



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: 22 April 2008
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: 22 April 2008

PROSECUTOR

v.

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

PUBLIC

ORDER RE EXHIBIT 5D1312

Office of the Prosecutor

Mr. Thomas Hannis
Mr. Chester Stamp

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 the “Defence Notice Regarding Exhibit 5D1312”, filed on 8 April 2008 (“Notice”), the “Prosecution Response to Vladimir Lazarević’s Notice Regarding Exhibit 5D1312”, filed on 11 April 2008 (“Response”), and the “Defence Request Seeking Leave to Reply and Defence Reply to Prosecution Response to Vladimir Lazarević’s Notice Regarding Exhibit 5D1312”, filed on 15 April 2008 (“Reply”), and hereby issues this order thereon.

1. On 12 November 2007, during the direct examination of the Accused Vladimir Lazarević, exhibit 5D1312 was marked for identification pending translation. In the Notice, the Lazarević Defence informs the Chamber and the parties that a translation for exhibit 5D1312 is available and has been uploaded to eCourt.¹ In addition, the Defence requests that the exhibit and its translation be admitted into evidence.

2. In the Response, the Prosecution objects to the admission of exhibit 5D1312 on the basis that inadequate showing was made in support of its admission at the time it was raised, since the Accused was not shown the document, nor did he discuss its contents. The Prosecution contends that a reference to a document by Counsel is insufficient to warrant its admission.² The Prosecution further requests that the Chamber direct that exhibit 5D1312 be the subject of a bar table motion setting forth its authenticity, relevance, and probative value.³

3. The “Order on Procedure and Evidence,” issued 11 July 2006, directs that a “request for leave to file a reply should not include the substance of the reply, which should await the decision of the Chamber upon whether to grant such leave.”⁴ The Reply does not accord with this direction, and therefore leave to file the Reply is denied.

4. The Chamber notes that, in addition to being cited by the Lazarević Defence during the testimony of Vladimir Lazarević, exhibit 5D1312 was specifically discussed on 6 December 2007 by witness Momir Stojanović during his direct examination.⁵ Stojanović, Chief of the Security Administration of the Priština Corps during the Indictment period, testified in detail about his

¹ Doc-ID 5D02-0089.

² Response, para. 5.

³ Response, para. 6.

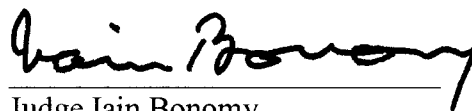
⁴ Order on Procedure and Evidence, 11 July 2006, para. 11 (as modified by Decision on Joint Defence Motion for Modification of Order on Procedure and Evidence, 16 August 2006).

⁵ T. 19728–19730 (6 December 2007).

purported knowledge of the KLA passing on information to the OSCE and to NATO. Exhibit 5D1312 is a report of the Intelligence Administration of the Supreme Command Staff dated 16 May 1999, containing maps apparently provided by the KLA to representatives of NATO. The witness recognised the exhibit as emanating from the Intelligence Administration. As such, the Chamber considers that the document is relevant, has probative value, and is reliable. The Chamber also notes that the Prosecution makes no objection based upon the use of exhibit 5D1312 during the testimony of Stojanović.

5. Accordingly, the Trial Chamber, pursuant to Rules 54 and 89 of the Rules of Procedure and Evidence of the Tribunal, hereby GRANTS the Motion and ORDERS that exhibit 5D1312 along with its translation shall be admitted into evidence.

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


Judge Iain Bonomy
Presiding

Dated this twenty-second day of April 2008
At The Hague
The Netherlands

[Seal of the Tribunal]