



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-T
Date: 25 April 2007
Original: English

IN THE TRIAL CHAMBER

Before: Judge Iain Bonomy, Presiding
Judge Ali Nawaz Chowhan
Judge Tsvetana Kamenova
Judge Janet Nosworthy, Reserve Judge

Registrar: Mr. Hans Holthuis

Order of: 25 April 2007

PROSECUTOR

v.

**MILAN MILUTINOVIĆ
NIKOLA ŠAINOVIĆ
DRAGOLJUB OJDANIĆ
NEBOJŠA PAVKOVIĆ
VLADIMIR LAZAREVIĆ
SRETEN LUKIĆ**

**ORDER RE EXHIBITS P1486, P1527, P2572, P2849, P2850, P2851, P2852, P2853, P2854,
P2857, P2862, 3D377, 3D482, AND 5D121**

Office of the Prosecutor

Mr. Thomas Hannis
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Counsel for the Accused

Mr. Eugene O'Sullivan and Mr. Slobodan Zečević for Mr. Milan Milutinović
Mr. Toma Fila and Mr. Vladimir Petrović for Mr. Nikola Šainović
Mr. Tomislav Višnjić and Mr. Norman Sepenuk for Mr. Dragoljub Ojdanić
Mr. John Ackerman and Mr. Aleksandar Aleksić for Mr. Nebojša Pavković
Mr. Mihajlo Bakrač and Mr. Đuro Čepić for Mr. Vladimir Lazarević
Mr. Branko Lukić and Mr. Dragan Ivetić for Mr. Sreten Lukić

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 several applications regarding the admission of exhibits into evidence and hereby issues this order in relation thereto.

Exhibits 3D482 and P1486 – Vasiljević documents

1. On 3 April 2007, the Ojdanić Defence requested that exhibit 3D482 be admitted into evidence.¹ 3D482 was used during the cross-examination of Aleksandar Vasiljević on 22 January 2007² and by the Prosecution during re-examination on 24 January 2007.³ During the cross-examination of Mr. Vasiljević, the Ojdanić Defence noted that 3D482 “is the same document as P1486. The only difference being that the Defence is moving for this to be admitted in its entirety; whereas, the Prosecution only tendered the first page of its document designated P1468.”⁴ On 4 April 2007, the Trial Chamber advised the parties that they had until 10 April 2007 to note any opposition to 3D482 and P1486 (and their translations) being admitted into evidence.⁵ No opposition has been stated.

2. The Trial Chamber, pursuant to Rules 54 and 89, will order that 3D482 and P1486 (and their translations) shall be admitted into evidence.

P2862 – Vasiljević notebook

3. On 24 January 2007, Aleksandar Vasiljević mentioned during cross-examination that he had generated contemporaneous notes during a time period relevant to the Indictment.⁶ He stated that, after he had returned home from giving evidence, he would locate the notebook and provide a copy of the relevant entry to the Prosecution.⁷ In the “Prosecution’s Submission Re Exhibit P-2862, Extract from Vasiljević Notebook,” filed 22 March 2007, the Prosecution informs the Chamber and parties that this extract has been provided to it by Mr. Vasiljević in its original version, and subsequently uploaded to eCourt, and that the Prosecution would make a further submission, when

¹ Email from Ojdanić Defence to Chamber legal staff, 3 April 2007.

² T. 8873 (22 January 2007).

³ T. 9096 (24 January 2007).

⁴ T. 8873 (22 January 2007). The Chamber notes that “P1486” was incorrectly referred to in the transcript as “P1468.” T. 8873 (22 January 2007).

⁵ Email from Chamber legal staff to parties, 4 April 2007.

⁶ T. 9043–9044, 9047, 9106 (24 January 2007).

⁷ T. 9109–9110 (24 January 2007).

the translation was uploaded.⁸ In the “Prosecution’s Notice Re Translation of Exhibit P02862, Extract from Vasiljević Notebook,” filed 18 April 2007, the Prosecution informs the Chamber and parties that the translation of P2862 has been uploaded to eCourt and requests its admission into evidence.

4. The Pavković Defence objects to the admission of P2862 on the basis that the authenticity of the extract cannot be verified and that only an extract has been tendered, rather than the entire notebook.⁹ The Šainović Defence argues that the extract is “tainted by a variety of contradictions and lack of logic” and submits that the witness should be required to give an additional statement pursuant to Rule 92 *ter* clarifying these matters; in the absence of this course of action being followed, the Šainović Defence requests that the extract be denied admission into evidence. The Prosecution does not seek to respond to the arguments of the Defence.¹⁰

5. The Trial Chamber has reviewed the handwritten extract provided by Mr. Vasiljević and finds that it is relevant and has sufficient indicia of reliability for it to be admitted into evidence. Should the Defence wish to call Mr. Vasiljević to clarify the extract or tender additional portions of the notebook during its case, it may seek to do so in accordance with the Tribunal’s Rules of Procedure and Evidence.

6. The Trial Chamber, pursuant to Rules 54 and 89, will order that P2862 (and its translation) shall be admitted into evidence.

Exhibit P1527

7. On 18 April 2007, the Prosecution filed its “Request for Leave to Replace English Version of Exhibit P01527 in e-Court,” informing the Chamber and the parties that it has come to the Prosecution’s attention that the English version of P1527, which has already been admitted into evidence, was scanned in such a way as to make it illegible. The Prosecution therefore seeks leave to substitute a more legible version of the document.

8. The Trial Chamber, pursuant to Rules 54 and 89, will grant the Prosecution leave to make the requested substitution. Once the old version has been replaced with the new version (uploaded

⁸ Prosecution’s Submission Re Exhibit P-2862, Extract from Vasiljević Notebook, 22 March 2007, para. 2.

⁹ Pavković Objection to Exhibit P02862, Extract From Vasiljević Notebook, filed 20 April 2007.

¹⁰ Email from Prosecution to Chamber legal staff and parties, 23 April 2007.

to eCourt), the Prosecution shall inform the Chamber and parties via a written filing, at which time the Registry shall mark it as admitted into evidence.

Exhibit P2572

9. Pursuant to the Trial Chamber's "Decision on Prosecution's Third Request for Admission of Documents from the Bar Table," issued 23 March 2007 ("Third Decision"),¹¹ exhibit P2572 was marked for identification, pending further order of the Chamber once an English translation became available. In the "Prosecution Notification Regarding Status of English Translations for Exhibit P2572," filed 12 April 2007, the Prosecution informs the parties that an English translation of P2572 has now been uploaded into eCourt.

10. The Trial Chamber, pursuant to Rules 54 and 89, will order that exhibit P2572 (and its translation) shall be admitted into evidence.

Exhibits P2849, P2850, P2851, P2852, P2853, P2854, and P2857

11. Pursuant to the Third Decision, the above mentioned exhibits were marked for identification, pending further order of the Trial Chamber once English translations became available. That Decision set a deadline of 10 April 2007 for the official English translations to be made available. In the "Prosecution Notification Regarding Status of English Translations for Exhibits P2849, P2850, P2851, P2852, P2853, P2854 and P2857," filed 11 April 2007, the Prosecution informs the Chamber and parties that it was not in a position to comply with the 10 April 2007 deadline. On 16 April 2007, the Trial Chamber orally granted the Prosecution's request to extend the deadline for the submission of the translations for the above documents to 18 April 2007.¹² In the "Prosecution Notice of Availability of English Translations for Exhibits P2849, P2850, P2851, P2852, P2853, P2854 and P2857," filed 18 April 2007, the Prosecution informs the Chamber and parties that English translations of the above exhibits have been uploaded into eCourt.

12. The Trial Chamber, pursuant to Rules 54 and 89, will order that P2849, P2850, P2851, P2852, P2853, P2854, and P2857 (and their translations) shall be admitted into evidence.

¹¹ Decision on Prosecution's Third Request for Admission of Exhibits from the Bar Table, 23 March 2007.

¹² T. 12124 (16 April 2007).

Exhibit 3D377

13. On 3 April 2007, the Ojdanić Defence informed the Trial Chamber and parties of a typographical error in the transcript during the cross-examination of Klaus Naumann on 13 December 2006.¹³ The transcript erroneously refers to 3D777, instead of 3D377 (the former of which does not exist). As a result, 3D377 has not been admitted into evidence. On 4 April 2007, the Trial Chamber advised the parties they had until 10 April 2007 to note any opposition to 3D377 being admitted into evidence.¹⁴ No opposition has been stated.

14. The Trial Chamber, pursuant to Rules 54 and 89, will order that 3D377 shall be admitted into evidence.

Exhibit 5D121

15. Exhibit 5D121 was used during the cross-examination of Jan Kickert on 7 March 2007.¹⁵ The version of the document used was an English translation of a document whose original was in German. On 16 April 2007, the Trial Chamber, pursuant to paragraph 8 of the Order on Procedure and Evidence,¹⁶ directed that the Milutinović Defence advise when an original German version of 5D121 would be uploaded to eCourt.¹⁷ The original version of 5D121 has now been uploaded to eCourt.

16. The Trial Chamber, pursuant to Rules 54 and 89, will order that 5D121 (and its translation) shall be admitted into evidence.

Disposition

17. The Trial Chamber, pursuant to Rules 54 and 89, hereby ORDERS as follows:

- a. 3D482 and P1486 (and their translations) shall be admitted into evidence.
- b. P2862 (and its translation) shall be admitted into evidence.

¹³ T. 8277 (13 December 2006); email from Ojdanić Defence to Chamber legal staff and Prosecution, 3 April 2007; General Ojdanic's Submission Re Exhibits 3D377, 23 April 2007.

¹⁴ Email from Chamber legal staff to parties, 4 April 2007.

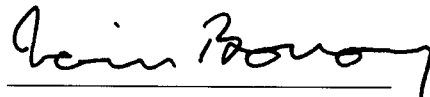
¹⁵ T. 11245–11247 (7 March 2007).

¹⁶ Order on Procedure and Evidence, 11 July 2006.

¹⁷ Email from Chamber legal staff to parties, 16 April 2007.

- c. The Prosecution is GRANTED leave to make the requested substitution in respect of P1527. Once the old version has been replaced with the new version (uploaded to eCourt), the Prosecution shall inform the Chamber and parties via a written filing, at which time the Registry shall mark it as admitted into evidence.
- d. P2572 (and its translation) shall be admitted into evidence.
- e. P2849, P2850, P2851, P2852, P2853, P2854, and P2857 (and their translations) shall be admitted into evidence.
- f. 3D377 shall be admitted into evidence.
- g. 5D121 (and its translation) shall be admitted into evidence.

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



Judge Iain Bonomy
Presiding

Dated this twenty fifth day of April 2007
At The Hague
The Netherlands

[Seal of the Tribunal]