



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: 18 December 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:** 18 December 2015

**PROSECUTOR**

**v.**

**RATKO MLADIĆ**

***PUBLIC***

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**DECISION ON MOTION TO ADMIT THE EVIDENCE OF  
RATKO MILJANOVIĆ PURSUANT TO RULE 92BIS**

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**Office of the Prosecutor**

Mr Peter McCloskey  
Mr Alan Tieger

**Counsel for Ratko Mladić**

Mr Branko Lukić  
Mr Miodrag Stojanović

## I. PROCEDURAL HISTORY

1. On 15 September 2015, the Defence filed a motion ("Motion") seeking provisional admission of the redacted written statement of Ratko Miljanović and six associated exhibits pursuant to Rule 92 *bis* of the Tribunal's Rules of Procedure and Evidence ("Rules").<sup>1</sup> On 29 September 2015, the Prosecution filed its response ("Response"), opposing the Motion.<sup>2</sup>

## II. SUBMISSIONS OF THE PARTIES

2. The Defence submits, *inter alia*, that the proffered evidence does not pertain to the acts and conduct of the Accused but rather constitutes supporting evidence pertaining to circumstances surrounding acts charged in the Indictment.<sup>3</sup> The Defence further submits that the proffered evidence is largely descriptive of the role and functioning of the VRS Main Staff Logistics Sector and relates to the relevant historical, political, and military background of acts charged in the Indictment.<sup>4</sup> Accordingly, the Defence contends that the proffered evidence is relevant, probative and admissible in written form in the interests of facilitating and upholding judicial expediency.<sup>5</sup>

3. The Prosecution opposes admission on the grounds that the proffered evidence relates to live and critical issues in the case.<sup>6</sup> In particular, the Prosecution identifies sections of the proffered evidence which deal with the VRS Main Staff Logistics Sector activities, as well as those sections which expand upon the role of the witness as acting Assistant Commander for Logistics in which capacity he reported directly to the Accused, as evidence relevant to live and critical issues in the case.<sup>7</sup> The Prosecution therefore contends that the proffered evidence is not suitable for admission pursuant to Rule 92 *bis* of the Rules, and instead the witness should be made available for cross-examination.<sup>8</sup>

<sup>1</sup> Defense Motion pursuant to [*sic*] admit the evidence of Ratko Miljanović pursuant to Rule 92bis, 15 September 2015.

<sup>2</sup> Prosecution Response to Defence Motion to admit the evidence of Ratko Miljanović pursuant to Rule 92bis, 29 September 2015.

<sup>3</sup> Motion, paras 1, 21, 26-27.

<sup>4</sup> Motion, paras 18, 21.

<sup>5</sup> Motion, paras 3-4, 23-27.

<sup>6</sup> Response, paras 2-4.

<sup>7</sup> Response, paras 3-4.

<sup>8</sup> Response, para. 5.

### III. APPLICABLE LAW

4. 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.<sup>9</sup>

### IV. DISCUSSION

#### A. Admissibility Pursuant to Rule 89 (C) of the Rules

5. In the proffered evidence, the witness discusses his role within, and the structure and activities of the VRS Main Staff Logistics Sector.<sup>10</sup> Further discussed is the storage and use of ammunition and fuel, the issuance of orders for its usage, and the passage of humanitarian aid through VRS territory.<sup>11</sup> Finally, the witness discusses the engagement of 50 buses by his superior, General Dukić, bound towards Potočari when the VRS entered Srebrenica.<sup>12</sup> The witness has signed his statement. The Chamber, therefore, considers the written statement to be relevant and probative of crimes charged in the Indictment, thus fulfilling the requirements of Rule 89 (C) of the Rules.

#### B. Admissibility Pursuant to Rule 92 *bis* of the Rules

6. The Prosecution has not argued and the Chamber does not find that the witness's statement relates to the acts and conduct of the Accused.

7. The proffered evidence elaborates upon VRS Main Staff Logistics Sector operations and, by implication, is proximate to explicating the Accused's influence regarding these operations. In this regard, for a time, the witness assumed the position of acting Assistant Commander for Logistics and, in this capacity, reported directly to the Accused.<sup>13</sup>

8. The proffered evidence references VRS Main Staff Logistics Sector operations related to the passage of humanitarian aid through safe areas established in VRS-held territory and VRS DutchBat interactions.<sup>14</sup> The proffered evidence elaborates on fuel distribution to VRS logistics bases and the storage of ammunition and fuel.<sup>15</sup> The proffered evidence further references the engagement of buses sent towards Potočari at the time when the VRS entered Srebrenica and the engagement of 50 buses for the transport of women and children and one bus for the transport of the

<sup>9</sup> Decision on Prosecution Third Motion to Admit Evidence Pursuant to Rule 92 *bis*: Sarajevo Witnesses, 19 October 2012, paras 5-8.

<sup>10</sup> Motion, Annex A, paras 4, 8-18, 27.

<sup>11</sup> Motion, Annex A, paras 9, 19, 28-29, 31.

<sup>12</sup> Motion, Annex A, paras 23-24.

<sup>13</sup> Motion, Annex A, para. 4.

<sup>14</sup> Motion, Annex A, para. 19.

sick and wounded from the safe area of Žepa on 19 July 1995.<sup>16</sup> Finally, within his statement, the witness denies knowledge of the involvement of the VRS Main Staff Logistics Sector in the planning and preparation of military operations around Srebrenica.<sup>17</sup>

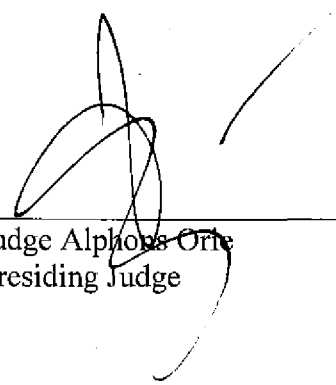
9. Due to the proximity of the Accused to the VRS Main Staff and the nature of the activities discussed, the Chamber considers, pursuant to Rule 92 *bis* (A) (ii) (c) of the Rules, that the proffered evidence is more appropriately presented orally so that the witness is made available for cross-examination. Accordingly, the Chamber will deny the Motion.

## V. DISPOSITION

10. For the foregoing reasons, pursuant to Rules 89 (C) and 92 *bis* of the Rules, the Chamber

**DENIES** the Motion.

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



Judge Alphons Orie  
Presiding Judge

Dated this eighteenth day of December 2015  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**

<sup>15</sup> Motion, Annex A, paras 28-31.

<sup>16</sup> Motion, Annex A, paras 23-25.

<sup>17</sup> Motion, Annex A, para. 22.