

UNITED
NATIONS



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-05-87/1-T
Date: 28 April 2009
Original: English

IN TRIAL CHAMBER II

Before: Judge Kevin Parker, Presiding
Judge Christoph Flügge
Judge Melville Baird

Registrar: Mr John Hocking, Acting Registrar

Decision of: 28 April 2009

PROSECUTOR

v.

VLASTIMIR ĐORĐEVIĆ

PUBLIC

**DECISION ON PROSECUTION'S RENEWED MOTION FOR
ADMISSION OF EVIDENCE OF NEILL WRIGHT PURSUANT
TO RULE 92 *BIS***

The Office of the Prosecutor:

Mr. Chester Stamp
Ms. Daniela Kravetz
Mr. Matthias Neuner

Counsel for the Accused:

Mr. Dragoljub Đorđević
Mr. Veljko Đurđić

THIS TRIAL CHAMBER (“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 SEIZED OF the “Prosecution’s Renewed Motion for Admission of Evidence of Neill Wright pursuant to Rule 92*bis* with Attachment A”, filed publicly on 30 March 2009 (“Motion”) whereby the Office of the Prosecutor (“Prosecution”) seeks to withdraw a document (“Attachment Four”) previously admitted by the Chamber subject to witness Neill Wright appearing in court for cross-examination on this document, and to tender a redacted version of another document (“Witness’s Letter”) omitting any references to Attachment Four;¹

NOTING “Vlastimir Đorđević’s Response to Prosecution’s Renewed Motion for Admission of Evidence of Neill Wright pursuant to Rule 92*bis* with Attachment A” (“Response”), filed publicly on 14 April 2009, whereby Counsel for the Accused (“Defence”) requests the removal of witness Neill Wright and all associated evidence from the Prosecution’s witness list in total,² or alternatively, the admission of only the requested evidence as outlined in the Motion³ and refers to its earlier submissions regarding the admissibility of the evidence pertaining to Neill Wright;⁴

RECALLING the Chamber’s previous ruling in its “Decision on Prosecution’s Motion for Admission of Evidence of Neill Wright pursuant to Rule 92*bis* with Annex A” filed publicly on 13 February 2009, (“Decision of 13 February 2009”), that cross-examination of Neill Wright is necessary in order to understand the “sources and methodology used to prepare the narrative portions [of Attachment Four] as they do appear to be wholly or partly hearsay”;⁵

NOTING the Prosecution’s submission that according to the employer of witness Neill Wright, the United Nations High Commissioner for Refugees, “the witness is unavailable to attend for testimony”;⁶

CONSIDERING that the Prosecution proposes to tender a redacted version of the Witness’s Letter, omitting references to Attachment Four;⁷

¹ Motion, para 3.

² Response, para 1.

³ Response, para 2.

⁴ Response, para 2; *Prosecutor v Vlastimir Đorđević*, Case No. IT-05-87/1-T, “Vlastimir Đorđević’s Response to Prosecution’s motion for admission of Evidence of Neill Wright pursuant to Rule 92*bis* with Attachment A”, filed publicly on 11 November 2008 (Defence Response of 11 November 2008).

⁵ Decision of 13 February 2009, para 10.

⁶ Motion, para 3.

⁷ Motion, para 3.

NOTING that the Defence did not oppose the admission of Attachments One, Two and Three and of a redacted version of the Witness's Letter and that attachments One, Two and Three were admitted by the Chamber in its Decision of 13 February 2009;⁸

FOR THE FOREGOING REASONS and **PURSUANT TO** Rules 89 and 92*bis* of the Rules of Procedure and Evidence, the Chamber

GRANTS the Motion and **ORDERS** the Prosecution to upload in eCourt the new, redacted version of Neill Wright's letter to replace the unredacted version of Rule 65*ter* document 00735.

REQUESTS the Registry to assign exhibit numbers to Attachments One, Two and Three admitted by the Chamber's Decision of 13 February 2009 and to the redacted version of Neill Wright's letter and to inform the Parties and the Chamber accordingly.

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



Judge Kevin Parker
Presiding

Dated this twenty-eighth day of April 2009,
At The Hague
The Netherlands

[Seal of the Tribunal]

⁸Defence Response of 11 November 2008, para 10; Decision of 13 February 2009.