



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-95-5/18-T

Date: 3 June 2011

Original: English

IN THE TRIAL CHAMBER

Before: Judge O-Gon Kwon, Presiding Judge
Judge Howard Morrison
Judge Melville Baird
Judge Flavia Lattanzi, Reserve Judge

Registrar: Mr. John Hocking

Decision of: 3 June 2011

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

**DECISION ON THE ACCUSED'S MOTION TO ADMIT DOCUMENT RELEVANT TO
INCIDENT G4 FROM THE BAR TABLE**

Office of the Prosecutor

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

The Accused

Mr. Radovan Karadžić

Standby Counsel

Mr. Richard Harvey

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”) is seised of the Accused’s “Motion to Admit Document Relevant to Incident G4 from the Bar Table” filed on 18 May 2011 (“Motion”), and hereby issues its decision thereon.

1. In the Motion, the Accused requests that the document bearing Rule 65 *ter* number 09587, a daily combat report from the ABiH 5th Motorised Brigade, be admitted into evidence from the bar table pursuant to Rule 89(C) of the Rules of Procedure and Evidence of the Tribunal (“Rules”).¹ The Accused submits that the document is relevant to the issue of whether the football match in Dobrinja on 1 June 1993 (shelling incident G4 listed in Schedule G to the Indictment) was a legitimate military target for shelling. He further submits that this document is relevant to determining how many of the victims of this shelling incident were combatants.² In terms of reliability, the Accused refers to the document’s prior admission into evidence in the *Galić* case.³

2. The Office of the Prosecutor (“Prosecution”) was provided with an opportunity to comment on the document for which admission was sought,⁴ and stated that it did not object.⁵ However, the Prosecution comments that the document is “of very limited assistance to the issue of whether the football game was a ‘legitimate military target’”, as while the document does indicate that soldiers were among the victims of the shelling, it does not touch upon the “issue of whether SRK forces legitimately targeted those soldiers”.⁶

3. The Chamber recalls that evidence may be admitted from the bar table if it is considered to fulfil the requirements of Rule 89 that it be relevant, of probative value, and bear sufficient indicia of authenticity.⁷ Once these requirements are satisfied, the Chamber maintains discretionary power over the admission of the evidence.⁸

4. The Chamber also recalls its “Order on Procedure for Conduct of Trial” filed on 8 October 2009 (“Order”), which states, with regard to any request for the admission of evidence from the bar table, that:

¹ Motion, para. 1.

² Motion, Appendix A.

³ Motion, Appendix A.

⁴ Motion, para. 3.

⁵ Motion, Appendix A.

⁶ Motion, Appendix A.

⁷ Rule 89(C), (E).

⁸ Decision on the Prosecution’s First Bar Table Motion, 13 April 2010, para. 5 (citations omitted).

the requesting party shall: (i) provide a short description of the document of which it seeks admission; (ii) clearly specify the relevance and probative value of each document; (iii) explain how it fits into the party's case, and (iv) provide the indicators of the document's authenticity.⁹

5. The Chamber has carefully examined the relevance, probative value, and authenticity of Rule 65 *ter* number 09587, and whether the Accused has satisfactorily explained how it fits into his defence, along with the comments provided by the Prosecution. The Chamber is satisfied that the document is relevant and probative to the issue of the shelling of civilians in scheduled incident G4 as it provides details regarding the number and status of casualties resulting from this shelling. The Chamber is further satisfied that the document has sufficient indicia of authenticity for the purposes of admission under Rule 89.

6. Accordingly, the Trial Chamber, pursuant to Rule 89 of the Rules, hereby **GRANTS** the Motion and **DECIDES** to:

- 1) admit into evidence the document bearing Rule 65 *ter* number 09587; and
- 2) request the Registry to assign an exhibit number to this document.

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



Judge O-Gon Kwon
Presiding

Dated this third day of June 2011
At The Hague
The Netherlands

[Seal of the Tribunal]

⁹ Order, Appendix A, Part VII, para. R.