



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: 13 December 2010  
Original: ENGLISH  
French

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**IN TRIAL CHAMBER III**

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

**Registrar:** Mr John Hocking

**Decision of:** 13 December 2010

**THE PROSECUTOR**

v.

**VOJISLAV ŠEŠELJ**

***PUBLIC***

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**DECISION ON REQUEST TO ADMIT INTO EVIDENCE DOCUMENTS  
TENDERED THROUGH WITNESSES VIŠNJA BILIĆ, VS-1067 AND  
VOJISLAV DABIĆ**

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**The Office of the Prosecutor**

Mr Mathias Marcussen

**The Accused**

Mr Vojislav Šešelj

## I. INTRODUCTION

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 the request to admit into evidence Document MFI P 807, tendered through Expert Witness Višnja Bilić, Documents MFI P 885, MFI P 886 and MFI P 887, tendered through Witness Vojislav Dabić, and Document MFI P 891 tendered through Witness VS-1067.

## II. APPLICABLE LAW

2. The Chamber has examined the documents sought for admission pursuant to Rule 89 of the Rules of Procedure and Evidence (“Rules”) and the procedure established under the Order of 15 November 2007, setting forth the guidelines to govern the presentation of evidence and the conduct of the parties during the trial (“Guidelines”).

3. The Chamber recalls moreover, that at this stage of the proceedings, it is simply conducting a *prima facie* review of the relevance, reliability and probative value of the exhibits submitted and that it is not called to conduct a final assessment. That exercise will be conducted only at the conclusion of the trial and in light of all Prosecution and Defence evidence admitted.

## III. DISCUSSION

### 4. *Preliminary Remarks*

The Chamber notes that the English translations of the documents whose admission is sought bear the legends “Draft Translation” or “Unrevised”. The Chamber therefore holds that the documents to be admitted into evidence as a result of this decision will be admitted solely on condition that they are translated by the official translation service of the Tribunal (“CLSS”).

**A. Document MFI P 807 Tendered Through Expert Witness Višnja Bilić**

5. In a motion of 3 November 2008, the Prosecution sought to have added to its 65 *ter* Exhibit List 31 questionnaires related to missing persons, listed in Annex III of the Indictment,<sup>1</sup> including the document bearing number 65 *ter* 7402, which was a questionnaire relating to a missing person named Tomo Pravdić.<sup>2</sup>

6. In a decision dated 13 November 2008, the Chamber ordered a stay of its ruling on the request to add exhibits from these questionnaires to its 65 *ter* Exhibit List, including Document 65 *ter* 7402, while awaiting their English translations.<sup>3</sup>

7. During the hearing of 18 November 2008 and the testimony of Expert Witness Višnja Bilić, the Prosecution indicated that 30 questionnaires out of the 31 put to Expert Witness Višnja Bilić had been translated into English and requested their admission into evidence.<sup>4</sup>

8. The Accused did not contest this request.<sup>5</sup>

9. In its decision dated 29 January 2009, the Chamber recalled that, during her testimony, Višnja Bilić had identified the 31 questionnaires as official documents.<sup>6</sup> The Chamber also observed that, of these 31 questionnaires, 28 had indeed been translated into English and that they contained information matching the names and birth years of the victims listed by the Prosecution in Annex III of the Indictment.<sup>7</sup> The Chamber thus decided to admit into evidence these 28 questionnaires and ordered

<sup>1</sup> The Third Amended Indictment, 7 December 2007; French version filed on 2 January 2008 (“Indictment”).

<sup>2</sup> “Prosecution Submission of the Report of Ms Višnja Bilić Pursuant to Rule 94 *bis* and Motion for Leave to Amend the Rule 65 *ter* Exhibit List, with Annexes”, Annex G, public document, 3 November 2008.

<sup>3</sup> “Decision on the Expert Status of Ms Višnja Bilić and the Prosecution’s Motion for Leave to Amend the Rule 65 *ter* Exhibit List”, public document, 13 November 2008, para. 16.

<sup>4</sup> Hearing of 18 November 2008, T(F). 11812.

<sup>5</sup> Hearing of 18 November 2008, T(F). 11809.

<sup>6</sup> “Decision on Admission of Documents Presented through Expert Witnesses Višnja Bilić and Anna-Maria Radić”, public document, 29 January 2009, para. 10 (“Decision of 29 January 2009”); see also Hearing of 18 November 2008, T(F). 11809-11810.

<sup>7</sup> *Ibid.*

a stay of its ruling on the admission of Document 65 *ter* 7402, until such time as it received the English translation.<sup>8</sup>

10. The Registry then assigned reference number MFI P 807 to document 65 *ter* 7402.

11. As the English translation of MFI P 807 is now available, the Chamber points out that the document was identified by Višnja Bilić as an official document<sup>9</sup> and that this questionnaire concerns Tomo Pravdić, a missing person listed in Annex III of the Indictment.<sup>10</sup> The Chamber for this reason holds that this document displays sufficient indicia of relevance, reliability and probative value for it to be admitted into evidence.

## **B. Documents Tendered Through Witness Vojislav Dabić**

### **1. Document MFI P 885**

12. During the hearing of 26 January 2010, while Witness Vojislav Dabić was testifying following a question put by the Chamber during the cross-examination of the Witness by the Prosecution, the Prosecution raised the contents of Document ET04105818-04185818 and requested its admission into evidence.<sup>11</sup> This document, which was later assigned number 65 *ter* 7542, was a combat report dated 20 June 1992, signed by General Radovan Grubač.<sup>12</sup>

13. Vojislav Šešelj (“Accused”) raised an objection concerning the link between the questions put by the Prosecution and the actual contents of the document.<sup>13</sup>

14. The Chamber decided to mark the document for identification as “MFI P 885”, while awaiting more thorough verification.<sup>14</sup>

15. The Chamber observes that there are contradictions between the questions the Prosecution was putting to Witness Vojislav Dabić on the basis of the contents of

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<sup>8</sup> Decision of 29 January 2009, para. 36.

<sup>9</sup> Hearing of 18 November 2008, T(F). 11810.

<sup>10</sup> Indictment, Annex III, p. 14.

<sup>11</sup> Hearing of 26 January 2010, T(F), 15149-15152.

<sup>12</sup> Hearing of 26 January 2010, T(F), 15150-15151

<sup>13</sup> Hearing of 26 January 2010, T(F), 15151.

<sup>14</sup> Hearing of 26 January 2010, T(F), 15151-15152.

Document MFI P885 and the actual contents of the document. Moreover, the witness did not answer these questions.

16. In light of these factors, the Chamber finds that Document MFI P 885 may not be admitted into evidence.

## 2. Documents MFI P 886 and MFI P 887

17. In a written request dated 25 January 2010, the Prosecution sought to have added to its 65 *ter* Exhibit List a video sequence relating to the events at Nevesinje and mentioning Arsen Grahovac, forty minutes in length, entitled: “Yutel Coverage of the Situation in Nevesinje, July 1991”.<sup>15</sup>

18. During Witness Vojislav Dabić’s testimony on 26 January 2010, the Chamber granted the Prosecution’s motion,<sup>16</sup> and decided thereafter to assign Exhibit number P 879 to the video.<sup>17</sup>

19. At the end of the hearing of 26 January 2010, at the request of the Accused, the Chamber decided to view Exhibit P 879.<sup>18</sup>

20. The Prosecution proposed at the time that the Chamber view two excerpts from this video, which bore numbers 65 *ter* 7514a and 7514b.<sup>19</sup>

21. During the hearing of 27 January 2010, the Chamber assigned numbers MFI P 886 and MFI P 887 to the two video clips viewed the day before.<sup>20</sup>

22. The Chamber therefore finds that Documents MFI P 886 and MFI P 887, clips from a lengthy video already admitted into evidence bearing Exhibit number P 879 and already viewed during the hearing of 26 January 2010, may be admitted into evidence.

### **C. Document MFI P 891 Tendered Through Witness VS-1067**

<sup>15</sup> “Prosecution Motion to Supplement Rule 65 *ter* Exhibit List”, public document, 25 January 2010.

<sup>16</sup> Hearing of 26 January 2010, T(F). 15135-15137.

<sup>17</sup> P 879 entitled in e-court: “Yutel coverage of the situation in Nevesinje, including the men at checkpoints around Nevesinje.”

<sup>18</sup> Hearing of 26 January 2010, T(F). 15162-15170.

<sup>19</sup> Hearing of 26 January 2010, T(F). 15163-15170.

<sup>20</sup> Hearing of 27 January 2010, T(F). 15185.

23. During the hearing of 2 February 2010, while Witness VS-1067 was testifying, the Prosecution requested the admission into evidence of the Document bearing number 65 *ter* 1551, which was a letter dated 4 August 1992 signed by Milorad Ćuk on behalf of the Chief of MUP Krsto Savić, accompanied by an information report dated 30 July 1992 concerning the activities of the paramilitary groups within the territory of the Serbian Autonomous District of Herzegovina.<sup>21</sup>

24. During the hearing, the Accused was opposed to this request, indicating that Witness VS-1067 was neither Milorad Ćuk nor Krsto Savić, that he was neither an expert nor a soldier, that therefore he lacked the expertise required to testify concerning this official document.<sup>22</sup> Furthermore, the Accused stressed that Witness VS-1067 was testifying about the incidents which occurred in Mostar and that Document MFI P 891 described the incidents that had occurred in Nevesinje.<sup>23</sup>

25. The Chamber decided to mark this document for identification as “MFI P 891”, while awaiting more thorough verification.<sup>24</sup>

26. Basing itself on just such a verification, the Chamber points out that Document MFI P 891 is a copy, with each page certified by the Tribunal as being a true and faithful copy of the original. The cover letter is dated, stamped and signed and its source is clear. The Chamber notes, however, that the information report attached to the letter, although dated, is neither stamped nor signed. The Chamber recalls however that a document bearing neither signature nor stamp is not necessarily lacking authenticity.<sup>25</sup> The information report describes illegal conduct committed by “Šešelj’s men”, led by someone named Vranjanac (“Vranjanac”).<sup>26</sup> The acts committed in the town of Nevesinje during the month of July 1992 are mentioned in the Indictment.<sup>27</sup>

27. The Chamber notes, moreover, that during his testimony, Witness VS-1067 indicated that he knew Vranjanac and that he succeeded Mico Džadžić as head of the

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<sup>21</sup> Hearing of 2 February 2010, T(F). 15334.

<sup>22</sup> Hearing of 2 February 2010, T(F). 15333.

<sup>23</sup> Hearing of 2 February 2010, T(F). 15335.

<sup>24</sup> Hearing of 2 February 2010, T(F). 15335.

<sup>25</sup> Guidelines, Annex, para. 6.

<sup>26</sup> MFI P 891; pp. 3-5.

<sup>27</sup> Indictment, paras 15, 16, 17 (j), 31, 34.

