



International Tribunal for the
Prosecution of Persons
Responsible for Serious Violations of
International Humanitarian Law
Committed in the Territory of
Former Yugoslavia since 1991

Case No. IT-02-60-PT
Date: 20 March 2003
Original: English

IN TRIAL CHAMBER II

Before: Judge Wolfgang Schomburg, Pre-Trial Judge
Registrar: Mr. Hans Holthuis
Decision of: 20 March 2003

PROSECUTOR

v.

**VIDOJE BLAGOJEVIĆ
DRAGAN OBRENOVIĆ
DRAGAN JOKIĆ
MOMIR NIKOLIĆ**

**DECISION ON PROSECUTION'S MOTION FOR LEAVE TO
SUPPLEMENT EXHIBIT LIST**

The Office of the Prosecutor:

Mr. Peter McCloskey

Counsel for the Accused:

Mr. Michael Karnavas and Ms. Suzana Tomanović for Vidoje Blagojević
Mr. David Wilson and Mr. Dušan Slijepčević for Dragan Obrenović
Mr. Miodrag Stojanović and Ms. Cynthia Sinatra for Dragan Jokić
Mr. Veselin Londrović and Mr. Stefan Kirsch for Momir Nikolić

I, WOLFGANG SCHOMBURG, Judge 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”),

HAVING BEEN DESIGNATED pre-trial Judge in these proceedings,

BEING SEISED OF “Prosecution’s Motion for Leave to Supplement Exhibit List,” filed confidentially on 29 January 2003 (“Motion”), in which the Prosecution seeks leave to supplement its proposed trial exhibit list to include “important materials obtained and/or identified by the Prosecution since its 1 November 2002 pre-trial filing, in the course of its ongoing investigation in this case,” as well as “to supplement the list of documents upon which Rick Butler will rely at trial,”¹

NOTING that none of the Accused in this case filed a response to the Motion,

NOTING that the Prosecution filed its initial exhibit list on 1 November 2002, pursuant to Rule 65 *ter* (E)(iii) of the Rules of Procedure and Evidence of the Tribunal (“Rules”),² and that the Trial Chamber issued a decision on 19 November 2002³ permitting the Prosecution to amend its exhibit list to add certain exhibits and ordering the Prosecution to file an Amended Proposed Exhibit List forthwith,

NOTING that the Prosecution filed the requested Amended Proposed Exhibit List as “Tab C” to the Motion, entitled “Prosecution Trial Exhibit List” by the Prosecution, and included in this list the additional exhibits which form part of the basis of this Motion,⁴

NOTING that the Prosecution filed supporting material and indexes to both reports of Rick Butler, namely the “VRS Brigade Command Responsibility Report,” filed on 31 October 2002, and the “Srebrenica Military Narrative (Revised) Operation Krivaja 95” filed on 1 November 2002 with supporting material filed on 11 November 2002, (collectively, “Butler Reports”),

NOTING that the Prosecution has filed a list of documents “upon which Rick Butler may rely at trial,” including the additional documents that form part of the basis of this Motion,⁵ as “Tab D” to the Motion,

¹ Motion, para. 1.

² Prosecution’s Filing of Pre-Trial Brief Pursuant to Rule 65*ter* and List of Exhibits Pursuant to Rule 65*ter* (E)(v) [*sic*], filed under seal 1 November 2002.

³ Decision on Prosecution’s Motion for Leave to Amend the Exhibit List.

⁴ The additional exhibits are identified in “Tab A”.

⁵ These additional documents are identified in “Tab B”.

NOTING that the documents listed in Tab D are not included in the Amended Proposed Exhibit List,

CONSIDERING that only some of the documents included in Tab D – having been disclosed to the Defence – may be offered by the Prosecution as evidence at trial,

NOTING that the items referenced in paragraph 2, subparagraphs a-f, of the Motion became available to the Prosecution after the filing of its initial exhibit list,

NOTING that certain items referenced in paragraph 2 of the Motion are indexes of material or annotated video-stills of videos already on the initial exhibit list,

NOTING that one item referenced in paragraph 2 of the Motion is a Prosecution report that is not yet completed, and a second item related to video identification, which relates to an on-going investigation,

NOTING that paragraph 2(1) of the Motion seeks to add “[t]ranscripts of interviews of the accused dated December 1999 – April 2002” to the exhibit list,

NOTING that the materials related to the Butler Reports are described as “seven documents ... that have been identified by Mr. Butler as materials he may rely upon in the course of his testimony,”⁶

CONSIDERING the proposed materials related to the Butler Reports are not – strictly speaking – proposed exhibits, as envisioned by Rule 65 *ter* (E)(iii) of the Rules, but are included as reference materials that may, if deemed necessary by any of the parties, be offered as documentary evidence, and that it is therefore preferable that these materials be included in the Butler Reports indexes,

CONSIDERING that the Prosecution asserts that with the exception of a “few items”, all of the materials became available to the Prosecution after 1 November 2002, and that the Prosecution “has disclosed much of the material to the Defence and is in the process of disclosing the remaining material,”⁷

CONSIDERING that more than one month remains before the start of this trial and that the materials have been or currently are being disclosed to the Defence, and therefore no prejudice to any Accused will result from the addition of these exhibits to the Prosecution Amended Proposed Exhibit List at this stage of the proceedings,

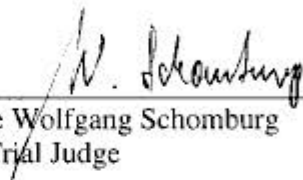
⁶ Motion, para. 6.

⁷ Motion, para. 3.

PURSUANT TO Rules 65 *ter* and 73,

HEREBY GRANTS the Motion, and **ORDERS** the Prosecution to file a revised version of the Amended Proposed Exhibit List, as reflected in Tab C of the Motion, by 31 March 2003, which includes a "65 *ter*" number before each proposed exhibit in order for all parties to easily identify each proposed exhibit during the trial proceedings.

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



Judge Wolfgang Schomburg
Pre-Trial Judge

Dated this twentieth day of March 2003,
At The Hague
The Netherlands

[Seal of the Tribunal]