



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

Case No.: IT-05-88/2-T

Date: 31 August 2010

Original: English

IT-05-88/2-T
D 9114 - D 9112
31 AUGUST 2010

9114
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IN TRIAL CHAMBER II

Before: Judge Christoph Flügge, Presiding
Judge Antoine Kesia-Mbe Mindua
Judge Prisca Matimba Nyambe

Registrar: Mr. John Hocking

Order/Decision of: 31 August 2010

PROSECUTOR

v.

ZDRAVKO TOLIMIR

PUBLIC

**DECISION ON PROSECUTION MOTION CONCERNING
PROSECUTION'S SUBMISSION OF ITS UPDATED RULE 65 TER
EXHIBIT LIST, WITNESS LIST AND WITNESS SUMMARIES**

Office of the Prosecutor
Mr. Peter McCloskey

The Accused
Zdravko Tolimir

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”);

BEING SEISED OF the “Notice and Motion Concerning Prosecution’s Submission of Its Updated Rule 65 *ter* Exhibit List, Witness List and Witness Summaries” (“Motion”) filed confidentially on 10 May 2010;

NOTING the Prosecution’s request for permission to add five documents bearing the Rule 65 *ter* numbers 6009, 6020, 6110, 6111 and 6154 (“Five Documents”) to its Rule 65 *ter* Exhibit List;¹

NOTING that the Accused did not file a response to the Motion;

NOTING that the Prosecution initially requested permission to add the Five Documents to the Rule 65 *ter* Exhibit List in the “Prosecution’s Motion for Leave to Amend the Witness List and Exhibit List, and for Continuance of Protective Measures”, filed on 16 December 2009 (“16 December 2009 Motion”), submitting that these five documents belonged to a group of exhibits which are *prima facie* relevant to and probative of one or more specified key issues, including, *inter alia*, the role of the Accused within the Main Staff, the status of the Accused as a member of Mladić’s “inner circle”, and the acts, conduct and state of mind of the Accused;²

NOTING the “Chamber’s Decision on Prosecution’s Motions Regarding Rule 65 *ter* Witness and Exhibits Lists, Rule 92 *ter*, and Protective Measures”, filed confidentially on 30 March 2010 (“30 March 2010 Decision”), in which the Chamber held that it was “satisfied that none of the material proffered by the Prosecution is ‘obviously irrelevant’, and as such, is satisfied that the threshold for the addition of the material to the Exhibit List has been met”,³ but denied permission to add nine documents, including the Five Documents, to the Rule 65 *ter* Exhibit List because Rule 70 clearance had not yet been obtained;⁴

CONSIDERING that, according to the Prosecution, Rule 70 clearance has now been obtained for the Five Documents, which were previously disclosed to the Accused;⁵

HEREBY GRANTS the Motion.

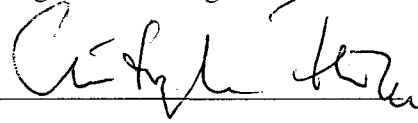
¹ Motion, para. 2.

² 16 December 2009 Motion, para. 20.

³ 30 March 2010 Decision, para. 26.

⁴ 30 March 2010 Decision, para. 37.

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



Judge Christoph Flügge

Presiding Judge

Dated this 31st day of August 2010
At The Hague
The Netherlands

[Seal of the Tribunal]

⁵ Motion, para. 2.