

HC



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-09-92-T
Date: 16 October 2013
Original: English

IN TRIAL CHAMBER I

Before: Judge Alphons Orie, Presiding
Judge Bakone Justice Moloto
Judge Christoph Flüge

Registrar: Mr John Hocking

Decision of: 16 October 2013

PROSECUTOR

v.

RATKO MLADIĆ

PUBLIC

**DECISION ON PROSECUTION'S TWENTY-FIRST MOTION
TO ADMIT EVIDENCE PURSUANT TO RULE 92BIS: VRS,
DUTCHBAT, AND BOSNIAN MUSLIM WITNESSES**

Office of the Prosecutor

Mr Dermot Groome
Mr Peter McCloskey

Counsel for Ratko Mladić

Mr Branko Lukić
Mr Miodrag Stojanović

I. PROCEDURAL HISTORY

1. On 12 March 2013, the Prosecution filed a motion (“Motion”) to admit evidence pursuant to Rule 92 *bis* of the Tribunal’s Rules of Procedure and Evidence (“Rules”).¹ This Motion seeks to admit into evidence material relating to witnesses Rajko Babić, Mihajlo Galić, Danko Gojković, Doko Razdoljac, RM-239, RM-280, RM-312, and RM-372 (“Witnesses”).² On 21 March 2013, the Defence requested a 60 day extension to respond to the Motion, which the Chamber granted.³ The Defence filed its response on 27 May 2013 (“Response”).⁴

II. SUBMISSIONS OF THE PARTIES

2. The Prosecution requests that it be permitted to exceed the usual word limit for motions considering that the Motion addresses the evidence of eight prospective Rule 92 *bis* witnesses.⁵ Further, the Prosecution requests leave to add five proposed associated exhibits to its Rule 65 *ter* exhibit list (“Exhibit list”), and seeks to supplement the document bearing Rule 65 *ter* number 25547 with the document bearing ERN 0441-1017-0441-1017.⁶

3. The Prosecution contends that the proposed evidence of the Witnesses is reliable, relevant, and does not address the acts or conduct of the Accused.⁷ According to the Prosecution, the admission of the materials will expedite proceedings, prevent unnecessary reappearances of witnesses, and will not prejudice the Accused.⁸ The Prosecution submits that a departure from the Chamber’s guidance on tendering witness statements and transcript evidence is appropriate for the material tendered in relation to witnesses Galić, Razdoljac, RM-280, RM-312, and RM-372.⁹ The Prosecution further submits that although the material corresponds to certain adjudicated facts, it nevertheless provides greater detail necessary to understand the witnesses’ narrative and, consequently, no redactions have been made pursuant to the Chamber’s guidance with regard to

¹ Prosecution Twenty-First Motion to Admit Evidence Pursuant to Rule 92*bis*; VRS, Dutchbat, and Bosnian Muslim Witnesses, 12 March 2013 (Confidential).

² Motion, paras 1, 58.

³ Defence Motion to Enlarge Time to Respond to Prosecution 20th Motion to Admit Evidence Pursuant to Rule 92*bis*, and Prosecution’s Twenty First Motion to Admit Evidence Pursuant to Rule 92*bis*; VRS, Dutchbat, and Bosnian Muslim Witnesses, 21 March 2013 (Confidential); T. 9521, 10094.

⁴ Defence Response to Prosecution 21st Motion to Admit Evidence Pursuant to Rule 92*bis*; VRS, Dutchba [sic], and Bosnian Muslim witnesses, 27 May 2013 (Confidential).

⁵ Motion, para. 7.

⁶ Motion, paras 8, 58.

⁷ Motion, paras 10, 20-22, 24.

⁸ Motion, para. 4.

⁹ Motion, paras 2, 11-18.

adjudicated facts.¹⁰ Lastly, the Prosecution submits that all of the proffered associated exhibits comprise an inseparable and indispensable part of the proffered testimony and statements.¹¹

4. With regard to witnesses Babić and RM-372, the Prosecution tenders one witness statement for each.¹² For witness Galić, the Prosecution seeks the admission of excerpts of the witness's testimony in the *Popović et al.* case and three associated exhibits.¹³ With regard to witness Gojković, the Prosecution tenders portions of the transcript of the witness's interview with the Prosecution, excerpts of the witness's testimony in the cases of *Popović et al* and *Tolimir*, and 28 associated exhibits.¹⁴ With regard to witness Razdoljac, the Prosecution seeks the admission of excerpts of the witness's testimony in the *Tolimir* case and eight associated exhibits.¹⁵ For witness RM-239, the Prosecution tenders one witness statement, the corresponding attestation and declaration, and two associated exhibits.¹⁶ With regard to witness RM-280, the Prosecution tenders two witness statements, two supplementary statements, the associated attestations and declarations, excerpts of the witness's testimony in the *Tolimir* case, and nine associated exhibits.¹⁷ For witness RM-312, the Prosecution seeks the admission of a witness statement, excerpts of the witness's testimony in the *Popović et al.* case, and one associated exhibit.¹⁸

5. The Defence opposes the Motion with regard to witnesses RM-280 and RM-372 on the grounds that these are the only witnesses identified for particular incidents of great importance and, consequently, the Defence submits that they should be presented *viva voce*, or at least be made available for cross-examination.¹⁹ The Defence does not address the tendering of associated exhibits or the addition of documents to the Exhibit list.

¹⁰ Motion, para. 6.

¹¹ Motion, para. 25.

¹² Motion, paras. 26, 55.

¹³ Motion, paras 33-34.

¹⁴ Motion, paras 38-40.

¹⁵ Motion, paras 52-53.

¹⁶ Motion, paras 29-30.

¹⁷ Motion, paras 43-45.

¹⁸ Motion, paras 48-49.

¹⁹ Response, para. 9.

III. APPLICABLE LAW

6. The Chamber recalls and refers to the applicable law governing the admission of evidence pursuant to Rule 92 *bis* of the Rules, as set out in a previous decision.²⁰ The Chamber also recalls and refers to the applicable law governing the admission of associated exhibits, as set out in a previous decision.²¹ Finally, the Chamber recalls and refers to the applicable law governing additions to the Exhibit list, as set out in a previous decision.²²

IV. DISCUSSION

(a) Preliminary matters

7. The Chamber grants the Prosecution's request to exceed the word limit for the Motion given the number of witnesses it addressed therein.

8. The Chamber further notes that the material related to witness RM-239 was tendered under seal due to concerns regarding the possible need for protective measures. For this reason, and out of an abundance of caution, the Chamber has not referred to witness RM-239's name in this decision. However, since this witness has not yet been accorded protective measures, the Chamber will instruct the Registry to change the status of any relevant documents to public, unless the Prosecution files a request for protective measures.

(b) Compliance with Guidance

9. The Chamber notes that the Prosecution tenders limited portions of the transcripts of previous testimony of witnesses RM-280 and RM-312, which supplement the proffered evidence of the witnesses. In addition, the Chamber notes that witnesses Galić and Razdoljac have not provided written statements and that the Prosecution seeks to tender limited portions of previous testimony for these witnesses. Under these circumstances, the Chamber finds that tendering the transcripts is acceptable under the Chamber's guidance concerning the preference for statements rather than transcripts.²³

10. The Chamber further notes that the Prosecution tenders portions of the transcript of witness Gojković's interview with the Prosecution ("Recorded Interview"). Additionally, the Prosecution

²⁰ Decision on Prosecution Third Motion to Admit Evidence Pursuant to Rule 92 *bis*: Sarajevo Witnesses, 19 October 2012 ("Decision on Third 92 *bis* Motion"), paras 5-8.

²¹ Decision on Prosecution Motion to Admit the Evidence of Witness RM-266 Pursuant to Rule 92 *quater*, 22 July 2012, para. 13.

²² Decision on Prosecution Second Motion to Amend Rule 65 *ter* Exhibit List, 27 June 2012, paras 5-6.

²³ See T. 106-110, 137-138, 194, 315-325, 525-532.

wishes to tender limited portions of transcript from previous trials, which supplement the Recorded Interview. As the Prosecution did not obtain a witness statement, and considering the relatively short length of the interview, the Chamber finds that the tendering of the Recorded Interview complies with the Chamber's guidance on the tendering of evidence.²⁴

11. With regard to tendered material which might overlap with adjudicated facts and for which the Prosecution argues against redaction so as to preserve a coherent narrative, the Chamber notes the importance of avoiding duplication of evidentiary material.²⁵ The Chamber considers, however, that the narrative of the tendered evidence would be less clear if redacted and, therefore, in this instance will allow deviation from its guidance in this regard.

12. The number of tendered associated exhibits for some witnesses is more than the Chamber prefers.²⁶ However, considering that the number is only slightly above that indicated in the Chamber's guidance, the Chamber will on this occasion permit this deviation from its guidance. The number of tendered associated exhibits for witness Gojković, totalling 28, is relatively higher, however considering the concise and uncomplicated nature of the documents as well as their brevity, between one and three pages, the Chamber will also on this occasion permit this deviation from its guidance. For the reasons stated above, the Chamber finds that the Motion sufficiently complies with the Chamber's guidance.

(c) Additions to the Rule 65 *ter* Exhibit List

13. The Chamber considers the Prosecution's request to attach the page bearing ERN 0441-1017 to the document bearing Rule 65 *ter* number 25547, as a request for that page's addition to the Exhibit list, in addition to the request to add the other five associated exhibits. The Chamber notes that the Defence does not object to the addition of the documents to the Exhibit list. The Chamber considers that the Prosecution has not shown good cause for the addition of these six documents to the Exhibit list at such an advanced stage of the proceedings. However, the Chamber notes that the documents are discussed by the witnesses in the proffered evidence and are *prima facie* relevant to and probative of the charges alleged in the Indictment. Having considered these factors, as well as the concise and uncomplicated nature of the documents, the Chamber finds that their addition to the Exhibit list at this stage of the proceedings does not unduly burden the Defence or prejudice the Accused and is, on balance, consistent with the interests of justice.

²⁴ T. 106-110, 137-138, 194, 315-325, 525-532.

(d) Attestations and Declarations

14. The respective statements of witnesses RM-239 and RM-280 were submitted with the corresponding attestations and declarations pursuant to Rule 92 *bis* of the Rules. The statements of witnesses Babić, RM-312, and RM-372 have no corresponding attestations and declarations as required by Rule 92 *bis* (B) of the Rules. Unattested witness statements have previously been conditionally admitted by this Chamber pending their formal attestation.²⁷ In line with this practice, the Chamber will conditionally admit the unattested witness statements of witnesses Babić, RM-312, and RM-372, pending the filing of the required attestations and declarations, provided that all other admissibility requirements are met. Witness Gojković attested to the Recorded Interview during his testimony in the *Prosecution v. Popovic et al.* case. In accordance with a previous decision, the Chamber finds that such an in-court attestation meets the requirements of Rule 92 *bis* (B) of the Rules.²⁸

(e) Admissibility Pursuant to Rule 89 (C) of the Rules

15. The proffered evidence of each of the Witnesses concerns the alleged detention and execution of Bosnian Muslims from Srebrenica and is therefore relevant to Counts 2 through 8 of the Indictment. In particular, the Chamber considers that the evidence of witness Babić is relevant to scheduled incident E9.1; the evidence of witness Galić is relevant to the situation at the Zvornik Brigade's forward command post at Kitovnice in July 1995; the evidence of witness Gojković concerns the authentication of several VRS documents; the evidence of witness Razdoljac is relevant to Žepa operation in July 1995; witness RM-239 provides evidence on the shelling of a village in Srebrenica; the evidence of witness RM-280 is relevant to scheduled incident E13.1; the evidence of witness RM-312 is relevant to scheduled incident E6.2; and the evidence of witness RM-372 is relevant to the alleged forcible transfer of women, children, and the elderly from the UN compound in Potočari.

~~16. The Chamber notes that the Defence raised no objection regarding the relevance or the probative value of the proffered evidence. Having reviewed the evidence tendered, the Chamber considers it to be relevant to and probative of the crimes charged in the Indictment.~~

²⁵ Decision in Relation to Prosecution's Rule 92 *ter* Motion for Witness RM-114, 16 August 2012.

²⁶ Eight associated exhibits for Razdoljac and nine associated exhibits for witness RM-280.

²⁷ Decision on Third 92 *bis* Motion, para. 27 and references cited therein.

²⁸ Decision on Prosecution Fourth Motion to Admit Evidence Pursuant to Rule 92 *bis*: Hostage Witnesses, 19 October 2012, para. 7.

17. Therefore, the Chamber is satisfied that the requirements of Rule 89 (C) of the Rules have been met.

(f) Admissibility Pursuant to Rule 92 bis of the Rules

18. With regard to admissibility pursuant to Rule 92 bis of the Rules, the Chamber finds that the evidence does not relate to the acts and conduct of the Accused. Additionally, the Chamber notes that the evidence relates to the establishment of the alleged crime base. In determining whether or not to admit the proffered evidence pursuant to Rule 92 bis of the Rules, the Chamber considers as a factor weighing in favour of admission that the evidence of witnesses Babić, Galić, Gojković, Razdoljac, and RM-280 concerns in part the relevant military background of the Zvornik Brigade, the Rogatica Brigade, and the Skorpions unit. The Chamber also considers, as a factor weighing in favour of admission, that the evidence of several of the Witnesses is to a large extent cumulative with respect to other evidence.²⁹

19. The Defence objects to the admission of the evidence of witness RM-280 and witness RM-372 on the ground that they are the only witnesses to give evidence on particular incidents of great importance.³⁰ Regarding witness RM-280, the Defence argues that he is the only witness offering direct testimony as to the video-taped killings of Bosnian-Muslim men who were captured or surrendered from the column leaving Srebrenica as well as testimony about the alleged control of the VRS over the Skorpions unit.³¹ The Chamber notes that witness RM-280 is the only witness currently scheduled to give evidence who was a member of the Skorpions unit, an alleged member of the joint criminal enterprise to eliminate the Bosnian Muslims in Srebrenica, and who can therefore give evidence on the command structure of his unit and the alleged videotaped executions of six Bosnian Muslim men by members of his unit corresponding to Scheduled Incident E13.1.³² Considering the unique nature of the proposed evidence and its potential importance to the Prosecution's case as factors that weigh against admission, the Chamber finds that the evidence of witness RM-280 is not suitable for admission pursuant to Rule 92 bis of the Rules and invites the

²⁹ The proffered evidence of witness Babić is cumulative with respect to the oral evidence of other witnesses, including witnesses Ruez, RM-255, and RM-346. The proffered evidence of witness Galić is cumulative with respect to the oral evidence of other witnesses, including witnesses RM-322 and RM-269. The proffered evidence of witness RM-312 is cumulative with respect to the oral evidence of witnesses Schmitz, Kingori, Franken, Malagić, Trivić, Egbers, and RM-284. The evidence of witness RM-372 is cumulative with respect to the oral evidence of witnesses Koster, Boering, van Duijn, Groenewegen, Franken, and Egbers.

³⁰ Response, paras 9-13.

³¹ Response, paras 10-11.

³² In this regard, the Chamber notes that the Prosecution refers to this incident as an "uncharged incident" in para. 47 of the Motion. Taking into account the witness's Rule 65ter summary and the content of the tendered evidence, the Chamber however considers his evidence to relate to Scheduled Incident E13.1.

Prosecution to present the witness *viva voce* or pursuant to Rule 92 *ter* of the Rules, should it wish to do so.

20. With regard to the Defence's objection to the evidence of witness RM-372 being the only member of a particular Dutchbat unit scheduled to give evidence, the Chamber notes that the evidence of witness RM-372, a former Dutchbat member stationed in Srebrenica, is of a cumulative nature with the evidence provided by other Dutchbat members including witnesses Boering, Egbers, Franken, Groenewegen, Koster, and van Duijn.³³ The Chamber considers the cumulative nature of witness RM-372's evidence as a factor weighing in favour of admission pursuant to Rule 92 *bis* of the Rules.

21. Having taken all of the above factors into consideration, the Chamber finds that the proffered evidence of witnesses Babić, Galić, Gojković, Razdoljac, RM-239, RM-312, and RM-372 is admissible pursuant to Rule 92 *bis* of the Rules.

(g) Associated Exhibits

22. The Prosecution tenders associated exhibits for witnesses Galić, Gojković, Razdoljac, RM-239, RM-280, and RM-312. With regard to the proffered associated exhibits which form part of the Rule 92 *bis* packages of witnesses Razdoljac, RM-239, and RM-312, the Chamber finds that the exhibits were discussed in the witnesses' statements or during their testimony and that each exhibit forms an inseparable and indispensable part of that testimony.

23. As to the Zvornik Brigade IKM Kitovnice Operations Duty Log, proffered as part of witness Galić's Rule 92 *bis* package, the Chamber finds that the witness referred to only a limited number of pages in the 44-page long document. The Chamber will therefore only admit the pages which were discussed by the witness, namely pages 1-2, 5-7, and 44, and instructs the Prosecution to upload into eCourt a version of this document containing only these pages. The Chamber notes that the document bearing Rule 65 *ter* number 12876, tendered through witness Galić, has already been admitted as P1497. As such, the request for admission of this exhibit is moot. The Chamber finds that the remaining exhibit tendered as part of witness Galić's Rule 92 *bis* package form an inseparable and indispensable part of his evidence, and therefore admits it into evidence.

24. The Prosecution tenders 28 VRS reports as exhibits associated with the proffered evidence of witness Gojković. Document bearing Rule 65 *ter* number 04170 is tendered twice and the Chamber

³³ T. 1205-1280, 10000-10091, 10299-10411, 10475-10554, 10707-10840, 13367-13450.

therefore considers that in fact the Prosecution tenders 27 VRS reports.³⁴ Documents bearing Rule 65 *ter* numbers 04170, 04173, 04175, 04179 tendered through Witness Gojković, have already been admitted as P1794, P2144, P1471, and P1558 respectively. As such, the request for admission of these exhibits is moot. The Chamber notes that the witness, in the proffered excerpts of testimony, authenticated most of the remaining documents, and that they therefore form an inseparable and indispensable part of the proffered evidence. The Chamber further notes that the documents with Rule 65 *ter* numbers 11546, 25548, and 25549 were not addressed by the witness in the proffered evidence, and it therefore denies their admission into evidence.

V. DISPOSITION

25. For the foregoing reasons, pursuant to Rules 54, 89, and 92 *bis* of the Rules, the Chamber

GRANTS the Prosecution request to exceed the word limit for Motions;

GRANTS the Motion **IN PART**;

With respect to

(i) *Rajko Babić*

CONDITIONALLY ADMITS into evidence the ICTY Statement of Rajko Babić, dated 14 September 2005, bearing ERNs 0462-3113-0462-3119, pending the filing of a corresponding attestation and declaration in compliance with the requirements of Rule 92 *bis* (B) of the Rules.

(ii) *Mihajlo Galić*

INSTRUCTS the Prosecution to file an excerpted version of the Zvornik Brigade IKM Kitovnice Operations Duty Log, Rule 65 *ter* number 04319, containing the pages with ERNs 0034-2270-0034-2271, 0034-2274-0034-2276, and 0034-2313;

ADMITS into evidence

a) Excerpts of testimony of Mihajlo Galić in *Prosecutor v. Popović et al.*, dated 25-27 April 2007, Case No. IT-05-88-T, T. 10491:14-10491:16, 10492:3-10503:25, 10544:22-10545:8, 10546:11-10547:14, 10567:12-10567:15, 10580:9-10582:18, 10584:19-10585:15, 10587:15-10588:14, 10597:4-10598:20, 10619:10-10619:21, 10622:7-10622:19, 10624:10-

³⁴ Confidential Annex A to the Motion, summary chart regarding Danko Gojković.

10624:18, 10625:22, 10626:21, 10627:5-10627:18, 10638:22-10627:18, 10638:22-10639:17, and 10658:10-10661:16;

- b) the document with Rule 65 *ter* number 25639;
- c) the excerpted version of the Zvornik Brigade IKM Kitovnice Operations Duty Log, Rule 65 *ter* number 04319, containing the pages with ERNs 0034-2270-0034-2271, 0034-2274-0034-2276, and 0034-2313.

(iii) *Danko Gojković*

GRANTS LEAVE to add the page bearing ERN 0441-1017-0441-1017 to the Prosecution's Rule 65 *ter* exhibit list;

ADMITS into evidence

- a) Recorded Interview of Danko Gojković, dated 16 May 2006, T000-4309-T000-4309, pp. 1:1-9:21, 10:18-10:28, 11:7-11:13, 11:21-11:26, 12:17-13:26, 14:6-15:21, 16:5-16:11, 16:16-17:19, 18:4-18:10, 18:19-28:6;
- b) Testimony of Danko Gojković in *Prosecutor v. Popović et al.*, dated 27 April and 1 May 2007, Case No. IT-05-88-T, T. 10712:18-10712:20, 10713:11-10714:1, 10717:9-10717:21, 10718:13-10719:1, and 10725:7-10725:21;
- c) Testimony of Danko Gojković in *Prosecutor v. Tolimir*, Case No. IT-05-88-T, dated 16-17 June, T. 2795:22-2795:24, 2801:20-2803:7, 2804:19-2804:23, 2805:3-2807:17, 2811:3-2811:9, 2811:14-2811:24, 2813:10-2813:12, 2813:25-2816:3, 2816:6-2816:7, 2816:21-2817:16, 2818:8-2818:24, 2880:11-2883:11, 2886:10-2887:7, 72894:3-2894:10, 2895:16-2898:6, and 2901:8-2901:11;
- d) the documents with the following Rule 65 *ter* numbers: 04171; 04174; 04177; 05357; 05519; 05521; 05607-05608; 05610-05612; 05615; 05617-05619; 14437; 25545-25546, 25547 (including the page bearing ERN 0441-1017-0441-1017); 25550.

(iv) *Doko Razdoljac*

GRANTS LEAVE to add the handwritten document signed by Colonel Lazar Aćamović and dated 30 July 1995 as described in the Motion to the Prosecution's Rule 65 *ter* exhibit list;

ADMITS into evidence

- a) Excerpts of the testimony of Đoko Razdoljac in *Prosecutor v. Tolimir*, dated 30 November 2010, Case No. IT-05-88, T. 8226:14-8226:16, 8227:3-8230:16, 8231:17-8240:5, 8242:5-8243:15, 8244:10-8248:20, 8248:23-8248:25, 8249:7-8249:14, 8250:17-8251:20, 8252:7-8253:3, 8253:13-8253:15, 8253:24-8254:2, 8254:24-8257:15, 8257:23-8257:25, 8258:10-8259:7, 8263:3-8264:21, 8265:4-8265:14, 8265:21-8267:6, 8269:17-8271:3, 8281:24-8282:10, 8285:4-8293:12, and 8296:8-8296:21;
- b) Handwritten document by Colonel Lazar Ačamović, dated 30 July 1995, signed by witness Razdoljac in *Prosecutor v. Tolimir*, Rule 65 *ter* number 05605;
- c) Drina Corps, Command of 27th Logistics Base, Report number 2905-3, dated 30 July 1995, Rule 65 *ter* number 05604;
- d) Handwritten document by Colonel Lazar Ačamović, dated 30 July 1995, Rule 65 *ter* number 28990;
- e) Photograph of Borike Villa, as identified by witness Razdoljac in *Prosecutor v. Tolimir*, Rule 65 *ter* number 25786;
- f) Command of the 1st Plpbr, Intelligence and Security Organ, No. 04-520-62/95, signed by General Tolimir, dated 30 July 1995, Rule 65 *ter* number 25772;
- g) GŠ VRS Sector for Logistics order 10/33-1-192, dated 19 July 1995, Rule 65 *ter* number 05383;
- h) Drina Corps request 22/249, dated 19 July 1995, Rule 65 *ter* number 24889;
- i) Main Staff VRS Intelligence and Security Sector report number 12/45-975, dated 29 July 1995, Rule 65 *ter* number 04173.

(v) *Witness RM-239*

GRANTS LEAVE to add the documents bearing Rule 65 *ter* numbers 28966 and 28967 to the Prosecution's Rule 65 *ter* exhibit list;

ADMITS into evidence **UNDER SEAL**

- a) ICTY Statement of witness RM-239, bearing ERNs 0356-9554-0356-9557 and the corresponding attestation and declaration, bearing ERNs 0608-5719-0608-5721;

b) the documents with the following Rule 65 *ter* numbers: 28966 and 28967;

INSTRUCTS the Registry to change the status of the admitted evidence for witness RM-239 as identified in paragraphs a) and b) above to public and inform the Chamber when this has been done, unless the Prosecution files a request for protective measures for witness RM-239 within 14 days from the date of filing of this decision.

(vi) *Witness RM-280*

DENIES the admission of the proffered evidence of witness RM-280 under Rule 92 *bis* of the Rules;

INVITES the Prosecution to present witness RM-280 as a *viva voce* witness or under Rule 92 *ter* of the Rules; and

GRANTS LEAVE to add two maps with Rule 65 *ter* numbers 28988 and 28989 to the Prosecution's Rule 65 *ter* exhibit list.

(vii) *Witness RM-312*

CONDITIONALLY ADMITS into evidence, **UNDER SEAL**

a) ICTY Statement of witness RM-312, dated 16 October 2002, bearing ERNs 0113-0650-0113-0654, pending the filing of a corresponding attestation and declaration in compliance with the requirements of Rule 92 *bis* (B) of the Rules;

ADMITS into evidence, **UNDER SEAL**

b) Excerpts of testimony of witness RM-312 in *Prosecutor v. Popović et al.*, dated 6 November 2006, Case No. IT-05-88-T, T. 3593:2-3593:4, 3594:14-3595:3, 3595:13-3595:16, 3597:16-3597:25, 3598:5-3600:13, 3611:5-3612:9, 3612:21-3613:20, 3614:3-3614:12, 3615:13-3618-18, 3619:10-3620:25, and 3621:5-3622:21;

ADMITS into evidence an aerial image of Potočari marked by witness RM-312 in *Prosecutor v. Popović et al.*, Rule 65 *ter* number 13625.

(viii) *Witness RM-372*

CONDITIONALLY ADMITS into evidence **UNDER SEAL** the ICYT witness statement of witness RM-372 dated 6 October 2003, bearing ERNs 0340-4986-0340-0340-4991 pending the

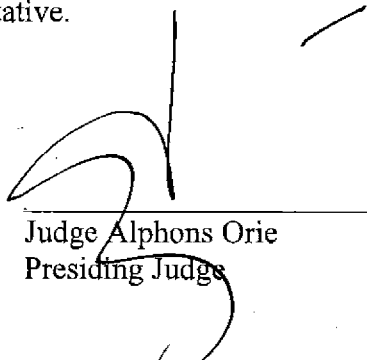
filing of a corresponding attestation and declaration in compliance with the requirements of Rule 92 *bis* (B) of the Rules.

INSTRUCTS the Prosecution to file the corresponding attestations and declarations to the statements of witnesses Babić, RM-312, RM-372 within four weeks from the date of filing of this decision;

INSTRUCTS the Prosecution to upload into eCourt all admitted documents within 14 days of the date of filing of this decision; and

REQUESTS the Registry to assign exhibit numbers to the documents admitted and inform the parties and the Chamber of the numbers so assigned.

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



Judge Alphons Orié
Presiding Judge

Dated this sixteenth day of October 2013
At The Hague
The Netherlands

[Seal of the Tribunal]