



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: 11 March 2011  
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:** 11 March 2011

**THE PROSECUTOR**

**v.**

**VOJISLAV ŠEŠELJ**

***PUBLIC DOCUMENT***

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**CONSOLIDATED DECISION ON PROSECUTION MOTIONS FOR  
ADMISSION OF EVIDENCE REGARDING THE MLADIĆ NOTEBOOKS**

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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: (1) the submission filed publicly on 8 December 2010 (“Submission of 8 December 2010”)<sup>1</sup> by the Office of the Prosecutor (“Prosecution”), whereby the Prosecution respectfully requests the addition to the 65 *ter* exhibit list of four documents contained in Annex 5A of the said submission;<sup>2</sup> (2) the Motion filed publicly on 24 January 2011 (“Motion of 24 January 2011”)<sup>3</sup> by the Prosecution, whereby the latter respectfully requests the addition to the 65 *ter* exhibit list and the admission to the record (a) of the expert report pertaining to the Notebooks of General Mladić (respectively, “Expert Report” and “Mladić Notebooks”)<sup>4</sup>, (b) of a copy of a typewritten letter of 7 February 1995 from General Brinkman to General Mladić in which there are handwritten notes by General Mladić in the margins of the letter (“Letter of 7 February 1995”)<sup>5</sup>, (c) of the testimony of Witness Slavko Kralj in the *Popović* Case (“Kralj Testimony”)<sup>6</sup> and (d) of the Letter of 7 February 1995, as admitted into evidence in the *Popović* Case (“*Popović* Exhibit”).<sup>7</sup>

2. The Chamber will likewise rule, in this Decision, on the request to admit to the record documents relating to the seizure of the Mladić Notebooks, brought in the

<sup>1</sup> “Prosecution’s Response to Trial Chamber’s Rule 98 Request for Information Regarding the Video Still Extract Showing General Mladić with Notebook”, public document with annex, 8 December 2010 (“Submission of 8 December 2010”).

<sup>2</sup> Annex 5A to the Submission of 8 December 2010. These 4 documents are: (1) an excerpt from a notebook with notes taken at a meeting dated 11 July 1995, bearing ERN number 0649-0552-0649-0555 (along with its English translation); (2) a page from a notebook with notes taken during a meeting with General Smith dated 19 July 1995, bearing ERN number 0649-0555-0649-0556 (along with its English translation); (3) a video clip of a meeting dated 26 July 1995, bearing ERN number V000-8119, showing General Mladić taking notes; (4) a still image from the said video showing a close-up of the notebook while notes were being taken.

<sup>3</sup> “Prosecution’s Motion to Tender Supplemental Material Relating to Mladić Notebooks”, public document with public and confidential annexes, 24 January 2011 (“Motion of 24 January 2011”).

<sup>4</sup> Motion of 24 January 2011, paras 6-7, 12.

<sup>5</sup> Motion of 24 January 2011, paras 6, 9, 12 (i) and 14. This letter is the document bearing ERN number 0679-3049-0679-3050 (“Letter of 7 February 1995”).

<sup>6</sup> Motion of 24 January 2011, paras 9, 10, 12 (iii) and 14. *The Prosecutor v. Vujadin Popović et al.*, Case No. IT-05-88-T (“*Popović* Case”). Witness Slavko Kralj testified in the *Popović* Case on 3, 4, 5 December 2008; see the English hearing transcript (“T”) 29226-29379 (“Kralj Testimony”).

<sup>7</sup> Motion of 24 January 2011, paras 9, 10, 12 (iv) and 14. The Letter of 7 February 1995 was admitted in the *Popović* Case under number 5D1296 (“*Popović* Exhibit”).

Motion that was filed publicly by the Prosecution on 19 November 2010 (“Motion of 19 November 2010”).<sup>8</sup>

## II. PROCEDURAL BACKGROUND

3. On 19 July 2010, the Prosecution publicly filed a motion (“Motion of 19 July 2010”), seeking the admission of evidence relating to the Mladić Notebooks as well as of thirteen extracts selected from the said Notebooks (“Extracts from the Mladić Notebooks”).<sup>9</sup>

4. On 22 October 2010, the Chamber rendered its decision in respect of the Motion of 19 July 2010 (“Decision of 22 October 2010”), whereby (1) it ordered an expert evaluation in order to resolve the issue of the authenticity of the Mladić Notebooks, (2) it ordered the admission into evidence of the previous statements of

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<sup>8</sup> “Prosecution’s Motion for Reconsideration of the Chamber’s Decision on Prosecution’s Motion for Admission of Evidence Relating to Mladić’s Notebooks dated 22 October 2010”, public document with annexes, 19 November 2010 (“Motion of 19 November 2010”). The Prosecution requested adding to the 65 *ter* exhibit list documents found in three annexes (Annexes 1, 2 and 5) to the said Motion and the admission to the record of the documents contained in two annexes to the said Motion, namely Annex 3: (1) a search warrant issued by the War Crimes Chamber of the Belgrade District Court dated 22 February 2010; (2) a procès-verbal of seizure from the Serbian MUP dated 23 February 2010; (3) a report from the Serbian MUP dated 30 April 2010 concerning the contents of the seizure on 23 February 2010; (4) correspondence from the Serbian MUP entitled “Request for Assistance of the Trial Division of the Office of the Prosecutor of the ICTY dated 29 July 2010 – Forwarding Report”, dated 13 August 2010 (collectively, “Documents from the Seizure of 2010”) and Annex 4: (1) the prior statement of Tomasz Blaszczyk dated 30 July 2010 (“Blaszczyk Statement”); (2) the English hearing transcript in Case No. IT-95-5/18-T, *The Prosecutor v. Radovan Karadžić* (“*Karadžić Case*”) of the testimony of Tomasz Blaszczyk on 20 August 2010 (“Blaszczyk Testimony”) as well as the related exhibits admitted in the *Karadžić Case*, namely a corroboration chart bearing ERN No. 0677-9055-0677-9057, a verification of the seizure inventory dated 23 February 2010, bearing ERN No. 0668-0834-0668-0837 and a certificate of seizure from the MUP dated 4 December 2008, bearing ERN No. 0677-7819-0677-7820, a video still image bearing ERN No. 0677-9058-0677-9058, a video still image bearing ERN No. 0702-5095-0702-5095 and two video excerpts bearing ERN Nos V000-4458 and ERN V000-1355 and admitted respectively under numbers P01458 and P01460 in the *Karadžić Case* (“Blaszczyk Exhibits”).

<sup>9</sup> “Prosecution’s Motion for Admission of Evidence Relating to Mladić Notebooks and for Leave to Amend its Rule 65*ter* Witness and Exhibit Lists”, public document with annexes, dated 16 July 2010 and filed on 19 July 2010, then redistributed on 20 July 2010 due to an error in paging (“Motion of 19 July 2010”). The Prosecution specifically requested the admission into evidence of 13 extracts, which were: 1 extract pertaining to 1 February 1992 selected from Mladić Notebook No. 4 (entries from 31 December 1991 to 14 February 1992), 4 extracts pertaining to 6, 7, 9 and 11 May 1992, selected from Mladić Notebook No. 5 (entries from 14 February 1992 to 25 May 1992), 2 extracts pertaining to 6 and 30 June 1992, selected from Mladić Notebook No. 6 (entries from 27 May 1992 to 31 July 1992), 1 extract pertaining to 8 November 1992, selected from Mladić Notebook No. 11 (entries from 5 October 1992 to 27 December 1992), 3 extracts pertaining to 28 May, 8 July and 24 September 1993, selected from Mladić Notebook No. 14 (entries from 2 April 1993 to 24 October 1993), 1 extract pertaining to the 21 December 1993, selected from Mladić Notebook No. 15 (entries from 28 October 1993 to 15

Manojlo Milovanović (“Milovanović”) dated 27 April 2010 and of investigator Erin Gallagher dated 8 July 2010, pursuant to Rule 92 *bis* of the Rules of Procedure and Evidence (“Rules”) and (3) it declined to rule on the request to admit the Extracts from the Mladić Notebooks.<sup>10</sup>

5. The Prosecution then filed the Motion of 19 November 2010, respectfully requesting (1) reconsideration of the Decision of 22 October 2010, (2) the addition to the 65 *ter* exhibit list of Annexes 1 to 5, annexed to the said motion and pertaining to the Mladić Notebooks, (3) the addition of Tomasz Blaszczyk to the 65 *ter* witness list as well as (4) the admission of Annexes 3 and 4, annexed to the said motion and containing evidence relating to the seizure of the Mladić Notebooks.

6. The Prosecution then filed the Submission of 8 December 2010, whereby it responded to a question put by the Chamber during the hearing of 1 December 2010 and whereby the Prosecution also submitted to the Chamber four documents it had neglected to include in Annex 5, which it was requesting be added to the 65 *ter* list in its Motion of 19 November 2010.<sup>11</sup>

7. On 22 December 2010, the Chamber rendered its decision regarding the Motion of 19 November 2010 whereby it ordered (1) that Tomasz Blaszczyk be added to the 65 *ter* witness list and (2) that the documents cited in Annexes 1-5 of the Motion of 19 November 2010 be added to the 65 *ter* exhibit list and (3) declined to rule on the admission to the record of documents found in Annexes 3 and 4 of the Motion of 19 November 2010, namely the Documents from the Seizure of 2010, the

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January 1994) and 1 extract pertaining to 13 October 1994, selected from Mladić Notebook No. 18 (entries from 4 September 1994 to 28 January 1995) (“Extracts from the Mladić Notebooks”).

<sup>10</sup> “Decision on Prosecution’s Motion for Admission of Evidence Relating to Mladić Notebooks with a Separate Opinion from Presiding Judge Antonetti Attached”, public document, 22 October 2010 (“Decision of 22 October 2010”).

<sup>11</sup> Submission of 8 December 2010. During the hearing of 1 December 2010, the Chamber asked the Prosecution for additional information concerning the document bearing ERN number 0702-5095, whose admission into evidence was requested by the Prosecution in Annex 4, Part C of its Motion of 19 November 2010; Hearing of 1 December, hearing transcript in French (“T(F)”) 16530-16531. See also Annex 5A to the Submission of 8 December 2010.

Blaszczyk Statement, the Blaszczyk Testimony in the *Karadžić* Case and the Blaszczyk Exhibits.<sup>12</sup>

8. On 19 January 2011, the Prosecution filed a notice relating to the expert who worked on the Mladić Notebooks for purposes of informing the Chamber of the existence of several documents relating to the work previously performed by the expert (“Notice of 19 January 2011”).<sup>13</sup>

9. The Prosecution subsequently filed its Motion of 24 January 2011.

10. In an e-mail message dated 23 February 2011, the Chamber requested of the Accused that he bring comments in respect of the Motion on 24 January 2011.<sup>14</sup>

11. The Accused did not respond to the Motion of 24 January 2011.<sup>15</sup>

12. On 28 January 2011, the Prosecution filed a notice pertaining to the filing of the BCS translations of the documents annexed to the Notice of 19 January 2011 (“Notice of 28 January 2011”).<sup>16</sup>

13. On 7 March 2011, the Chamber rendered a decision for admitting into evidence *proprio motu* the Expert Report and the reference documents used by the

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<sup>12</sup> “Decision on Prosecution’s Motion for Reconsideration of Chamber’s Decision on Mladić Notebooks Filed on 22 October 2010”, public document, 22 December 2010 (“Decision of 22 December 2010”).

<sup>13</sup> “Prosecution’s Notice of Filing of Documents Relating to Handwriting Material”, public document with public and confidential annexes, 19 January 2011 (“Notice of 19 January 2011”). The documents disclosed by the Prosecution in this Notice are: (1) a portion of the testimony by expert Dr. Keržan in Case IT-03-68-T, *The Prosecutor v. Naser Orić*, hearing of 28 February 2006, T(F) 15932-15933, (2) a handwriting analysis report from Dr Keržan dated 8 March 2000, (3) a handwriting analysis report from the Ministry of the Interior of the French Republic, dated 10 November 2000, (4) the transcription of a meeting between a member of the Office of the Prosecutor and a certain Vojislav Sekanić and (5) the transcription of a meeting between Dean Manning and Dragan Jevtić, dated 25 November 2001.

<sup>14</sup> E-mail message dispatched by the Chamber to the Accused on 23 February 2011, giving him 6 days to submit his comments on the Motion of 24 January 2011, to run from the date of receipt of the BCS version of the said e-mail message.

<sup>15</sup> The Accused received the BCS translation of the Motion of 24 January 2011 on 21 February 2011 (see Procès-verbal of reception filed on 25 February 2011).

<sup>16</sup> “Prosecution’s Notice of Filing of Documents Relating to Handwriting Material”, public document with public and confidential annexes, 28 January 2011 (“Notice of 28 January 2011”).

Expert as an Annex to the said Expert Report as well as for admitting into evidence the Extracts from the Mladić Notebooks (“Decision of 7 March 2011”).<sup>17</sup>

### III. PRELIMINARY OBSERVATIONS

#### A. Regarding the Submission of 8 December 2010

14. The Chamber observes that in the Submission of 8 December 2010, the Prosecution attaches Annex 5A<sup>18</sup> to Annex 5 of the Motion of 19 November 2010, in which it sought addition to the 65 *ter* exhibit list. The Chamber points out that the Prosecution actually neglected to include the four documents contained in this Annex 5A to the Motion of 19 November 2010, where they were nevertheless referred to.

15. The Chamber notes, however, that in the Motion of 19 November 2010, the Prosecution only referred to these four documents in footnotes, rather than working them into the body of the said Motion,<sup>19</sup> and recalls for the Prosecution that motions must be stated in clear and explicit fashion, that this also requires that the Prosecution state its motions in concise and thorough fashion, that motions must be filed with titles corresponding to the contents of the request and that the contents of the request must appear in the body of the motion and not in the footnotes.

16. For this reason, and concerning more particularly the extract from a notebook with notes taken during a meeting on 11 July 1995<sup>20</sup>, referred to solely as a footnote in the Motion of 19 November 2010, the Chamber finds that the Prosecution incorrectly asserts in its Motion of 24 January 2011 that this document had already been added to

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<sup>17</sup> “Decision on Prosecution Motion for Admission of Evidence Relating to Mladić Notebooks, with Dissenting Opinion of Presiding Judge Jean-Claude Antonetti in Annex”, public document, 7 March 2011. See also “Registry’s Submission of Expert Report Regarding the Mladić Notebooks”, public document, 12 January 2011 (“Expert Report”) and “Registry’s Submission Pursuant to Rule 33(B) of Annex to Expert Report Regarding the Mladić Notebooks”, public document, 4 March 2011 and Annex A “Handwriting Analysis Report – Annex” which contains the documents bearing ERN Nos 0679-3049 and 0679-3050, 0649-0552, 0649-0553, 0649-0554, 0649-0555 as well as a supplemental document, that is, a typewritten, hand signed statement which was however not used as a reference document for the analysis (“Annex to the Expert Report”).

<sup>18</sup> Submission of 8 December 2010, para. 3, FN 3. See also the Annex to the Submission of 8 December 2010.

<sup>19</sup> Submission of 19 November 2010, FN 42, 46 and 47; see Submission of 8 December 2010, para. 3 and FN 3.

<sup>20</sup> This document is assigned ERN number 0649-0552-0649-0555 and can be found in Annex 5A of the Submission of 8 December 2010. See FN 2, *supra*.

the 65 *ter* exhibit list by the Decision of 22 December 2010.<sup>21</sup> In the said decision, the Chamber actually only ruled on the Motion of 19 November 2010; however, this document appeared neither in the body of the Motion, nor in its annexes, but only in the Submission of 8 December 2010.

**B. Regarding the Notices of 19 January 2011 and 28 January 2011**

17. The Chamber recalls that, in principle, it has not been seized of the notices filed by the parties. The Chamber points out that, in the Notice of 19 January 2011, the Prosecution merely directs the Chamber's attention to the existence of documents relating to the expert, Dr Keržan, without requesting the admission into evidence of these documents<sup>22</sup> and that, in its Notice of 28 January 2011, the Prosecution simply files the BCS translations of the documents annexed to its earlier Notice of 19 January 2011. The Chamber finds that it has no reason to rule on these two Notices, inasmuch as the Prosecution did not express any request in either submission.

18. In any event, the Chamber is compelled to stress that, in the future, it will not respond to a request brought in a notice or referenced in the footnote of a submission.

**C. Regarding the Consolidation of Several Motions in this Decision**

19. The Chamber recalls that it had stayed ruling on a portion of the Motion of 19 November 2010 and notes that the arguments brought by the Prosecution in the Motion of 19 November 2010, the Submission of 8 December 2010 and the Motion of 24 January 2011 are closely related. For this reason, the Chamber considers it necessary to examine these three submissions contemporaneously and to respond under a consolidated decision uniting all of these issues relating to the Expert Report, the authenticity of the Mladić Notebooks, their seizure in 2010 and the chain of custody of these documents.

**IV. ARGUMENTS OF THE PROSECUTION**

20. In the Motion of 19 November 2010, the Prosecution respectfully requests: (1) the admission of the Documents from the Seizure of 2010, found in Annex 3 of this

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<sup>21</sup> Motion of 24 January 2011, para. 6.

<sup>22</sup> Notice of 19 January 2011, para. 2.

motion, pursuant to Rule 89(C) of the Rules,<sup>23</sup> on grounds that these documents enable one to establish the legal basis for the search conducted at the home of Bosiljka Mladić in February 2010;<sup>24</sup> (2) the admission of the Blaszczyk Statement, of the Blaszczyk Testimony and of the Blaszczyk Exhibits, contained in Annex 4 to the said motion, pursuant to Rules 89(C), 92 *bis* and 94(B) of the Rules,<sup>25</sup> on grounds that these documents will aid the Chamber in establishing the chain of custody, the authenticity and the reliability of the Mladić Notebooks, corroborating evidence already admitted by the Chamber.<sup>26</sup>

21. In the Submission of 8 December 2010, the Prosecution annexes an Annex 5A, including several documents<sup>27</sup> in Annex 5 of the Motion of 19 November 2010, whose addition to the 65 *ter* exhibit list was requested by the Prosecution on grounds that these documents established that the entries in the Mladić Notebooks were indeed made on the dates indicated in the said Notebooks.

22. In the Motion of 24 January 2011, the Prosecution respectfully requests the addition to the 65 *ter* exhibit list as well as the admission into evidence pursuant to Rules 94 *bis* (C) and 89(C) of the Rules: (1) of the Expert Report; (2) of the Letter of 7 February 1995 on grounds that this document is helpful to the authentication of the Mladić Notebooks; (3) of the Kralj Testimony on grounds that during this testimony, Witness Slavko Kralj recognized the handwriting of General Mladić on the Letter of 7 February 1995; (4) of the *Popović* Exhibit, as a document integral to the said Kralj Testimony, on grounds that this document and the said Kralj Testimony corroborate the source and the date of the Letter of 7 February 1995 used by the expert and that they enhance the Expert Report.<sup>28</sup>

<sup>23</sup> Motion of 19 November 2010, para. 23(b)(iv).

<sup>24</sup> Motion of 19 November 2010, para. 11.

<sup>25</sup> Motion of 19 November 2010, paras 3, 23(b)(iii) and (iv).

<sup>26</sup> Motion of 19 November 2010, paras 14-15.

<sup>27</sup> Submission of 8 December 2010, para. 3, FN 3. See likewise Annex 5A of the Submission of 8 December 2010 and Annex 5 to the Motion of 19 November 2010. Annex 5A includes four documents left out of the Motion of 19 November 2010, namely: (1) a page from a notebook, with notes taken during a meeting dated 11 July 1995, bearing ERN No. 0649-0552-0649-0555 (as well as the English translation); (2) a page from a notebook, with notes taken during a meeting with General Smith as of 19 July 1995, bearing ERN No. 0649-0555-0649-0556 (as well as the English translation); (3) a video of a meeting as of 26 July 1995, showing General Mladić taking notes and bearing ERN No. V000-8119; (4) a photo excerpt from the said video showing a close-up of the notebook while notes were being taken.

<sup>28</sup> Motion of 24 January 2011, paras 9-10, 12-14.



## V. APPLICABLE LAW

23. In order to respond favourably to a request to add exhibits to the 65 *ter* exhibit list, the Chamber must be persuaded that this amendment lies in the interests of justice. For this purpose, the Chamber must:

(a) pursuant to Articles 20(1) and 21(4)(b) of the Statute of the Tribunal (“Statute”), ensure that the rights of the Defence are upheld by having each exhibit disclosed sufficiently in advance so that it will not disturb the Accused in the preparation of his defence;<sup>29</sup> and

(b) confirm the relevance, reliability and the *prima facie* probative value of the exhibits concerned with regard to the Indictment, or that there exists another valid reason which might justify their inclusion on the 65 *ter* exhibit list.<sup>30</sup>

24. Further to this, the Chamber has examined the documents whose admission is respectfully sought in light of Rules 89 and 92 *bis* of the Rules and in light of the procedure established in the Order of 15 November 2007<sup>31</sup> setting forth the guidelines to govern the presentation of evidence and the conduct of the parties during the trial.

25. Rule 92 *bis* of the Rules allows for the presentation of evidence in written form on condition that the said evidence be probative and reliable and “goes to proof of a matter other than the acts and conduct of the accused as charged in the indictment”. The Chamber exercises its discretion to determine if it is fair to allow this evidence to be adduced in writing or whether, in the alternative, the witness must be called for cross-examination.

26. The Chamber is likewise compelled to recall that a fundamental distinction exists between the admissibility of evidence and the weight assigned to it in

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<sup>29</sup> *The Prosecutor v. Milan Martić*, Case No. IT-95-11-PT, “Decision on Prosecution’s Motion to Amend its Rule 65 *ter* Exhibit List”, public document, 15 December 2005, p. 3; *The Prosecutor v. Vojislav Šešelj*, Case No. IT-03-67-T, “Decision on Prosecution Motion to Amend the 65 *ter* Exhibit List”, confidential document, 26 February 2008, p. 6.

<sup>30</sup> *The Prosecutor v. Vujadin Popović et al.*, Case No. IT-5-88-T, “Decision on Prosecution’s Motions for Leave to Amend Rule 65 *ter* Witness List and Rule 65 *ter* Exhibit List”, confidential document, 6 December 2006, p. 8.

<sup>31</sup> “Order Setting Out the Guidelines for the Presentation of Evidence and the Conduct of the Parties During the Trial”, public document, 15 November 2007 (“Order of 15 November 2007”).

determining the guilt of the Accused.<sup>32</sup> At this stage of the proceedings, the Chamber will make no binding assessment of the relevance, reliability or probative value of the evidence concerned. That determination will take place only at the end of the trial, in light of all of the evidence tendered by both parties.

## VI. DISCUSSION

### **A. Regarding the Requests for Addition to the 65 *ter* List and the Admission into Evidence of the Expert Report**

27. The Chamber recalls that the Expert Report and the Annex to the Expert Report were admitted into evidence *proprio motu* in the Decision of 7 March 2011.

28. The Chamber finds therefore that the requests for inclusion on the 65 *ter* list and the admission into evidence of the Expert Report have become moot.

### **B. Regarding the Requests for Addition of the Other Documents to the 65 *ter* Exhibit List**

29. The Chamber finds firstly that the Prosecution requests for addition to the 65 *ter* exhibit list (1) of the first document appearing in Annex 5A of the Submission of 8 December 2010 – namely an extract from a notebook with notes taken during a meeting dated 11 July 1995 – and (2) of the Letter of 7 February 1995, annexed to the Motion of 24 January 2011, are now moot inasmuch as these documents are part of the Annex to the Expert Report and have already been admitted into evidence *proprio motu* by the Decision of 7 March 2011.<sup>33</sup>

30. Moreover, concerning the three other documents appearing in Annex 5A of the Submission of 8 December 2010,<sup>34</sup> – namely (1) one page of a notebook with notes taken during a meeting with General Smith dated 19 July 1995,<sup>35</sup> (2) a video clip of a meeting dated 26 July 1995 showing General Mladić taking notes<sup>36</sup> and (3) a

<sup>32</sup> Order of 15 November 2007, para. 2.

<sup>33</sup> See para. 27, *supra*.

<sup>34</sup> See para. 21, *supra*.

<sup>35</sup> This document is assigned ERN No. 0649-0555-0649-0649-0556 and is found in Annex 5A of the Submission of 8 December 2010. See FN 2, *supra*.

<sup>36</sup> This document is assigned ERN No. V000-8119 and is found in Annex 5A of the Submission of 8 December 2010. See FN 2, *supra*.

still image from the said video showing a close-up of the notebook while notes were being taken<sup>37</sup> – the Chamber finds that these documents contribute no new required information to the Expert Report. The Chamber therefore finds no reason why they must be added to the 65 *ter* exhibit list.

31. Next, concerning the Kralj Testimony and the *Popović* Exhibit, after carefully reviewing the documents and submissions given to the Chamber through the Motion of 24 January 2011, it appears that:

(a) the Accused received a copy of these documents on 21 February 2011.<sup>38</sup> The Chamber finds therefore that this disclosure was made sufficiently in advance and that the Accused is able to properly prepare his defence;

(b) these documents appear *a priori* reliable and related to the issues raised by the Indictment.<sup>39</sup>

32. The Chamber considers for this reason that it lies in the interests of justice to add the Kralj Testimony and the *Popović* Exhibit to the 65 *ter* exhibit list.

### **C. Regarding the Request to Admit the Other Documents into Evidence**

33. Regarding the Documents from the Seizure of 2010 (namely, the documents included in Annex 3 of the Motion of 19 November 2010), the Blaszczyk Statement, the Blaszczyk Testimony and the Blaszczyk Exhibits (included in Annex 4 of the Motion of 19 November 2010), whose admission was sought by the Prosecution in its Motion of 19 November 2010, specifically on grounds that these documents establish the chain of custody of the Mladić Notebooks,<sup>40</sup> the Chamber recalls first that these documents were already added to the 65 *ter* exhibit list by the Decision of 22 December 2010.

<sup>37</sup> This document is a still image from the said video, bearing ERN No. V000-8119, and shows a close-up of the notebook while notes were being taken. This document appears in Annex 5A of the Submission of 8 December 2010. See FN 2, *supra*.

<sup>38</sup> The Accused received the BCS translation of the Motion on 21 February 2011, see Procès-verbal of reception filed on 25 February 2011.

<sup>39</sup> Third Amended Indictment dated 7 December 2007 (“Indictment”).

<sup>40</sup> Motion of 19 November 2010, paras 11 and 14.

34. The Chamber next observes that the Blaszczyk Statement was duly certified under the conditions established under Rule 92 *bis* of the Rules, that the Blaszczyk Statement was made under oath,<sup>41</sup> that these two documents thereby meet the conditions of *prima facie* authenticity, reliability and probative value of Rule 92 *bis* of the Rules and that they make it possible to confirm the chain of custody of the Mladić Notebooks. The Chamber finds moreover that the Blaszczyk Exhibits constitute integral parts of the Blaszczyk Testimony.

35. The Chamber likewise observes that the Documents from the Seizure of 2010 are all dated, that their source is clear, that they are stamped and signed, that they are relevant, as they address the conditions and the circumstances surrounding the searches at the home of the wife of General Mladić during which the Mladić Notebooks were seized. The Chamber finds for this reason that the Documents from the Seizure of 2010 display sufficient indicia of relevance, reliability and probative value to be admitted into evidence.

36. Regarding the Kralj Testimony and the *Popović* Exhibit, the Chamber observes that the Kralj Testimony fulfils the requirements of *prima facie* authenticity, reliability and probative value of Rule 92 *bis* of the Rules. The Chamber finds, in addition, that the *Popović* Exhibit constitutes an integral part of the Kralj Testimony.

37. Nevertheless, the Chamber considers that only the pages bearing numbers T(F) 29291-29292 of this testimony are relevant and make it possible to confirm the authenticity of the Letter of 7 February 1995.<sup>42</sup> The Chamber therefore holds that these pages of the Kralj Testimony alone may be admitted into evidence pursuant to Rule 92 *bis* of the Rules.

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<sup>41</sup> Blaszczyk Testimony in the *Karadžić* Case, T(F) 6049.

<sup>42</sup> Kralj Testimony in the *Popović* Case, T(F) 29291-29292.

## VII. DISPOSITION

**FOR THE FOREGOING REASONS,**

**PURSUANT TO** Rule 54 of the Rules,

***PROPIO MOTU***

**ORDERS** the Consolidation of the Motion of 19 November 2010, of the Submission of 8 December 2010 and of the Motion of 24 January 2011,

**PURSUANT TO** Rules 54, 65 *ter*, 73 and 92 *bis* of the Rules,

**ORDERS** the Kralj Testimony and the *Popović* Exhibit to be added to the 65 *ter* exhibit list,

**ORDERS** the admission to the record of:

- 1) the Documents from the Seizure of 2010, namely (a) a search warrant issued by the War Crimes Chamber of the Belgrade District Court dated 22 February 2010, (b) a procès-verbal of seizure from the Serbian MUP dated 23 February 2010, (c) a report from the Serbian MUP dated 30 April 2010 concerning the contents of the seizure of 23 February 2010, (d) correspondence from the Serbian MUP entitled “Request for Assistance of the Trial Division of the Office of the Prosecutor of the ICTY dated 29 July 2010 – Forwarding Report” dated 13 August 2010;
- 2) the Blaszczyk Statement, the Blaszczyk Testimony and the Blaszczyk Exhibits in the *Karadžić* Case;
- 3) the pages bearing T(F) nos 29291-29292 in the Kralj Testimony;
- 4) the *Popović* Exhibit.

**ORDERS** the Registry to assign to each of these documents an exhibit number and to place them on *e*-Court with their official translation by the translation service of the Tribunal,

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

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

          /signed/            
Jean-Claude Antonetti  
Presiding Judge

Dated this eleventh day of March 2011  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**