



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-04-82-T
Date: 27 February 2008
Original: English

IN TRIAL CHAMBER II

Before: Judge Kevin Parker, Presiding
Judge Christine Van Den Wyngaert
Judge Krister Thelin

Registrar: Mr Hans Holthuis

Decision: 27 February 2008

PROSECUTOR

v.

**LJUBE BOŠKOSKI
JOHAN TARČULOVSKI**

Public

**DECISION ON BOŠKOSKI DEFENCE MOTION FOR
ADMISSION OF EXHIBITS FROM THE BAR TABLE –
“ARMED CONFLICT” AND RELATED REQUIREMENTS
UNDER ARTICLE 3 OF THE STATUTE**

The Office of the Prosecutor:

Mr Dan Saxon
Ms Antoinette Issa
Ms Meritxell Regue
Mr Gerard Dobbyn
Ms Nisha Valabhji

Counsel for the Accused:

Ms Edina Rešidović and Mr Guénaël Mettraux for Ljube Boškosi
Mr Antonio Apostolski and Ms Jasmina Zivković for Johan Tarčulovski

1. 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 is seized of the “Boškoski Defence Motion for Admission of Exhibits from the Bar Table – ‘Armed Conflict’ and Related Requirements under Article 3 of the Statute”, filed on 25 January 2008 by Counsel for Ljube Boškoski (“Defence”) seeking the admission into evidence of 44 documents (“Motion”). On 8 February 2008, the Prosecution filed its “Prosecution Response to Boškoski Defence Motion for Admission of Exhibits from the Bar Table – ‘Armed Conflict’ and Related Requirements under Article 3 of the Statute” (“Response”) requesting that the Motion be granted only in respect of two documents.¹ On 11 February 2008, the Defence filed its “Boškoski Defence Reply regarding Defence Bar Table Motion re ‘Armed Conflict’ and Related Elements”, seeking leave to reply and reiterating its request that all proposed documents be admitted (“Reply”). Leave will be granted.

A. Submissions

2. The Defence submits that the proposed documents are reliable and relevant to the alleged existence of an “armed conflict” in the Republic of Macedonia at the time relevant to the Indictment.² With regards to reliability the Defence submits that the proposed documents present no particular issue of authenticity.³ Regarding the relevance of the proposed documents, the Defence argues that the proposed document constitute relevant evidence as they present the position of a number of States, state representatives, and other officials on the status of the entities which allegedly are parties to an armed conflict. The Defence submits that the documents constitute an expression of State practice with respect to “the pertinent legal standard” of armed conflict and the application of this standard to the crisis in Macedonia in 2001; and that they demonstrate that the international community did not regard that crisis to be an armed conflict or considered the Macedonian authorities and the NLA to be parties to such conflict.⁴ In addition, it is submitted that the proposed documents are relevant to the “legal status” of the NLA, which, the Defence submits, has been described and characterised as a “‘terrorist’ or ‘extremist’ group” and not as a party to an armed conflict.⁵ The Defence also submits that the documents are relevant to the other requirements of Article 3 of the Statute, in particular to the *mens rea* of the accused and the relevant

¹ The Prosecution has exceeded the word limited and seeks permission to file a response greater than the 3000 word limit proscribed in the relevant practice direction, *see* Response, paras 3, 31. Permission will be granted.

² Motion, paras 3-4.

³ Motion, para 4; the source of each document is described in Annex A to the Motion.

⁴ Motion, para 10.

⁵ Motion, paras 11-13.

nexus between the crimes and the armed conflict.⁶ In its Motion, the Defence does not address each document individually but attaches a chart, in which, *inter alia*, source, date, and relevance of the document are set out.⁷

3. The Prosecution responds that most of the documents are cumulative and repetitive to others that are already in evidence,⁸ and that the Defence had the opportunity to tender the documents it used when cross-examining Prosecution witnesses, but decided not to.⁹ With respect to the Defence argument that several documents constitute relevant expression of State practice as regard the legal standard of armed conflict and the legal status of the NLA, the Prosecution submits that international customary law requires not only general, uniform and consistent practice but also an intention of creating legally binding law, i.e. *opinio juris*. It is submitted that the proposed press releases and public statements of several countries are political statements that do not constitute such practice, nor *opinio juris*.¹⁰ The Prosecution also submits that the documents are neither relevant to the nexus requirement nor to the accused's *mens rea*.¹¹ The Prosecution addresses the proposed documents in detail.¹²

4. In its Reply, the Defence argues that the burden is on the Prosecution to present the relevant State practice and *opinio juris* regarding the requirement of an armed conflict.¹³ The Defence adds that official statements by state representatives, as provided in the documents proffered by the Defence, are the most typical example of State practice and show that the NLA was consistently regarded as terrorist organisation engaged in terrorist activities and thus cannot be considered to be a party to an armed conflict.¹⁴ The Defence also submits that even if established that certain documents are cumulative or repetitious, this would not *per se* bar the documents from being admitted into evidence; rather the Defence argues that the cumulative nature provides additional proof of their reliability.¹⁵ It further submits that it was not obliged to put all documents before a witness who is capable of testifying to it.¹⁶

⁶ Motion, para 14.

⁷ Motion, Annex A.

⁸ Response, paras 6-7.

⁹ Response, paras 8-9.

¹⁰ Response, paras 10-13.

¹¹ Response, paras 14-15.

¹² Response, paras 17-30.

¹³ Reply, para 4.

¹⁴ Reply, para 5.

¹⁵ Reply, para 7.

¹⁶ Reply, para 9.

B. Law and discussion

5. Pursuant to Rule 89(C) of the Rules, a Chamber may admit any relevant evidence which it deems to have probative value. The Appeals Chamber has clarified that “a piece of evidence may be so lacking in terms of indicia of reliability that it is not ‘probative’ and is therefore not admissible”,¹⁷ and that “evidence is admissible only if it is relevant and it is relevant only if it has probative value.”¹⁸ As a general rule, if the proposed document is not reliable or not relevant to the issues in the case, it lacks probative value and will not be admitted into evidence. It is for the party that moves to have a document admitted into evidence to demonstrate its relevance and reliability to justify its admission.¹⁹ The Chamber may exclude evidence under Rule 89(D) of the Rules, if its probative value is substantially outweighed by the need to ensure a fair trial.

6. The Defence submits that some of the documents proposed for admission in the Motion “constitute relevant expression of State practice as regard the pertinent legal standard applicable to this issue [of armed conflict] as well as regard the application of that standard to the context of the crisis in Macedonia in 2001”.²⁰ The Prosecution responds that the different “names and adjectives” attributed to the NLA by representatives of several countries in public appearances are insufficient to establish State practice and supporting *opinio juris*; in addition, it is submitted that the views of States contained in press releases or public statements are of a political nature and not evidence of a general practice.²¹ The Chamber would like to clarify that State practice and *opinio juris* may be relied on to assess the existence of a rule of customary international law²², which is essentially a *question of law*. The existence of an armed conflict in Macedonia in 2001 is a *question of fact*. Certain documents, in particular views of States and of international governmental organisations or their representatives, may be relevant in the determination of what constitutes State practice and

¹⁷ *Prosecutor v. Kordić and Čerkez*, Case No: IT-95-14/2-AR73.5, “Decision on Appeal Regarding Statements of a Deceased Witness”, 21 July 2000, paras 24. See also *Prosecutor v. Milutinović et al.*, Case No: IT-05-87-T, “Decision on Prosecution’s Motion to Admit Documentary Evidence”, 10 October 2006, para 10 quoting *Prosecutor v. Tadić*, Case No: IT-94-1-T “Decision on Defence Motion in Hearsay”, 5 August 1996, para 15 in which the Trial Chamber held that “if evidence offered is unreliable, it certainly would not have probative value.” See also *Prosecutor v. Mrkšić et al.*, Case No: IT-95-13/1-T, “Decision on Mile Mrkšić’s Motion for Admission of Documents”, 21 November 2006; *Prosecutor v. Boškoski and Tarčulovski*, Case No: IT-04-82-T, Decision on Prosecution’s Motion for Admission of Exhibits from the Bar Table with Confidential Annexes A to E, 14 May 2007.

¹⁸ *Prosecutor v. Galić*, Case No: IT-98-29-AR73.2, Decision on Interlocutory Appeal Concerning Rule 92bis (C), 7 June 2002, para 35.

¹⁹ *Prosecutor v. Boškoski and Tarčulovski*, Case No: IT-04-82-T, Decision on Prosecution’s Motion for Admission of Exhibits from the Bar Table with Confidential Annexes A to E, 14 May 2007, para 14.

²⁰ Motion, para 10.

²¹ Response, paras 11-12.

²² See *Prosecutor v. Hadžihasanović*, Case No: IT-01-47-AR72, Decision on Interlocutory Appeal challenging Jurisdiction in relation to Command Responsibility, 16 July 2003, para 12: “to hold that a principle was part of customary international law, [the Appeals Chamber] has to be satisfied that State practice recognized the principle on the basis of supporting *opinio juris*.” See also International Court of Justice, *Case Concerning the Continental Shelf (Libya/Malta)*, Judgement of 3 June 1985, para. 27: “It is of course axiomatic that the material of customary

opinio juris in relation to the legal definition of an armed conflict. However, contrary to what the Defence seems to argue,²³ State practice may be of little relevance for establishing factual issues before the Chamber.

7. On a similar issue, the parties appear to argue about who has the burden of proof of establishing customary international law. However, establishing and interpreting customary international law is a legal question, and no party has a “burden” in relation to establishing or interpreting legal norms; rather it is for the Chamber to set out and interpret the law (*jura novit curia*). Submissions by the parties concerning disputed issues of law may nevertheless be helpful for the Chamber to arrive at its decision. In any case, issues of customary international law have no particular bearing on the present Decision. The sole question that the Chamber must determine at this stage is whether the documents that the Defence seeks to exhibit from the bar table are relevant to the factual determination of the existence of an armed conflict during the Indictment period.

1. Document MFI 1D96

8. Document MFI 1D96 is a section of the US Department of State’s report “Patterns of Global Terrorism 2001”, dated May 2002.²⁴ The Defence presents the sections titled “Eurasia Overview”, “Europe Overview“, “Latin America Overview”, and “Middle East Overview” of this report (pages 23-55). The Defence submits that this document is relevant to the “allegation of an ‘armed conflict’”.²⁵ The Prosecution argues that the probative value of this document is insufficient as it only provides a partial and incorrect description of the NLA by the US Government in 2001; the Prosecution in particular submits that the NLA does not appear in the list of “Designated Foreign Terrorist Organizations”, which is Appendix B of the report.²⁶ The Chamber notes that only one paragraph on page 31 of the report is related to the conflict in Macedonia and the NLA and this part of the report has been read in court and is, therefore, recorded in the transcript.²⁷ Witness Bouckaert thought this section to be “quite an accurate description” of the situation on the ground and did not disagree with what was stated.²⁸ The probative value of this one paragraph appears to be very minor. In any case, as the relevant content of the document was recorded in the transcript,

international law is to be looked for primarily in the actual practice and *opinio juris* of States [...]”. See also *Kordić Appeal Judgement*, para 66; *Tadić Appeal Judgement*, para 223.

²³ “As well as regard the application of that standard to the context of the crisis in Macedonia in 2001”, Motion, para 10; see also Reply, paras 4-5.

²⁴ Motion, Annex B-II, listed as “No. 1” in Annex A to the Motion.

²⁵ See Motion, Annex A, No. 1, last column. Most of the documents have been proposed by the Defence as being relevant to the “allegation of an ‘armed conflict’”, see Motion, Annex A, last column of the chart; this submission will not be repeated for all documents addressed in this Decision; when the Defence has proposed that a document is relevant to a different issue, it will be clarified in this Decision.

²⁶ Response, para 24, see also Response, footnote 58.

²⁷ T 3232.

²⁸ T 3233.

be very minor. In any case, as the relevant content of the document was recorded in the transcript, there is no need to receive this part of the document in evidence. The rest of the report appears to be of no relevance to this case. Document MFI 1D96, therefore, will not be received.

2. Document MFI 1D95 and Rule 65ter 1D445

9. Document MFI 1D95 appears to be taken from the website of the US State Department, titled “Remarks with President Trajkovski, President of the Former Yugoslav Republic of Macedonia, following their meeting”, which contains remarks made on 1 May 2001 by then US Secretary of State Colin Powell and then Macedonian President Trajkovski.²⁹ Document Rule 65ter 1D445 is an article of Agence France Press, titled “Powell presses Macedonia to negotiate with Albanians”, dated 12 April 2001.³⁰ The Prosecution argues that both documents are repetitive to others already admitted into evidence.³¹ In document MFI 1D95, US Secretary of State Colin Powell and Macedonian President Trajkovski refer several times to “terrorists” and “terrorist organisations”. In document Rule 65ter 1D445, US Secretary of State Colin Powell is cited as referring to “terrorist and extremist elements” in Macedonia. The portions containing these references have been read out to witness Bouckart and are recorded in the transcript. It has also been recorded who made these statements.³² As the relevant content of documents MFI 1D95 and Rule 65ter 1D445 was recorded in the transcript, and as the Defence has not demonstrated that any other part of the documents are relevant to the issue of armed conflict, there is no need to admit these documents into evidence. Documents MFI 1D95 and Rule 65ter 1D445 will not be received.

3. Document Rule 65ter 1D650

10. Document Rule 65ter 1D650 is an email message of August 2001, in which sender and recipient as well as date and subject line have been redacted.³³ The email sets out a remark made by ICTY Head of Investigations that the ICTY Kosovo investigation team will start to look at events in Macedonia but that a decision to open an investigation was at least one month away. The Prosecution argues that the reliability of the document cannot be assessed and no relevance to the issue of armed conflict has been demonstrated.³⁴ The Defence replies that the identity of the sender and recipient are irrelevant to the issue of reliability and that it is sufficient to know the “source, origin and basis of the information”.³⁵ Regarding the relevance of document Rule 65ter 1D650, the

²⁹ Motion, Annex B-I, listed as “No. 2” in Annex A to the Motion.

³⁰ Motion, Annex B-III.

³¹ Response, para 17.

³² For MFI 1D95 *see* T 3228-3230; for Rule 65ter 1D445 *see* T 3227.

³³ Motion, Annex B-IV.

³⁴ Response, para 25.

³⁵ Reply, para 10.

Defence submits that it is evident that the “relevant State in question” was querying the existence of an armed conflict in Macedonia at the time.³⁶ The Chamber notes that the Defence has indicated that the source of the document is “Embassy Den Haag”.³⁷ It is not clear to this Chamber to which Embassy in The Hague (of which State) the Defence refers. Further, in the present circumstances the Chamber cannot identify from the content of this email its relevance to issues in this trial. The Chamber, therefore, finds that, besides the issue of reliability, the Defence has not demonstrated that document Rule 65ter 1D650 is of sufficient relevance to be admitted into evidence. It will not be received.

4. Document Rule 65ter 1D689

11. Document Rule 65ter 1D689 contains, *inter alia*, an article taken from Jane’s Defence Weekly, titled “FYROM under threat - Tensions in the Former Yugoslav Republic of Macedonia could trigger a wider Balkans conflict”, dated 14 March 2001.³⁸ The Prosecution submits that this document is cumulative to exhibits already in evidence. The Prosecution adds that this document should have been put to witnesses such as Gzim Ostreni or Nazim Bushi, or may be put to Defence witness Sergjan Kerim,³⁹ who is quoted in the article.⁴⁰ The Chamber notes that the article speaks about the “removal of armed fighters” from the Kosovo side of the border by KFOR troops and the difficulties the Macedonian security forces faced to control the mountain area near Tanusevci, where armed Albanians have established smuggling routes. Even though the NLA is not mentioned, these events may be related to the proposition that the ethnic Albanian groups clashing with the Macedonian security forces were engaged in mere acts of banditry, and the situation may thus not be qualified as an armed conflict. The events mentioned in this article appear to be relevant to issues in this trial. The Chamber notes that document Rule 65ter 1D689 also includes (parts of) an article entitled “Tanusevci: the fuse of Balkan reconflagration?” dated 1 March 2001;⁴¹ however, the Defence only seeks the first article to be admitted.⁴² Document Rule 65ter 1D689 will, therefore, be received in part.

5. Documents Rule 65ter 1D700 and Rule 65ter 1D701

12. Documents Rule 65ter 1D700 and Rule 65ter 1D701 are two corrigenda to a report of the UN Secretary-General on “Children and armed conflict”, issued during a session of the UN General

³⁶ Reply, para 10.

³⁷ Motion, Annex A, document 4.

³⁸ Motion, Annex B-V.

³⁹ Response, para 18.

⁴⁰ Motion, Annex B-V, p 3.

⁴¹ See Motion, Annex B-V, p 4 (1D00-6059)

⁴² See Motion, Annex A, no. 5, column “description”

Assembly.⁴³ This report states that the situations in Chechnya in 2002 and in Northern Ireland are not armed conflicts within the meaning of the Geneva Conventions and the Additional Protocols; the situation in Macedonia is not mentioned.⁴⁴ The Defence argues that that the documents provide relevant examples of factual situations where violence occurred between different groups and the UN did not consider these situations to be an armed conflict.⁴⁵ The Chamber will not determine in this case whether an armed conflict exists or existed in any other country than in Macedonia, from January to September 2001. The facts which gave rise to the Secretary General's report are not described in the report and are also not otherwise before this Chamber. Documents Rule 65ter 1D700 and Rule 65ter 1D701 will not be admitted.

6. Document Rule 65ter 1D703

13. Document Rule 65ter 1D703 is an OSCE press release, titled "Paris declaration calls for more oversight and accountability in the OSCE", dated 10 July 2001.⁴⁶ The only paragraph of this press release which may be of some relevance to this case refers to the OSCE's Resolution on South Eastern Europe of 10 July 2001, which condemns, *inter alia*, "repeated acts of terrorism in the Former Yugoslav Republic of Macedonia".⁴⁷ This resolution has already been admitted into evidence as Exhibit 1D17.⁴⁸ For this reason, Document Rule 65ter 1D703 will not be received.

7. Document Rule 65ter 1D704 and Document Rule 65ter 1D707

14. Document Rule 65ter 1D704 is a statement by US President George Bush made at Camp Bondsteel, Kosovo, dated 24 July 2001.⁴⁹ Reference is made to "armed insurgents" who resort to violence and threaten peace and stability in Macedonia. Rule 65ter 1D707 is a document from the US Department of State, containing remarks of then US Secretary of State Colin Powell and Macedonian President Trajkovski on 12 April 2001.⁵⁰ The statements indicate that they try to bring about a peaceful solution to the conflict and establish long-term stability in the region; they do not include references to the NLA or any specific incidents in the region. The Defence has failed to demonstrate any relevance of these documents to the issue of armed conflict. Documents Rule 65ter 1D704 and Rule 65ter 1D707 will not be admitted.

⁴³ Motion, Annex B-VI, Annex B-VII.

⁴⁴ See also Response, para 27.

⁴⁵ Reply, para 12.

⁴⁶ Motion, Annex B-VIII. The Prosecution submits that this document is cumulative to exhibits already in evidence, Response, para 18, without citing any exhibits.

⁴⁷ Motion, Annex B-VIII, p 2.

⁴⁸ The reference to "repeated acts of terrorism" is in paragraph 33 of the resolution, see Exhibit 1D17, para 33.

⁴⁹ Motion, Annex B-IX.

⁵⁰ Motion, Annex B-X.

8. Documents Rule 65ter 1D709, Rule 65ter 1D890, Rule 65ter 1D898, and Rule 65ter 1D899

15. Documents Rule 65ter 1D709,⁵¹ Rule 65ter 1D890,⁵² Rule 65ter 1D898,⁵³ and Rule 65ter 1D899⁵⁴ are press briefings of the US State Department. The Prosecution submits that the content of these press briefings is repetitive to other exhibits already in evidence.⁵⁵ During these press briefings many issues are discussed and only small portions refer to the situation in Macedonia. Document Rule 65ter 1D709 refers to one incident which is described by the spokesperson of the State Department as “barbaric terrorist attack”, and the spokesperson refers to the NLA as terrorists, who will not be allowed to participate in the political dialogue.⁵⁶ Document Rule 65ter 1D890 refers to “extremists”, occupying Aračinovo and trying to cut off water supplies in Kumanovo, and the Macedonian Government’s proposal of a cease fire.⁵⁷ Document Rule 65ter 1D898 refers to attacks by extremists against diplomatic establishments in Skopje, and cease-fire violations by the NLA.⁵⁸ Document Rule 65ter 1D899 refers to extremists maintaining their presence in the Tetovo area and violence against Macedonian civilians, as well as several violations of the cease-fire agreement.⁵⁹ It is noted that a similar document (US State Department press briefing of 30 April 2001) was admitted into evidence as Exhibit 1D231; however, the relevant part of this press briefing had been put to the witness and recorded in the transcript, and the document was received only after Counsel for Defence argued that it is only tendered so that the exact wording of the document is in evidence.⁶⁰ The Chamber finds that the probative value of the proposed documents is very low. Only document Rule 65ter 1D709 may have some relevance to the issue of armed conflict. The Defence has failed to demonstrate that the other documents have sufficient relevance or probative value to be admitted; documents Rule 65ter 1D890, Rule 65ter 1D898, and Rule 65ter 1D899 will not be admitted into evidence; document Rule 65ter 1D709 will be received.

⁵¹ Motion, Annex B-XI, dated 1 May 2001.

⁵² Motion, Annex B-XXXI, dated 11 June 2001.

⁵³ Motion, Annex B-XXXIII, dated 25 July 2001.

⁵⁴ Motion, Annex B-XXXIV, dated 30 July 2001.

⁵⁵ Response, para 21, citing Exhibits 1D228, 1D231, 1D259, 1D265, 1D270.

⁵⁶ Motion, Annex B-XI, page 1D00-6258, and page 1D00-6260.

⁵⁷ Motion, Annex B-XXXI, pages 1D00-7712, 1D00-7713.

⁵⁸ Motion, Annex B-XXXIII, pages 1D00-7745 to 1D00-7748.

⁵⁹ Motion, Annex B-XXXIV, page 1D00-7753.

⁶⁰ T 5899-5900: “MR. METTRAUX: The next document, Your Honour, is a record, a transcript of a press briefing of the United States State Department which again has been put extensively to Mr. Bushi. It is dated the 30th of April of 2001, and it is Rule 65 ter 1D818. JUDGE PARKER: You put into the record those parts of that briefing that were relevant. You read them to the witness. Why is the document itself going to be of any relevance so as to justify its admission. MR. METTRAUX: The only reason, Your Honour, really is one of caution in case the transcript does not reflect the exact contents of the document, whether it is by fault of the pronunciation of the counsel or by any other reason. It is more a security that Your Honour can rely on the exact wording of the document. Other than that, Your Honour is quite correct that there would be no other valid purposes at this stage, at least. JUDGE PARKER: It will be received.”

9. Document Rule 65ter 1D723

16. Document Rule 65ter 1D723 is a letter from Ilija Filipovski, then Head of the Coordinative Body of the Government of the Republic of Macedonia for Crisis Management, to Mr. Feith, Representative of the NATO Secretary General, dated 14 August 2001.⁶¹ In this letter, Ilija Filipovski refers to the “disarmament of the armed groups of the ethnic Albanian terrorists.” The Prosecution submits that the Defence has failed to demonstrate the relevance of this letter to the issue of armed conflict.⁶² In its reply, the Defence explains that it is clear from the letter that the Macedonian Government considered the NLA to be a terrorist group, not a party to an armed conflict. The Defence submits that, as the Accused Boškoski was at the time a member of the Government, this document is directly relevant to establishing the state of mind of the Accused regarding the nature of the conflict and the status of the NLA.⁶³ Document Rule 65ter 1D723 is a one paragraph response to an earlier letter of Mr Feith. It may have some relevance to issues in this case; document Rule 65ter 1D723 will, therefore, be received.

10. Document Rule 65ter 1D730

17. Document Rule 65ter 1D730 is a facsimile copy of an OSCE Special Report, titled “Human Rights-related Complaints Related to the EAAG in the Tetovo Area”.⁶⁴ The report has been disclosed by the Prosecution to the Defence, and is not dated.⁶⁵ The Defence submits that this report is relevant for the “status of the NLA and credibility of witnesses Bushi and Ostreni”.⁶⁶ The Prosecution objects to the admission of this document for the purpose of undermining the credibility of the two witnesses.⁶⁷ The Chamber notes that a document with the same content has already been admitted as Exhibit 1D18 (document Rule 65ter 1D122), which was tendered by the Boškoski Defence through witness Bolton on 7 June 2007⁶⁸ and was re-used with witnesses Bushi⁶⁹ and Ostreni.⁷⁰ Document Rule 65ter 1D730, therefore, will not be admitted.

⁶¹ Motion, Annex B-XII.

⁶² Response, para 28.

⁶³ Reply, para 13.

⁶⁴ Motion, Annex B-XIII. The acronym EAAG appears to stand for “ethnic Albanian armed group”.

⁶⁵ The Defence in its chart (Annex A to the Motion) has marked Document Rule 65ter 1D730 as “22 August 2003” but this date is the date of the sending of the facsimile. From its content, it appears that it concerns events in the Tetovo area in July 2001.

⁶⁶ Motion, Annex A, no. 13.

⁶⁷ Response, para 20.

⁶⁸ T 1659-1664.

⁶⁹ T 5824-5827.

⁷⁰ T 7557-7562.

11. Document Rule 65ter 1D813

18. Document Rule 65ter 1D813 is an article taken from MSNBC.com, titled “Sex, drugs and guns in the Balkans – ethnic Albanian rebels benefit from sex slavery”,⁷¹ which is, according to the Defence, dated 30 June 2001.⁷² This document has been put to witness Bezruchenko,⁷³ and the Defence chose not to tender it at the time. It is an article on criminality in the Balkans and it includes allegations that the NLA may have profited from these criminal activities to buy arms. The Defence has not demonstrated that this document is of sufficient relevance or probative value to be admitted into evidence; document Rule 65ter 1D813 will not be received.

12. Document Rule 65ter 1D826 and Rule 65ter 1D1020

19. Document Rule 65ter 1D826 is an OSCE spot report on “Armed Activity in Tanuševce Area – Update 9 March”, dated 9 March 2001.⁷⁴ Document Rule 65ter 1D1020 is an OSCE spot report of the next day, 10 March 2001.⁷⁵ The Prosecution submits that these documents are repetitive and cumulative to other documents in evidence and should have been put to witnesses Bolton, Bushi, and Ostreni to establish the truth of their content. In addition, it is submitted that the documents are partially redacted, providing only an incomplete overview of the events described therein.⁷⁶ The Chamber notes that document Rule 65ter 1D826 describes an attack on a convoy, during which the Accused Boškoski was present, on 8 March 2001. Document Rule 65ter 1D1020 refers to an event in the village of Brest occupied by an ethnic Albanian armed group and sporadic fire between the Macedonian army and the group in the area. The exhibits cited by the Prosecution to demonstrate that both documents are repetitive, do not directly address the events on 8 and 9 March 2001.⁷⁷ The redactions in the OSCE spot reports appear rather minor and do not remove all probative value from these documents. Documents Rule 65ter 1D826 and Rule 65ter 1D1020 will, therefore, be admitted.

⁷¹ Motion, Annex B-XIV.

⁷² Motion, Annex A, no. 14.

⁷³ T 7139.

⁷⁴ Motion, Annex B-XV.

⁷⁵ Motion, Annex B-XLI.

⁷⁶ Response, para 20, it is noted that in this paragraph, the Prosecution mistakenly refers to Document Rule 65ter 1D833, instead of Document Rule 65ter 1D826.

⁷⁷ See exhibits cited in Response, footnote 42.

13. Documents Rule 65ter 1D833, Rule 65ter 1D834, Rule 65ter 1D835, Rule 65ter 1D836, Rule 65ter 1D837, 65ter 1D838, and Rule 65ter 1D1048

20. Documents Rule 65ter 1D833,⁷⁸ Rule 65ter 1D834,⁷⁹ Rule 65ter 1D835,⁸⁰ Rule 65ter 1D836,⁸¹ Rule 65ter 1D837,⁸² and Rule 65ter 1D838⁸³ are all taken from the website of the Assembly of Republic of Macedonia. These documents indicate the results of the elections in 1998 and provide a list of members of parliament and their affiliation to the political parties (document Rule 65ter 1D833), a list of members of two political parties and the independent MPs represented in the Assembly from 1998 to 2002 (document Rule 65ter 1D834), and the composition and mandate of several Assembly committees (documents Rule 65ter 1D835 - Rule 65ter 1D838). The Defence submits that these documents are relevant to the “allegation of an armed conflict in particular as regards the alleged goals and purposes of NLA, and credibility/reliability of witnesses Bushi and Ostreni”.⁸⁴ Document Rule 65ter 1D1048 is a letter of the Macedonian’s Ministry of Foreign Affairs, dated 5 June 2007, which contains a list of ambassadors and consuls general, which, the Defence submits, is relevant to the “allegation of an armed conflict, stated purpose of NLA and credibility of witnesses Bushi and Ostreni”.⁸⁵ In its Reply, the Defence explains that all these documents demonstrate in particular that Albanians were well represented in State institutions.⁸⁶ The Prosecution responds that witnesses Bushi and Ostreni testified and were cross-examined on the ethnic representation in the higher Macedonian institutions and the NLA goals.⁸⁷

21. The proposed documents give an overview over the representation of Albanians in the Assembly and its committees in 2001, and a list of ambassadors and consuls general. They do not contain relevant evidence regarding the representation of Albanians in “state institutions”, but are limited to the Assembly and embassies and consulates. It is noted that, for example, witness Bushi acknowledged that there were two Albanian political parties and a number of independent Albanian politicians elected to the parliament,⁸⁸ as indicated by document Rule 65ter 1D834. Further, some of these documents do not appear to be limited to the time frame alleged in the Indictment. The outcome of the 1998 election and the representation of the political parties in the Assembly (as documented by document Rule 65ter 1D833), or the composition of various committees

⁷⁸ Motion, Annex B-XVI.

⁷⁹ Motion, Annex B-XVII.

⁸⁰ Motion, Annex B-XVIII.

⁸¹ Motion, Annex B-XIX.

⁸² Motion, Annex B-XX.

⁸³ Motion, Annex B-XXI.

⁸⁴ Motion, Annex A, nos 16-21, last column.

⁸⁵ Motion, Annex A, no 42, last column.

⁸⁶ Reply, para 14.

⁸⁷ Response, para 30.

⁸⁸ T 5726.

(documents Rule 65ter 1D835 - Rule 65ter 1D838), do not appear to be disputed by the parties or a witness. Witness Bushi made it clear that, when the NLA criticised the under-representation of ethnic Albanians in State institutions, they did not refer to the Assembly or Parliament,⁸⁹ or to the ministerial level,⁹⁰ but rather to the lower levels of State institutions (public administration, army, police, judicial system).⁹¹ The Chamber concludes that the Defence has failed to demonstrate the relevance of documents Rule 65ter 1D833, Rule 65ter 1D834, Rule 65ter 1D835, Rule 65ter 1D836, Rule 65ter 1D837, Rule 65ter 1D838, and Rule 65ter 1D1048 to any issue in this case; they will, accordingly, not be admitted.

14. Document Rule 65ter 1D850

22. Document Rule 65ter 1D850 is an article from Reuters, titled “US Urges Immediate Halt to Violence in Macedonia”, dated 10 August 2001.⁹² The Defence submits that this document is relevant to the issue of armed conflict;⁹³ the Prosecution responds that this article is cumulative to others already in evidence.⁹⁴ This article contains, *inter alia*, a description of a mine incident, killing 10 Macedonian soldiers on the highway between Skopje and Tetovo near the village of Grupčin, and of a peace deal set up by main Macedonian and Albanian political parties, which would be signed on Monday 13 August 2001. Even though these events are addressed by other evidence in this trial,⁹⁵ this document may be relevant to the issue of armed conflict. Document Rule 65ter 1D850 will be admitted.

⁸⁹ See testimony of Witness Bushi (whose credibility, among others, the Defence seeks to challenge with these documents): “Q. Do you agree that this is how democracy functions, there are political parties which represent particular interests and people vote for them, and if they get enough votes they make it to parliament. Do you agree with that? A. I agree this is how it should function, but the representation in institutions is a different issue, sir. We're not talking about representation in the assembly and parliament.” T 5726. See also T 5767-5768.

⁹⁰ See testimony of Witness Bushi: “Q. Sir, in the year 2001, can you tell this Chamber how many Albanian ministers were in the government at that time? A. I would say four. But representation should not be looked as --to the level of the assembly. There was no similar representation in the institutions. If you're familiar with the process of the formation of the government in Macedonia, you should know that this is an agreement between the members of the parliament discussing certain issues on the table. What is important is the representation in institutions. Even in those ministries which were headed by Albanian there were no Albanian employees. Q. Well, let's take one institution at the time. I was not talking about the parliament at this stage, Mr. Bushi, but in fact there were not four, there were five Albanian ministers in the government at the time. Do you agree with that? A. I agree. Q. And the government of Macedonia at the time was made of 14, 1-4, ministers. Is that correct? A. I don't remember the exact number but it should be more or less that figure. Q. You would agree that there was more than a third of ministers of Albanian ethnicity at that time. Do you agree with that? A. Yes. However, as I said, you cannot speak of a representation of Albanians only through five ministers in the government. Within Macedonia there are many institutions and at that time the representation in this institutions was 1 to 2 per cent.” T 5764-5765.

⁹¹ See testimony of Witness Bushi: “For us it is not important. You can have one minister in the government. For us it is important to have an equal representation in the Macedonian institution, for example, to have Albanians employed in the public administration, in the army, in the police, in the judicial system and other ministries. So we are all seeking just a representation that we rightfully deserve, according to the statistics of the population.” T 5767.

⁹² Motion, Annex B-XXII.

⁹³ Motion, Annex A, no. 22.

⁹⁴ Response, para 18.

⁹⁵ Regarding the mine incident on 8 August 2001, see, for example, Exhibit 2D40.

15. Document Rule 65ter 1D851

23. Document Rule 65ter 1D851 is an article from CNN.com, titled “Bush backs Macedonia peace talks”, dated 13 June 2001.⁹⁶ The Prosecution submits that this document is cumulative to other documents already admitted.⁹⁷ In this article, *inter alia*, US President Bush is quoted as referring to “extremists in Macedonia” who resort to violence, and then Macedonian President Trajkovski is reported to have said that a unified security force may be formed to deal with the “rebels”. This document is essentially about the US foreign policy approach to Macedonia at the time. Its content is not sufficiently relevant to the issues in this case. Document Rule 65ter 1D851 will not be admitted.

16. Document Rule 65ter 1D867

24. Document Rule 65ter 1D867 is a report of what appears to be a document of a Department of Defense containing information about an attack on police forces in the Tetovo area on 22 May 2001.⁹⁸ The Prosecution submits that this document is not reliable and should not be admitted.⁹⁹ The Defence in its Reply draws the Chamber’s attention to a similar document, which the Defence sought to tender from the bar table in a different motion, and adopts the submissions contained in that filing.¹⁰⁰ The Chamber first rejects the Defence proposal to adopt the submissions made in a different motion; in particular, the reference to such submissions in the *Reply* brief is not appropriate as it denies the Prosecution the possibility to respond. On the merits of the admissibility of document Rule 65ter 1D867, the Chamber observes that the creator of this document and the sources he or she used are unknown.¹⁰¹ No witness has testified about its reliability or about its content. In addition, the document itself speaks of “not finally evaluated evidence”¹⁰² and the “difficult[y] to obtain an accurate picture of what is occurring in the Tetovo area”.¹⁰³ The Chamber concludes that Document Rule 65ter 1D867 does not contain sufficient indicia of reliability to be admitted.

⁹⁶ Motion, Annex B-XXIII.

⁹⁷ Response, para 18.

⁹⁸ Motion, Annex B-XXIV.

⁹⁹ Response, para 26.

¹⁰⁰ Reply, para 11, referring to document Rule 65ter 1D1044 and the Defence Motion of 11 February 2008.

¹⁰¹ Cf. the Chamber’s ruling on a similar document (65ter 1D1044): “... the Chamber is persuaded that the proper course to follow is not to receive this document. It is a document, although coming from the records of a government which was actively involved in the region, where the creator of the document and the sources used by the creator are entirely unknown. So to use the document itself of proof of facts, in the Chamber’s view, is getting beyond a matter of mere weight. It’s getting to the point where this is just no demonstrative basis for reliability sufficient to justify its admission. Insofar as its content as being the subject to a specific comment in evidence by the witness, that is entirely and fully produced in the transcript record of that questioning, so that the document itself does not take the matter further.” (T. 7795)

¹⁰² Document Rule 65ter 1D867, p 1.

¹⁰³ Document Rule 65ter 1D867, p 2.

17. Document Rule 65ter 1D873

25. Document Rule 65ter 1D873 is a document of the MoI, Department of security and counter-intelligence, titled “Information on the NLA activities in the territory of Macedonia”, dated 25 July 2001.¹⁰⁴ The Prosecution submits that the document is repetitive of other material admitted and its relevant portions of this document are reflected in the transcript, so that there is no need to admit this document.¹⁰⁵ The Chamber notes that this document was presented to witness Bezruchenko, who confirmed that he was familiar with, and recognized, this document,¹⁰⁶ and that he has relied on it in the preparation of his witness report.¹⁰⁷ The document provides information about the origins of the NLA, its membership, goals, structure, weapons, and logistics, as well as a list of alleged attacks of the NLA against Macedonian security forces. Only two minor sections of the document were recorded in the transcript and the Prosecution has not pointed to any exhibit containing similar details. The detailed content of this document may be relevant to the issue of armed conflict. Document Rule 65ter 1D873 will be admitted.

18. Document Rule 65ter 1D880

26. Document Rule 65ter 1D880 is a document of the UN Security Council, titled “Statement by the President of the Security Council” and dated 12 March 2001.¹⁰⁸ It was shown to witness Bezruchenko during his cross-examination but not tendered.¹⁰⁹ The Prosecution contends that the relevant extracts of the document are reflected in the transcript and there is no need to admit it into evidence.¹¹⁰ In this document, the Security Council “strongly condemns recent violence by ethnic Albanian armed extremists ..., in particular the killing of three soldiers of the armed forces of the former Yugoslav Republic of Macedonia in the area of Tanusevci”.¹¹¹ It shows a certain concern of the UN Security Council regarding the events in Macedonia. Document Rule 65ter 1D880 will be admitted.

19. Document Rule 65ter 1D882

27. Document Rule 65ter 1D882 is an article by a CNN correspondent, titled “Macedonia begins ‘final offensive’”, dated 20 March 2001.¹¹² It was shown to witness Bezruchenko in cross-

¹⁰⁴ Motion, Annex B-XXV. No English translation of this document has been provided for in the Annex.

¹⁰⁵ Response, para 22.

¹⁰⁶ T 6999.

¹⁰⁷ T 7137.

¹⁰⁸ Motion, Annex B-XXVI.

¹⁰⁹ T 7041-7042.

¹¹⁰ Response, para 22.

¹¹¹ Document Rule 65ter 1D880, Motion, Annex B-XXVI. This portion is also recorded in the transcript, T 7041.

¹¹² Motion, Annex B-XXVII.

examination, but the Defence did not seek to tender it.¹¹³ This article contains a statement attributed to Mr Javier Solana, in which he does not recommend any negotiations with “terrorists” but their isolation, apparently referring to the NLA.¹¹⁴ Witness Bezruchenko agreed that Mr Javier Solana did not refer to the NLA as a party to an armed conflict.¹¹⁵ The Chamber finds that the relevant part of Document Rule 65ter 1D882 pertaining to the issue of armed conflict is reflected in the transcript. The article as such does not appear to have any additional content that may be relevant to this issue; it will, therefore, not be admitted.

20. Document Rule 65ter 1D883

28. Document Rule 65ter 1D883 is a Declaration of participants of the South-East European Cooperation Process, Conference of Presidents of Parliaments held in Skopje between 19 and 21 March 2001.¹¹⁶ In this Declaration, the actions of “ethnic Albanian extremist groups” in Macedonia are condemned;¹¹⁷ otherwise, no relevant facts related to the issue of armed conflict are mentioned. The Defence has not demonstrated that document Rule 65ter 1D883 is relevant to the issue of armed conflict; it will, therefore, not be admitted.

21. Document Rule 65ter 1D885

29. Document Rule 65ter 1D885 is an article, taken from CNN.com, titled “EU backs Macedonia over rebels”, dated 23 March 2001.¹¹⁸ In this article Chris Patten, then European Commissioner for External Affairs, referred to “armed extremism – terrorism”. In addition, the article refers to an incident in which two ethnic Albanians were killed by policemen in Tetovo, heavy firing, the occupation of the village of Gracani, close to Skopje, by rebels, and the displacement of about 20,000 people. These factors may be relevant to whether an armed conflict existed at the time relevant to the Indictment. Document Rule 65ter 1D885 will be admitted.

22. Document Rule 65ter 1D887

30. Document Rule 65ter 1D887 is a report of the US Department of State, titled “Europe Overview – Patterns of Global Terrorism, 2000”, dated 30 April 2001.¹¹⁹ The document contains six pages, only one paragraph being related to Macedonia, referring to both the NLA and another organization firing “indiscriminately upon civilian centers”, and to ethnic Albanians carrying out a

¹¹³ T 7057-7059.

¹¹⁴ Document Rule 65ter 1D882, p 1-2.

¹¹⁵ T 7059.

¹¹⁶ Motion, Annex B-XXVIII.

¹¹⁷ Document Rule 65ter 1D883, I.2.

¹¹⁸ Motion, Annex B-XXIX.

¹¹⁹ Motion, Annex B-XXX.

“terrorist attack” in Kosovo on 16 February 2001, killing seven civilians.¹²⁰ This paragraph of the report has been read out in court during the cross-examination of witness Ostreni;¹²¹ the relevant part of the report is therefore adequately reflected in the transcript. The Defence has not demonstrated that the remainder of the report is relevant to the issue of armed conflict. The Chamber reaffirms its oral decision¹²² and will not admit document Rule 65ter 1D887.

23. Document Rule 65ter 1D891

31. Document Rule 65ter 1D891 is a NATO press release of a statement given by the organisation’s Secretary General “concerning developments in the former Yugoslav Republic of Macedonia”, dated 11 June 2001.¹²³ The source of the document, whose statement it contains, and the relevant content have been recorded into the transcript.¹²⁴ There is no need to admit this document into evidence; it will not be received.

24. Document Rule 65ter 1D903

32. Document Rule 65ter 1D903 is UN Security Council Resolution 1371 (2001), adopted at the 4381st meeting on 26 September 2001.¹²⁵ In its resolution, the UN Security Council welcomes the signing of the Framework Agreement on 13 August 2001. The Prosecution does not object to the admission of this document.¹²⁶ This document shows, *inter alia*, the concern of the UN Security Council in the crisis and the international efforts to prevent the escalation of ethnic tensions in Macedonia. It will be admitted.

25. Document Rule 65ter 1D901

33. Document Rule 65ter 1D901 is a document from the White House’s press secretary on the “Signature of a Political Settlement in Macedonia”, dated 13 August 2001.¹²⁷ The Prosecution does not object to the admission of this document.¹²⁸ The document mentions the signature of the political settlement in Macedonia of 13 August 2001 and calls for the disarmament and disbandment of the insurgents, and stresses the role of the international community to convince the

¹²⁰ Document Rule 65ter 1D887, p 1, second paragraph. The Chamber also notes the Prosecution’s arguments in its Response, in which the Prosecution, similarly to MFI 1D96 (*see above*), argues that the NLA was in this report not described as a “foreign terrorist organization” by the US Government, Response, para 23.

¹²¹ T 7607-7608.

¹²² T 7800-7801.

¹²³ Motion, Annex B-XXXII.

¹²⁴ T 7590.

¹²⁵ Motion, Annex B-XXXVI.

¹²⁶ Response, para 16.

¹²⁷ Motion, Annex B-XXXV.

¹²⁸ Response, para 16.

“extremists” to lay down their arms. These matters may have some relevance to the issue of armed conflict. Document Rule 65ter 1D901 will be admitted.

26. Document Rule 65ter 1D954

34. Document Rule 65ter 1D954 is a BBC news article of 21 March 2001, in which then UK Foreign Secretary Robin Cook is said to have called for robust military action against Albanian “terrorists”.¹²⁹ The Prosecution submits that the content of this document is cumulative to other evidence and that it should have been put to Prosecution witnesses.¹³⁰ The Chamber notes that in addition to Robin Cook’s statement, the article contains information about an ultimatum to the rebels set by the Macedonian Government, where it announces that it will use “all available means against them”, and further that the conflict has escalated in recent weeks, leaving up to 10,000 people displaced from their homes. The Chamber considers that these factors may be relevant to the assessment of whether an armed conflict existed at the time relevant to the Indictment. Document Rule 65ter 1D954 will be admitted.

27. Documents Rule 65ter 1D958, Rule 65ter 1D960, and Rule 65ter 1D961

35. Document Rule 65ter 1D958 appears to be an EU press release, titled “Patten condemns murder of FYROM soldiers, urges continued dialogue”, in which then European Commissioner for External Affairs Chris Patten condemns the killing of eight members of the Macedonian security forces on 28 April 2001.¹³¹ Document Rule 65ter 1D960 contains two articles titled “NATO condemns killing of Macedonian soldiers” and “NATO condemns ambush of Macedonian patrol”, both dated 29 April 2001,¹³² in which then NATO Secretary General Lord Robertson condemns the same event. Similarly, document Rule 65ter 1D961 contains statements made by the French Ministry of Foreign Affairs Spokesperson during a press briefing on 30 April 2001, also condemning these killings.¹³³ The fact that an attack occurred on the Macedonian security forces causing the death of eight persons may be a factor in considering whether an armed conflict existed at the time relevant to the Indictment. The facts of this event of 28 April 2001 do not seem to be contested by any party and appear to be sufficiently recorded in the evidence.¹³⁴ In any case, these documents do not contain details about this event but merely show the condemnation of the NATO Security General, the EU Commissioner for External Affairs, and the French Foreign Affairs

¹²⁹ Motion, Annex B-XXXVII.

¹³⁰ Response, para 18.

¹³¹ Motion, Annex B-XXXVIII.

¹³² Motion, Annex B-XXXIX.

¹³³ Motion, Annex B-XL.

¹³⁴ See e.g. P45, pp 112-113.

spokesperson. The Defence has failed to establish that this condemnation, as such, is of relevance to the issue of an armed conflict.

36. Regarding document Rule 65ter 1D961, the Chamber also notes that the French Ministry of Foreign Affairs Spokesperson described the event of 28 April 2001 as “terrorist act”.¹³⁵ This has been recorded in the transcript and witness Bezruchenko agreed that the event was described as such by the French Ministry of Foreign Affairs.¹³⁶ There is, therefore, no need to admit this document into evidence.

37. Documents Rule 65ter 1D958, Rule 65ter 1D960, and Rule 65ter 1D961 will not be admitted.

28. Documents Rule 65ter 1D1222.1 and Rule 65ter 1D1222.2

38. Document Rule 65ter 1D1222.1 is a report of the MoI Administration for Forensic Techniques, and Rule 65ter 1D1222.2 is a related photo documentation, of an event which occurred in Tetovo, where two ethnic Albanians allegedly attacked Macedonian security forces at a check-point with hand-grenades and were shot dead on the spot. This event was discussed, for example, with witness Bushi,¹³⁷ and evidence was led to that effect.¹³⁸ The Defence submits that these documents are relevant to the “allegation of an ‘armed conflict’ and credibility of witness Bushi”.¹³⁹ The Prosecution objects to the admission of this document for the purpose of undermining the credibility of the witness.¹⁴⁰ The Defence replies that it cannot be forced or expected to “put every possible document to a witness capable of giving evidence in relation to that particular document”.¹⁴¹ The Chamber considers that the Defence seeks the admission of these particular documents for the purpose to undermine the credibility of witness Bushi. In such a case, the Defence should have confronted the witness with the content of the document to give him the opportunity to comment on this material, and to give the Prosecution the possibility to re-examine the witness on it. These documents will, therefore, not be admitted for the purpose of challenging the credibility of witness Bushi. The Defence has also failed to demonstrate that the forensic report and the photo documentation are relevant to the issue of armed conflict. Documents Rule 65ter 1D1222.1 and Rule 65ter 1D1222.2 will not be admitted.

¹³⁵ Motion, Annex B-XL, p 4.

¹³⁶ T 7076-7077.

¹³⁷ T 5956-5962. See also witness Hutsch, T 6212.

¹³⁸ Exhibits 2D49, 2D50, 2D51.

¹³⁹ Motion, Annex A, nos 44-45, last column.

For the foregoing reasons, pursuant to Rules 54 and 89 of the Rules, the Chamber

GRANTS the Prosecution permission to file a response exceeding the word limit, and the Defence leave to reply;

DECIDES as follows:

- (1) Documents MFI 1D96, MFI 1D95, Rule 65ter 1D445, Rule 65ter 1D650, Rule 65ter 1D700, Rule 65ter 1D701, Rule 65ter 1D703, Rule 65ter 1D704, Rule 65ter 1D707, Rule 65ter 1D730, Rule 65ter 1D813, Rule 65ter 1D833, Rule 65ter 1D834, Rule 65ter 1D835, Rule 65ter 1D836, Rule 65ter 1D837, Rule 65ter 1D838, Rule 65ter 1D851, Rule 65ter 1D867, Rule 65ter 1D882, Rule 65ter 1D883, Rule 65ter 1D887, Rule 65ter 1D890, Rule 65ter 1D891, Rule 65ter 1D898, Rule 65ter 1D899, Rule 65ter 1D958, Rule 65ter 1D960, Rule 65ter 1D961, Rule 65ter 1D1048, Rule 65ter 1D1222.1, and Rule 65ter 1D1222.2 will **NOT** be received;
- (2) Documents Rule 65ter 1D709, Rule 65ter 1D723, Rule 65ter 1D826, Rule 65ter 1D850, Rule 65ter 1D873, Rule 65ter 1D880, Rule 65ter 1D885, Rule 65ter 1D901, Rule 65ter 1D903, Rule 65ter 1D954, Rule 65ter 1D1020 will be received and admitted into evidence;
- (3) Document Rule 65ter 1D689 will be received as far as it includes the article “FYROM under threat”; (the beginning of) the article titled “Tanusevci: the fuse of Balkan reconflagration?” dated 1 March 2001, at the fourth page of Annex B-V of the Motion (ERN 1D00-6059) will not be admitted; the Defence is requested to upload this page on e-court anew, containing only the last lines of the first article and not (the beginning of) the second article;

AND REQUESTS the Registry to assign exhibit numbers to the received documents and to inform the Chamber and the parties in writing accordingly.

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

¹⁴⁰ Response, para 19.

¹⁴¹ Reply, para 9.

Dated this twenty-seventh day of February 2008
At The Hague
The Netherlands



Judge Kevin Parker
Presiding Judge

[Seal of the Tribunal]