



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-04-75-T  
Date: 29 July 2013  
Original: English

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**IN THE TRIAL CHAMBER**

**Before:**

**Judge Guy Delvoie, Presiding  
Judge Burton Hall  
Judge Antoine Kesia-Mbe Mindua**

**Registrar:**

**Mr. John Hocking**

**Decision:**

**29 July 2013**

**PROSECUTOR**

**v.**

**GORAN HADŽIĆ**

**PUBLIC**

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**DECISION ON PROSECUTION MOTION FOR ADMISSION OF EXHIBITS  
CITED IN AMALGAMATED EXPERT REPORT OF REYNAUD THEUNENS**

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**The Office of the Prosecutor:**

**Mr. Douglas Stringer**

**Counsel for Goran Hadžić:**

**Mr. Zoran Živanović**

**Mr. Christopher Gosnell**

1. **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 “Prosecution Motion for the Admission of Exhibits Cited in the Amalgamated Expert Report of Reynaud Theunens and Request for Variation of the Word Limit”, filed on 24 May 2013 (“Motion”). The Defence filed its “Response to Prosecution Motion for the Admission of Exhibits Cited in the Amalgamated Expert Report of Reynaud Theunens” on 7 June 2013 (“Response”). The Prosecution filed its “Prosecution Request for Leave to Reply and Prosecution Reply to Hadžić Response to Prosecution Motion for the Admission of Exhibits Cited in the Amalgamated Expert Report of Reynaud Theunens” on 17 June 2013 (“Reply”).

#### **A. Background**

2. Reynaud Theunens testified in this case from 7 to 14 May 2013 as an expert witness on certain military related issues. His status as an expert witness was not challenged by the Defence. Theunens’ amalgamated expert report was admitted into evidence on 16 May 2013 (“Expert Report” or “Report”).<sup>1</sup> The Chamber instructed the parties to make written submissions on the proposed exhibits tendered through the witness.

#### **B. Submissions**

3. In the Motion, the Prosecution requests the admission of documents cited in the Expert Report as well as 19 documents that were reviewed by the witness but were not cited in the Report.<sup>2</sup> The documents are listed in Annex A to the Motion.

4. With regard to the documents cited in the Expert Report, the Prosecution submits that they are integral to understanding the analyses and conclusions presented therein.<sup>3</sup> It adds that, during his testimony, Theunens relied on the documents and explained the process of the selection of material he used for his Report.<sup>4</sup> In the Prosecution’s view, the documents cover a wide range of topics, including JNA doctrine and legal framework, military structure, military discipline, volunteer and paramilitary units, military operations in Croatia, international agreements, and

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<sup>1</sup> Exhibit P1753. *See also* Hearing, 16 May 2013, T. 4884.

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

<sup>3</sup> Motion, para. 6.

<sup>4</sup> Motion, paras 7-8.

evidence of crimes against non-Serbs.<sup>5</sup> In the view of the Prosecution, the documents satisfy the threshold requirements of relevance and admissibility.<sup>6</sup>

5. As to the 19 documents not included in the Expert Report, the Prosecution submits that due to time restraints it was unable to put these documents to the witness during his testimony, but that it had announced that documents of a similar nature and content would be tendered in its written submissions.<sup>7</sup> It adds that the documents are relevant to the topics about which Theunens gave evidence during his examination-in-chief and have been reviewed by him.<sup>8</sup> The Prosecution provides an argument for the admissibility of each of the 19 documents.<sup>9</sup>

6. Finally, the Prosecution seeks a 291-word extension of the word limit for the Motion.<sup>10</sup>

7. The Defence objects to some of the documents tendered and distinguishes its objections into three categories: (a) temporally, geographically, or substantively irrelevant to the allegations in the Indictment;<sup>11</sup> (b) absence of even the minimal indicia of provenance or origin that would permit an assessment of reliability; or (c) retrospective accounts written a long period after the described events, rendering the information contained testimonial.<sup>12</sup> With regard to the third category, the Defence submits that admission of such documents would circumvent Rules 89(F), 92 *bis*, 92 *quater*, and 92 *ter* of the Tribunal's Rules of Procedure and Evidence ("Rules").<sup>13</sup>

8. According to the Defence, the Expert Report does little or nothing to explain or contextualise the documents to which objection is taken.<sup>14</sup> Moreover, the Defence submits that in some cases the Prosecution did not tender certain JNA rules or regulations upon which Theunens relied in this report or that it tendered only parts of such documents.<sup>15</sup> It argues that this should not be at the discretion of the Prosecution and that many such documents can only be read in their totality in order to properly be understood.<sup>16</sup> The Defence has further specified its objections to each document in Annex A to the Response.<sup>17</sup>

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<sup>5</sup> Motion, paras 8, 10.

<sup>6</sup> Motion, para. 8.

<sup>7</sup> Motion, para. 12.

<sup>8</sup> Motion, paras 11-12.

<sup>9</sup> Motion, paras 14-39.

<sup>10</sup> Motion, para. 1.

<sup>11</sup> Second Amended Indictment, 22 March 2012 ("Indictment").

<sup>12</sup> Response, para. 1.

<sup>13</sup> Response, para. 2.

<sup>14</sup> Response, para. 3.

<sup>15</sup> Response, para. 4.

<sup>16</sup> Response, para. 4.

<sup>17</sup> Response, para. 1.

9. In the Reply, the Prosecution announces its withdrawal of 27 documents it originally sought to tender.<sup>18</sup> With regard to the third category of documents objected to by the Defence, the Prosecution argues that documents describing events that took place during the Indictment period are routinely admitted into evidence.<sup>19</sup> In respect of the argument that the Prosecution only used portions of documents, it replies that it was following the Chamber's guideline on the issue.<sup>20</sup> As to the documents prepared outside the temporal scope of the Indictment, the Prosecution submits that the appropriate test is not whether a document was created during the Indictment period, but rather whether it is relevant and probative to issues presented in this case.<sup>21</sup>

### C. Discussion

10. The Prosecution no longer seeks to tender 27 documents, has removed duplicates that were on its list of documents to be used with Theunens, and has indicated that a further five documents on the list have already been admitted.<sup>22</sup> The Chamber notes that a further 112 tendered documents are also already admitted into evidence.<sup>23</sup> The Defence objects to 78 of the remaining tendered documents.<sup>24</sup>

#### 1. Relevance and reliability of documents to which there is no objection

11. The proposed documents to which there is no objection include: laws, JNA doctrinal documents, military reports and bulletins, orders, decisions by political entities, transcripts and stenographic records, and organisational schemes.

12. The Trial Chamber finds that the documents cited in the Expert Report, to which there is no objection, are probative, have a sufficient degree of reliability, meet the requirements of Rules 89 (C) and (D), and will assist the Trial Chamber in assessing the basis on which Theunens reached his

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<sup>18</sup> Reply, para. 2.

<sup>19</sup> Reply, para. 3.

<sup>20</sup> Reply, para. 6.

<sup>21</sup> Motion, para. 9; Reply, para. 7.

<sup>22</sup> Reply, paras 8-9.

<sup>23</sup> As noted by the Prosecution, but nonetheless included in Annex A to the Motion, the following Rule 65 *ter* documents are already in evidence: 00005, 00010, 00013, 00073, 00080, 00090, 00120, 00122, 00142, 00160, 00162, 00168, 00170, 00171, 00193, 00204, 00205, 00228, 00229, 00231, 00233, 00237, 00249, 00292, 00301, 00305, 00342, 00356, 00365, 00380, 00398, 00408, 00425, 00443, 00450, 00455, 00458, 00463, 00468, 00478, 00485, 00497, 00710, 00725, 00794, 00844, 00873, 00925, 00942, 00991, 01100, 01121, 01135, 01195, 01204, 01363, 01388, 01613, 01932, 02915, 04810, 04971, 05041, 05047, and 05133. Furthermore, the Chamber has identified the following 47 tendered Rule 65 *ter* documents that have also previously been admitted into evidence: 00079, 00121, 00143, 00156, 00178, 00180, 00195, 00207, 00215, 00241, 00260, 00291, 00297, 00357, 00394, 00604, 00622, 00643, 00652, 00687, 00734, 00738, 00765, 00779, 00901, 00932, 00945, 00967, 01009, 01019, 01039, 01055, 01156, 01160, 01174, 01221, 01312, 01345, 01380, 01480, 01611, 01634, 01674, 01845, 02881, 02889, and 06389.

<sup>24</sup> Annex A to the Response; Reply, paras 8-9.

conclusions. The Trial Chamber will therefore admit these documents into evidence.<sup>25</sup> The documents are listed in the disposition.

13. With regard to the 19 documents<sup>26</sup> not referenced in the Expert Report, the Chamber considers that the Defence does not object to their admission. The Chamber notes that the documents fall within the scope of Theunens' expertise and the subject matter of the Expert Report. The 19 documents supplement the documents already cited in the Report, and add to a better understanding of matters to which they pertain, such as military operations, activity of the relevant armed forces, town commands, movement of populations, and abandoned property. The Chamber finds that these documents contain sufficient indicia of reliability and meet the requirements of Rules 89 (C) and (D). It will therefore admit these documents into evidence.

## 2. Documents to which there is a specific objection

### (a) JNA doctrinal documents

14. The Chamber notes that the Defence objection to a number of documents is solely based on the fact that only selected portions of a document are tendered. This concerns laws related to armed forces, JNA textbooks, rules, regulations, and manuals.

15. The Chamber refers to its "Order on Guidelines for Procedure for Conduct of Trial", issued on 4 October 2012, wherein it is provided, among other things, that:

It is the duty of each party to present its evidence in a specific and concentrated manner. Unless exceptional circumstances exist, parties may not request the admission into evidence of voluminous documents, such as books, diaries, or reports, when only certain passages thereof are relevant to the testimony of the witness through whom the document is presented.<sup>27</sup>

The Chamber finds that the Defence's proposition that the Prosecution should have tendered the full versions of certain JNA rules and regulations is contrary to this guideline and therefore dismisses any objections made on that basis alone.

16. Having reviewed the excerpts of the documents in question, the Chamber finds them to be probative, to have a sufficient degree of reliability, and to meet the requirements of Rules 89 (C) and (D). Moreover, the admission of the excerpts of these documents will assist the Chamber in its

<sup>25</sup> With the exception of documents Rule 65 *ter* 01289, which does not seem to be available to the Chamber in eCourt, and 04935, a video that was not provided to the Chamber.

<sup>26</sup> The Chamber notes that the Prosecution is in fact tendering 20 such documents. *See* Motion paras 15-39, bearing in mind that paragraph 28 pertains to two documents. Moreover, in Annex A to the Motion, the Prosecution failed to indicate that it was tendering document 65 *ter* number 6012 (see entry #548 of that Annex) whereas in paragraph 18 of the Motion it is making an argument for its admission. The Chamber will therefore consider this document as being tendered as well. However, one of the 20 documents, 65 *ter* number 00195 is already admitted into evidence, bringing the number back down to 19.

analysis of Theunens' evidence. These excerpts will therefore be admitted into evidence.<sup>28</sup> Considering that in Annex A to the Motion the Prosecution has indicated which excerpts of some of these documents it seeks to have admitted,<sup>29</sup> but that it has not uploaded those excerpts on eCourt, the Chamber will order the Prosecution to do so as set out in the disposition.

17. The Defence objects to the military lexicon (Rule 65 *ter* number 00011), which contains definitions of military terms. The Defence argues that only specific definitions relied on by Theunens should be admitted, but does not specify which definitions, or pages of the lexicon, tendered by the Prosecution should not be admitted. The Chamber therefore dismisses the objection. The Chamber is further satisfied that the document meets all of the relevant criteria for its admission into evidence. The Chamber will order the Prosecution to upload to eCourt only certain pages of the lexicon, as set out in more detail in the disposition.

(b) Newspaper articles

18. The Defence further objects to a number of newspaper articles and an excerpt from a book by Vojislav Šešelj tendered by the Prosecution.<sup>30</sup> The basis for the objection is that the documents are not dated, that the author is unknown, they are not reliable, they violate the best evidence rule, and they are testimonial in nature.<sup>31</sup> In the Reply, the Prosecution submits that Theunens explained the methodology he applied in the selection of documents he relied upon in the Expert Report, in particular in relation to the “*Velika Srbija*” magazine prepared by the Serbian Radical Party.<sup>32</sup> The Prosecution further made specific submissions on some of the articles concerned.<sup>33</sup> The Chamber is not satisfied that the documents in question are sufficiently reliable as to meet the threshold for admissibility into evidence set out in Rules 89 (C) and 89 (D). The documents will not assist the Chamber in its analysis of the Expert Report. The Chamber will therefore deny the admission of these documents.

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<sup>27</sup> Order on Guidelines for Procedure for Conduct of Trial, 4 October 2012, Annex, para. 6.

<sup>28</sup> Documents concerned bear the following Rule 65 *ter* numbers: 00016, 00017, 00018, 00019, 00021, 00023, 00028, 00036, and 00085.

<sup>29</sup> Annex A to the Motion, para. 3.

<sup>30</sup> Documents concerned bear the following Rule 65 *ter* numbers: 00144, 00957, 01451, 01652, 02105, 02218, 02248, 02250, 02299, and 02909. Document Rule 65 *ter* number 02039 will be dealt with elsewhere in this decision.

<sup>31</sup> See the entries for these articles in Annex A to the Response.

<sup>32</sup> Reply, para. 4.

<sup>33</sup> Reply, para. 5.

(c) Documents allegedly outside the scope of the Indictment

19. The Prosecution has tendered a number of documents to which the Defence objects on the basis that they are irrelevant or outside the temporal scope of the Indictment.<sup>34</sup>

20. The fact that a document was created at a date outside of the scope of the Indictment period or retrospectively describes past events does not automatically render it inadmissible. Also, retrospective description of events in a document is not necessarily paramount to testimonial evidence and as such it does not circumvent any of the Tribunal's Rules. For example, in the *Stanišić and Župljanin* case, which pertained to crimes committed in Bosnia and Herzegovina from 1 April to 31 December 1992, the Trial Chamber admitted into evidence and relied on a speech given by Radovan Karadžić in 1995, in which he reflected on the events in 1992.<sup>35</sup>

21. The Chamber has reviewed each of the documents and considered the parties' submissions in relation to them. The Chamber finds that the following documents are not relevant on the basis that they are either not relevant to the subject matter of the case, unnecessarily repetitive of evidence already on the record, not of sufficient probative value, or outside the temporal or geographical scope of the Indictment: Rule 65 *ter* numbers 01640, 01962, 02005, 02006, 02007, 02045, 02047, 02052, 02055, 02068, 02071, 02101, 02124, 02127, 02135, 02136, 02160, 02168, 02179, 02181, 02196, 02207, 02848, 02906, 02907, 06220, and 06223. The Chamber will therefore deny admission of these documents.

22. With regard to Rule 65 *ter* document 01651, the Prosecution submits that it establishes the full name of Radojica Božović, one of the leaders of the Red Berets.<sup>36</sup> The Chamber notes that there is a discrepancy between the original and the translation in this regard: only the translation contains the said name. The Chamber will therefore not admit this document into evidence.

23. The Chamber finds that Rule 65 *ter* documents: 02042, 02060, 02072, 02079, 02095, 02128, 02131, 02195, 02247, 02286,<sup>37</sup> 02882, 05497, and 06219 contain sufficient indicia of reliability and meet the requirements of Rules 89 (C) and (D). It will therefore admit these documents into evidence.

<sup>34</sup> Documents concerned bear the following Rule 65 *ter* numbers: 01640, 01651, 01962, 02005, 02006, 02007, 02042, 02045, 02047, 02052, 02055, 02060, 02068, 02071, 02072, 02079, 02095, 02101, 02110, 02124, 02127, 02128, 02131, 02135, 02136, 02160, 02168, 02179, 02181, 02195, 02196, 02207, 02247, 02286, 02848, 02882, 02906, 02907, 05497, 06219, 06620, and 06223.

<sup>35</sup> *Prosecutor v. Stanišić and Župljanin*, Case No. IT-08-91-PT, Second Amended Consolidated Indictment, 29 November 2009, para. 8; *Prosecutor v. Stanišić and Župljanin*, Case No. IT-08-91-T, Judgement, 27 March 2013, Vol. 1, para. 6, Vol. 2, para. 243.

<sup>36</sup> Reply, para. 17.

<sup>37</sup> The document seems to be, in fact, dated 1992 and not 1997, as indicated in eCourt. See also Reply, para. 21.

(d) Documents of “testimonial character”

24. The Defence objects to the admission of Rule 65 *ter* documents 00836, 01730, 01940, 02039, 02082, and 02122 on the basis that they are testimonial in character.<sup>38</sup> The Chamber has already made a ruling on this type of objection above. The Chamber will discuss whether each of the documents meets the admissibility requirements.

25. Rule 65 *ter* document 00836 is a “Statement of Reasons” concerning killings of civilians in Škabrnja, given by Goran Opačić at the Benkovac police station on 25 December 1991. It is unclear from the document who the author is; the document does not contain a header indicating the institution by which it was written; the document is not signed; and there is nothing showing how the information in it was recorded. The Chamber finds that the Prosecution has not satisfied the requirements for admissibility in relation to this document and will therefore deny its admission.

26. Rule 65 *ter* document 01730 is a report dated 3 August 1993 on the wartime activity of the 13<sup>th</sup> Infantry Brigade of the Army of the Republic of Srpska Krajina from June 1991 to June 1993 in Slunj municipality. The Chamber finds the report to be of sufficient probative value and that it will assist it in its assessment of the Expert Report. The document will therefore be admitted into evidence.

27. Rule 65 *ter* document 01940 is a purported transcription of an interview given by Vojislav Šešelj to a television station. According to the Prosecution, it is an excerpt from a book by Šešelj. The Chamber notes that the date of the interview and the name of the station are missing in the document. The excerpt is 59 pages long in its English version. In the Expert Report, it is only relied on once, as a second reference in a footnote concerning Arkan and Šešelj’s relationship.<sup>39</sup> The other reference in the footnote is tendered document 02039, which is a transcript of a radio interview given by Šešelj to *Radio B92*. The quotation referred to in the Expert Report comes from this interview, which is 27 pages in English.<sup>40</sup> As a result, the Chamber finds that document 01940 would not assist it in the understanding of the Expert Report and will therefore deny its admission. As to document 02039, due to the fact that Theunens relied on this document to a very limited extent, the Chamber finds that it would be in the interests of judicial economy to only admit into evidence the cover page, the last page (which includes the date of the interview), and the page of this document on which the expert relied. The Prosecution will therefore be ordered to replace this document with an excerpted version, after which it will be admitted into evidence.

<sup>38</sup> See entries for these documents in Annex A to the Response.

<sup>39</sup> P1753, p. 520.

<sup>40</sup> Document Rule 65 *ter* 02039, p. 12.



28. Rule 65 *ter* document 02082 is a newspaper interview of 28 September 1994 with the “Chetnik Duke” Branislav Vakić. The Chamber notes that the original of the article is missing. What is tendered appears to be a translation in English of the missing original, done by an unknown translator. Moreover, the author of the article is unknown. The Chamber is not satisfied that the admission requirements in respect of this document have been met and will deny its admission.

29. Rule 65 *ter* document 02110 is a wartime record of the Plaški brigade written in 1995. The Defence submits that the document is testimonial in nature and unsourced.<sup>41</sup> According to the Prosecution, it shows the creation of local Serb TO units in Croatia and their transformation into police units following the adoption of the Vance Plan.<sup>42</sup> The Chamber finds the document relevant, reliable, and to have probative value. The Chamber will therefore admit it into evidence.

30. Rule 65 *ter* document 02122 was authored by Theunens while he worked for UNPROFOR in 1995.<sup>43</sup> Considering the allegation that the joint criminal enterprise (“JCE”) of which the Accused was allegedly part lasted until 31 December 1995,<sup>44</sup> the Chamber finds the document to be relevant because it pertains to the alleged relationship between some of the alleged JCE members and between Serbia and Serbs in Bosnia and Herzegovina and Croatia. The Trial Chamber finds that sufficient indicia of reliability have been demonstrated and the requirements of Rules 89 (C) and (D) have been met. It will therefore admit this document into evidence.

(e) Other documents

31. The Defence submits that the personnel record of Veselin Šljivančanin (Rule 65 *ter* number 00002) is irrelevant.<sup>45</sup> The Prosecution submits that the document shows the ranks and promotions of a JNA officer involved in the alleged crimes at Ovčara on 20 November 1991.<sup>46</sup> The Chamber considers the document to be relevant because it tends to show the history of the engagement, including the promotions, of one of the figures who allegedly featured prominently in the crimes alleged in the Indictment. The Trial Chamber finds that sufficient indicia of reliability have been demonstrated and the requirements of Rules 89 (C) and (D) have been met. It will therefore admit this document into evidence.

32. As to document 65 *ter* 00489, the Chamber notes that it does not miss an attachment as objected by the Defence, but that the Prosecution is correct to point out that the allegedly missing

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<sup>41</sup> Annex A to the Response, p. 17.

<sup>42</sup> Reply, para. 20.

<sup>43</sup> Document Rule 65 *ter* 02122, p. 1.

<sup>44</sup> Indictment, para. 6.

<sup>45</sup> Annex A to the Response, p. 1.

<sup>46</sup> Reply, para. 11.

attachment referred to in 65 *ter* 00489 is already admitted as exhibit D10.<sup>47</sup> The document is signed, stamped, and relevant. The Trial Chamber finds that sufficient indicia of reliability have been demonstrated and that the requirements of Rules 89 (C) and (D) have been met. It will therefore admit this document into evidence.

33. Rule 65 *ter* document 01296 is a reference paper issued by the UN Department of Public Information for the period of 25 September 1991 to 30 October 1992. The Chamber finds that the document is relevant, has probative value, and is admissible.

34. The Defence objects to the admission of Rule 65 *ter* document 01371, a report from the security organ of the 1<sup>st</sup> Military District dated 18 November 1992, on the basis that it contains hearsay information. It is well established that hearsay evidence is admissible at the Tribunal. The document is relevant and has sufficiently probative value. The Chamber will admit it into evidence.

35. The Chamber finds that portions of Veljko Kadijević's book, Rule 65 *ter* document 01404, are admissible into evidence. The Prosecution is to upload to eCourt the excerpts relied upon by Theunens and the corresponding B/C/S translations, as indicated in the Reply and set out in the disposition.<sup>48</sup>

36. According to the Prosecution, Rule 65 *ter* document 01941 is a Yugoslav Army intelligence report. The Chamber notes that the document is not dated, authored, sourced, or addressed to anyone. The Chamber finds that the Prosecution has not demonstrated sufficient indicia of reliability with regard to this document and will deny its admission.

37. Rule 65 *ter* document 02057 is a lengthy 1994 UN Report on armed forces in the former Yugoslavia. The Defence objects on the basis that the report relied on unidentified information, cannot be tested, and makes factual determinations prejudicial to the Defence.<sup>49</sup> The Prosecution replies that it only seeks to tender the cover page and page 178 of the English version.<sup>50</sup> The Chamber notes that this is the only page that Theunens relied on in his Report.<sup>51</sup> The Chamber finds that this is an appropriate use of an excerpt from a large document. The Chamber is satisfied that sufficient indicia of reliability have been demonstrated and that the requirements of Rules 89 (C) and (D) have been met. It will therefore admit this document into evidence, subject to the Prosecution uploading the excerpted version of the document to eCourt.

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<sup>47</sup> Annex A to the Response, p. 4; Reply, para. 12.

<sup>48</sup> Reply, para. 15.

<sup>49</sup> Annex A to the Response, p. 12.

<sup>50</sup> Reply, para. 19.

<sup>51</sup> P1753, p. 535.

38. Rule 65 *ter* documents 02549 and 02559 are indictments issued by the Serbian authorities that the Prosecution is tendering solely for the purpose of showing “when the perpetrators of the Ovčara killings were indicted”.<sup>52</sup> The Chamber finds the two documents admissible for this limited purpose and will therefore admit them into evidence.

39. Rule 65 *ter* document 02584 gives a chronology of the events in the former Yugoslavia from 1990 to 1995 and was prepared by the Dutch Institute for War, Holocaust, and Genocide Studies. The sources are indicated at the beginning of the document. The Chamber finds that sufficient indicia of reliability have been demonstrated and the requirements of Rules 89 (C) and (D) have been met in relation to this document. It further finds that the document will assist the Chamber in its analysis of the Expert Report. It will therefore admit this document into evidence.

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<sup>52</sup> Reply, para. 22.

**D. Disposition**

40. Accordingly, the Trial Chamber, pursuant to Rules 54, 89, 126 *bis* of the Rules and paragraphs 5 and 7 of the Practice Direction on the Length of Briefs and Motions (IT/184/Rev. 2), issued 16 September 2005, hereby

(a) **GRANTS** the Prosecution leave to exceed the word limit in the Motion;

(b) **GRANTS** the Prosecution leave to file the Reply;

(c) **ORDERS** that the documents cited in the Expert Report with the following Rule 65 *ter* numbers shall be admitted into evidence:

(i) Documents to which there was no objection: 00008, 00009, 00015, 00025, 00026, 00034, 00035, 00043, 00058, 00068, 00099, 00113, 00151, 00202, 00210, 00211, 00212, 00221, 00225, 00252, 00273, 00296, 00306, 00308, 00340, 00350, 00352, 00361, 00366, 00367, 00368, 00375, 00376, 00383, 00396, 00402, 00406, 00410, 00412, 00415, 00416, 00423, 00428, 00442, 00453, 00461, 00471, 00475, 00477, 00491, 00499, 00522, 00524, 00526, 00527, 00534, 00544, 00546, 00551, 00555, 00560, 00567, 00571, 00572, 00573, 00574, 00575, 00578, 00579, 00584, 00587, 00588, 00591, 00596, 00612, 00618, 00619, 00630, 00642, 00651, 00663, 00665, 00669, 00671, 00672, 00675, 00679, 00683, 00689, 00690, 00691, 00692, 00698, 00700, 00701, 00702, 00703, 00709, 00711, 00724, 00729, 00732 (under seal), 00736, 00742, 00757, 00758, 00764, 00771, 00773, 00774, 00778, 00780, 00782, 00785, 00801, 00803, 00808, 00810, 00828, 00848, 00853, 00886, 00913, 00917, 00919, 00928, 00930, 00931, 00955, 00956, 00971, 00974, 00976, 00979, 00993, 00994, 00997, 01031, 01038, 01040, 01063, 01069, 01078, 01081, 01093, 01107, 01111, 01125, 01132, 01162, 01169, 01189, 01193, 01203, 01226, 01255, 01297, 01333, 01356, 01373, 01375, 01376, 01378, 01425, 01452, 01473, 01492, 01511, 01587, 01637, 01641, 01662, 01733, 01738, 01761, 01808, 01844, 01865, 01873, 01885, 01900, 01918, 01926, 01931, 01935, 01949, 01954, 01955, 01956, 01979, 01991, 02031, 02049, 02108, 02163, 02173, 02605, 02908, 02913, 04867, 04931, 05048 (under seal), 05049 (under seal), 06204, 06205, 06206, 06207, 06208, 06209, 06210, 06212, 06213, 06214, 06215, 06216, 06217, 06218, 06221, 06222, 00566, 01179, and 04801; and documents not referenced in the Expert Report: 00355, 00446, 00688, 00741, 01422, 01441, 06007, 06037, 06012, 06039, 06044, 06054, 06057, 06060, 06068, 06082, 06114, 06137, and 06161;

(ii) Documents to which the Defence objected: (a) 00011, 00016, 00017, 00018, 00019, 00021, 00023, 00028, 00036, 00085; (b) 02042, 02060, 02072, 02079, 02095, 02128, 02131, 02195

(under seal), 02247, 02286, 02882, 05497 (under seal), 06219; (c) 01730, 02039, 02122; (d) 00002, 00489, 01296 (under seal), 01371, 01404, 02057 (under seal), 02110, 02549, 02559, and 02584;

(d) **DENIES** the admission into evidence of documents with the following Rule 65 *ter* numbers:

(i) Documents to which there was no objection: 01289 and 04935;

(ii) Documents to which the Defence objected: (a) 00144, 00957, 01451, 01652, 02105, 02218, 02248, 02250, 02299, 02909; (b) 01640, 01651, 01962, 02005, 02006, 02007, 02045, 02047, 02052, 02055, 02068, 02071, 02101, 02124, 02127, 02135, 02136, 02160, 02168, 02179, 02181, 02196, 02207, 02848, 02906, 02907, 06220, 06223; (c) 00836, 01940, 02082, and 01941;

(e) **ORDERS** the Prosecution, by no later than 5 August 2013, to upload to eCourt a corresponding, excerpted, B/C/S version of Rule 65 *ter* document 00596 considering that currently the B/C/S version is 200 pages and the English version is only 19 pages;

(f) **ORDERS** the Prosecution, by no later than 5 August 2013, to upload to eCourt a corresponding, excerpted, B/C/S version of Rule 65 *ter* document 06218 considering that currently the B/C/S version is 33 pages and the English version is only 7 pages;

(g) **ORDERS** the Prosecution, by no later than 5 August 2013, to upload to eCourt the tendered excerpts, as specified in paragraph 3 of Annex A to the Motion, of the following Rule 65 *ter* documents: 00011, 00015, 00016, 00017, 00018, 00019, 00021, 00023, 00028, 00036, 00085, and 02108;

(h) **ORDERS** the Prosecution, by no later than 5 August 2013, to (i) upload to eCourt the cover page, the last page, and page 520 of the English version of Rule 65 *ter* document 65 *ter* 02039 on which Theunens relied in his Expert Report and (ii) upload the B/C/S version of the document also containing only those three pages;

(i) **ORDERS** the Prosecution, by no later than 5 August 2013, to (i) upload to eCourt the pages of Rule 65 *ter* document 01404 as specified in paragraph 15 of the Reply (footnote 21) and the corresponding B/C/S pages of the book in the B/C/S version in eCourt and (ii) include the cover page of the book in both versions in eCourt;

(j) **ORDERS** the Prosecution, by no later than 5 August 2013, to (i) upload to eCourt the cover page and page 178 of the English version of Rule 65 *ter* document 02057 and (ii) include the B/C/S translation of both pages in the B/C/S version of the document;

(k) **ORDERS** the Prosecution to notify the Chamber, Defence, and the Registry, via a written filing, when it has complied with all of the requirements pertaining to specific documents as set out in the disposition, after which the relevant documents shall be deemed admitted into evidence;

(l) **INSTRUCTS** the Registry to take all necessary and appropriate measures to implement this decision.

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

Done this 29<sup>th</sup> day of July 2013,  
At The Hague,  
The Netherlands.



Judge Guy Delvoie  
Presiding

**[Seal of the Tribunal]**