



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-95-5/18-PT

Date: 21 May 2009

Original: English

IN THE TRIAL CHAMBER

Before: Judge Iain Bonomy, Presiding
Judge Christoph Flügge
Judge Michèle Picard

Registrar: Mr. John Hocking

Decision of: 21 May 2009

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

**DECISION ON MOTION TO EXCLUDE STATEMENTS AND TESTIMONY OF
MIROSLAV DERONJIĆ**

Office of the Prosecutor:

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

The Accused:

Mr. Radovan Karadžić

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”) is seised of the Accused’s “Motion to Exclude Statements and Testimony of Miroslav Deronjić”, filed on 19 May 2009 (“Motion”), and hereby renders its decision thereon.

1. In his Motion, the Accused requests that the Trial Chamber refuse to admit the testimony of Miroslav Deronjić into evidence, under Rule 92*quater* of the Rules of Procedure and Evidence of the Tribunal (“Rules”), on the basis that this testimony is unreliable, and goes directly to proof of acts and conduct of the Accused in a way that is critical to the case of the Office of the Prosecutor (“Prosecution”).¹ He further submits that Deronjić’s testimony is linked to a key question in the Third Amended Indictment, and that its probative value is either lacking or outweighed by the need to ensure a fair trial and the interests of justice.²

2. In the “Prosecution’s Response to Motion by Radovan Karadžić to Exclude Statements and Testimony of Miroslav Deronjić”, filed on 21 May 2009 (“Response”), the Prosecution requests that the Trial Chamber dismiss the Motion as premature, as the Prosecution has not yet moved to tender the evidence of Miroslav Deronjić pursuant to Rule 92*quater*.³

3. The Trial Chamber notes the Accused’s concerns with regard to the admissibility of written evidence pursuant to Rule 92*quater*, and the general requirements for admissibility of evidence pursuant to Rule 89. However, the Chamber considers that the Motion is premature, as the Chamber cannot decide the matter raised by the Accused in the abstract, without being seised of an application identifying the written evidence the Prosecution seeks to admit, and the appropriate legal basis for such admission.

¹ Motion, para. 24.

² Motion, paras. 21–23, 25.

³ Response, p. 2.

V. Disposition

4. Accordingly, pursuant to Rule 54 of the Rules, the Trial Chamber hereby **DENIES** the Motion without prejudice to the Accused making a further application at a later stage of the proceedings.

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



Judge Iain Bonomy
Presiding

Dated this twenty-first day of May 2009
At The Hague
The Netherlands

[Seal of the Tribunal]