

UNITED
NATIONS

20-08-91-T
D16188-D16186
11 MAY 2012

16188
SF



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-08-91-T
Date: 11 May 2012
Original: English

IN TRIAL CHAMBER II

Before: Judge Burton Hall, Presiding
Judge Guy Delvoie
Judge Frederik Harhoff

Registrar: Mr. John Hocking

Decision of: 11 May 2012

PROSECUTOR

v.

MIĆO STANIŠIĆ AND STOJAN ŽUPLJANIN

PUBLIC

**DECISION DENYING PROSECUTION MOTION TO ADD EXTRACT TO EXHIBIT
L336**

The Office of the Prosecutor

Ms. Joanna Korner
Mr. Thomas Hannis

Counsel for the Accused

Mr. Slobodan Zečević and Mr. Slobodan Cvijetić for Mićo Stanišić
Mr. Dragan Krgović and Mr. Aleksandar Aleksić for Stojan Župljanin

TRIAL CHAMBER II (“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 the “Prosecution’s Motion seeking leave to add a further extract to exhibit L00336”, filed on 8 May 2012, (“Motion”) in which the Prosecution requests the Trial Chamber to add selected pages from a Military Lexicon to exhibit L336, which cover the definition of “combat activities”, as attached in Annex A of the Motion;

NOTING that, according to the Prosecution, both Defence teams declined to agree that the definition of “combat activities” be added to the exhibit;¹

RECALLING that the Prosecution and Defence teams have closed their cases;

RECALLING that the primary consideration in determining an application for reopening a case to allow for the admission of fresh evidence is the question of whether, with reasonable diligence, the evidence could have been identified and presented in the case-in-chief of the party making the application;²

CONSIDERING that the Prosecution could have identified the extract it now seeks to have admitted at a much earlier stage in the proceedings especially given its involvement in the process of selecting terms for admission from the Military Lexicon in coordination with the Defence;³

CONSIDERING additionally that the Trial Chamber is not persuaded as to the particular relevance of the extract;

PURSUANT TO Rule 89 of the Rules of Procedure and Evidence,

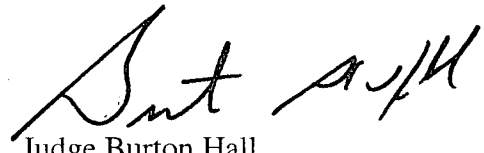
¹ Motion, para. 5.

² *Prosecutor v. Delalić et al.*, Case No. IT-96-21-A, Judgement, 20 February 2001 (“Čelebići Appeal Judgement”), para. 283. See also *Prosecutor v. Ante Gotovina et al.*, IT-06-90-AR73.6, Decision on Ivan Čermak and Mladen Markač interlocutory appeals against Trial Chamber’s decision to reopen the Prosecution case, 1 July 2010, para. 23

³ Motion, para. 4; Hearing, 7 October 2011, T. 24692.

HEREBY DENIES the Motion.

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



Judge Burton Hall
Presiding

Dated this 11th day of May 2012

At The Hague

The Netherlands

[Seal of the Tribunal]