



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-95-5/18-PT
Date: 20 August 2009
Original: English

IN THE TRIAL CHAMBER

Before: Judge Iain Bonomy, Presiding
Judge Christoph Flügge
Judge Michèle Picard

Registrar: Mr. John Hocking

Decision of: 20 August 2009

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

**DECISION ON PROSECUTION MOTION FOR ADMISSION OF TESTIMONY OF
WITNESS KDZ198 AND ASSOCIATED EXHIBITS PURSUANT TO RULE 92 QUATER**

Office of the Prosecutor

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

The Accused

Mr. Radovan Karadžić

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 “Prosecution’s Motion for Admission of Testimony of Witness KDZ198 and Associated Exhibits Pursuant to Rule 92 *quater*”, filed on 29 May 2009 (“Motion”), and hereby issues its decision thereon.

I. Background and Submissions

1. The Office of the Prosecutor (“Prosecution”) seeks the admission of oral evidence given by witness KDZ198 in the *Krajišnik* case, pursuant to Rule 92 *quater* of the Tribunal’s Rules of Procedure and Evidence (“Rules”), which provides for the admission of evidence from “unavailable persons”. It submits that KDZ198 is deceased; he previously testified under oath against an accused who was in a similar position to the Accused, and was cross-examined by counsel; his evidence is corroborated by other witnesses and documentary evidence; and it is relevant, probative, and reliable.¹ In addition to his oral evidence, the Prosecution also seeks the admission of 14 “associated exhibits”, which were referred to in the course of KDZ198’s testimony.²

2. Having received an extension of time to respond to the Motion,³ the Accused filed his “Response to Prosecution 92 *quater* Motion: Witness KDZ198” on 10 July 2009 (“Response”). In opposing the Motion, the Accused raises three main arguments: (i) Rule 92 *quater* violates his rights under Article 21(4)(e) of the Statute “to examine, or have examined, the witnesses against him”; (ii) in the circumstances of this case, the cumulative effect of the Prosecution’s motions for judicial notice of adjudicated facts and motions for the admission of evidence pursuant to Rules 92 *bis* and *quater* is to shift the burden of proof from the Prosecution to the Accused, in violation of his right to a fair trial; and (iii) the evidence of KDZ198 relates to the acts and conduct of the Accused and to critical issues of the Prosecution’s case, and is “marred with inconsistencies, hesitations and contradictions.”⁴ In relation to the last of these arguments, the Accused submits that, should the Chamber decide that the evidence generally fulfils the requirements for admission under Rule 92 *quater*, it should only admit those parts of it that are not inconsistent, and do not relate to his acts and conduct, or to critical issues of the Prosecution’s case.⁵

¹ Motion, para. 2.

² Motion, para. 9, and Confidential Appendix A.

³ Order following upon Rule 65 *ter* meeting and Decision on Motions for Extension of Time, 18 June 2009.

⁴ Response, paras. 2–4.

⁵ Response, para. 20.

3. Upon obtaining leave from the Chamber, the Prosecution filed its “Reply to the ‘Response to Prosecution 92 *quater* Motion: Witness KDZ198’” on 24 July 2009 (“Reply”), addressing the Accused’s arguments concerning the reliability of KDZ198’s evidence.⁶ It argues that his testimony was consistent with previous statements, and was internally consistent. It also submits that the Accused has failed to show how the questions of the Presiding Judge in *Krajišnik* impaired the ability of the Defence in that case to test the witness’s evidence.⁷

II. Applicable Law

4. Rule 92 *quater*, entitled “Unavailable Persons”, reads as follows:

(A) The evidence of a person in the form of a written statement or transcript who has subsequently died, or who can no longer with reasonable diligence be traced, or who is by reason of bodily or mental condition unable to testify orally may be admitted, whether or not the written statement is in the form prescribed by Rule 92 *bis*, if the Trial Chamber:

- (i) is satisfied of the person’s unavailability as set out above; and
- (ii) finds from the circumstances in which the statement was made and recorded that it is reliable.

(B) If the evidence goes to proof of acts and conduct of an accused as charged in the indictment, this may be a factor against the admission of such evidence, or that part of it.

It follows from a plain reading of these provisions that evidence pertaining to the acts and conduct of an accused can be admitted under Rule 92 *quater*, in certain circumstances, *and* that a witness’s evidence need not be admitted in its entirety, it being for the Chamber to decide which parts, if any, should be excluded. Evidence going to the acts and conduct of the accused is evidence that concerns the deeds and behaviour of that accused, rather than of anyone else for whose actions he is alleged to be responsible.⁸

5. In assessing the reliability of the proposed evidence, a Chamber can look at the circumstances in which it was obtained and recorded, such as: whether a written statement was given under oath; whether it was signed by the witness with an acknowledgement of the truth of its contents; whether it was given with the assistance of a Registry approved interpreter; and whether it

⁶ See Decision on Prosecution Request for Leave to Reply: Rule 92 *quater* Motion (Witness KDZ198), 16 July 2009, and Decision on Prosecution’s Request for Reconsideration, 23 July 2009.

⁷ Reply, para. 1.

⁸ *Prosecutor v. Milošević*, Case No. IT-02-54-T, Decision on Prosecution’s Request to Have Written Statements Admitted Under Rule 92 *bis*, 21 March 2002, para. 22; *Prosecutor v. Galić*, Case No. IT-98-29-AR73.2, Decision on Interlocutory Appeal Concerning Rule 92 *bis*(C), 7 June 2002, para. 9.

has been subject to cross-examination. In addition, other factors, such as whether the evidence relates to events about which there is other evidence, or whether there is an absence of manifest or obvious inconsistencies in the evidence, may be considered.⁹ If one or more of these indicia of reliability is absent the evidence can still be admitted, and the Trial Chamber will take this into consideration in determining the appropriate weight to be given to it in its overall consideration of all the evidence in the case.¹⁰

6. In addition, the Trial Chamber must ensure that the general requirements for the admissibility of evidence set out in Rule 89 of the Rules are met, namely that the proffered evidence is relevant and has probative value, and that the probative value is not substantially outweighed by the need to ensure a fair trial.¹¹

7. When the testimony of an unavailable person is admitted under Rule 92 *quater*, exhibits which accompany that evidence can also be admitted. Such exhibits should form an “inseparable and indispensable part” of the testimony, meaning that they should not merely have been mentioned during the course of that testimony, but rather have been used and explained by the witness.¹² It follows that such exhibits should also satisfy the requirements of relevance and probative value contained in Rule 89, and that their probative value must not be substantially outweighed by the need to ensure a fair trial.

III. Discussion

8. The Chamber is unconvinced by the Accused’s general assertion that the operation of Rule 92 *quater* violates his rights under Article 21(4)(e) of the Statute. The right of an accused to cross-examine the witnesses against him is not absolute.¹³ The Tribunal’s Rules provide for the admission of written evidence in lieu of oral testimony in certain circumstances, including from “unavailable persons”. The provisions of Rules 92 *bis*, *ter*, and *quater* set out those circumstances

⁹ *Prosecutor v. Popović et al.*, Case No. IT-05-88-AR73.4, Decision on Beara’s and Nikolić’s Interlocutory Appeals Against Trial Chamber’s Decision of 21 April 2008 Admitting 92 *quater* Evidence, confidential, 18 August 2008, para. 30. See also *Prosecutor v. Popović et al.*, Case No. IT-05-88-T, Redacted Version of “Decision on Motion on Behalf of Drago Nikolić Seeking admission of Evidence pursuant to Rule 92 *quater*” filed confidentially on 18 December 2008, 19 February 2009, para. 32.

¹⁰ *Prosecutor v. Popović et al.*, Case No. IT-05-88-AR73.4, Decision on the Prosecution Motion for Admission of Evidence pursuant to Rule 92 *quater*, 21 April 2008, paras. 28-32. See also *Prosecutor v. Popović et al.*, Case No. IT-05-88-T, Decision on Gvero’s Motion for the Admission of Evidence pursuant to Rule 92 *quater*, 3 February 2009, para. 24.

¹¹ See *Prosecutor v. Rasim Delić*, Case No. IT-04-83-PT, Decision on Prosecution Motion for Admission of Evidence Pursuant to Rule 92 *quater*, 9 July 2007, p. 4.

¹² *Prosecutor v. Popović et al.*, Case No. IT-05-88-AR73.4, Decision on the Prosecution Motion for Admission of Evidence pursuant to Rule 92 *quater*, 21 April 2008, para. 65.

¹³ See, e.g., *Prosecutor v. Milan Martić*, Case No. IT-95-11-AR73.2, Decision on Appeal against the Trial Chamber’s Decision on the Evidence of Witness Milan Babić, 14 September 2006 (“*Martić* Decision”), para. 12.

in which such admission is appropriate, with the accused's fair trial rights in mind. Moreover, all these provisions are subject to the general requirements for the admission of evidence contained in Rule 89, which provides, in sub-paragraph (D), that evidence may be excluded if its probative value is substantially outweighed by the need to ensure a fair trial.¹⁴ It is, therefore, for the Trial Chamber to assess, on a case by case basis, whether the probative value of proposed Rule 92 *quater* evidence is substantially outweighed by the need to ensure a fair trial and, if so, it will decline to admit such evidence.

9. With that in mind, it should be noted that, while the rights of an accused set out in Article 21 of the Statute must be protected, a "fair trial" includes fairness to the Prosecution, as well as to the defence.¹⁵ In addition, the admission of Rule 92 *bis* and *quater* evidence does not shift the burden of proof to the defence or the accused. Furthermore, judicial notice can only be taken of adjudicated facts that do not go to the acts and conduct of an accused. Therefore, the burden of proof remains firmly with the Prosecution.¹⁶ In any event, the Appeals Chamber has ruled that judicially noticed adjudicated facts are merely presumptions which can be rebutted by the defence during trial, and which do not shift the burden of proof.¹⁷

10. In this particular case, the number of Rule 92 *quater* witnesses is relatively limited in the context of the overall number of witnesses. In addition, the Chamber considers that even if all Rule 92 *bis* motions that are pending before the Chamber are granted, the burden of proof would not shift to the Accused for the above mentioned reason. Finally, none of the judicially noticed adjudicated facts in this case goes to the acts and conduct of the Accused and, therefore, the burden of proof does not shift to him. Throughout the trial the Chamber will exercise vigilance to ensure that evidence is admitted only in accordance with Rule 89(D) and that the right of the Accused to a fair trial is not infringed. Whether to accept judicially noticed facts as such, and whether to accept the evidence admitted in this case under Rules 92 *bis* and 92 *quater*, as well as the weight, if any, to be accorded thereto, will be for the Trial Chamber to determine in its final assessment of all the evidence presented in the case by the Prosecution and the Accused. For all those reasons, the Trial Chamber finds that granting the present Motion would not result in a shifting of the burden of proof from the Prosecution to the Accused, in violation of his right to a fair trial.

¹⁴ *Martić* Decision, para. 14.

¹⁵ *Martić* Decision, para. 13; *Prosecutor v. Zlatko Aleksovski*, Case No. IT-95-14/1-AR73, Decision on Prosecutor's Appeal on Admissibility of Evidence, 16 February 1999, para. 25.

¹⁶ *Prosecutor v. Perišić*, Case No. IT-04-81-PT, Decision on Prosecution's Motion for Judicial Notice of Facts Relevant to the Srebrenica Crime Base, 22 September 2008, paras. 21–23, 39–42.

¹⁷ *Prosecutor v. Karemera et al.*, Case No. ICTR-98-44-AR73(C), Decision on Prosecutor's Interlocutory Appeal of Decision on Judicial Notice, 16 June 2006, para. 42.

11. KDZ198 was president of the Municipal Assembly in Banja Luka from January 1991, and in July 1991 was elected to the Main Board of the Serbian Democratic Party of Bosnia and Herzegovina (“SDS”). He thus became a member of the Crisis Staff of the Autonomous Region of Krajina (“ARK”), in 1992, and was involved in, and a witness to, the activities of the Bosnian Serb political organs during the period relevant to the Third Amended Indictment (“Indictment”). Through his position, he had contact with the Accused and other Bosnian Serb leaders and spoke at rallies with some of them. He testified over three days in the *Krajišnik* case, describing *inter alia* events in Banja Luka in the Indictment period; the structures put in place at the municipal level by the SDS, as well as the ARK Crisis Staff; the role of Radoslav Brđanin, and others, therein; speeches made by himself, Brđanin, and Momčilo Krajišnik at rallies; and his observations at the Omarska detention camp during a visit in July 1992.

12. The Accused does not dispute, and the Chamber is accepts, that KDZ198 is deceased, and therefore unavailable, on the basis of the hospital death certificate provided by the Prosecution.

13. Some portions of KDZ198’s evidence clearly relate to the acts and conduct of the Accused. As noted above, however, this is not a bar to the admission of the evidence, or the relevant portions thereof, under Rule 92 *quater*. The evidence, as a whole, is undoubtedly relevant to the Prosecution’s case against the Accused, and relates to critical issues of the Prosecution’s case concerning the structures and functioning of Bosnian Serb political organs in the Indictment period, which the Prosecution alleges were under the control of the Accused. It also bears upon some of the crimes alleged to have been committed and, to some degree, the Accused’s knowledge and response to criminal behaviour by alleged subordinates.

14. The Accused argues that the evidence is “marred with inconsistencies, hesitations and contradictions” and is thus unreliable.¹⁸ The Chamber notes that KDZ198’s testimony was given under oath, and was subject to cross-examination by Defence counsel in the *Krajišnik* case. The Prosecution asserts that his evidence is corroborated by that of several other witnesses in the present case, and exhibits associated with those witnesses. The Chamber is not in a position, at this stage, to assess for itself the extent to which this other evidence is indeed corroborative of KDZ198.

15. Having reviewed the transcript, the Chamber is aware that there may be some inconsistency, or lack of clarity, in the witness’s evidence concerning whether the issue of “ethnic cleansing” in Banja Luka was ever directly discussed between the witness, the Accused, and

¹⁸ Response, paras. 2–4.

Krajišnik. The other issues identified by the Accused as inconsistencies or contradictions may have been clarified or explained during KDZ198's testimony. In any event, the Chamber considers that such potential inconsistencies do not render the evidence entirely unreliable, barring admission under Rule 92 *quater*, but rather that they are to be taken into account in assessing the appropriate weight to be given to the evidence in the context of the case as a whole. Indeed, such inconsistencies are likely to have a bearing on the Chamber's evaluation of the witness's evidence as a whole in the context of all other evidence in the case. The Chamber, therefore, does not consider it necessary, or feasible, to exclude from admission those portions of the witness's evidence pertaining to any discussion of "ethnic cleansing" in Banja Luka between the witness and the Accused.

16. It follows that the general requirements of relevance and probative value, set out in Rule 89 of the Rules, are satisfied in relation to KDZ198's evidence. Noting that it will attribute appropriate weight to that evidence in its overall consideration of the evidence in the case, and that it cannot base a conviction on the uncorroborated evidence of a deceased witness, the Chamber finds that the probative value of KDZ198's evidence is not substantially outweighed by the need to ensure a fair trial. The Trial Chamber will therefore admit that evidence pursuant to Rule 92 *quater*. The Chamber notes that the Prosecution seeks admission of a small portion of this transcript under seal, as it involves an in-court discussion that took place in private session.¹⁹ The Chamber considers that this portion of the transcript is not part of the evidence of KDZ198 and, as such, should not be admitted into evidence at all. Accordingly, the Chamber will order the Prosecution to remove this portion of the transcript before the transcript is given an exhibit number and admitted into evidence.

17. With regard to the exhibits associated with KDZ198's evidence, the Chamber notes that the document with Rule 65 *ter* number 13333 is the transcript of an interview with the witness conducted by the Prosecution in 2001, and the document with Rule 65 *ter* number 13336 is the transcript of a Prosecution interview with the witness held on 28 July 2002. These documents were used throughout his testimony in the *Krajišnik* case, primarily to challenge him on certain issues, and clearly form an inseparable and indispensable part of the testimony. They also satisfy the requirements of relevance and probative value, and their probative value is not substantially outweighed by the need to ensure a fair trial. They will therefore be admitted in this case, in their entirety, with exhibit numbers to be assigned by the Registry.

¹⁹ T. 7541, line 14 to T.7542, line 24.

18. The document with Rule 65 *ter* number 01000 is the transcript of an extended meeting of the Main and Executive Boards of the SDS, held in Sarajevo on 14 February 1992. It was admitted in the *Krajišnik* case as exhibit P67.A, tab 27, through the Prosecution's expert witness, Patrick Treanor. During his testimony, KDZ198 confirmed that he recalled attending this meeting, and a small portion from page 24 (of the English version) was read out in court.²⁰ There was no other discussion of the document. The Chamber notes that the portion of the evidence read out in court does not add anything of substance to the witness's evidence. Nevertheless, because it provides the Chamber with a full understanding of the evidence of the witness, it forms an inseparable and indispensable part of his testimony. In addition, this portion of the exhibit meets the requirements of relevance and probative value, and its probative value is not substantially outweighed by the need to ensure a fair trial. This portion will therefore be admitted to provide a full understanding of the evidence of the witness in this case, and the Prosecution will be ordered to extract this portion so that it can be assigned an exhibit number by the Registry. Because the rest of the document was not referred to during the witness's testimony it does not form an inseparable and indispensable part of it and shall not be admitted.

19. The document with Rule 65 *ter* number 05411 is a short newspaper article dated 12 November 1991, and was admitted as exhibit P355 in the *Krajišnik* case, through KDZ198. The Chamber is satisfied that it forms an inseparable and indispensable part of KDZ198's testimony, that it meets the requirements of relevance and probative value, and its probative value is not substantially outweighed by the need to ensure a fair trial. It will therefore be admitted in this case, with an exhibit number to be assigned by the Registry.

20. The document with Rule 65 *ter* number 31670 is the transcript of an intercepted telephone conversation between the Accused and three individuals, including KDZ198, which was admitted through him as exhibit P356 in the *Krajišnik* case. The Chamber is satisfied that it forms an inseparable and indispensable part of KDZ198's testimony, that it meets the requirements of relevance and probative value, and its probative value is not substantially outweighed by the need to ensure a fair trial. It will therefore be admitted in this case, with an exhibit number to be assigned by the Registry.

21. The document with Rule 65 *ter* number 00225 is a copy of the "Instructions for the Organisation and Activity of Organs of the Serbian People in BiH in a State of Emergency", dated 19 December 1991, which are known as the "Variant A and B" instructions. This document was used during the course of KDZ198's direct examination and cross-examination in *Krajišnik*,

²⁰ T. 7365-7366 (26 October 2004).

although it had been admitted previously through another Prosecution witness. The Chamber is satisfied that it forms an inseparable and indispensable part of KDZ198's testimony, that it meets the requirements of relevance and probative value, and its probative value is not substantially outweighed by the need to ensure a fair trial. It will therefore be admitted in this case, with an exhibit number to be assigned by the Registry.

22. The document with Rule 65 *ter* number 08017 is a Decision of the Executive Council of the Autonomous Region of Krajina, dated 5 May 1992, establishing the Crisis Staff and naming KDZ198, among others, as a member. It was discussed with KDZ198 during his testimony in *Krajišnik*, although from the transcript it is unclear whether it had already been admitted through a prior Prosecution witness, or was admitted in the course of KDZ198's evidence. Nonetheless, the Chamber is satisfied that it forms an inseparable and indispensable part of KDZ198's testimony, that it meets the requirements of relevance and probative value, and its probative value is not substantially outweighed by the need to ensure a fair trial. It will therefore be admitted in this case, with an exhibit number to be assigned by the Registry.

23. The document with Rule 65 *ter* number 05499 is a Decision of the Crisis Staff of the Autonomous Region of Krajina, dated 22 June 1992, which was admitted in *Krajišnik* through KDZ198, as P358. The Chamber is satisfied that it forms an inseparable and indispensable part of KDZ198's testimony, that it meets the requirements of relevance and probative value, and its probative value is not substantially outweighed by the need to ensure a fair trial. It will therefore be admitted in this case, with an exhibit number to be assigned by the Registry.

24. The document with Rule 65 *ter* number 01098 is described as a Communication from the Petrovac Municipal Assembly Crisis Staff to the Autonomous Region of Krajina Crisis Staff, dated 22 June 1992, which was admitted in *Krajišnik* through KDZ198 as P359. The Chamber is satisfied that it forms an inseparable and indispensable part of KDZ198's testimony, that it meets the requirements of relevance and probative value, and its probative value is not substantially outweighed by the need to ensure a fair trial. It will therefore be admitted in this case, with an exhibit number to be assigned by the Registry.

25. The document with Rule 65 *ter* number 10943 is a Report on the Implementation of the Conclusions of the Prijedor Municipal Crisis Staff, dated 13 July 1992, which was admitted in *Krajišnik* through KDZ198 as P360. The Chamber is satisfied that it forms an inseparable and indispensable part of KDZ198's testimony, that it meets the requirements of relevance and probative value, and its probative value is not substantially outweighed by the need to ensure a fair

trial. It will therefore be admitted in this case, with an exhibit number to be assigned by the Registry.

26. The document with Rule 65 *ter* number 04788 is a Report from the Banja Luka MUP containing a list of citizens who had moved into and out of the area, dated May 1993. It had been admitted as P209 in the *Krajišnik* case prior to KDZ198's testimony, and was shown to him by the Prosecution, asking whether it was consistent with his own observations.²¹ The witness answered that it was, with specific regard to the portion of the document concerning Prijedor. The Chamber is satisfied that this document forms an inseparable and indispensable part of KDZ198's testimony, that it meets the requirements of relevance and probative value, and its probative value is not substantially outweighed by the need to ensure a fair trial. It will therefore be admitted in this case, with an exhibit number to be assigned by the Registry.

27. The document with Rule 65 *ter* number 10936 is a newspaper article dated 17 July 1992, which was admitted in *Krajišnik* through KDZ198 as P361. The Chamber is satisfied that it forms an inseparable and indispensable part of KDZ198's testimony, that it meets the requirements of relevance and probative value, and its probative value is not substantially outweighed by the need to ensure a fair trial. It will therefore be admitted in this case, with an exhibit number to be assigned by the Registry.

28. The items marked with Rule 65 *ter* numbers 40048 and 40035 are video-clips that were played during the course of KDZ198's testimony in *Krajišnik*. The first of these was admitted as P354, and shows a rally during which the witness and the Accused both spoke. While the Trial Chamber has been unable to view this video at this stage, it is satisfied, on the basis of the transcript of KDZ198's testimony, that it forms an inseparable and indispensable part of that testimony, that it meets the requirements of relevance and probative value, and its probative value is not substantially outweighed by the need to ensure a fair trial. It will therefore be admitted in this case, with an exhibit number to be assigned by the Registry. The second video also shows a rally, held in 1994, at which KDZ198 spoke, and was admitted in *Krajišnik* as P357. Once again, the Trial Chamber has not been able to view the video, but it is satisfied, on the basis of the transcript of KDZ198's testimony, that it forms an inseparable and indispensable part of that testimony, that it meets the requirements of relevance and probative value, and its probative value is not substantially outweighed by the need to ensure a fair trial. It will therefore be admitted in this case, with an exhibit number to be assigned by the Registry. As stated above, the Chamber was not able to view the videos in question and is, therefore, unable to assess whether they consist

²¹ T. 7436 (26 October 2004).

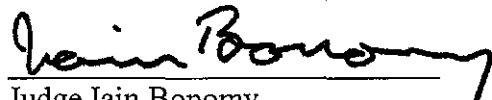
of more footage than that actually played in court. Should this be the case, the Chamber will order the Prosecution to submit for admission only the parts of the videos that were actually played during the testimony of KDZ198 and reflected in the transcript as such, and to provide copies thereof to the Chamber and the Accused.

IV. Disposition

29. For these reasons, pursuant to Rules 54, 89, and 92 *quater* of the Rules, the Trial Chamber hereby **GRANTS** the Motion in part, **ADMITS** the transcript of KDZ198's testimony into evidence, excluding the private session portion, and **ADMITS** the following with exhibit numbers to be assigned by the Registry:

- (a) The items with Rule 65 *ter* numbers 13333, 13336, 05411, 31670, 00225, 08017, 05499, 01098, 10943, 04788, and 10936 in their entirety.
- (b) The portion of Rule 65 *ter* number 01000 (appearing on page 24 of the English version), read out during the course of the witness's evidence, which will be provided by the Prosecution to the Registry for admission and up-loaded into the e-court system.
- (c) Those portions of the video with Rule 65 *ter* number 40048 that were played during the course of the witness's evidence, which will be provided by the Prosecution to the Registry for admission, as well as to the Chamber and the Accused.
- (d) Those portions of the video with Rule 65 *ter* number 40035 that were played during the course of the witness's evidence, which will be provided by the Prosecution to the Registry for admission, as well as to the Chamber and the Accused.

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


 Judge Iain Bonomy,
 Presiding

Dated this twentieth day of August 2009
 At The Hague
 The Netherlands

[Seal of the Tribunal]