



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-T
Date: 1 July 2009
Original: English

IN TRIAL CHAMBER II

Before: Judge Carmel Agius, Presiding
Judge O-Gon Kwon
Judge Kimberly Prost
Judge Ole Bjørn Støle – Reserve Judge

Registrar: Mr. John Hocking

Order of: 1 July 2009

PROSECUTOR

v.

**VUJADIN POPOVIĆ
LJUBIŠA BEARA
DRAGO NIKOLIĆ
LJUBOMIR BOROVIČANIN
RADIVOJE MILETIĆ
MILAN GVERO
VINKO PANDUREVIĆ**

PUBLIC

**DECISION ON MILETIĆ MOTION FOR ADMISSION OF RELEVANT
INFORMATION PURSUANT TO RULE 85(A)(iv)**

Office of the Prosecutor

Mr. Peter McCloskey

Counsel for the Accused

Mr. Zoran Živanović and Ms. Mira Tapušковиć for Vujadin Popović
Mr. John Ostojić and Mr. Predrag Nikolić for Ljubiša Beara
Ms. Jelena Nikolić and Mr. Stéphane Bourgon for Drago Nikolić
Mr. Aleksandar Lazarević and Mr. Christopher Gosnell for Ljubomir Borovčanin
Ms. Natacha Fauveau Ivanović and Mr. Nenad Petrušić for Radivoje Miletić
Mr. Dragan Krgović and Mr. David Josse for Milan Gvero
Mr. Peter Haynes and Mr. Simon Davis for Vinko Pandurević

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”);

BEING SEISED of Miletić’s motion for the admission of relevant information pursuant to Rule 85(A)(vi) of the Rules of Procedure and Evidence of the Tribunal (“Rules”) filed on 2 June 2009 in the original French (“Motion”), wherein the Miletić Defence seeks the admission into evidence of four documents which are said to contain sentencing-related information (“Documents”);¹

NOTING the “Prosecution Response to General Miletić’s Motion for Admission of Relevant Information Pursuant to Rule 85(A)(vi) of the Rules of Procedure and Evidence” filed on 16 June 2009 (“Prosecution Response”);

NOTING Rule 85(vi) of the Rules provides that “any relevant information that may assist the Trial Chamber in determining an appropriate sentence if the accused is found guilty on one or more of the charges in the indictment” may be presented;

NOTING Rule 89(C) provides that a Trial Chamber may admit any relevant evidence that it deems to have probative value;²

NOTING that the Miletić Defence submits the Documents are relevant for the sole purpose of determining Miletić’s potential sentence in the event he is convicted and do not, in any way, affect the other Accused in this case;

NOTING the Prosecution does not oppose the Motion;³

CONSIDERING that Trial Chambers have granted motions to admit documents into evidence where the party offering the evidence shows relevance by clearly and specifically explaining how

¹ Original in French entitled “Requête du Général Miletić aux fins d’admission des informations pertinentes en application de l’article 85(A)(vi) du Règlement de procédure et de preuve”, 2 juin 2009.

² See also *Prosecutor v. Galić*, Case No. IT-98-29-AR.73.2, Decision on Interlocutory Appeal Concerning Rule 92bis(C), 7 June 2002, para. 35 (noting that evidence must be relevant and have probative value to be admitted); *Prosecutor v. Kordić and Čerkez*, Case No. IT-95-14/2-AR73.5, Decision on Appeal Regarding Statement of a Deceased Witness, 21 July 2000, para. 24; *Prosecutor v. Strugar*, Case No. IT-01-42-T, Decision on the Admissibility of Certain Documents, 26 May 2004, para. 12.

³ Motion, para. 2.

each exhibit fits into the case and demonstrates that the documents have sufficient indicia of reliability;⁴

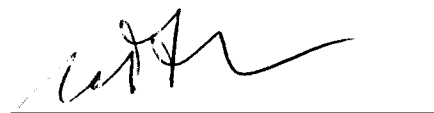
CONSIDERING that the Documents are relevant and present sufficient indicia of reliability;

CONSIDERING further that the document identified as 5D01442 is a detailed report on the health of Miletić's wife and should therefore be entered into the record under seal;

PURSUANT TO Rule 85(vi) and 89(C)

HEREBY GRANTS the Motion and **ADMITS** the Documents referenced in the Motion as 5D01442, 5D01443, 5D01444 and 5D01445.

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



Carmel Agius
Presiding

Dated this first day of July 2009
At The Hague
The Netherlands

[Seal of the Tribunal]

⁴ See *Prosecutor v. Delić*, Case No. IT-04-83-T, Decision on Prosecution Submission on the Admission of Documentary Evidence, 16 January 2008, paras. 8, 9, 16; *Prosecutor v. Boškoski and Tarčulovski*, Case No. IT-04-82-T, Decision on Prosecution's Motion for Admission of Exhibits from the Bar Table with Confidential Annexes A to E, 14 May 2007, paras. 13-15, 22-23. See also *Prosecutor v. Blaškić*, Case No. IT-95-14-T, Judgement, 3 March 2000, para. 35.