



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: 5 February 2009
Original: English

IN TRIAL CHAMBER II

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

Registrar: Mr John Hocking, Acting Registrar

Decision: 5 February 2009

PROSECUTOR

v.

VLASTIMIR ĐORĐEVIĆ

PUBLIC

**DECISION ON PROSECUTION'S MOTION FOR ADMISSION
OF EVIDENCE PURSUANT TO RULE 92^{quater}**

The Office of the Prosecutor:

Mr Chester Stamp
Ms Daniela Kravetz
Mr Matthias Neuner
Ms Priya Gopalan
Ms Silvia D'Ascoli

Counsel for the Accused:

Mr Dragoljub Đorđević
Mr Veljko Đurđić

1. 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”) is seized of the “Prosecution’s Motion for Admission of Evidence pursuant to Rule 92*quater*”, filed by the Prosecution on 28 October 2008, in which it seeks the admission in written form of the evidence pursuant to Rule 92*quater* of the Rules of Procedure and Evidence (“Rules”) of four deceased witnesses (“Motion”). Specifically, the Prosecution is seeking to admit (a) Sadik Januzi’s two written statements dated 20 - 21 October 2001 (identified as P2524) and 23 April 1995 (identified as P2525), (b) Halil Morina’s written statement dated 4 - 5 October 2001 (identified as P2522), and the transcript of his prior testimony in the *Milošević* case (identified as P2523), (c) Ibrahim Rugova’s written statement dated 1 and 3 November 2001 (identified as P2613), and the transcript of his prior testimony in the *Milošević* case (identified as P2612), and (d) Antonio Russo’s written statement dated 24 April 1999 (identified as P2261). On 11 November 2008, Counsel for Vlastimir Đorđević (“Defence”) filed a Response opposing the Motion.¹

A. Submissions

2. The Prosecution submits that the written statements and transcripts proposed for admission meet the requirements under Rule 92*quater* as all four witnesses are now deceased, and their evidence bears sufficient indicia of reliability for admission.² The Prosecution also submits that the documents are relevant and of probative value as required by Rule 89(C) of the Rules.³ It further submits that the documents do not relate to the acts and conduct of the accused Vlastimir Đorđević (“Accused”).⁴

3. The Defence opposes the admission of the evidence submitting that it relates to the acts and conduct of the Accused or the Accused’s subordinates, and is thus highly prejudicial and should be subject to cross-examination”.⁵ The Defence further submits that the written statements and transcripts of evidence sought for admission are not on the Prosecution’s Rule 65*ter* list.⁶ Other submissions of the Defence which are specific to each Rule 92*quater* witness will be addressed later in this decision.

¹ Vlastimir Đorđević’s Response to Prosecution’s Motion for Admission of Evidence pursuant to Rule 92 *Quater*, 11 November 2008 (“Response”).

² Motion, paras 3, 6, 9, 10, 12, 15, 17, and 20.

³ Motion, para 7, 8, 11, 14, 16, and 19.

⁴ Motion, paras 3, 10, 13, 18, and 20.

⁵ Response, paras 5-6, 10, 13, 15, 16, and 21.

⁶ Response, para 7.

B. Law

4. Rule 92*quater* provides:

(A) The evidence of a person in the form of a written statement or transcript who has subsequently died, or who can no longer with reasonable diligence be traced, or who is by reason of bodily or mental condition unable to testify orally may be admitted, whether or not the written statement is in the form prescribed by Rule 92 *bis*, if the Trial Chamber:

(i) is satisfied of the person's unavailability as set out above; and

(ii) finds from the circumstances in which the statement was made and recorded that it is reliable.

(B) If the evidence goes to proof of acts and conduct of an accused as charged in the indictment, this may be a factor against the admission of such evidence, or that part of it.

5. The Chamber notes that in order for the requirements of Rule 92*quater* to be met, the Chamber must be satisfied relevantly that the person has died and that the evidence which is sought to be admitted is reliable.⁷

6. The following indicia have been identified by the jurisprudence as being relevant to the assessment of the reliability of the evidence to be admitted pursuant to Rule 92*quater*:

(a) the circumstances in which the statement was made and recorded, in particular:

(i) whether the statement was given under oath; or

(ii) whether the statement was signed by the witness with an accompanying acknowledgement that the statement is true to the best of his or her recollection; and

(iii) whether the statement was taken with the assistance of an interpreter duly qualified and approved by the Registry of the Tribunal;

(b) whether the statement has been subject to cross-examination;

(c) whether the statement, in particular an unsworn statement which was never subject to cross-examination, relates to events about which there is other evidence; and

(d) other factors, such as the absence of manifest or obvious inconsistencies in the statements.⁸

⁷ See *Prosecutor v. Popović et al.*, Case No. IT-05-88-T, “Decision on Prosecution Motion for Admission of Evidence Pursuant to Rule 92*quater*”, 21 April 2008 (“*Popović Decision*”), para 29. This view was confirmed by the Appeals Chamber in *Prosecutor v. Popović et al.*, Case No. IT-05-88-AR73.4, “Decision on Beara’s and Nikolić’s Interlocutory Appeals Against Trial Chamber’s Decision of 21 April 2008 Admitting 92*quater* Evidence”, 18 August 2008, (“*Popović Appeals Decision*”), para 31. See also *Prosecutor v. Milutinović et al.*, Case No. IT-05-87-T, “Decision on Prosecution Motion for Admission of Evidence Pursuant to Rule 92*quater*”, 16 February 2007 (“*Milutinović Decision*”), para 4.

⁸ *Milutinović Decision*, para 7. See also *Prosecutor v. Gotovina et al.*, Case No. IT-06-90-T, “Decision on the Admission of Statements of Seven Witnesses Pursuant to Rule 92*quater*”, 16 June 2008 (“*Gotovina Decision*”), para 6; *Popović Decision*, para 31.

7. The Chamber must also ensure that the general requirements for admissibility of evidence in Rule 89 are satisfied, *i.e.*, that the proposed evidence is relevant and has probative value,⁹ and that the probative value of the evidence is not substantially outweighed by the need to ensure a fair trial.¹⁰

8. The Appeals Chamber in the *Popović* case has held that “issues related to the substance of prior cross-examination or the alleged interests of counsel are matters that go to the Trial Chamber’s assessment of the weight to be accorded to that evidence rather than its admissibility”,¹¹ and that, in the same manner, “challenges to the credibility of the witnesses would be a matter to be taken into account when assessing the probative value or the weight to be accorded to that evidence.”¹²

9. Rule 92*quater*(B) allows for the admission of evidence which may go to proof of acts of an accused, although such contents may be a factor militating against the admission of the evidence. In this respect, the Chamber notes that this provision “counsels cautious scrutiny with respect to evidence going to proof of acts and conduct of the accused but also contemplates admission of statements by deceased persons containing such evidence.”¹³

C. Discussion

10. With respect to the Defence submission that the documents proposed for admission do not appear on the Prosecution’s Rule 65*ter* list, the Chamber has reviewed these documents and is satisfied that they, with the exception of Antonio Russo’s statement dated 24 April 1999, are relevant to the Indictment. Having filed the Motion on 28 October 2008, the Chamber is satisfied that the Prosecution has sufficiently given notice of its intention to rely on these documents well before the start of trial. All relevant documents proposed for admission should, therefore, be added to the Prosecution’s Rule 65*ter* list.

Sadik Januzi

11. The Prosecution submits that Sadik Januzi is unavailable to testify orally as he is deceased, and submits as proof of his death, a statement of his son, Bajram Januzi, dated 17 November 2006.¹⁴ In his statement, Bajram Januzi states that his father, Sadik Januzi, died at his home in the village of Buroje on 24 January 2004, after his return from Priština/Prishtinë hospital

⁹ Rule 89(C); *Gotovina* Decision, para 4.

¹⁰ Rule 89(D); *Milutinović* Decision, para 6, with further references; *Popović* Decision, para 30.

¹¹ *Popović* Appeals Decision, para 31, referring to *Popović* Decision, paras 51, 60-61.

¹² *Popović* Appeals Decision, para 44, referring to *Popović* Decision, paras 56, 62.

¹³ *Popović* Decision, para 32.

where he had been treated for a month.¹⁵ The statement records that a doctor from that hospital said that the cause of Sadik Januzi's death was a brain tumour.¹⁶ It also states that Sadik Januzi is buried in Buroje cemetery and that several people, including Bajram Januzi, attended the burial.¹⁷ Bajram Januzi further states that the Januzi family has not managed yet to obtain a death certificate of Sadik Januzi or any other official document certifying his death.¹⁸ The Defence submits that Sadik Januzi's death can only be proved by a death certificate, and that the Prosecution should have made the effort to acquire a copy of it.¹⁹ The Chamber notes that Bajram Januzi signed and acknowledged that his statement was true and to the best of his knowledge.²⁰ A Registry approved interpreter certified that Bajram Januzi's statement was read back to him in Albanian before he signed it.²¹ Having reviewed Bajram Januzi's statement, the Chamber is satisfied that Sadik Januzi is deceased, and, therefore, an unavailable person within the meaning of Rule 92*quater*.

12. Sadik Januzi was an ethnic Albanian from the municipality of Srbica/Skenderaj.²² In his two statements dated 20 – 21 October 2001 and 23 April 1995, Sadik Junizi provides an eye-witness account of the alleged shooting incident in the Izbica meadow where on 28 March 1999 several men were killed by Serb soldiers; he also provides evidence on the alleged deportation of Kosovo Albanians from the village of Kladernica/Klladernicë in the municipality of Srbica/Skenderaj to Albania by Serb forces. His evidence is therefore directly relevant to counts 1, 3, 4 and 5 (deportation, murder and persecutions) of the Indictment.

13. With regard to reliability, the Defence argues that Sadik Januzi's two statements was not subject to cross-examination, and were not given under oath.²³ The Chamber notes that Sadik Januzi did, however, sign each page of the two written statements and an acknowledgement at the end of each statement stating that what he said was true to the best of his knowledge and recollection. Also, in each statement a Registry approved interpreter certified that the statement was read back to him in Albanian before he signed it. He also confirmed the content of his statements on 22 February 2002 before a Presiding Officer appointed by the Registrar.²⁴ The Chamber observes that the circumstances in which these statements were made and recorded suggest reliability. Furthermore, the Chamber notes that the Prosecution intends to lead other evidence related to the same events; Mustafa Draga and Milazim Thaqi are said to give evidence on

¹⁴ Motion, para 6; Annex A.

¹⁵ Motion, Annex A, Bajram Januzi's statement, p. 2.

¹⁶ Motion, Annex A, Bajram Januzi's statement, p. 2.

¹⁷ Motion, Annex A, Bajram Januzi's statement, p. 2.

¹⁸ Motion, Annex A, Bajram Januzi's statement, p. 2.

¹⁹ Response, para 8.

²⁰ Motion, Annex A, Bajram Januzi's statement, p. 3.

²¹ Motion, Annex A, Bajram Januzi's statement, p. 4.

²² Motion, Annex A, Sadik Januzi's statement, pp. 2-3.

²³ Response, paras 9-10.

the alleged shooting incident in the Izbica meadow on 28 March 1999 which they survived, as did Sadik Junizi,²⁵ and, Liri Loshi, a doctor from the municipality of Srbica/Skenderaj is expected to give evidence on his visit to the crime scene of that shooting incident in Izbica.²⁶ The Chamber further observes that although there is reference to Serb soldiers or Serb forces as the perpetrators of the alleged crimes in both statements, this evidence is not thereby necessarily inadmissible, as is suggested by the Defence.²⁷ The statements do not contain evidence going to proof of acts and conduct of the Accused himself.

14. Having regard to all these factors, the Chamber is satisfied that Sadik Januzi's two written statements are relevant and reliable as required by Rule 92*quater* and that as a matter of discretion they may be admitted into evidence.

Halil Morina

15. The Prosecution submits that Halil Morina is unable to testify orally as he is deceased.²⁸ As proof of his death, the Prosecution attaches in an annex to its Motion a statement of his son, Shefit Morina, dated 31 October 2006, and several medical documents. In his statement, Shefit Morina states that his father, Halil Morina, died on 4 August 2005 in a hospital in Priština/Prishtinë.²⁹ The medical documentation produced includes documents from the "University Clinical Centre" in Priština/Prishtinë, including a death certificate from a doctor of the "Emergency Centre", which states that Halil Morina died there on 4 August 2005 of cardio-respiratory arrest.³⁰ Having reviewed the documents submitted in support of his death, and taking into account that the Defence concedes the death of Halil Morina,³¹ the Chamber is satisfied that Halil Morina is unavailable within the meaning of Rule 92*quater*.

16. Halil Morina was an ethnic Albanian from the village of Landovica/Landovice in the municipality of Prizren.³² In his statement dated 4 - 5 October 2001 and, oral testimony in the *Milošević* case (Case No. IT-02-54) of 21 and 25 February 2002, Halil Morina recounted that on 26 – 27 March 1999, Serb forces entered his village, burned the houses and the local mosque, and murdered some villagers.³³ He also gave evidence of the alleged deportation by Serb forces of Kosovo Albanians from Srbica/Sërbica in the municipality of Prizren, to Albania in early

²⁴ Motion, Annex A.

²⁵ Prosecution's Pre-Trial Brief, Annex II, pp. 120-122, 256-257.

²⁶ Prosecution's Pre-Trial Brief, Annex II, pp. 205-206.

²⁷ Response, para 10.

²⁸ Motion, para 6; Annex A.

²⁹ Motion, Annex A, Shefit Morina's statement, p. 2.

³⁰ Motion, Annex A.

³¹ Response, paras 11-13.

³² Motion, Annex A, Halil Morina's statement, p. 2; T 870.

³³ Motion, Annex A, Halil Morina's statement, pp. 2-4; T 874-888, 25 February 2002, T 891-901, 914-929, 952-953.

April 1999.³⁴ The evidence of Halil Morina is relevant to counts 1 and 5 (deportation and persecutions) of the Indictment.

17. The Defence objects to the admission into evidence of Halil Morina's statement dated 4 - 5 October 2001 as it was not given under oath.³⁵ It also submits that the transcript of his evidence in the *Milošević* case, does not record Halil Morina taking an oath.³⁶ With regard to the statement, the Chamber notes that Halil Morina did, however, sign each page of the written statement and an acknowledgement at the end of the statement stating that what he said was true to the best of his knowledge and recollection. Also, in the statement, a Registry approved interpreter certified that the statement was read back to Halil Morina in Albanian before he signed it. The circumstances in which Halil Morina's statement was given provide, in the Chamber's view, adequate indicators of reliability. As for the transcript, the Chamber notes that the solemn declaration by Halil Morina before giving evidence is recorded in page 869 of the trial transcript, although page 869 is not included in support of the motion for the admission into evidence of Halil Morina's oral testimony in the *Milošević* case.³⁷

18. Although the Defence concedes that Halil Morina was cross-examined by the self-represented accused Slobodan Milošević, it argues that Milošević's inexperience and lack of training in the practice of criminal defence did not allow him to properly test the evidence; the Defence, therefore, submits that Morina's testimony remains unchallenged.³⁸ The Chamber notes the transcript tendered as evidence, is a record of Halil Morina's testimony in the *Milošević* case where Halil Morina was examined, cross-examined, and re-examined after having been sworn. Halil Morina was not only cross-examined by the accused in that case, but was also cross-examined by the Amicus Curiae - court appointed counsel who assisted the Chamber in the proper determination of the case. Thus, it is the Chamber's view that Halil Morina's testimony was adequately tested under cross-examination, and challenges to his credibility are reflected on the trial record.

19. As to other indicia of reliability, the Chamber notes that Halil Morina's statement and testimony do not appear to be inconsistent. Also, as noted elsewhere in this decision, reference to Serb forces as the potential perpetrators of the alleged crimes in both the statement and transcript do not constitute evidence of acts and conduct of the Accused.³⁹ Furthermore, the Prosecution is to

³⁴ Motion, Annex A, Halil Morina's statement, pp. 4-5; T 902-906, 929-930.

³⁵ Response, para 12.

³⁶ Response, para 12.

³⁷ The Prosecution requested the admission into evidence pursuant to Rule 92*quater* of Transcript pages 870-957. See Motion, Annex A.

³⁸ Response, para 13.

³⁹ See *supra* para 13.

offer other witness testimony of deportation by Serb forces of Kosovo Albanians from the municipality of Prizren: Rhexep Krasniqi, Rahim Latifi and Hysni Kryeziu are to be called to give evidence of Serb forces entering their respective villages in the municipality of Prizren in late March 1999, and forcing Kosovo Albanians to leave their villages.⁴⁰

20. The Chamber is satisfied that the statement and the transcript of previous evidence of Halil Morina are relevant and sufficiently reliable. In the exercise of its discretion, both his statement dated 4 - 5 October 2001 and the transcript of his oral testimony in the *Milošević* case on 21 and 25 February 2002 may be admitted into evidence pursuant to Rule 92*quater*.

Ibrahim Rugova

21. The Prosecution submits that Ibrahim Rugova is unavailable to testify because he is deceased, and submits as proof of his death a Reuter's article dated 21 January 2006 stating that he died that same day.⁴¹ Ibrahim Rugova was a public figure in Kosovo. The Defence submits that Ibrahim Rugova's death can only be proved by a death certificate, and that the Prosecution should have made the effort to acquire a copy of it.⁴² Nevertheless, it submits that it does not contest that Ibrahim Rugova is in fact deceased.⁴³ Taking into account that the Defence accepts that Ibrahim Rugova is dead, and that Ibrahim Rugova's death is a notorious fact,⁴⁴ the Chamber is satisfied that Ibrahim Rugova is unavailable within the meaning of Rule 92*quater*, because he is dead.

22. Ibrahim Rugova gave evidence in the in the *Milošević* case, Case No. IT-02-54, on 3 and 6 May 2002. Transcripts of his oral evidence in that case, and a written statement given to the Office of the Prosecutor on 1 and 3 November 2001 are tendered for admission. His evidence relates to historical and political events in Kosovo beginning in March 1989, with the revocation of Kosovo's autonomous status, until the NATO bombing, in March 1999. Ibrahim Rugova's position as president of the Democratic League of Kosovo ("LDK")⁴⁵ makes him a significant witness to the events in Kosovo at the time relevant to the Indictment. The Chamber considers Ibrahim Rugova's proffered evidence relevant to the case. It supports the background and context for the allegations in paragraphs 85-88, 90-96, and 99-100 of the Indictment. It also contains information regarding the conduct of alleged members of the joint criminal enterprise which is relevant to the Accused's alleged responsibility pursuant to article 7(1) of the Statute.

⁴⁰ Prosecution's Pre-Trial Brief, Annex II, pp 196, 199-200, 196-197.

⁴¹ Motion, para 6; Annex A, Reuter's Article on Ibrahim Rugova, 21 January 2006.

⁴² Response, para 14.

⁴³ Response, para 14.

⁴⁴ Response, paras 11-13.

⁴⁵ Motion, Annex A, Ibrahim Rugova's statement, p. 2; T 4189-4190.

23. As to the reliability of Ibrahim Rugova's proffered evidence, the Defence submits that it should be excluded as it goes to the acts and conduct of the Accused and, in support of that argument, it refers to a decision of the Trial Chamber in *Milutinović* where Ibrahim Rugova's written statement and transcripts of his testimony in the *Milošević* case were not admitted into evidence.⁴⁶ The Trial Chamber notes that the Trial Chamber in *Milutinović* ruled against the admission of this evidence *inter alia* because it concerned the acts and conduct of some of the accused in that specific case.⁴⁷ That is not the situation in this trial. The proffered evidence of Ibrahim Rugova does recount meeting with Slobadan Milošević,⁴⁸ Milan Milutinović and Nikola Šainović in 1999,⁴⁹ all alleged members of the joint criminal enterprise,⁵⁰ but not with the Accused. It has been established that reference to the conduct of alleged members of the joint criminal enterprise does not automatically go to proof of acts and conduct of the Accused.⁵¹ Furthermore, the Chamber notes that in *Milutinović* the Chamber was asked to decide on the admission of Ibrahim Rugova's evidence under Rule 92*bis* which does not allow for the admission of written evidence going to the acts and conduct of the Accused. Differently, Rule 92*quater*, which was adopted after the decision in *Milutinović* was rendered, allows for the admission of evidence which may go to proof of acts of an accused, although such contents *may be* a factor militating against the admission of the evidence.

24. With regard to Ibrahim Rugova's statement dated 1 and 3 November 2001, the Chamber notes that Ibrahim Rugova did, however, sign each page of the written statement and an acknowledgement at the end of the statement stating that what he said was true to the best of his knowledge and recollection. Also, in the statement, a registry approved interpreter certified that the statement was read back to Ibrahim Rugova in Albanian before he signed it. These are indicators of reliability. As for transcript of his previous evidence, the Chamber notes that Ibrahim Rugova gave his testimony under oath, he was cross-examined by the Accused (who chose to conduct his own defence) and also by the Amicus Curiae, and challenges to his credibility are reflected in the trial record. The circumstances in which the testimony was given and tested under cross-examination are a sufficient indication of reliability to justify the admission of his relevant testimony into evidence. As to other indicia of reliability, the Chamber notes that Ibrahim Rugova's statement and testimony do not appear to be inconsistent.

⁴⁶ Response, paras 15-16.

⁴⁷ *Prosecutor v. Milutinović et al.*, Case No. IT-05-87-PT, Decision on Prosecution's Rule 92 *Bis* Motion, 4 July 2006, para 21.

⁴⁸ Motion, Annex A, Ibrahim Rugova's statement, pp 6, 10; T 4228-4233, 4254-4255, 4357.

⁴⁹ Motion, Annex A, Ibrahim Rugova's statement, pp 11-12; T 4234-4236.

⁵⁰ Indictment, para 20.

⁵¹ See *Prosecutor v. Stanislav Galić*, Case No. IT-98-29-AR73.2, Decision on Interlocutory Appeal Concerning Rule 92*bis* (C), 7 June 2002, paras 8-16.

25. Furthermore, the Prosecution is to call witnesses on some of the issues dealt with in Rugova's proffered evidence. Veton Surroi has given evidence on historical and political events in Kosovo during the relevant time, and has also given evidence about the meeting that Ibrahim Rugova attended with Slobodan Milošević.⁵² Adnan Merovci is also to provide evidence on historical and political events in Kosovo at the relevant time, and about meetings and other events that he witnessed as Ibrahim Rugova's personal secretary.⁵³

26. The Chamber is satisfied that the statement and the transcript of previous evidence are relevant and sufficiently reliable. In the exercise of its discretion, both his statement dated 1 and 3 November 2001 and, his oral testimony in the *Milošević* case of 3 and 6 May 2002 may be admitted into evidence pursuant to Rule 92*quater*.

Antonio Russo

27. The Prosecution submits that Antonio Russo, an Italian journalist in Kosovo at the relevant time of the Indictment, is unable to testify orally as he is deceased.⁵⁴ As proof of the death of Antonio Russo, the Prosecution attaches in annex to its Motion a Reuter's article dated 17 October 2000 stating that Antonio Russo's body was found on a highway in Georgia, 25 kilometres from the Georgian capital, Tbilisi.⁵⁵ The date of death is not mentioned. The article states that a forensic expert who performed the autopsy on his body told Reuters that the cause of death was a "blow from a blunt object to the chest".⁵⁶ The article also states that the Italian Embassy, being asked about Antonio Russo's death, "declined to comment on the affair."⁵⁷ The Defence submits that Antonio Russo's death cannot be established by a newspaper article and should be established by a death certificate.⁵⁸ It further submits that the Italian Embassy's comment on Russo's death mentioned in the Reuter's article, "leads to suspicion of whether an actual verification of death or unavailability can be made".⁵⁹ Having reviewed the Reuter's article, the Chamber is not persuaded that the article in itself is sufficient to establish that Antonio Russo has died and is therefore an unavailable person within the meaning of Rule 92*quater*. In view of this, Antonio Russo's statement will not be admitted into evidence.

⁵² Prosecution's Pre-Trial Brief, Annex II, pp. 252-258.

⁵³ Prosecution's Pre-Trial Brief, Annex II, pp. 218-222.

⁵⁴ Motion, para 6; Annex A, Reuter's Article on Antonio Russo, 17 October 2000.

⁵⁵ Motion, para 6; Annex A, Reuter's Article on Antonio Russo, 17 October 2000.

⁵⁶ Motion, Annex A, Reuter's Article on Antonio Russo, 17 October 2000.

⁵⁷ Motion, Annex A, Reuter's Article on Antonio Russo, 17 October 2000.

⁵⁸ Response, para 19.

⁵⁹ Motion, Annex A, Reuter's Article on Antonio Russo, 17 October 2000.

D. DISPOSITION

28. For these reasons, pursuant to Rules 89 and 92^{quater}, the Chamber hereby **GRANTS** the Motion **IN PART**, and **ORDERS** as follows:

- (1) With the exception of Antonio Russo's statement dated 24 April 1999, all documents proffered as evidence in the Motion shall be added to the Prosecution 65^{ter} list;
- (2) Sadik Januzi's written statements dated 20 – 21 October 2001 and 23 April 1995 will be admitted into evidence;
- (3) Halil Morina's written statement dated 4 - 5 October 2001 and his testimony of 21 February 2002 (T 869-889) and 25 February 2002 (T 890-956) in Case No. IT-02-54 will be admitted into evidence;
- (4) Ibrahim Rugova's written statement dated 1 and 3 November 2001 and his testimony of 3 May 2002 (T 4188-4307) and 6 May 2002 (T 4310-4388) in Case No. IT-02-54 will be admitted into evidence; and
- (5) Antonio Russo's written statement dated 24 April 1999 will not be admitted into evidence.

Dated this 5 February 2009
At The Hague
The Netherlands



Judge Kevin Parker
Presiding

[Seal of the Tribunal]