



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-08-91-T  
Date: 1 February 2011  
Original: English

**IN TRIAL CHAMBER II**

**Before:** Judge Burton Hall, Presiding  
Judge Guy Delvoie  
Judge Frederik Harhoff

**Registrar:** Mr. John Hocking

**Decision of:** 1 February 2011

**PROSECUTOR**

v.

**MIĆO STANIŠIĆ AND STOJAN ŽUPLJANIN**

***PUBLIC***

---

**DECISION GRANTING IN PART  
THE PROSECUTION'S BAR TABLE MOTION AND  
GRANTING THE PROSECUTION'S SUPPLEMENTAL  
BAR TABLE MOTION**

---

**The Office of the Prosecutor**

Ms. Joanna Korner  
Mr. Thomas Hannis

**Counsel for the Accused**

Mr. Slobodan Zečević and Mr. Slobodan Cvijetić for Mićo Stanišić  
Mr. Dragan Krgović and Mr. Igor Pantelić for Stojan Župljanin

## I. INTRODUCTION AND PROCEDURAL HISTORY

1. Trial Chamber II (“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 seized of:

- 1) the “Prosecution bar table motion, with confidential annexes A, B, C & D”, filed publicly with confidential annexes on 3 December 2010 (“Motion”), whereby the Prosecution seeks the admission into evidence:<sup>1</sup>
  - a. from the bar table of 181 documents contained in Annex A, all on its Rule 65 *ter* list of exhibits, and
  - b. pursuant to Rule 94(B) of the Rules of Procedure and Evidence (“Rules”), 104 documents contained in Annex B.

Annex C and D respectively list video material and statements from the Prosecution’s investigator which are also contained in Annexes A and B.

- 2) the “Prosecution’s supplemental bar table motion, with confidential annexes”, filed publicly with confidential annexes on 25 January 2011 (“Supplemental Motion”), whereby the Prosecution seeks:
  - a. to admit into evidence P1653 and 1D327 which have previously been marked for identification;
  - b. to admit into evidence from the bar table the following eleven documents, which have previously been marked for identification: P154, P337, P342, P409, P410, P985, P999, P1011, P1324, P1341 and P1542;
  - c. to admit into evidence from the bar table or, in the alternative, pursuant to Rule 94(B) the following five documents, which have previously been marked for identification: P100, P327, P1009, P1037 and P1613, and
  - d. to add to its Rule 65 *ter* exhibit list and to admit from the bar table P101, P483 and P1096, which were shown to witnesses and marked for identification.

---

<sup>1</sup> Motion, para. 21.

2. On 22 December 2010, the Defence of Mićo Stanišić and the Defence of Stojan Župljanin (jointly “Defence”), having been granted additional time, jointly responded, partially opposing the Motion and requesting an extension of the word limit (“Response”).<sup>2</sup> On 29 December 2010, the Prosecution sought leave to reply and filed a proposed reply (“Reply”).<sup>3</sup>

3. On 26 January 2011, following an order for expedited responses, the Defence of Mićo Stanišić and the Defence of Stojan Župljanin jointly responded to the Supplemental Motion, partially opposing it (“Second Response”).<sup>4</sup> On 28 January 2011, the Prosecution sought leave to reply and filed a proposed reply to the Second Response (“Second Reply”).<sup>5</sup>

## II. SUBMISSIONS

### 1. Motion

4. Noting that it is approaching the end of the presentation of its case, the Prosecution submits that of the documents on its Rule 65 *ter* exhibit list which have not been admitted into evidence so far it has “carefully selected documents and videos [...] with significantly higher probative value and relevance” which it seeks to have admitted into evidence.<sup>6</sup> In support of its application, the Prosecution refers to: a) the restrictions on the number of witnesses the Prosecution may call,<sup>7</sup> b) time constraints for the presentation of its case<sup>8</sup> and for the evidence of individual witnesses,<sup>9</sup> and c) the unavailability of witnesses who may have authored documents or who could provide evidence on the circumstances of their making.<sup>10</sup>

5. The Prosecution argues that “[t]he use of Rule 94(B), and the admission from the bar table, will enhance judicial economy, will not impinge upon the Trial Chamber’s ultimate decision-

<sup>2</sup> Joint response to bar table motion, with confidential Annexes A, B, C and D, 22 December 2010. See also oral ruling, 15 Dec 2010, T. 18513.

<sup>3</sup> Prosecution’s leave to reply and reply to joint response to bar table motion, filed confidentially on 29 December 2010.

<sup>4</sup> Joint Defence response to Prosecution’s supplemental bar table motion, with confidential annexes, filed confidentially on 26 Jan 2011. See also Order for expedited responses to Prosecution’s supplemental bar table motion, with confidential annexes, issued on 25 Jan 2011.

<sup>5</sup> Prosecution’s motion for leave to reply and reply to joint Defence response to Prosecution’s supplemental bar table motion, 28 Jan 2010.

<sup>6</sup> Motion, paras 3 and 23. At para. 3, the Prosecution notes “the Trial Chamber’s concern about an unmanageable number of documents being admitted through a bar table motion and Rule 94 (B)” and refers to hearings on 27 October 2009, T. 2052, and 4 November 2009, T. 2599. See also Motion, para. 20.

<sup>7</sup> Motion, paras 2 and 4.

<sup>8</sup> *Id.*, paras 2, 4 and 7.

<sup>9</sup> *Id.*, paras 2 and 4, where the Prosecution also submits that “[a]lthough the Prosecution has endeavoured to submit as many documents as possible into evidence through its witnesses, time constraints have not always made this possible.”

<sup>10</sup> *Id.*, paras 2 and 11.

making functions considering relevance or authenticity of a document, and will permit the defence to challenge any document so admitted.”<sup>11</sup>

## 2. Response

6. The Defence provide an assessment of each document in Annex A and Annex B. They submit that 43 of the documents are duplicates of documents already in evidence and should, therefore, not be admitted.<sup>12</sup> The Defence further request that the Trial Chamber deny admission into evidence of 72 items in Annex A and 71 items in Annex B.<sup>13</sup> The Defence contend that these 143 items are inadmissible, arguing, *inter alia*, that a) documents were not shown to a witness during trial, b) there are no indicia whether the contents of the document is true or accurate, c) documents relate to matters outside the geographic, substantive or temporal scope of the indictment,<sup>14</sup> d) documents do not comply with Rules 92 *bis*, 92 *ter*, 92 *quater* and 92 *quinqies*,<sup>15</sup> e) statements cannot be admitted from the bar table, and f) the Defence has had no opportunity to challenge the documents.<sup>16</sup> The Defence does not oppose admission into evidence of the remaining 100 items.

## 3. Reply

7. The Prosecution concurs with the Defence submission that certain documents are duplicates of documents already in evidence. However, it notes that one of the 43 documents identified by the Defence as a duplicates, Rule 65 *ter* number 3093, is not a duplicate but rather is similar to exhibit P1504, which “is a better version and covers the exact same topic.”<sup>17</sup> The Prosecution withdraws these 43 documents from the Motion<sup>18</sup> and they, thus, will not be considered further by the Trial Chamber.

<sup>11</sup> Motion, para. 24, where the Prosecution also submits that it is in the interest of justice to “permit the admission of relevant, probative, documentary evidence while at the same time preseving the ability of the defence to challenge such evidence if it so chooses.”

<sup>12</sup> Response, para. 3 and page 30.

<sup>13</sup> *Id.*, para. 4 and p. 30. It is noted that the Defence refers twice to Rule 65 *ter* 249, accepting it once (Response, p. 7) and opposing it once (*id.*, p. 13).

<sup>14</sup> *Id.*, para. 5.

<sup>15</sup> *Ibid.*

<sup>16</sup> *Id.*, para. 3.

<sup>17</sup> Reply, paras 6 and 7, referring to exhibit P1504.

<sup>18</sup> *Id.*, paras 5-7. The withdrawn documents from Annex A are Rule 65 *ter* numbers 586, 1022, 1277, 1331, 1332, 1333, 1336, 1369, 1370, 1371, 1372, 1373, 1374, 1375, 1376, 1377, 1378, 1379, 1380, 1381, 1383, 1384, 1582, 1977, 2379, 2628, 2705, 2706, 2708, 2709, 2710, 2711, 2712, 2713, 2714, 2766, 2787 and 3093, and from Annex B Rule 65 *ter* numbers 116, 481, 2326, 2776 and 3010.

8. The Prosecution submits that for many documents the Defence only make “blanket arguments” which are “misguided and misleading”.<sup>19</sup> The Prosecution makes specific submissions in respect of the following items, in Annex A, Rule 65 *ter* numbers 42, 2374, 2862, 2866 and 3175, and, in Annex B, Rule 65 *ter* numbers 429, 492, 521 and 1363.<sup>20</sup>

#### 4. Supplemental Motion

9. The Prosecution seeks to admit into evidence 21 documents which, when tendered into evidence in court, were marked for identification during the Prosecution’s case-in-chief.<sup>21</sup> It submits that these documents are “particularly important to its case”.<sup>22</sup> The documents are listed in four annexes. Annex A contains two documents, P1653 and 1D327, which were marked for identification due to translation-related issues.<sup>23</sup> These translations are now available. Annex B lists eleven documents, P154, P337, P342, P409, P410, P985, P999, P1011, P1324, P1341 and P1542, the admission of which is being sought from the bar table for reasons specified in the annex.<sup>24</sup> Annex C contains five exhibits, P100, P327, P1009, P1037 and P1613, sought to be admitted from the bar table or, in the alternative, under Rule 94(B) for reasons provided in the annex.<sup>25</sup> Annex D lists three exhibits, P101, P483 and P1096, which the Prosecution seeks to add to its Rule 65 *ter* list and to admit into evidence from the bar table for reasons set out in the annex.<sup>26</sup>

#### 5. Second Response

10. The Defence do not oppose the admission into evidence of the following documents marked for identification: P154, P327, P409, P410, P483, P999, P1011, P1341, P1653 and 1D327.<sup>27</sup> However, the Defence oppose admission into evidence of the following documents: P100, P101, P337, P342, P985, P1009, P1037, P1096, P1324, P1542 and P1613. It argues that these documents are inadmissible either from the bar table or pursuant to Rule 94(B) and makes specific submissions in respect of each, which the Trial Chamber will address below, where appropriate.

<sup>19</sup> Reply, para. 4. See also *id.*, para. 8. The arguments which the Prosecution refers to are that a) the document was not shown to a witness during trial, b) the document does not comply with Rules 92 *bis*, 92 *ter*, 92 *quater* and 92 *quinquies*, and c) the document relates to matters outside the temporal scope of the indictment.

<sup>20</sup> *Id.*, paras 9-16.

<sup>21</sup> Supplemental Motion, para. 2.

<sup>22</sup> *Id.*, para. 3.

<sup>23</sup> See also *id.*, paras 5-6.

<sup>24</sup> See also *id.*, paras 7-9.

<sup>25</sup> *Ibid.*

<sup>26</sup> See also *id.*, paras 10-22.

<sup>27</sup> Second Response, para. 2.

## 6. Second Reply

11. The Prosecution addresses Defence arguments in relation to P101 and P985. These will be discussed below, where appropriate.

### III. APPLICABLE LAW

12. Admission of evidence from the bar table is a practice established in the case-law of the Tribunal.<sup>28</sup> Evidence may be admitted from the bar table if it fulfils the requirements of Rule 89, specifically that the item proposed for admission into evidence has sufficient reliability, relevance and probative value in respect of issues in the case.<sup>29</sup> The Trial Chamber recalls that it has previously held that tendering documents through bar table motions at the end of a party's case is a safety clause designed to ensure that documents, which for one reason or another could not be tendered through a witness, can still be included in the trial record.<sup>30</sup> The tendering party must still demonstrate, with clarity and specificity, the relevance of each document and where and how it fits into the party's case.<sup>31</sup> However, even when the requirements of Rule 89 are satisfied, the Chamber retains discretionary power over the admission of the evidence.

13. When tendering documents through bar table motions, the moving party may, where applicable, request the Trial Chamber pursuant to Rule 94(B) to take judicial notice of the documents' adjudicated authenticity. Rule 94(B) was amended on 8 December 2010. It previously empowered the Trial Chamber "to take judicial notice of [...] documentary evidence from other proceedings of the Tribunal relating to matters at issue in the current proceedings". Following the amendment, the rule only allows the Trial Chamber to take judicial notice of the *authenticity* of documents admitted in previous trials. Recalling Rule 6, the Trial Chamber considers that the amendment does not operate to prejudice the rights of the accused and has, therefore, considered the Motion and the Supplemental Motion on the basis of Rule 94(B) as amended.

14. In its current version, Rule 94(B) creates a rebuttable presumption for the authenticity of a document which was admitted in a previous trial. However, Rule 94(B) does not in itself govern the admission into evidence of documentary evidence. Subsequent admission into evidence is to be

<sup>28</sup> See, e.g., *Prosecutor v. Karadžić*, Case No. IT-95-5/18/T, Decision on the Prosecution's first bar table Motion, 13 Apr 2010 ("*Karadžić Decision*"), para. 5; *Prosecutor v. Popović et al.*, Case No. IT-05-88-T, Decision on Prosecution's motion for admission of exhibits from the bar table, motion to amend the bar table motion, and oral motion for admission of additional exhibits, 14 Mar 2008 ("*Popović Decision*"), para. 15.

<sup>29</sup> *Karadžić Decision*, para. 5; *Popović Decision*, para. 15; *Prosecutor v. Đorđević*, Case No. IT-05-87/1-T, Decision on Prosecution's motion to re-open the case and exceed the word limit and second motion to admit exhibits from the bar table, 7 Dec 2009, para. 4 ("*Đorđević Decision*"); *Prosecutor v. Milutinović et al.*, Case No. IT-05-87-T, Decision on Lukić Defence motions for admission of documents from the bar table, 11 Jun 2008 ("*Milutinović Decision*"), para. 7.

<sup>30</sup> Hearing, 26 Nov 2009, T. 3878.

<sup>31</sup> *Karadžić Decision*, para. 6; *Đorđević Decision*, para. 4; *Milutinović Decision*, para. 10.

determined, in any case, under Rule 89. The moving party must discharge its burden with regard to relevance in respect of each item proposed for admission into evidence.<sup>32</sup> The fact that a document was deemed relevant in another trial does not mean that it is automatically relevant to the current proceedings.<sup>33</sup> Once the Trial Chamber has determined the authenticity of the document under Rule 94(B), it may then proceed to the issue of admission of the document into evidence under Rule 89. However, even where these conditions are met, the Trial Chamber retains its discretion whether to take judicial notice of and admit the documentary evidence, having particular regard to the rights of the accused.

## IV. DISCUSSION

### A. Documents to be admitted into evidence

15. The Prosecution submits that Rule 65 *ter* number 3101, which has been uploaded into E-Court, is the same document as Rule 65 *ter* number 3194.<sup>34</sup> Both documents are listed in Annex A with the same ERN. As a result, Annex A contains 180 documents sought for admission into evidence. The Trial Chamber will ignore the Prosecution's request to admit into evidence Rule 65 *ter* number 3194.

16. The Trial Chamber considers that the following 131 documents from Annex A of the Motion are relevant and probative to issues in the case. It is satisfied as to their authenticity for the purposes of Rule 89(C) in light of evidence on the record. These documents will, therefore, be admitted into evidence from the bar table: Rule 65 *ter* numbers 22, 137, 222, 245, 249, 333, 342, 348, 350, 351, 379, 960, 961, 976, 978, 981, 982, 984, 986, 987, 990, 992, 994, 997, 998, 999, 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1010, 1012, 1013, 1014, 1016, 1017, 1018, 1021, 1023, 1148, 1160, 1272, 1287, 1297, 1442, 1451, 1467, 1485, 1563, 1947, 2054, 2091, 2098, 2100, 2125, 2128, 2130, 2131, 2135, 2137, 2139, 2364, 2365, 2373, 2374, 2380, 2381, 2383, 2411, 2438, 2439, 2457, 2460, 2464, 2466, 2469, 2471, 2475, 2477, 2503, 2570, 2654, 2689, 2700, 2701, 2736, 2738, 2748, 2760, 2761, 2775, 2781, 2805, 2827, 2851, 2856, 2861, 2866, 2883, 2942, 3008, 3040, 3041, 3042, 3043, 3045, 3047, 3051, 3056, 3070, 3098, 3101, 3130, 3131, 3133, 3134, 3142, 3175, 3190, 3191, 3196, 3279, 3365 and 3572.

17. Because English translations have not been provided for Rule 65 *ter* numbers 3199 and 3309, the Trial Chamber will mark the documents for identification and order the Prosecution to provide the translations.

<sup>32</sup> *Perišić* Decision, para. 6.

<sup>33</sup> *Ibid.*

<sup>34</sup> Motion, Annex A, p. 40.

18. Of the 104 documents in Annex B of the Motion, the Trial Chamber has found that 93 documents are relevant and probative to the current case. Since these documents have been admitted as evidence in previous cases, it will take judicial notice of their authenticity. The Trial Chamber recalls that Rule 94(B) is not the proper avenue for admission into evidence and will, therefore admit them pursuant to Rule 89. The documents are Rule 65 *ter* numbers 14, 16, 152, 220, 256, 401, 414, 416, 429, 441, 487, 492, 514, 521, 523, 551, 554, 573, 581, 583, 584, 627, 685, 747, 759, 787, 794, 817, 819, 827, 828, 829, 830, 832, 880, 881, 885, 891, 894, 898, 899, 900, 901, 904, 906, 907, 909, 910, 912, 913, 1020, 1238, 1241, 1279, 1294, 1298, 1311, 1315, 1320, 1444, 1474, 1478, 1611, 1726, 1736, 1737, 1749, 1970, 1972, 1981, 1993, 2109, 2301, 2327, 2331, 2484, 2504, 2645, 2657, 2773, 2780, 2782, 2848, 2923, 2924, 2925, 3023, 3064, 3067, 3068, 3147, 3363 and 3438.

**B. Documents to be denied admission into evidence**

19. The Trial Chamber will deny admission into evidence of the following eleven documents from Annex A of the Motion for the reasons set out below.

20. Rule 65 *ter* numbers 26, 42, 119, 122, 2850 and 2862 are newspaper and press articles. The Trial Chamber considers that such documents are often not sufficiently reliable to serve as evidence unless they have been tendered through a witness. This is not the case with the documents at issue. Trial Chamber, therefore, finds that, as the documents are not sufficiently reliable, it would be inappropriate to admit them from the bar table.

21. Rule 65 *ter* number 289 is a circular letter from the Public Security Station in Prijedor, dated 7 February 1994, stating that Stojan Župljanin has been appointed advisor to the President of Republika Srpska by Mićo Stanišić. Its importance, the Prosecution argues, is that it establishes Stojan Župljanin's position within the RSMUP and that "rather than punishing Župljanin for the crimes that occurred in 1992, Stanišić gave him a promotion."<sup>35</sup> The Defence, in opposing this document, argues that it is outside the temporal scope of the indictment.<sup>36</sup> The Trial Chamber finds that the document concerns an event that occurred after the indictment period and is not relevant or probative to any issue in the proceedings, nor is it relevant as contextual information.

22. Rule 65 *ter* number 2656 is a decision, dated 1 January 1993, by Radovan Karadžić who, in his capacity as President of the Republika Srpska, appoints Mićo Stanišić as "republican adviser of the department of the interior". The Prosecution submits that the document "is important to

<sup>35</sup> Motion, Annex A, p. 30.

<sup>36</sup> Response, p. 13.



establish Mićo Stanišić's position within the RSMUP",<sup>37</sup> The Defence oppose the document as it concerns matters outside the temporal scope of the indictment.<sup>38</sup> The Trial Chamber finds that the document is irrelevant to issues in the case as it relates to an event outside the indictment period.

23. In requesting admission of Rule 65 *ter* number 2660, a communiqué from Radovan Karadžić to the Main Staff of the Army of Republika Srpska, dated 28 July 1995, the Prosecution submits that the document shows that Radovan Karadžić was aware that the laws of warfare applied to the conflict.<sup>39</sup> The Defence opposes admission of this document. The Trial Chamber considers that the document is inadmissible as it was not issued during the indictment period and does not refer to the events in this case.

24. Rule 65 *ter* number 2876 is a summary of exhibit P1543 made by the Regional Office of the Prosecutor in Bijeljina, dated 11 August 2005. The summary does not add to the Trial Chamber's understanding of P1543 and is, therefore, superfluous.

25. Rule 65 *ter* number 3208 is the minutes of three days of meetings of the Republika Srpska Assembly in November 1994, totaling more than 350 pages. This document mostly contains discussions on matters of government well outside the scope of the indictment. The Prosecution cites six passages, one to two pages each, as relevant to the case.<sup>40</sup> However, these passages refer to situations outside the scope of the indictment. The Trial Chamber, therefore, holds that the document lacks relevance to the present case.

26. The Trial Chamber will deny admission of the following six documents from Annex B of the Motion for the reasons set out below.

27. The Prosecution submits for admission the following news articles, Rules 65 *ter* numbers 25, 509, 824, 1288 and 1363. The Trial Chamber recalls its earlier finding in respect of news articles and holds that they are not sufficiently reliable for admission in the present case.

28. Rule 65 *ter* number 789 is a dispatch from the 5<sup>th</sup> Corps to the 2<sup>nd</sup> Military District command, dated 3 April 1992. The Prosecution submits that the document "is relevant to military preparations prior to the takeover of the municipality of Ključ" and that it "corroborates evidence

---

<sup>37</sup> Motion, Annex A, p. 36.

<sup>38</sup> Response, pp 16-17.

<sup>39</sup> *Id.*, p. 17.

<sup>40</sup> Motion, Annex A, p. 3.

already admitted during trial on the same issue.”<sup>41</sup> The Trial Chamber finds, however, that the evidence on record is sufficient and considers this document to be superfluous.

### C. Supplemental Motion

29. The Trial Chamber considers all 16 documents in Annexes B and C to the Supplemental Motion to be relevant and probative to issues in the case. Furthermore, it is satisfied as to their authenticity for the purposes of Rule 89(C) in light of evidence on the record. These documents will, therefore, be admitted into evidence.

30. The Prosecution submits that the accuracy of the translation of P1653 has been verified and the document will, therefore, be admitted into evidence.<sup>42</sup> 1D327 was marked for identification pending provision of an English translation. The Prosecution submits that the translation is completed. The document may, therefore, be admitted into evidence and the Prosecution will be ordered to upload the translation into E-Court.

31. In respect of P101, the Prosecution submits that it “inadvertently excluded” this document from its 2 February 2010 motion requesting leave to add to its Rule 65 *ter* exhibit list documents which had been shown to witnesses in court and marked for identification.<sup>43</sup> The Prosecution submits that the omission was due to P101 not having “initially [been] designated as an MFI document in eCourt.”<sup>44</sup> The document contains the minutes from a Kotor Varoš War Presidency meeting on 2 February 1992.<sup>45</sup> The Prosecution argues that it is relevant to establish the widespread and systematic nature of the crimes committed against non-Serbs in Kotor Varoš as well as the aim of the JCE to remove non-Serbs from the Republika Srpska.<sup>46</sup> The Defence argue that the document is inadmissible as it relates to matters outside the indictment. It is also argued that it would be manifestly unfair to admit it into evidence at this late stage of the proceedings.<sup>47</sup>

32. The Trial Chamber considers that the Prosecution failed to request timely addition to its exhibit list of P101. However, it notes the Prosecution submission that it disclosed the document to the Defence in April 2005 and that the Defence elected not to cross-examine Nedeljko Đekanović, who is mentioned in the document, on the contents thereof.<sup>48</sup> It is also noted that the Prosecution referred to this document in an email of 5 October 2009, indicating to the parties and the Trial

<sup>41</sup> Motion, Annex B, p. 28.

<sup>42</sup> Supplemental Motion, para. 5.

<sup>43</sup> Prosecution’s motion for leave to amend its Rule 65 *ter* exhibit list to add documents marked for identification, with annexes, filed 2 Feb 2010.

<sup>44</sup> Supplemental motion, para. 19.

<sup>45</sup> *Id.*, para. 14-16 and Annex D.

<sup>46</sup> *Id.*, para. 20.

<sup>47</sup> Supplemental Response, para. 3.

Chamber which documents were to be used with the witness. For these reasons, the Trial Chamber finds that it will not cause the Defence undue prejudice to add P101 to the Prosecution's exhibit list and to admit it into evidence as a relevant and probative document.

33. In respect of P483, the Prosecution submits that it included the document in its 2 February 2010 motion but that it "misidentified" it as P482 in paragraph 16.<sup>49</sup> However, the document was correctly identified as P483 in Annex A of the motion.<sup>50</sup> The Trial Chamber identified the document as P482 in its decision of 15 December 2010 and held, since P482 had already been admitted into evidence, that the request for its admission to be moot.<sup>51</sup> The Trial Chamber did not rule on P483 in the decision. It is noted that the Defence do not oppose this document and that it was authenticated by ST172, who also gave evidence on its contents.<sup>52</sup> For these reasons, the Trial Chamber will grant leave to add the document to the Prosecution's exhibit list and will admit it into evidence.

34. In respect of P1096, the Prosecution submits that the Trial Chamber denied addition to its exhibit list by decision on 14 April 2010.<sup>53</sup> The Prosecution submits that in the interim new evidence has been adduced through the testimony of ST174 on 23 March 2010.<sup>54</sup> It also argues that the document is relevant to the evidence of ST197, who testified on 19 October 2010.<sup>55</sup> Considering that these witnesses had not testified at the time the Trial Chamber ruled, the Prosecution request reconsideration of the decision ruling regarding this document. The Defence opposes this document, stating, *inter alia*, that it would be manifestly unfair to admit it into evidence at this late stage of the proceedings and that the Prosecution "failed to show this document to any witness who could give evidence of Župljanin's actual knowledge of its existence or contents".<sup>56</sup> The Trial Chamber notes that P1096 is an order issued on behalf of Stojan Župljanin appointing persons to leadership positions within a police brigade. It considers that the document is relevant and probative to issues in the case and sufficiently authenticated by evidence on the record. The Trial Chamber also notes that the Defence elected not to cross-examine ST174 on this document. For these reasons, the Trial Chamber finds that it will not cause the Defence undue prejudice to add P101 to the Prosecution's exhibit list and to admit it into evidence as a relevant and probative document.

<sup>48</sup> Supplemental Motion, para. 21.

<sup>49</sup> *Id.*, para. 13.

<sup>50</sup> *Id.*, Annex A, p. 8.

<sup>51</sup> Decision granting in part Prosecution's motion to amend its Rule 65 *ter* exhibit list, 15 Dec 2010, para. 1.

<sup>52</sup> ST172, 21 Jan 2010, T. 5289-5290.

<sup>53</sup> Decision granting in part the Prosecution's motion of 18 February 2010 to amend its Rule 65 *ter* exhibit list and denying the supplemental motion of 2 March 2010, para. 53, where the Trial Chamber held that the Prosecution had not indicated reasons for the late addition of, *inter alia*, this document beyond asserting that it was relevant to the case and that the Prosecution, therefore, had failed to show good cause to amend its exhibit list.

<sup>54</sup> Supplemental Motion, para. 16.

## V. DISPOSITION

35. Pursuant to Rules 65 *ter*, 89, 94(B) and 126 *bis* of the Rules, the Trial Chamber:

**GRANTS** the Defence request to exceed the word limit for the Response;

**GRANTS** the Prosecution leave to reply to the Response and the Second Response;

**GRANTS** leave to the Prosecution to add to its exhibit list the documents marked for identification as P101, P483 and P1096;

### **ADMITS INTO EVIDENCE:**

- the documents under the following Rule 65 *ter* numbers: 14, 16, 22, 137, 152, 220, 222, 245, 249, 256, 333, 342, 348, 350, 351, 379, 401, 414, 416, 429, 441, 487, 492, 514, 521, 523, 551, 554, 573, 581, 583, 584, 627, 685, 747, 759, 787, 794, 817, 819, 827, 828, 829, 830, 832, 880, 881, 885, 891, 894, 898, 899, 900, 901, 904, 906, 907, 909, 910, 912, 913, 960, 961, 976, 978, 981, 982, 984, 986, 987, 990, 992, 994, 997, 998, 999, 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1010, 1012, 1013, 1014, 1016, 1017, 1018, 1020, 1021, 1023, 1148, 1160, 1238, 1241, 1272, 1279, 1287, 1294, 1297, 1298, 1311, 1315, 1320, 1442, 1444, 1451, 1467, 1474, 1478, 1485, 1563, 1611, 1726, 1736, 1737, 1749, 1947, 1970, 1972, 1981, 1993, 2054, 2091, 2098, 2100, 2109, 2125, 2128, 2130, 2131, 2135, 2137, 2139, 2301, 2327, 2331, 2364, 2365, 2373, 2374, 2380, 2381, 2383, 2411, 2438, 2439, 2457, 2460, 2464, 2466, 2469, 2471, 2475, 2477, 2484, 2503, 2504, 2570, 2645, 2654, 2657, 2689, 2700, 2701, 2736, 2738, 2748, 2760, 2761, 2773, 2775, 2780, 2781, 2782, 2805, 2827, 2848, 2851, 2856, 2861, 2866, 2883, 2923, 2924, 2925, 2942, 3008, 3023, 3040, 3041, 3042, 3043, 3045, 3047, 3051, 3056, 3064, 3067, 3068, 3070, 3098, 3101, 3130, 3131, 3133, 3134, 3142, 3147, 3175, 3190, 3191, 3196, 3279, 3363, 3365, 3438, 3572; and
- the documents marked for identification as P100, P154, P327, P337, P342, P409, P410, P985, P999, P1009, P1011, P1037, P1324, P1341, P1542, P1613, P1653, 1D327;

**MARKS FOR IDENTIFICATION** the documents under Rule 65 *ter* numbers 3199 and 3309 pending provision by the Prosecution of English translations;

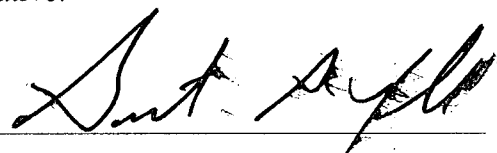
**ORDERS** the Prosecution to upload into E-Court the English translation of 1D327; and

<sup>55</sup> *Ibid.*

<sup>56</sup> Second Response, para. 3.

**DENIES** the Motion in all other respects.

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



Judge Burton Hall  
Presiding

Dated this first day of February 2011

At The Hague

The Netherlands

[Seal of the Tribunal]