

**UNITED
NATIONS**

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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-03-67-T
Date: 19 February 2010
Original: ENGLISH
French

IN TRIAL CHAMBER III

Before: Judge Jean-Claude Antonetti, Presiding
Judge Frederik Harhoff
Judge Flavia Lattanzi

Registrar: Mr John Hocking

Decision of: 19 February 2010

THE PROSECUTOR

v.

VOJISLAV ŠEŠELJ

PUBLIC DOCUMENT WITH ANNEX

**DECISION ON PROSECUTION'S MOTION
FOR ADMISSION OF EVIDENCE FROM THE BAR TABLE**

The Office of the Prosecutor

Mr Mathias Marcussen

The Accused

Mr Vojislav Šešelj

1. Trial Chamber III ("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 seized of a motion filed by the Office of the Prosecutor ("Prosecution") on 26 February 2009 for the admission, pursuant to Rule 89(C) of the Rules of Procedure and Evidence ("Rules"), of evidence from the bar table ("Motion").¹

I. PROCEDURAL BACKGROUND

2. On 26 February 2009, the Prosecution submitted a Motion for the admission in the present case of 142 documents listed in Annex A to the Motion ("Annex A"). Furthermore, it sought leave to exceed the word limit.²

3. The Accused did not file a response to this Motion within fourteen days of the day he received the version thereof in BCS, a time-limit granted to him under Rule 126*bis* of the Rules.³

II. ARGUMENTS OF THE PARTIES

4. In the Motion, the Prosecution submits that the admission into evidence of the 142 documents listed in Annex A, pursuant to Article 89(C) of the Rules, would make it possible to prove the existence, implementation and the participation of the Accused in a joint criminal enterprise, whose aim was to set up a new Serb-dominated state.⁴ The Prosecution furthermore submits that the tendered documentary evidence is reliable and relevant, in keeping with the criteria set out in Rule 89(C) of the Rules.⁵

III. APPLICABLE LAW

¹ "Prosecution's Motion for Admission of Evidence", 26 February 2009, para. 27.

² *Ibidem*.

³ The Accused received the BCS version of the Motion on 2 June 2009 (*see* Record of Receipt filed on 15 June 2009).

⁴ Motion, paras. 9, 21.

⁵ Motion, para. 2.

5. Pursuant to the legal criteria laid down in Rule 89(C) of the Rules, a Chamber may admit any relevant evidence which it deems to have probative value.⁶ Furthermore, a Chamber may, pursuant to Rule 89(D) of the Rules, exclude evidence if its probative value is substantially outweighed by the need to ensure a fair trial.⁷ In addition, the Chamber recalls that, if evidence must be reliable in order to have probative value, it is nevertheless sufficient to establish its reliability *prima facie*.⁸ Concerning the required showing of relevance, “the offering party must be able to demonstrate, with clarity and specificity, where and how each document fits into its case”.⁹

6. The Chamber also wishes to recall that there is a fundamental distinction between the admissibility of evidence and the weight given to it when determining the Accused’s guilt.¹⁰ At this stage of the trial, the Chamber has not undertaken any final assessment of the relevance, reliability or probative value of the exhibits concerned. This will be done only at the end of the trial and in the light of the entire body of evidence tendered by the parties, both the Prosecution and the Defence.¹¹

IV. DISCUSSION

7. Considering that it was of use to the Chamber to hear the Prosecution’s arguments about the Motion, it grants leave to the Prosecution to exceed the word limit.

8. Based on the examination of the 142 documents whose admission is sought by the Prosecution and pursuant to the criteria recalled above, the Chamber deems that the documents bearing the following *65ter* numbers cannot be admitted inasmuch as

⁶ *Prosecutor v. Rasim Delić*, Case No. IT-04-83-T, “Decision on Prosecution Motion to Admit Documents in Evidence”, 9 May 2008 (“Second *Delić* Decision”), para. 8.

⁷ *Prosecutor v. Rasim Delić*, Case No. IT-04-83-T, “Decision on Prosecution Submission on the Admission of Documentary Evidence”, 16 January 2008 (“First *Delić* Decision”), para. 22.

⁸ Second *Delić* Decision, para. 8.

⁹ Second *Delić* Decision, para. 8.

¹⁰ “Order Setting Out the Guidelines for the Presentation of Evidence and the Conduct of the Parties During the Trial”, 15 November 2007, Annex, para. 2.

¹¹ *The Prosecutor v. Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Ćorić and Berislav Pušić*, Case No. IT-04-74-T, “Decision to Admit Documentary Evidence Presented by the Prosecution (Ljubuški municipality including the HVO prison and the Vitina-Otok camp)”, 5 October 2007, p. 7.

they do not have **sufficient probative value**: 141, 578, 710, 863, 946, 1009, 1987, 2113, 2148, 7134.

9. The Chamber furthermore deems that the documents bearing the following *65ter* numbers cannot be admitted inasmuch as they do not fulfil the **condition of relevance**: 1168, 2537.

10. Finally, the Chamber deems that the documents bearing the following numbers cannot be admitted inasmuch as they are repetitive: 1528, 4279.

11. However, the Chamber deems that the documents bearing the following *65ter* number fulfil the criteria of reliability, probative value and relevance, and agrees to admit them into evidence: 82, 89, 99, 123, 162, 173, 175, 181, 182, 189, 190, 218, 219, 291, 295, 317, 322, 351, 360, 361, 377, 441, 490, 495, 504, 513, 535, 538, 539, 541, 548, 551, 558, 580, 581, 601, 602, 607, 636, 641, 665, 712, 727, 755, 768, 794, 836, 841, 847, 871, 873, 907, 922, 947, 970, 975, 985, 993, 994, 1017, 1029, 1040, 1090, 1097, 1105, 1106, 1195, 1205, 1209, 1214, 1222, 1269, 1270, 1280, 1286, 1297, 1298, 1391, 1395, 1428, 1442, 1489, 1493, 1520, 1523, 1525, 1529, 1546, 1550, 1609, 1636, 1675, 1681, 1686, 1696, 1708, 1713, 1714, 1717, 1719, 1730, 1771, 1793, 1797, 1817, 1820, 1823, 1876, 1895, 1912, 1991, 2059, 2164, 2165, 2554, 4020, 6017, 6026, 6083, 7017, 7108, 7109, 7154, 7158, 7159, 7164, 7170 and 7226.

V. DISPOSITION

12. For the foregoing reasons and pursuant to Rule 89(C) of the Rules, the Chamber **PARTIALLY GRANTS** the Motion and,

ADMITS the documents listed in the annex attached to this Decision;

DISMISSES the Motion in all other respects.

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

/signed/
Jean-Claude Antonetti
Presiding Judge

Done this nineteenth day of February 2010
At The Hague
The Netherlands

[Seal of the Tribunal]

VI. ANNEX: EXHIBITS ADMITTED

No 65ter	Title
82	Decision on establishment of community of municipalities, 27 June 1990.
89	The Declaration of the Sovereignty and Autonomy of Serbian people in Croatia, issued by the Serbian people at the Serbian Assembly held on 25 July 1990.
99	A report on the referendum conducted among the Serbian people in the Republic of Croatia on the Serbian autonomy submitted by the Central Commission for Referendum on 30 September 1990.
123	Statute of the Serbian Autonomous Region of Krajina, Knin, December 1990.
162	Signed letter from Dr. Milan BABIĆ, President of the Serbian National Council, to the President of the Republic of Serbia in Belgrade, dated 21 January 1991.
173	Report on secret tapping of telephone conversation.
175	Stamped and Signed Decision of Republic of Serbia Ministry of Justice on registration of Serbian Radical Party
181	An order to mobilise the Territorial Defence of the SAO Krajina and Volunteers units in order to defend its citizens and its territorial integrity, issued by Dr. Milan BABIĆ, President of the Executive Council of the SAO Krajina
182	An official decision on the annexation of the SAO Krajina to the Republic of Serbia issued by the Serbian Autonomous District Krajina Executive Council at the conference held on 1 April 1991.
189	Recommendation for operational treatment of Zoran DRAZILOVIĆ.
190	Recommendation to tap telephone of Rosvita Topolać.
218	A report on the Referendum on the annexation of the Serbian Autonomous District Krajina to the Republic of Serbia
219	Information on illegal arming and creation of paramilitary formations by Serbian Chetnik Movement.
291	Information on Miroslav Vuckovic - Čele, his contacts with Rosvita Topolać and her role in arming Serbian Radical Party Volunteers, 10 June 1991.
295	Information on Baret s attempt to transport 50-60 men to Trpinja.
317	The Declaration on the Unification of the Community of Municipalities of Bosnian Krajina and the SAO Krajina.
322	Information on Serbian Chetnik Movement paramilitary formations, notes roles of Ljubisa Petković

No. 65ter	Title
	and Aleksandar Stefanović. Document in archives of SDB of Serbia.
351	Press article about Vojislav ŠEŠELJ suspension from the Philosophical Society of Serbia for his Militant Chauvinism in speeches preaching hatred, published in Oslobođenje.
360	Intercepted conversation between Radovan KARADŽIĆ and Momcilo Krajisnik.
361	Information on activities of Ljubisa PETKOVIĆ.
377	Signed letter by VS-011 regarding a training center in Prigrevica
441	Letter from Milan MARTIĆ - Ministry of the Interior SAO Krajina to the (Croatian) Police Department in Split and the Police Station in Kijevo
490	Decision on the proclamation of the Autonomous Region of Krajina as an inseparable part of the Federal Republic of Yugoslavia and an integral part of the federal unit of Bosnia and Herzegovina
495	Official note on informational conversation with Ljubisa PETKOVIĆ.
504	Order to all Peoples defence Secretariats
513	Decision on Naming a Headquarters for Regionalisation, SDS Bosnia and Herzegovina, Sarajevo City Board, No. 01-37-1/91
535	Strictly confidential OB report no. 5-459 dated 01 October 1991 containing observation re Zeliko RAZNJATOVIĆ aka ARKAN.
538	Draft Minutes from the 143rd sitting of the PSFRY. Meeting chaired by PSFRY Vice President Branko Kostić.
539	Order of Mobilization of a special police unit in co-operation with Yugoslav People s Army and TO units, issued by Momir BULATOVIĆ, President of Montenegro, on 1 October 1991.
541	Statement of the General Staff of the Yugoslav People s Army addressed to the President and Government of the Republic of Croatia and the General Staff of the Croatian Army
548	Draft Minutes of the 144th sitting of the Socialist Federal Republic of Yugoslavia Presidency chaired by Vice President Branko Kostić
551	TANJUG press release of the Statement of the Federal Secretary for National Defence General Veljko KADJEVIĆ
558	Joint session of all Chambers of the Parliament of the Republic of Croatia of 8 October 1991
580	Documentary film sponsored by the Bosnia and Herzegovina government. KARADŽIĆ in the Bosnia and Herzegovina Assembly before the war speaking about the independence and sovereignty of Bosnia and Herzegovina.

No.65ter	Title
581	Minutes of the SDS Party Council at the Deputies Club
601	Map from Epoha Article 22 October 1991
602	Extract from Epoha Issue 1 22-Oct-91 entitled "Francois MITTERAND: How much of Believe in European Socialism is there?"
607	Transcript of the meeting of the SDS Deputies Club in SRBiH Parliament, constituting the Assembly of Serbian People in Bosnia and Herzegovina
636	Report on providing assistance to Serbian districts in Croatia strictly confidential - - Report of Serbian Ministry of Defence to Serbian Government,
641	Decision about the proclamation of Serbian Autonomous District of Northern Bosnia as an inseparable part of the State of Yugoslavia (Federal Republic of Yugoslavia)
665	Intercept of conversation between Jovica STANISIC and Radovan KARADZIC
712	Conclusion no 19 of Assembly session of Serb people in Bosnia and Herzegovina, Sarajevo. Bosnian Serb Assembly expresses support for Yugoslav People s Army and mobilization of Serbs.
727	Stamped and signed Regular combat report of the Operational Group "South" (JUG) to 1st Military District Command and Federal Secretariat for People s Defence (Federal Secretariat for National Defence) Office
755	Article from Velika Srbija, Issue 11 "Defence of Serbia through Slavonia, Baranja and Western Srem" regarding the commander of Chetnik Volunteers, Brislav GAVRILOVIC aka Brne
768	Ministry of the Interior 1st Administration Sluzba Drzavne Bezbednosti, Information on the situation at the Western Slavonija battleground, 06 Dec 91
794	Signed and stamped Certificate given to a Volunteer that his unit was fighting in SWBS from 1 December 1991
836	Instructions for the organization and activity of organs of the Serbian People in Bosnia and Herzegovina in Extraordinary Circumstances (Variant A & B) dated 19 December 1991 - copy no 100.
841	Assembly of the Serbian People in Bosnia and Herzegovina no. 02-1-68/91, Sarajevo, "View on the Right to Self-Determination of the Serbian people in Bosnia and Herzegovina"
847	Shorthand record of the 4th Session of the Assembly of the Serbian People in BH

No. 65127	Title
871	Decision on the establishment of the Serbian Municipality of Zvornik, following the instructions of 19 Dec 1991
873	Letter of Territorial Defence Sisak, Republic of Serbian Krajina, to Serbian Radical Party War Staff dealing with a request for Volunteers
907	Decision on proclamation of Serbian Municipal Assembly of Ilidza, following the instructions of 19 Dec 1991 (Variant A&B)
922	Records of the 5th Session of the Bosnian Serb Assembly. Sarajevo, 9 Jan 92.
947	Official Gazette of the Bosnian Serb Republic (Republika Srpska), Volume I (1992)
970	Letter by Milan MARTIĆ to Zoran SOKOLOVIĆ requesting that changes be made in the transfer of finances for the SAO Krajina Territorial Defence and Ministry of the Interior.
975	Newspaper article from Derventski List entitled "Bridge for Croatian and Bosnian Croatian and Bosnian Krajinas".
985	Report of the Federal Secretariat for People's Defence on clearing up the battleground and restoring Vukovar and other endangered areas between 23 Nov 91 and 20 Feb 92.
993	Records of the 8th session of Bosnian Serb Assembly. Assembly adopted Constitution of Bosnian Serb state (Republika Srpska), formed ministries.
994	The Amendments to the Constitution of the Republic of Serbian Krajina and the Decree on the Ratification of the Amendments Number 1 to 4 to the Constitution of the Republic of Serbian Krajina issued by the Assembly of the Republic of Serbian Krajina
1017	Short-hand record of the 11th session of the Assembly of the Serbian People in Bosnia and Herzegovina held on 18 March 1992 in Sarajevo
1029	12th session of the Assembly of the Serbian People in Bosnia and Herzegovina held in Pale on 24 March 1992.
1040	Telex message by Momcilo MANDIĆ, Assistant Minister of Internal Affairs, Ministry of the Interior SR Bosnia and Herzegovina (Republika Srpska), No. 02-2482 - Dated 31 March 1992 (31/03/1992).
1090	Yugoslav People's army 17 th Corps Top Secret Report No 11/43-460, signed by Maj Gen Janković
1097	Telegram by Izet Mehinagić addressed to Gen Janković predicting massacre in Zvornik by Zeljko Raznatović aka Arkan's men
1105	Daily Report of the Operations Center of the Socialist Federal Republic of Yugoslavia Armed

No. 65ter	Title
	Forces General Staff
1106	2nd Military District VO Command Duty Operations Team, Command and Operations Report no. 10/36-2125, signed by Col Petar Salapura
1195	"Extract from the Instruction for the Work of the Crisis Staffs of the Serbian People in Municipalities",
1205	Minutes of the National Security Council and Government session, 27 April 1992
1209	Decision of the Executive Council of the Serbian Municipality of Zvornik no. 01-023-44/92, signed by Branko GRUJIĆ
1214	Minutes of meeting of Trnovo Crisis Staff 29 April 1992 - Radivoje DRASKOVIĆ reports on meeting with Yugoslav People's Army
1222	Certificate of Command of Belgrade Military District, Palilula Recruiting Officer about front service of Ljubisa Petković
1269	Authorization for payment for Vojin Vucković aka Zuca or Zuco aka Vojin VUCKOVIĆ's Special unit from Provisional Government of Zvornik
1270	Zvornik Provisional Government authorization for payment for Volunteers from Loznica, to be taken over by commander of the unit, Vojin Vucković aka Zuca or Zuco aka Vojin VUCKOVIĆ.
1280	List of Volunteers and receipt issued by the Serb Municipality of Zvornik, signed by Marko Pavlović.
1286	Payrolls, receipts and lists of members issued by the Serbian Municipality of Zvornik for Loznica Territorial Defence unit members for the month April 1992.
1297	M I N U T E S of the 16th session of the Assembly of the Serbian People in Bosnia and Herzegovina, held on 12 May 1992 in Banja Luka
1298	Decision on the Strategic Goals of the Serbian People in Bosnia and Herzegovina, by Momcilo Krajisnik, BCS original.
1391	Presidential Decision on the Return of Displaced Persons to the Territory of the Serbian Republic (Republika Srpska) of Bosnia and Herzegovina, No. 03-507
1395	Informational bulletin SJB Ilidza

No.65ter	Title
1428	Stamped decision, typed in Cyrillic, by which all persons with permanent residence on the territory of Serb Municipality of Bosanski Samać are required to either pay special war tax, serve the army or perform compulsory work order.
1442	Report on the combat actions in Dobrinja, Sarajevo, by the Romanija Corps, stating that MUP Ilidza is mopping up the streets of Akifa Sermeta and Georgi Dimitrova,
1489	Centar RDB Valjevo, III Odsek 7-052 official note on informational conversation with [REDACTED]
1493	Official Note on activities of Vakić.
1520	Order from Ratko MLADIĆ to the Disarmament of paramilitary formations
1523	Report prepared by the Department of Intelligence and Security of the Main Staff of the Army of Republika Srpska Bosnia and Herzegovina report on paramilitary units in the territory of Bosnia and Herzegovina; Chief Col..Zdravko TOLIMIR
1525	Report dated 29 July 1992 by Ministry of Internal Affairs regarding Bijeljina.
1529	Serb Municipality of Vogosca, Conclusion regarding the payment of Soso s unit under the command of Jovo OSTOJIĆ
1546	A letter from Dragan LAZIĆ, Secretary of the Interior of the Republic of Serbian Krajina, Vukovar, to the Ministry of the Interior of the Republic of Serbian Krajina in Knin, dated 3 August 1992.
1550	Report no. 01-16/92, Republika Srpska of Bosnia and Herzegovina Pale, Ministry of Interior, Crime Police Directorate
1609	Certificate stating that equipment belonging to the State Security Service (DB) of the Serbian Ministry of the Interior is being used by the Posavina Brigade, Bosanski Samac - to be brought back by Slobodan Miljković.
1636	Certification that Branislav VAKIĆ took part, with 19 others, in the liberation of Podvezlje and defeat along Banjdol-Sipovac-Sveta Gora
1675	Official note on Vakić s involvement in illegal arming
1681	Intelligence organ of the Eastern Bosnian Corps report on Brcko and paramilitary formations in this area

No. 65127	Title
1686	Report on results of secret telephone tapping.
1696	Report on the situation of human rights in the territory of the former Yugoslavia by Mazowiecki, UN Special Rapporteur, dated 27-Oct-92.
1708	Official note of the conversation between Representatives of the President of the Republic of Serbian Krajina Government with President Slobodan MILOSEVIC by Republic of Serbian Krajina DRSKD, Government Representative Office in Belgrade
1713	Report on results of secret telephone tapping.
1714	Command of the Sarajevo Romanija Corps /SRK/; Strictly confidential no. 10/74-634; 18 November 1992; Regular combat report, situation as at 1800 hours. To: Main Staff of the Republic of Srpska Army; signed by Col Stanislav Galić.
1717	Information on the situation at the Bosanski Samac SJB, the arrest of the SJB Chief by military organs and the closing down of the Krajina - FRY corridor, MUP Bijeljina,
1719	Transcript of 22nd session of Bosnian Serb Assembly, 23-24 Nov 1992:
1730	Command of the 2nd Posavina Infantry Brigade, Samac, Confidential no: 12-3536/92 Report on certain developments undermining morale and increasing the complexity of the security and political situation in the 2nd Posavina Infantry Brigade Samac
1771	Report on the work of the Trebinje CSB /Security Services Centre/ between 4 April and 31 December 1992, from Republika Srpska, Ministry of the Interior, Security Service Centre, Trebinje; Ref. No: 09-1/93; 13 January 1993
1793	Main Staff of the Army of Republika Srpska Krajina Security and Intelligence Organ, Strictly Confidential Nr 43-2, 20 February 1993, stamped and signed Colonel Cedomir GAGIC. Concerns crimes by Zeljko Raznatovic aka ARKAN s men.
1797	Official Note on activities of Vakić
1817	Main Staff of the Army of Republika Srpska, Analysis of the Combat readiness and Activities of the Republika Srpska in 1992
1820	Ilidza War Presidency Decision forbidding the return of Muslims and Croats to Ilidza
1823	Official Note on activities of Vakić.
1876	official note describe of structure of Nis Serbian Chetnik Movement War Staff and Branislav VAKIĆ s contacts with General Momčilo Perisić
1895	Official Notes describes plans of Branislav Vakić, Veljković and Vojvoda Srecko.
1912	Information on crimes of Serbian Radical Party Volunteers in Zvornik.

No.65ter	Title
1991	The transcript of the Third Fatherland Congress of the Serbian Radical Party published in Vojislav ŠEŠELJ s book "Serbian Radical Party" / Serbian Radical Party , Belgrade 1995
2059	Interview with Chetnik Vojvoda Branislav GAVRILOVIC aka Brne in Zapadna Srbija /Western Serbia/, Issue 14-15, July/August 1994, pp.33-34
2164	Velika Srbija article "The Wartime Road of the Youngest Duke", issue 83, pp. 38-45.
2165	Velika Srbija article "Backa Ravna Gora"/Ravna Gora in the Plains of Backa; Biography of Chetnik Vojvoda Zdravko ABRAMOVIĆ, Issue 89, p. 44-53
2554	Interview with Vojislav SESELJ broadcast on TV Trstenik and reprinted in Vojislav ŠEŠELJ s book, on the presence of Serbian Radical Party Volunteers in Mostar under Gen. Momcilo PERISIĆ command and all fronts, under Yugoslav People s Army command
4020	Conversation No 08 (B8400) - Intercept of conversation between Radovan KARADZIĆ and Slobodan MILOSEVIĆ- date is estimated as 09/09/1991.
6017	Video excerpt: Durdevdanski Uranak with Radovan Karadzić and the Accused
6026	Video of Speech by KARADZIĆ Radovan in the BiH Assembly on 15 October 1991
6083	Video tape regarding announcement / speeches by MILOSEVIĆ Slobodan
7017	MAP 16 - Six Strategic Objectives
7108	Decision on work and a decision-making process of the SFRY Presidency during existence of imminent threat of war
7109	Video showing an Award Ceremony with members of the Red Berets, political leaders and military leaders including: Slobodan Milosević, Franko Simatović, Jovica Stanisić, Mihalj Kertes, political leaders and military leaders giving and receiving awards
7154	Nevesinje Brigade Command Confidential Nr. 43-48/67, Lieutenant Colonel Velimir JOVANOVIĆ, 03 June 1992
7158	Tape Recording of the 4th Session of the (FRY) Supreme Defence Council, 31 July 1992
7159	Shorthand minutes of the 5th Session of the (FRY) Supreme Defence Council, 07 August 1992

No 65ter	Title
7164	Shorthand Notes of the 12th Session of the (FRY) Supreme Defence Council, 23 and 25 August 1993
7170	Shorthand notes of the 10th Session of the (FRY) Supreme Defence Council
7226	Receipt, Ljubisa Petković, received radio