Motion, Appendix B which were admitted through each witness listed in paragraph (2)(a) above during the relevant prior proceedings shall be provisionally admitted subject to the Prosecution, within 30 days of the date of this Decision, providing the corresponding Rule 65 ter numbers in the present case;*
- [...]
- (5) **DENIES** the Motion in all other respects.¹

NOTING that the Prosecution provided the Rule 65 *ter* numbers for the exhibits tendered in Appendix B of its Rule 92 *bis* Motion which were admitted through the above witnesses during the relevant prior proceedings, but that the Prosecution’s submissions also contained 65 *ter* numbers for documents that:

- (i) were not tendered in Appendix B of the Prosecution’s Rule 92 *bis* Motion and, accordingly, were not subject to the 7 July Decision; or
- (ii) were tendered in Appendix B of the Prosecution’s Rule 92 *bis* Motion but were not admitted through the above witnesses during the relevant prior proceedings and, accordingly, were denied admission in the 7 July Decision;

¹ 7 July Decision, pp. 48–49 (emphasis added).

NOTING that on 27 January 2011, the Registry circulated to the Chamber and Parties a list of exhibit numbers it proposed to assign to associated exhibits based on the information provided by the Prosecution which included documents either not subject to or denied admission by the 7 July Decision;²

NOTING that this Chamber admitted by oral decision on 31 January 2011 the documents listed by the Registry,³ as reflected also in the confidential Registry Internal Memorandum Assigning Exhibit Numbers of 17 February 2011 (“Registry’s internal memorandum”);

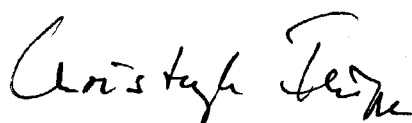
NOTING that the Chamber’s oral decision, therefore, admitted into evidence some documents either not subject to or denied admission by its 7 July Decision;

CONSIDERING that it is in the interest of justice that the admission of exhibits should conform to the intentions of the Chamber, as reflected in the 7 July Decision;

PURSUANT TO Rules 54 and 92 *bis* of the Rules,

HEREBY INSTRUCTS the Registry to file within 14 days of the present Order a further memorandum identifying the documents listed in the Registry’s internal memorandum which were either not subject to or denied admission by the 7 July Decision.

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



Judge Christoph Flügge

Presiding Judge

Dated this first day of September 2011
At The Hague
The Netherlands

[Seal of the Tribunal]

² Registry email dated 27 January 2011.

³ T. 9097 (31 January 2011).