



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: 8 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: 8 June 2011

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

**DECISION ON ACCUSED'S SIXTH MOTION TO ADMIT DOCUMENTS PREVIOUSLY
MARKED FOR IDENTIFICATION**

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 seized of the “Motion to Admit Documents Previously Marked for Identification”, filed by the Accused on 9 May 2011 (“Motion”), and hereby issues its decision thereon.

1. On 8 October 2009, the Chamber issued the “Order on the Procedure for the Conduct of the Trial” in which it stated *inter alia* that any item marked for identification in the course of the proceedings, either because there is no English translation or for any other reason, will not be admitted into evidence until such time as an order to that effect is issued by the Chamber.¹

2. In the Motion, the Accused requests that 13 items previously marked for identification be admitted into evidence now that “[t]he issues which prevented these documents from being admitted as exhibits, such as providing English translation or transcriptions and time codes for videos have now been solved”.² The Accused also requests that exhibit MFI D1081 be admitted into evidence, and explains that “the underlying document was incorrectly recorded as 1D2341. In fact, the underlying document should be 1D3241. The document and its translation are uploaded in e-court.”³

3. On 17 May 2011, the Office of the Prosecutor (“Prosecution”) filed the “Prosecution’s Response to ‘Motion to Admit Documents Previously Marked for Identification’” (“Response”), stating that it does not object to the admission of 10 of the 14 items at issue in the Motion.⁴ The Prosecution adds that the Motion is moot with respect to items D251, D252, D855, and D1081, which have already been admitted by the Chamber, and notes, with regard to D1081, that the incorrect original document has been uploaded into e-court.⁵

4. The Chamber notes that in its “Decision on Accused’s Motions to Admit Documents Previously Marked for Identification”, issued on 9 March 2011 (“First MFI Decision”), it admitted the document marked for identification as MFI D855, as the outstanding issues which had prevented its admission had been remedied.⁶

¹ Order on the Procedure for the Conduct of the Trial, 8 October 2009, Appendix A, paras. O and Q.

² Motion, paras. 1–2 (MFI numbers D180, D251, D252, D258, D679, D836, D838, D855, D858, D859, D1112, D1116, and D1156).

³ Motion, para. 3.

⁴ Response, p. 2 (namely MFI numbers D180, D258, D679, D836, D838, D858, D859, D1112, D1116, and D1156).

⁵ Response, p. 2.

⁶ First MFI Decision, paras. 7, 10.

5. Further, in its “Decision on Accused’s Fifth Motion to Admit Documents Previously Marked for Identification”, issued on 8 April 2011 (“Second MFI Decision”), the Chamber admitted the items marked for identification as MFI D251, D252, and D1081, subject to receiving written notice from the Accused that the issues set out by the Chamber had been resolved.⁷ Specifically, the video marked for identification as MFI D251 was admitted pending amendment of the time-code of the admitted portion to end at 48:04, and the Accused was instructed to provide the Chamber with a copy of the video.⁸ The video marked for identification as MFI D252 was admitted pending amendment of the time-code of the admitted portion to end at 14:27 and, again, the Accused was instructed to provide the Chamber with a copy of the video.⁹ The document marked for identification as MFI D1081 was admitted subject to the original BCS document being correctly uploaded into e-court.¹⁰

6. On the basis of the information provided by the Accused in the Motion, and having reviewed the items themselves along with the relevant transcripts, as well as the issues raised by the Prosecution in its Response, the Chamber is satisfied that the following items previously marked for identification should now be marked as admitted: MFI D180, D258, D679, D836, D838, D858, D859, D1112, D1116, and D1156.

6. In addition, the Chamber notes that the time-codes for the videos marked for identification as MFI D251 and D252 have been amended in line with the Second MFI Decision, and that the Accused has, in the Motion, provided written notice of this.¹¹ The Chamber is therefore satisfied that the outstanding issues with respect to these videos have been remedied, and as such they should now be marked as admitted.

7. The Chamber further notes that the item marked for identification as MFI D855 was admitted in the First MFI Decision, but does not appear in e-court as admitted. The Motion is therefore moot in relation to this exhibit, and the Registry is instructed to mark it as admitted.

8. In relation to the item marked for identification as MFI D1081, having reviewed the relevant transcript, the Chamber notes that the document with Rule 65 *ter* number 1D3241 was the item used by the Accused in court and should therefore have been marked for identification as MFI D1081, pending English translation.¹² However, the document with Rule 65 *ter* number 1D2341 was instead incorrectly marked for identification as MFI D1081. The Registry is

⁷ Second MFI Decision, paras. 6, 11(b).

⁸ Second MFI Decision, para. 6(i).

⁹ Second MFI Decision, para. 6(ii).

¹⁰ Second MFI Decision, para. 6(iii).

¹¹ Motion, paras. 1-2.

therefore instructed to correct this error by assigning exhibit number MFI D1081 to the document with Rule 65 *ter* number 1D3241. Given that the document with Rule 65 *ter* number 1D3241 already has an English translation uploaded into e-court, this document should now be marked as admitted. Should the Accused wish to later tender Rule 65 *ter* number 1D2341 into evidence, he will be free to do so.

9. Accordingly, for the reasons set out above, pursuant to Rule 89 of the Rules, the Trial Chamber hereby **GRANTS** the Motion **IN PART**, and:

a) **ADMITS** into evidence the items currently marked for identification as:

MFI D180, D258, D679, D836, D838, D858, D859,
D1112, D1116, and D1156;

b) **INSTRUCTS** the Registry to assign exhibit number D1081 to the document with Rule 65 *ter* number 1D3241, and to mark as admitted exhibits D251, D252, and D1081; and

c) **DISMISSES** the Motion as moot with respect to MFI D855, and **INSTRUCTS** the Registry to mark it as admitted in e-court.

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



Judge O-Gon Kwon
Presiding

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

[Seal of the Tribunal]

¹² Hearing, T. 12020 (16 February 2011).