



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-09-92-T
Date: 19 October 2015
Original: English

IN TRIAL CHAMBER I

Before: Judge Alphons Orie, Presiding
Judge Bakone Justice Moloto
Judge Christoph Flügge

Registrar: Mr John Hocking

Decision of: 19 October 2015

PROSECUTOR

v.

RATKO MLADIĆ

PUBLIC

**DECISION ON DEFENCE'S MOTION TO ADMIT THE
EVIDENCE OF DRAŽEN VIŠNJIĆ
PURSUANT TO RULE 92 *BIS***

Office of the Prosecutor

Mr Peter McCloskey
Mr Alan Tieger

Counsel for Ratko Mladić

Mr Branko Lukić
Mr Miodrag Stojanović

I. PROCEDURAL HISTORY AND SUBMISSIONS

1. On 15 September 2015, the Defence filed a motion (“Motion”) pursuant to Rule 92 *bis* of the Tribunal’s Rules of Procedure and Evidence (“Rules”) seeking the provisional admission into evidence of the witness statement of Dražen Višnjić dated 19 June 2014.¹ It submits that the statement is relevant and has probative value, in particular as it relates to an alleged attack on Serb hamlets in Jošanica on 19 December 1992 by Muslim forces from Goražde, and contains relevant information concerning the historical, political, and military background about events in Zenica Municipality in 1992.² The Defence further submits that the statement is admissible under Rule 92 *bis* of the Rules because it does not pertain to the acts and conduct of the Accused.³ On 29 September 2015, the Prosecution filed its response, not opposing the Motion.⁴

II. APPLICABLE LAW

2. The Chamber recalls and refers to the applicable law governing the admission of evidence pursuant to Rule 92 *bis* of the Rules as set out in a previous decision.⁵

III. DISCUSSION

A. Attestation and Declaration

3. The statement has no corresponding attestation and declaration as required by Rule 92 *bis* (B) of the Rules. Unattested witness statements have previously been conditionally admitted by this Chamber pending their formal attestation.⁶ In line with this practice, provided that all other admissibility requirements are met, the Chamber will conditionally admit the unattested witness statement pending the filing of the required attestation and declaration.

B. Admissibility pursuant to Rule 89 (C) of the Rules

4. The Chamber understands that the statement relates to the military situation and inter-ethnic tensions in Zenica Municipality in 1992, matters that are generally relevant to the crimes as charged under Counts 1, and 3 to 8 of the Indictment. Although Zenica Municipality does not fall within the

¹ Defense Motion Pursuant to [*sic*] Admit the Evidence of Dražen Višnjić Pursuant to Rule 92*BIS*, 15 September 2015.

² Motion, paras 1-2, 18-19, 23, 29.

³ Motion, para. 28.

⁴ Prosecution Response to Defence Motion to Admit the Evidence of Dražen Višnjić Pursuant to Rule 92 *bis*, 29 September 2015.

⁵ Decision on Prosecution Third Motion to Admit Evidence Pursuant to Rule 92 *bis*: Sarajevo Witnesses, 19 October 2012 (“Decision on Prosecution’s Third 92 *bis* Motion”), paras 5-7.

⁶ Decision on Prosecution’s Third 92 *bis* Motion, para. 27 and references cited therein.

geographical scope of the Indictment, the Chamber understands that the Defence is presenting the evidence because it relates to motive for military action during the relevant period in the Indictment. Therefore, the Chamber finds that the statement is not deprived of relevance or probative value however limited it may be. The Chamber therefore finds that the statement meets the requirements for admissibility pursuant to Rule 89 (C) of the Rules.

C. Admissibility pursuant to Rule 92 bis of the Rules

5. The Chamber, having reviewed the statement, does not find, and the Prosecution does not argue, that it relates to the acts and conduct of the Accused. The Chamber considers that as it relates to the historical, political, and military situation in Zenica Municipality in 1992, and an alleged attack on Serb hamlets in Jošanica on 19 December 1992 by Muslim forces from Goražde, the statement is cumulative with the evidence of other witnesses who have already provided testimony in this case, for example Radovan Glogovac and Trifko Pljevaljčić. The Chamber finds that these factors, which are relevant to Rule 92 bis (A) (i) of the Rules, weigh in favour of admission. There are no factors under Rule 92 bis (A) (ii) weighing against admission. For these reasons, the Chamber concludes that the statement is admissible pursuant to Rule 92 bis of the Rules.

IV. DISPOSITION

6. For the foregoing reasons, pursuant to Rule 92 bis of the Rules, the Chamber

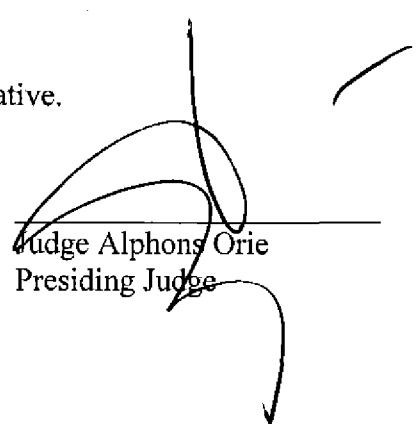
GRANTS the Motion;

CONDITIONALLY ADMITS into evidence, pending the filing of an attestation and declaration in compliance with Rule 92 bis of the Rules, the statement of Dražen Višnjić dated 19 June 2014, bearing Rule 65 ter number 1D01651;

INSTRUCTS the Defence to file the corresponding attestation and declaration to the statement of Dražen Višnjić within six weeks of the filing of this decision; and

REQUESTS the Registry to assign an exhibit number to the statement.

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



Judge Alphons Orie
Presiding Judge

Dated this nineteenth day of October 2015
At The Hague
The Netherlands

[Seal of the Tribunal]