

**UNITED  
NATIONS**



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: 28 November 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:** 28 November 2013

**PROSECUTOR**

**v.**

**GORAN HADŽIĆ**

**PUBLIC**

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**DECISION ON PROSECUTION BAR TABLE MOTION**

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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 Admission of Evidence Pursuant to Rule 89 (Bar Table Motion)”, filed publicly with confidential annexes A and B on 10 October 2013 (“Motion”). On 31 October 2013, the Defence filed confidentially its “Response to Prosecution Motion for Admission of Evidence Pursuant to Rule 89 (Bar Table Motion)” (“Response”). On 4 November 2013, the Defence filed a public redacted version of its Response.<sup>1</sup> On 8 November 2013, the “Prosecution Request for Leave to Reply and Reply to Response to Prosecution Motion for Admission of Evidence Pursuant to Rule 89 (Bar Table Motion)” (“Reply”) was filed confidentially.

2. The Trial Chamber is also seised of a “Prosecution Motion for Leave to Amend Its Rule 65 *ter* Exhibit List and to Supplement Its Bar Table Motion”, filed on 19 November 2013 (“Supplemental Motion”). The Defence’s “Response to Prosecution Motion for Leave to Amend Its Rule 65 *ter* Exhibit List and to Supplement Its Bar Table Motion” was filed on 21 November 2013 (“Supplemental Response”).

#### **A. Background**

3. The Trial Chamber, in its “Order on Guidelines for Procedure for Conduct of Trial”, issued on 4 October 2012 (“Guidelines”), (a) informed the parties that it was their duty to present evidence in a specific and concentrated manner, (b) permitted each party to seek the admission of exhibits from the bar table towards the end of their respective cases-in-chief via a single bar table motion for each party, and (c) set forth certain specifications for any such bar table motions.<sup>2</sup> The Chamber also took the opportunity to remind the parties that the filing of a bar table motion was a procedure that had evolved as a tool of judicial economy and was not a “Trojan Horse” by which evidence not otherwise admissible could be placed on the official record of the proceedings.<sup>3</sup>

4. The Trial Chamber, in its “Order on Close of Prosecution Case-in-Chief, Rule 98 *bis* Proceedings, and Preparation and Commencement of Defence Case”, issued on 18 July 2013, ordered the Prosecution to file its bar table motion by no later than 30 September 2013.<sup>4</sup> On 17

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<sup>1</sup> Public Redacted Version of Response to Prosecution Motion for Admission of Evidence Pursuant to Rule 89 (Bar Table Motion), 4 November 2013.

<sup>2</sup> Order on Guidelines for Procedure for Conduct of Trial, 4 October 2012 (“Guidelines”), annex, paras 6, 8.

<sup>3</sup> Guidelines, annex, para. 9.

<sup>4</sup> Order on Close of Prosecution Case-in-Chief, Rule 98 *bis* Proceedings, and Preparation and Commencement of Defence Case, 18 July 2013, paras 6, 12(b).

September 2013, the Trial Chamber granted a request from the Prosecution to extend this deadline to 10 October 2013.<sup>5</sup>

## **B. Submissions of parties**

5. In the Motion, the Prosecution requests the admission into evidence of 219 documents and 18 video clips.<sup>6</sup> The Prosecution argues that the complexity of the case warrants the use of the bar table procedure to admit documents that the Prosecution was unable to tender through its witnesses.<sup>7</sup> The Prosecution explains that it has endeavoured to tender as many exhibits as possible through its witnesses, bearing in mind that it would only have the opportunity to tender documents through a single bar table motion at the end of its case-in-chief; however, the Prosecution avers that, given the time constraints placed upon the trial, it has been unable to tender through its witnesses a certain number of exhibits that it considers to be relevant and probative. As a result, the Prosecution seeks to avail itself of the Tribunal's recognised practice of submitting documentary evidence via the bar table.<sup>8</sup> Finally, it is submitted by the Prosecution that it has been selective in compiling the list of tendered documents, which largely corroborate previously admitted exhibits and witness testimony.<sup>9</sup>

6. In the Response, the Defence objects to the majority of the documents tendered by the Prosecution, arguing that tendering documents from the bar table allows the Prosecution to give whatever interpretation it wishes to the documents without being required to establish their proper relevance and reliability through a witness.<sup>10</sup> First, the Defence argues that the Prosecution must demonstrate in the Motion why documents that were in its possession throughout the trial and that are now described as having been corroborated or contextualised by a particular witness were not put to that witness.<sup>11</sup> Second, the Defence argues that reports of NGOs, special rapporteurs, or experts who offer their conclusions on a variety of subsidiary sources not before the Chamber are not admissible as evidence.<sup>12</sup> Third, the Defence contends that media articles that do not have sufficient indicia of reliability for admission into evidence should not be allowed. In particular, the Defence takes issue with media reports that concern purported statements by Hadžić or other matters of equal importance to the case, which the Defence accuses the Prosecution of tendering for

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<sup>5</sup> Email from Trial Chamber to Prosecution and Defence, 17 September 2013. The Defence did not object to the requested extension of time.

<sup>6</sup> Motion, para. 2.

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

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

<sup>9</sup> Motion, para. 9.

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

<sup>11</sup> Response, paras 6-12.

<sup>12</sup> Response, paras 13-14.

“insidious purposes”.<sup>13</sup> Fourth, according to the Defence, documents whose indicia of reliability are not proportionate to their incriminating purpose should not be admitted from the bar table.<sup>14</sup> Finally, the Defence avers that the Prosecution should not be permitted to tender documents from the bar table that are plainly unnecessary given the extremely voluminous amount of other evidence on similar issues.<sup>15</sup> The Defence sets forth objections to specific documents in the annex appended to the Response.

7. In the Reply, the Prosecution argues that (a) the Defence’s restrictive approach to the admission of documents from the bar table would effectively nullify the utility of the entire procedure, (b) the Prosecution has complied with Tribunal practice and the Chamber’s orders regarding tendering documents from the bar table, and (c) the Defence raised no prior objection to the bar table procedure envisioned by the Chamber and indeed fully embraced this procedure during the pre-trial phase.<sup>16</sup> The Prosecution expresses its view that it has, throughout the trial, conformed to the Chamber’s preference for tendering documents through witnesses by tendering over 3,000 exhibits in this fashion and states that, when preparing the Motion, it adopted a reasonable approach by offering a carefully selected collection of exhibits for admission from the bar table.<sup>17</sup> According to the Prosecution, if all the tendered documents in the Motion were admitted, they would constitute less than 7% of the Prosecution exhibits in this case.<sup>18</sup> The Prosecution also argues that (a) the Defence confuses the issue of weight with the issue of admissibility;<sup>19</sup> (b) if the Prosecution were to bear the burden of explaining why a document was not put to a witness, the bar table procedure would serve no purpose;<sup>20</sup> (c) the Prosecution sought to tender as many exhibits as was reasonably possible through its witnesses and to manage its available court time as efficiently as possible by prioritising exhibits about which it believed the witnesses were in the best position to provide relevant and reliable evidence;<sup>21</sup> (d) the Defence now objects that some documents should have been put to witnesses, whereas during trial it objected to the admission of these same documents through a witness;<sup>22</sup> (e) the Defence’s generalised objection to the admission of media articles from the bar table should be rejected and the Chamber should make an assessment of the relevance and reliability of each article on a case-by-case basis;<sup>23</sup> and (f) the Defence’s objection to documents stemming from state authorities as biased and therefore unreliable is unsubstantiated and the

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<sup>13</sup> Response, paras 15-20.

<sup>14</sup> Response, paras 21-23.

<sup>15</sup> Response, para. 24.

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

<sup>17</sup> Reply, para. 6.

<sup>18</sup> Reply, para. 6.

<sup>19</sup> Reply, paras 7, 13-14, 16.

<sup>20</sup> Reply, para. 9.

<sup>21</sup> Reply, para. 10.

<sup>22</sup> Reply, para. 12.

<sup>23</sup> Reply, paras 17-19.

Chamber should adopt a case-by-case approach to such documents.<sup>24</sup> The Prosecution sets forth arguments in reply to specific documents in the annex appended to the Reply.

### C. Applicable law

8. Admission of evidence from the bar table is a practice established in the case law of the Tribunal.<sup>25</sup> A party's decision not to tender a document through a witness does not, in and of itself, prevent it from being tendered from the bar table.<sup>26</sup> Evidence may be admitted from the bar table if it fulfils the requirements of Rule 89, specifically that the item proposed for admission into evidence has sufficient reliability, relevance, and probative value in respect of issues in the case.<sup>27</sup> The tendering party must demonstrate, with clarity and specificity, the relevance of each document and where and how it fits into the party's case.<sup>28</sup> However, even when the requirements of Rule 89 are satisfied, the Chamber retains discretionary power over the admission of the evidence,<sup>29</sup> including by way of Rule 89(D), which provides that a Chamber may exclude evidence if its probative value is substantially outweighed by the need to ensure a fair trial.<sup>30</sup>

### D. Discussion

9. Rule 65 *ter* 00096 is an *FBIS* news article, entitled "Milošević: Presidency Confederation Unacceptable", published in *Vjesnik* on 15 January 1991. The Prosecution argues that this article is relevant to the common purpose of the alleged joint criminal enterprise ("JCE") and corroborates the evidence of, *inter alia*, Milan Babić. The Defence objects. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is not sufficiently reliable and therefore lacks sufficient probative value for admission into evidence.

<sup>24</sup> Reply, para. 20.

<sup>25</sup> See, e.g., *Prosecutor v. Stanišić and Župljanin*, Case No. IT-08-91-T, Decision Granting in Part the Prosecution's Bar Table Motion and Granting the Prosecution's Supplemental Bar Table Motion, 1 February 2011 ("*Stanišić and Župljanin* Decision"), para. 12; *Prosecutor v. Karadžić*, Case No. IT-95-5/18-T, Decision on the Prosecution's First Bar Table Motion, 13 April 2010 ("*Karadžić* Decision"), para. 5; *Prosecutor v. Popović et al.*, Case No. IT-05-88-T, Decision on Prosecution's Motion for Admission of Exhibits from the Bar Table, Motion to Amend the Bar Table Motion, and Oral Motion for Admission of Additional Exhibit, 14 March 2008 ("*Popović* Decision"), para. 15.

<sup>26</sup> *Prosecutor v. Karadžić*, Case No. IT-95-5/18-T, Decision on Prosecution's Motion for the Admission of Documents from the Bar Table (Municipalities), 25 May 2012, para. 12.

<sup>27</sup> *Stanišić and Župljanin* Decision, para. 12; *Karadžić* Decision, para. 5; *Popović* Decision, para. 15; *Prosecutor v. Đorđević*, Case No. IT-05-87/1-T, Decision on Prosecution's Motion to Re-open the Case and Exceed the Word Limit and Second Motion to Admit Exhibits from the Bar Table, 7 December 2009 ("*Đorđević* Decision"), para. 4; *Prosecutor v. Milutinović et al.*, Case No. IT-05-87-T, Decision on Lukić Defence Motions for Admission of Documents from the Bar Table, 11 June 2008 ("*Milutinović* Decision"), para. 7.

<sup>28</sup> *Stanišić and Župljanin* Decision, para. 12; *Karadžić* Decision, para. 6; *Đorđević* Decision, para. 4; *Milutinović* Decision, para. 10.

<sup>29</sup> *Stanišić and Župljanin* Decision, para. 12; *Milutinović* Decision, para. 8; *Prosecutor v. Prlić et al.*, Case No. IT-04-74-T, Decision on Admission of Evidence, 21 July 2006, p. 5; *Prosecutor v. Halilović*, Case No. IT-01-48-AR73.2, Decision on Interlocutory Appeal Concerning Admission of Record of Interview of the Accused from the Bar Table, 19 August 2005, para. 14.

<sup>30</sup> *Karadžić* Decision, para. 5; *Đorđević* Decision, para. 4.

10. Rule 65 *ter* 00086.1 is an excerpt from Vojislav Šešelj's 1994 book, entitled *Serbian Chetnik Movement*, including the manifesto of the Serbian Radical Party ("SRS") and a speech by Šešelj. The Prosecution argues that the excerpt is relevant to the formation and implementation of the alleged JCE, showing the cooperation and coordination among Šešelj and representatives of the Republic of Serbia in gathering a fighting force and vilifying Croats as "Ustashas". The Defence objects, arguing that the document was not put to a witness whose testimony could have assisted the Chamber in determining the proper interpretation and relevance of the document. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

11. Rule 65 *ter* 01187 is a newspaper article, entitled "Hadžić Appointed Prime Minister", published in *Novosti* on 1 July 1991. The Prosecution argues that this article is relevant to Hadžić's alleged state of mind at the beginning of the Indictment period and the days after his nomination to the position of Prime Minister of the SAO SBWS. The Defence objects, arguing that the document does not have sufficient indicia of reliability for admission. The Prosecution replies that media articles may be tendered from the bar table. The Chamber finds that the document is not sufficiently reliable and therefore lacks sufficient probative value for admission into evidence.

12. Rule 65 *ter* 03124 is a 1 July 1991 Serbian State Security Service ("SDB") report regarding the Serbian "Chetnik" Movement and paramilitary formations. Rule 65 *ter* 03124.1 is the public redacted version of this document. The Prosecution argues that the report is relevant to the alleged role political groups in Serbia, such as the Serbian "Chetnik" Movement, played in deploying volunteers to Croatia. The Defence objects. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

13. Rule 65 *ter* 00197 contains the 7 July 1991 Brioni Declaration, along with other international declarations. The Prosecution argues that the document is relevant to the political and historical context of the armed conflict in the former Yugoslavia and provides background for previous references to the Brioni Declaration made by witnesses. The Defence objects. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

14. Rule 65 *ter* 00198 is a news article, entitled "We Will Defend our Hearths: Milan Martić on the Krajina Police, Operation in Ljubovo, Unification of Krasinac", published in *Novosti* newspaper on 7 July 1991. The Prosecution argues that the article is relevant to the interaction between alleged JCE members and the persecution of non-Serbs in the SAO Krajina. The Defence objects, arguing that the article (a) is not relevant to or probative of the persecution of non-Serbs, (b) should have

been tendered through a witness whose testimony could have assisted the Chamber in determining the document's probative value, proper interpretation, and relevance, and (c) does not have sufficient indicia of reliability for admission. The Prosecution replies that the Defence arguments go to weight not admissibility. The Chamber finds that this document is not sufficiently reliable and therefore lacks sufficient probative value for admission into evidence.

15. Rule 65 *ter* 00203 contains three copies of a 13 July 1991 JNA report, containing information on the security situation in the Sisak-Banija region. The Prosecution argues that the document is relevant to the existence of an armed conflict and corroborates that attacks on Croatian settlements by the JNA had begun by the late summer or early autumn of 1991. The Defence objects. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber notes that it previously took judicial notice of the authenticity of this document<sup>31</sup> and finds that the document is relevant and sufficiently probative for admission into evidence.

16. Rule 65 *ter* 00214 is a transcript of a 25 July 1991 interview on *Politika TV* with Vojislav Šešelj, as printed in an excerpt from Vojislav Šešelj's 1993 book, entitled *Through the Political Gibberish*. The Prosecution argues that the transcript is relevant to the existence of the alleged JCE and corroborates Reynaud Theunens' evidence that the JNA by July 1991 was a Serbian army due to a policy change. The Defence objects, arguing that Šešelj's interview is not probative of the JNA's change in policy and that, even if it were, such a change would not be probative of the existence of a JCE or of any crime. The Prosecution replies that (a) the Defence arguments go to weight not admissibility, (b) the Prosecution is not limited to tendering documents solely through witnesses, and (c) media articles may be tendered from the bar table. The Chamber notes that the document is a transcript of an interview with Šešelj that was then published in Šešelj's book. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

17. Rule 65 *ter* 03470 is a report detailing the activities of an SFRY commission created to negotiate a cease-fire between Croatia and SAO SBWS and SAO Krajina in early August 1991, including a meeting with Hadžić, among others, on 6 August 1991. The Prosecution argues that the report is relevant to Hadžić's alleged position of authority and the authority of other SBWS leaders, gives further information about this commission and its activities, and supports information previously given by other witnesses. The Defence objects, arguing that the report should have been tendered through a witness so the Defence could have adequately tested the document's probative value, proper interpretation, and relevance. The Defence further argues that the Prosecution's

propositions regarding the document are misleading. The Prosecution replies that (a) it did not incorrectly characterise the document, (b) it is tendering the document to show the authority of Hadžić and other SBWS leaders, and (c) the Prosecution is not limited to tendering documents solely through witnesses. The Chamber finds that, even if the Prosecution's submission is misleading as far as Hadžić's knowledge of Croat prisoners is concerned, the document is nevertheless relevant and sufficiently probative for admission into evidence.

18. Rule 65 *ter* 01939.1 is purportedly a summary of a decision by the SAO SBWS Minister of the Interior, which is contained in an excerpt of a book by Ilja Petrović. The Prosecution argues that the document is probative of the establishment of police units and institutions in summer 1991 in Eastern Croatia. The Defence objects, arguing that the document is not reliable because the author is not Ilja Petrović; rather, the document is a recitation of a decision of the SBWS Serbian National Council found in Petrović's book with no independent author reliably attributed to it. The Defence also argues that the document is not reliable because no Secretariat of the Interior with a seat in Vukovar had been established as of 14 July 1991, as indicated by the document. The Prosecution replies that (a) it did not incorrectly characterise the document and (b) the document is reliable. The Chamber finds that the document is not sufficiently reliable and therefore lacks sufficient probative value for admission into evidence.

19. Rule 65 *ter* 00084 is an SRS report regarding a visit to SBWS to inspect volunteer units. The Prosecution argues that the document is relevant to the membership of the alleged JCE in that it deals with the deployment and lack of discipline of volunteer units organised by Vojislav Šešelj and corroborates Reynaud Theunens' evidence that Šešelj's SRS organised volunteers to be sent to Croatia. The Defence objects, arguing that the document requires further commentary regarding Ilija Kojić's role as the Defence Commander in order for the document to be sufficiently probative. The Prosecution replies that (a) the document is not being tendered primarily to show Kojić's role as the Defence Commander and (b) the Prosecution is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

20. Rule 65 *ter* 00277 is a letter from Milan Babić of 5 September 1991 regarding the attitude of the SAO Krajina government on the Declaration on Yugoslavia. The Prosecution argues that the letter is relevant to the Croatian Serb leadership's policies, specifically Babić's attitudes and beliefs. The Defence objects. The Prosecution replies that it is not limited to tendering documents solely

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<sup>31</sup> Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts and Documents, 23 May 2013, para. 22(d), Annex B, tab 26.



through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

21. Rule 65 *ter* 06349 is an order from the Pakrac TO staff to the second company commanders. The Prosecution argues that the order is relevant to the alleged pattern of ethnic cleansing and probative of the alleged persecutory intent of the TO. The Defence objects. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

22. Rule 65 *ter* 00304 is an official note of the SDB. Rule 65 *ter* 00304.1 is the public redacted version of this document. The Prosecution argues that the note is relevant to the relationship between members of the alleged JCE because it demonstrates cooperation between the SAO SBWS government, the SAO SBWS TO, the SRS, and Arkan's Men. The Defence objects. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the documents are relevant and sufficiently probative for admission into evidence. With respect to the confidentiality status of the two documents, the Prosecution requests that both documents be admitted under seal; however, this appears to be a typographical error in the annex to the Motion because Rule 65 *ter* 00304.1 is a public redacted version of Rule 65 *ter* 00304.<sup>32</sup> The Chamber will therefore admit the public redacted version as a public exhibit. The confidential unredacted version will be admitted under seal.

23. Rule 65 *ter* 00328 is a decision appointing ministers of the SAO SBWS, including the appointment of Hadžić as Prime Minister. The Prosecution argues that Rule 65 *ter* 00328 is a signed and stamped version of P75.50; therefore, Rule 65 *ter* 00328 should be admitted to further verify the latter document's authenticity. The Defence objects, arguing that the document is a duplication of P75.50. The Prosecution replies that it has already provided an explanation for the differences between the two documents. The Chamber finds that it is not necessary to admit a second version of the document and therefore will deny admission of Rule 65 *ter* 00328.

24. Rule 65 *ter* 00333 contains the notes from the 26 September 1991 session of the Second Extraordinary Sitting of the National Assembly of the Republic of Serbia. The Prosecution argues that the document relates to the intent of members of the alleged JCE, specifically the intention to use the JNA to control Serb-majority areas of Croatia. The Defence objects, arguing that the document should have been tendered through a witness whose testimony could have assisted the Chamber in determining the document's probative value, proper interpretation, and relevance. The

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<sup>32</sup> See Decision on Republic of Serbia's Request for Protective Measures, 28 November 2012 (confidential), para. 22(c).

Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

25. Rule 65 *ter* 00335 is a 27 September 1991 decision of the SAO SBWS government, signed by Hadžić, regarding the formation, organisational structure, and equipping of units of the civil defence. The Prosecution argues that the document is relevant to Hadžić's alleged powers as President of the SAO SBWS and that this version should be admitted because it includes Hadžić's signature and an annex that contains an organisational diagram of the SAO SBWS Civil Defence and a list of personnel and equipment. The Defence objects, arguing that the document is a duplicate. The Prosecution replies that it is not a duplicate and reiterates its explanation of the differences between the two documents. The Chamber notes that an unsigned version of decision was previously admitted through Christian Nielsen as P1809, but without the annex now included. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

26. Rule 65 *ter* 00345 is a report from Mile Mrkšić to Vuk Obradović, the Chief of Cabinet of the Federal Secretariat of National Defence ("SSNO"), dated 30 September 1991, regarding the arrival of the Guards Motorised Brigade in Negoslavci. The Prosecution argues that the document is relevant to the command structure of the Guards Motorised Brigade. The Defence does not object. The Chamber notes that it previously took judicial notice of the authenticity of this document<sup>33</sup> and finds that the document is relevant and sufficiently probative for admission into evidence.

27. Rule 65 *ter* 05039 is a September 1991 report from Human Rights Watch Helsinki entitled "Yugoslavia: Human Rights Abuses in the Croatian Conflict". The Prosecution argues that the report is relevant to the alleged creation of parallel Serb authorities, the nexus between the armed conflict and alleged crimes in the Indictment, and attacks and crimes in Tenja and Borovo Selo. The Defence objects, arguing that the document is unreliable because it contains double anonymous hearsay, lacks sources for specific allegations, and lacks any indication of the methodology used to obtain the information. The Prosecution replies that (a) the Defence arguments go to weight not admissibility and (b) the Defence tendered and had admitted a human rights report from the same NGO (D22) and the Prosecution's documents should be subject to the same admissibility standards as Defence documents.<sup>34</sup> The Chamber notes that Rule 65 *ter* 05039 and exhibit D22, which was tendered by the Defence and granted admission into evidence, are both reports from Human Rights Watch Helsinki. The Chamber does not find convincing the Defence's submission that, whereas

<sup>33</sup> Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts and Documents, 23 May 2013, para. 22(d), Annex B, tab 39.

<sup>34</sup> Reply, para. 15.

D22 is reliable, Rule 65 *ter* 05039 is not. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence. The Chamber, when deciding what weight to give to this evidence, will take into account the circumstances under which the evidence arose and will consider the context and character of the evidence in question.<sup>35</sup>

28. Rule 65 *ter* 00373 contains the stenographic notes from the 147<sup>th</sup> session of the SFRY Presidency held on 6 October 1991. The Prosecution argues that the document is relevant to the alleged change in the JNA's mission and its alignment with Serbia's political ambitions and policies. The Defence does not object. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

29. Rule 65 *ter* 06455 is a 10 October 1991 SSNO memorandum regarding the engagement of security organs at POW camps. The Prosecution argues that the document is relevant to interrogations conducted by the JNA security organs at detention facilities in Serbia and shows that the purpose of the interrogations was to gather intelligence. The Prosecution also avers that the document corroborates GH-169's evidence that captured Croats, including civilians, fell within the JNA's jurisdiction. The Defence does not object. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

30. Rule 65 *ter* 00400 contains the stenographic notes from the 150<sup>th</sup> session of the SFRY Presidency held on 11 October 1991. The Prosecution argues that the transcript is relevant to the alleged change in the JNA's policy after Croatia withdrew from the SFRY and relates to the authority and views held by the Presidency of the SFRY. The Defence objects, arguing that the document should have been tendered through a witness whose testimony could have assisted the Chamber in determining the document's probative value, proper interpretation, and relevance. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

31. Rule 65 *ter* 05052 is a diplomatic cable detailing a meeting with Franjo Tudman, Slobodan Milošević, Veljko Kadijević, and Hans van den Broek on 11 October 1991. The Prosecution argues that the document is relevant to the role of alleged JCE members in negotiations, specifically regarding the status of the JNA and Serbs in Croatia. The Defence does not object. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

32. Rule 65 *ter* 00414.2 is a 18 October 1991 letter from the Hungarian Ministry of Foreign Affairs to Hans van den Broek regarding the situation in Eastern Croatia. The Prosecution argues

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<sup>35</sup> *Prosecutor v. Aleksovski*, Case No. IT-95-14/1-AR73, Decision on Prosecutor's Appeal on Admissibility of

that the letter is relevant to the alleged discrimination against and displacement of non-Serbs in the SAO SBWS, specifically Hungarians. The Defence objects, arguing that the document lacks any indication of the sources of the information contained in the letter and is therefore insufficiently reliable given its alleged incriminating significance. The Prosecution replies that (a) the document is reliable and (b) the Defence arguments go to weight not admissibility. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

33. Rule 65 *ter* 06353 is an excerpt from Vukan Subarić's personnel file. The Prosecution argues that the document shows the relationship between alleged JCE members, pointing specifically to Arkan signing the document as commander of the TO Training Centre of the SAO SBWS. The Defence objects, arguing that the Prosecution's submission is incorrect that the document suggests that the training centre belonged to the SAO SBWS government. The Prosecution replies that (a) the Defence arguments go to weight not admissibility and (b) the Prosecution does not mischaracterise the document.<sup>36</sup> The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

34. Rule 65 *ter* 00483 is an SSNO security report of 25 October 1991. The Prosecution argues that the document (a) relates to the interactions between the alleged JCE institutions and (b) shows that the SSNO was aware of problems caused by volunteers and that the JNA could have taken steps against such problems. The Defence does not object. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

35. Rule 65 *ter* 00488 is a report of the United Nations ("UN") Secretary-General, issued on 25 October 1991 in response to Security Council resolution 713. The Prosecution argues that the document is relevant to the alleged persecution and forced evacuations of non-Serbs, including civilians in the SAO SBWS in 1991 and is corroborated by other documents. The Defence objects. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

36. Rule 65 *ter* 00525 is an article, dated 4 November 1991 and published by *Vreme*, which contains statements allegedly made by Hadžić. The Prosecution argues that the nature, source, and relevance of the article, along with the corroboration of its contents provided by witness GH-023, warrant its admission through the bar table. The Defence objects, arguing that the document is not reliable, the author is not known, admission would be unduly prejudicial, and the Chamber's prior decision denying admission of the document was correct. The Prosecution replies that (a) media

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Evidence, 16 February 1999 ("*Aleksovski* Decision"), para. 15.

<sup>36</sup> Reply, para. 13.

articles may be tendered from the bar table and (b) the publisher, date, and the initials of the author are displayed in the article. The Chamber, after having heard the parties, denied admission of the document on 17 June 2013.<sup>37</sup> The Chamber finds that the document is not sufficiently reliable and therefore lacks sufficient probative value for admission into evidence.

37. Rule 65 *ter* 00535 is a newspaper article, entitled “Accommodations Secured”, dated 7 November 1991. The Prosecution argues that the article shows an organised program of resettling Serbs in the SAO SBWS, arranged by Hadžić and others, and supports other evidence received on this issue. The Defence objects, arguing that the document is unreliable and that admission would be unduly prejudicial, in particular as it attributes certain prejudicial comments to Hadžić. The Prosecution replies that media articles may be tendered from the bar table. The Chamber finds that the document is not sufficiently reliable and therefore lacks sufficient probative value for admission into evidence.

38. Rule 65 *ter* 00543 is a newspaper article, entitled “Action of Mopping Up the Territory Between the Bosut and the Sava Follows”, dated 7 November 1991. The Prosecution argues that the document shows that the TO of the SAO SBWS included Serbian volunteer units and corroborates the evidence of witness Goran Stoparić regarding the location of SRS offices in Šid. The Defence objects, arguing that the document is unreliable. The Prosecution replies that the Defence arguments go to weight not admissibility. The Chamber finds that the document is not sufficiently reliable and therefore lacks sufficient probative value for admission into evidence.

39. Rule 65 *ter* 00594 is a letter from the Croatian government to the JNA, dated 17 November 1991. The Prosecution argues that the letter shows the background to the Zagreb Agreement on the evacuation of the Vukovar Hospital, which has been admitted as an exhibit in this case. The Defence objects. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

40. Rule 65 *ter* 00607 is an order issued by the SRS, dated 18 November 1991. The Prosecution argues that the document corroborates the evidence of witness Veljko Džakula regarding alleged links between Serb volunteer groups, including the SRS and the TO of Western Slavonia. The Defence objects, arguing that the relevance of the document cannot be properly determined without having put the document to a witness, that it could have been put to witness Džakula for this purpose, and that the document is—in any event—not relevant to the Indictment. The Prosecution

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<sup>37</sup> GH-023, 17 June 2013, T. 5812-5813.

replies that the Defence arguments go to weight not admissibility. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

41. Rule 65 *ter* 06460 is a JNA order, dated 20 November 1991. The Prosecution argues that the document relates to the establishment and functioning of a collection centre at Stajićevo, Serbia. The Defence does not object. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

42. Rule 65 *ter* 03088 is purportedly a news report from the news agency *Agence France-Presse*, dated 21 November 1991. The Prosecution argues that the article relates to Hadžić's alleged intent to keep thousands of Croat prisoners of war in the Vukovar area and to make Vukovar the new capital of the region. The Prosecution submits that the evidence is corroborated by other evidence in this case. The Defence objects, arguing that (a) the document is not reliable; (b) the author of the document is not apparent; (c) the document appears to be an interpretation of Hadžić's statements, which are already admitted as evidence; and (d) admission would be unduly prejudicial. The Prosecution replies that media articles may be tendered from the bar table. The Chamber finds that the document lacks sufficient indicia of reliability and therefore lacks sufficient probative value for admission into evidence.

43. Rule 65 *ter* 05559 is a European Community Monitor Mission ("ECMM") report, dated 20 November 1991. The document is tendered under seal. The Prosecution argues that the document is relevant to the charges of deportation and forcible transfer from the Vukovar area. The Defence objects, arguing that the document is not relevant because the events to which it refers did not occur in the SAO SBWS and the information related to Croatia is not reliable. The Prosecution replies that the document is relevant to the alleged deportation and forcible transfer of persons from Vukovar. The Chamber finds that the document is relevant to events in Vukovar and sufficiently probative for admission into evidence.

44. Rule 65 *ter* 06461 is a JNA order, dated 21 November 1991. The Prosecution argues that the document relates to the establishment and functioning of a collection centre at Sremska Mitrovica, Serbia and indicates that Croat detainees were considered prisoners of war. The Defence objects, arguing that the term "prisoners of war" does not appear in the document. The Prosecution replies that the Defence arguments go to weight not admissibility. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

45. Rule 65 *ter* 00959.1 is purportedly a letter of discharge issued by the SBWS TO, dated 22 November 1991. The Prosecution argues that the document relates to the issue of persecution and unlawful detention at the Erdut Training Centre and corroborates witness GH-056's evidence that

individuals were detained at the Erdut Training Centre in November 1991. The Defence objects, arguing that the document is unreliable because it is not legible and was obtained from the Croatian authorities. The Prosecution replies that the Defence arguments go to weight not admissibility. The Chamber notes that witness GH-056 was unable to authenticate the document during his testimony<sup>38</sup> and that the original document is for the most part entirely illegible. The Chamber finds that the document is not sufficiently reliable and therefore lacks sufficient probative value for admission into evidence.

46. Rule 65 *ter* 06458 is a JNA order, dated 22 November 1991. The Prosecution argues that the order shows the alleged involvement of the JNA in the deportation and detention of persons from Vukovar who were detained at Sremska Mitrovica Military Prison and in Sremska Mitrovica town. The Defence does not object. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

47. Rule 65 *ter* 00628.1 is purportedly an ECMM report. The Prosecution argues that the report relates to the alleged forcible transfer of non-Serbs from Vukovar and highlights the JNA's alleged complicity in compromising the security of evacuees entrusted to it from Vukovar on 21 November 1991. The Defence does not object. The Chamber notes that several annexes of the report have not been translated. The document is therefore not appropriate for admission.

48. Rule 65 *ter* 00694 is an article from the People's Army magazine. The Prosecution argues that the document relates to the perpetrators of the alleged killings at Ovčara farm and confirms that on 21 November 1991 Veljko Kadijević received and congratulated JNA officers for their respective roles in military operations in Vukovar. The Defence objects, arguing that the document is not reliable. The Prosecution replies that media articles may be tendered from the bar table. The Chamber recalls that it took judicial notice of the authenticity of this document<sup>39</sup> and notes that the document is being tendered in order to corroborate the date of a meeting attended by at least one member of the alleged JCE. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

49. Rule 65 *ter* 00696 is a record of an interview given by Vojislav Šešelj, dated 24 November 1991, which, according to the Prosecution, appears in Šešelj's book *Politics as a Conscientious Challenge*. The Prosecution argues that the document is relevant to demonstrating the common purpose of the alleged JCE. The Defence objects, arguing that (a) the document is not relevant and too vague and general to reflect any coordination indicative of participation in a JCE, much less of

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<sup>38</sup> Hearing, 7 December 2012, T. 2236 (confidential).

Hadžić's participation in a JCE with Šešelj, and (b) the document lacks sufficient indicia of reliability for admission. The Prosecution replies that (a) the Defence arguments go to weight not admissibility and (b) media articles may be tendered from the bar table. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

50. Rule 65 *ter* 00713 is an article, entitled "Vukovar" [viz.], from the magazine *Vreme*, dated 25 November 1991. The Prosecution argues that the document shows that Hadžić and Rade Leskovac were content amidst the destruction of Vukovar and that Croat residents of Vukovar were complaining about looting and summary killings in November 1991. The Defence objects, arguing that the document is unreliable, its probative value is outweighed by the prejudice its admission would cause, and the information contained therein is duplicative of more direct evidence already admitted. The Prosecution replies that (a) media articles may be tendered from the bar table and (b) the Defence arguments go to weight not admissibility. The Chamber finds that the document is not sufficiently reliable and therefore lacks sufficient probative value for admission into evidence.

51. Rule 65 *ter* 00718 is purportedly a news article from the *Washington Post* newspaper, dated 26 November 1991 that appears to have been obtained from the website of the *Houston Chronicle* newspaper on 20 March 2012. The Prosecution argues that the article corroborates evidence that there was an organised plan to resettle large numbers of Serb refugees in Baranja and that it shows there was public knowledge of the resettlement policy. The Defence objects, arguing that the document is unreliable, it includes double hearsay, and its admission would be unduly prejudicial. The Prosecution replies that (a) media articles may be admitted through the bar table and (b) the Defence arguments go to weight not admissibility. The Chamber finds that the document is not sufficiently reliable and therefore lacks sufficient probative value for admission into evidence.

52. Rule 65 *ter* 05123.1 is a letter, dated 27 November 1991. The Prosecution tenders this document under seal. The Prosecution argues that the letter shows that there was notice about persons missing from Vukovar, including the Vukovar Hospital, in late November 1991. The Defence objects, arguing that the letter is not relevant. The Prosecution replies that the Defence arguments go to weight not admissibility. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

53. Rule 65 *ter* 00745 contains the stenographic notes from a meeting of the SFRY Presidency Members, dated 2 December 1991. The Prosecution argues that the document is relevant to the common purpose of the alleged JCE and the relationship between members of the alleged JCE. The

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<sup>39</sup> Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts and Documents, 23 May 2013, para. 22(d), Annex B, tab 102.



Prosecution notes that evidence on these meetings has already been received by the Chamber. The Defence objects, arguing that the relevance of the document cannot be determined without having been put to a witness and that the Prosecution had numerous witnesses who could have assisted in properly interpreting the document. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

54. Rule 65 *ter* 05967 is purportedly a letter from the Okučani TO to the SRS in Belgrade, dated 2 December 1991. The Prosecution argues that the letter pertains to the actions taken by various alleged JCE institutions, including volunteers and paramilitaries related to political leaders in Serbia, local Serb authorities, and the TO. The Defence objects, arguing that (a) the relevance of the document cannot be properly determined without having been put to a witness, (b) it could have been put to witness Veljko Džakula for this purpose, (c) there is no foundation within the document itself or other documents showing that the same phenomenon was occurring in SBWS, and (d) it is not clear how the document relates to the allegations against Hadžić. The Prosecution replies that the Defence arguments go to weight not admissibility. The Chamber notes that the Prosecution has only tendered part of the letter; the text is incomplete and there is no signature block. The Chamber finds that the document is not sufficiently reliable and therefore lacks sufficient probative value for admission into evidence.

55. Rule 65 *ter* 00759 is a certificate issued by the SRS, dated 4 December 1991. The Prosecution argues that the certificate relates to Miroslav Vuković's ("Cele") service with a volunteer detachment in the SBWS and therefore relates to the presence of alleged JCE members from the SRS in Serb paramilitary forces in Croatia. The Prosecution avers that the document is corroborated by other evidence relating to the presence of Šešelj's Men in the SAO SBWS. The Defence objects, arguing that the document is unreliable and should have been put to a witness. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

56. Rule 65 *ter* 00798 is UN Security Council resolution 724, of 15 December 1991. The Prosecution argues that the document relates to the issue of forcible transfer and shows that there was general knowledge of such crimes being committed on the territory of the former Yugoslavia. The Defence objects, arguing that the resolution is not reliable given the purpose of admission identified by the Prosecution. The Prosecution replies that the Defence arguments go to weight not admissibility. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

57. Rule 65 *ter* 06404 is a report from a meeting of the Commission for Missing Persons held in Pécs, dated 17 December 1991. The Prosecution argues that the document establishes the background of the Commission and is relevant to the issue of missing persons from Vukovar and detention centres in Serbia. The Defence objects. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

58. Rule 65 *ter* 00813 contains stenographic notes from the second regular meeting of the Serbian National Assembly, 5<sup>th</sup> session, dated 19 December 1991. The Prosecution argues that the document is relevant to (a) the involvement of the JNA in the alleged JCE, including the JNA and the Serbian TO's role in the conflict; (b) the ethnic make-up of the JNA; and (c) the resettlement of Serb refugees in the SBWS. The Defence objects, arguing that the relevance of the document has not been established and that the Prosecution called numerous witnesses who could have assisted in properly interpreting the document, in particular any portions that the Prosecution considers to be prejudicial to Hadžić. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

59. Rule 65 *ter* 06061 is a JNA letter, dated 26 December 1991. The Prosecution submits that the document is a cover letter, which attached (a) a letter from the SAO SBWS government (exhibit D30) and (b) the response to this letter by the JNA town command in Ilok (exhibit P1962). The Prosecution argues that the cover letter shows that alleged forcible transfers and population resettlement was reported up the JNA chain of command. The Defence objects, arguing that the cover letter is open to different interpretations, the relevance of the document has not been established, and the Prosecution called numerous witnesses who could have assisted in properly interpreting the document, in particular any portions that the Prosecution considers are prejudicial to Hadžić. The Prosecution replies that the Defence arguments go to weight not admissibility and that having each tendered a different part of this document, the parties are aware of the subject matter of the letters. The Chamber, having also reviewed exhibits D30 and P1962, finds that the document is relevant and sufficiently probative for admission into evidence.

60. Rule 65 *ter* 06062 contains a JNA letter and an order of the SFRY Presidency regarding the engagement of volunteers in the SFRY armed forces during imminent threat of war, dated 27 December 1991 and 10 December 1991, respectively. The Prosecution submits that the order itself has been admitted into evidence as exhibit P2302.2300. It is also argued that the cover letter demonstrates that the order was circulated among JNA units engaged in the SAO SBWS and is corroborated by other evidence in this case. The Defence objects, arguing that the relevance of the

document has not been established and that the Prosecution called numerous witnesses who could have assisted in properly interpreting the document. The Prosecution replies that (a) the Defence arguments go to weight not admissibility and (b) the Prosecution is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

61. Rule 65 *ter* 06074 is a document appointing JNA members to town commands in Mirkovci and Tenja, dated 18 January 1992. The Prosecution argues that the document relates to the issue of the appointment of town commanders and jurisdiction following the end of combat activities, the signing of a ceasefire agreement on 23 November 1991, and the adoption of the Vance Plan. The Defence objects, arguing that the relevance of the document has not been established and that it could have been put to witness Reynaud Theunens. The Prosecution replies that (a) it is not limited to tendering documents solely through witnesses and (b) it attempted to use this document with Theunens but the Defence objections to its use were sustained. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

62. Rule 65 *ter* 05917 is an undated report of the Croatian government regarding displaced persons and refugees in Croatia in 1991 and 1992. The Prosecution argues that the document relates to the issue of alleged forcible transfer from various communities in Croatia, including Beli Manastir. The Defence objects, arguing that the document (a) is unreliable, (b) has no specific authorship, (c) comes from an entity with a strong interest to exaggerate or misstate figures, and (d) could have been put to an appropriate witness to explore its reliability. The Prosecution replies that (a) it is not limited to tendering documents solely through witnesses and (b) it was unable to use the document with Jakub Bijak when Defence objections to its use were sustained. During the testimony of Bijak, the Prosecution put the document to the witness and then moved for its admission into evidence; the Chamber, after having heard the parties, denied admission of the document through this witness.<sup>40</sup> This does not preclude admission into evidence from the bar table. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

63. Rule 65 *ter* 06091 is a JNA letter requesting information on vehicles seized by JNA members in the SBWS, dated 10 February 1992. The Prosecution argues that the document is relevant to the alleged plunder of property and the role of the local Serb authorities in the SBWS in early 1992. The Prosecution also avers that the document demonstrates that the JNA was receiving requests from Hadžić in his official capacity and that the JNA was working alongside functional

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<sup>40</sup> Jakub Bijak, 3 June 2013, T. 5263-5265.

civilian authorities. The Defence objects, arguing that the relevance of the document cannot be properly determined without having been put to a witness and that it could have been put to witnesses Christian Nielsen and Reynaud Theunens for this purpose. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

64. Rule 65 *ter* 06097 is an order dated 16 February 1992 from Major-General Mićo Delić, commander of the 1<sup>st</sup> Mechanised Corps. The Prosecution argues that the document is relevant to the alleged plunder of property and shows the response of the JNA to a request by Hadžić to return property that was taken from its owners and remained in the possession of the JNA. The Defence objects, arguing that the Prosecution should have tendered the document through a witness, such as Christian Nielsen or Reynaud Theunens, who could have assisted in properly interpreting it. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

65. Rule 65 *ter* 06401 contains the minutes of the Joint Commission for Tracing Missing Persons, dated 20 February 1992. The Prosecution argues that the document is relevant to prisoners of war held in detention facilities in Serbia, the killings at Ovčara, and the alleged efforts made by the leadership of the SFRY to cover up crimes by concealing the truth about missing non-Serb victims. The Prosecution notes that Davor Strinović, a witness in this case, was present at the relevant meeting but that due to time constraints, this document was not tendered during his testimony. The Defence objects, arguing that the document should have been tendered through a witness. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

66. Rule 65 *ter* 00939 is a letter from Anđelko Maslić to Milan Martić, dated 21 February 1992. The Prosecution argues that the letter, which is to inform Martić of a meeting of the SFRY Presidency to be held on 27 February 1992, is relevant to Hadžić's involvement with other alleged members of the alleged JCE. The Defence objects, arguing that the document should have been tendered through a witness who could have assisted in properly interpreting it. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

67. Rule 65 *ter* 00941 is a letter from Anđelko Maslić to Biljana Plavšić, dated 21 February 1992. The Prosecution argues that the letter, which is to inform Plavšić of a meeting of the SFRY Presidency to be held on 27 February 1992, is relevant to Hadžić's involvement with other alleged members of the alleged JCE. The Defence objects, arguing that the document should have been

tendered through a witness who could have assisted in properly interpreting it. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

68. Rule 65 *ter* 06103 is an analysis of the work of military authorities in the village of Sotin signed by Lieutenant-Colonel Bogoljub Đoković, commander of the 813<sup>th</sup> Engineers Regiment, dated 23 February 1992. The Prosecution argues that the document is relevant to the alleged expulsion of Croats by TO forces. The Defence does not object. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

69. Rule 65 *ter* 00953 is a letter from Dobrosav Veizović, Assistant Minister in the Republic of Serbia's Ministry of Foreign Affairs, to Senator Linda Berglin of the United States, dated 26 February 1992. The Prosecution argues that the document is relevant to the alleged involvement of the JNA and Serbian government in covering up the alleged killings at Ovčara. The Defence objects, arguing that the document should have been tendered through a witness with whom the Prosecution's interpretation of the letter could have been explored. The Prosecution replies that (a) it is not limited to tendering documents solely through witnesses and (b) the Defence arguments go to weight not admissibility. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

70. Rule 65 *ter* 06116 is a letter from Major-General Mićo Delić to the authorities of SAO SBWS, dated 1 March 1992. The Prosecution argues that it is relevant to the relationship between the JNA leadership and the government of the SAO SBWS after the conclusion of combat operations in November 1991. The Defence objects, arguing that the document should have been tendered through a witness who could have assisted in properly interpreting it. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

71. Rule 65 *ter* 06119 is a plan of joint measures and activities to be taken by the Civilian Affairs Organ of the 1<sup>st</sup> Military District and the SAO SBWS, dated 8 March 1992, signed by Colonel Jovo Blažanović. The Prosecution argues that the plan is relevant to the alleged relationship between JNA units and the SAO SBWS and corroborates other exhibits admitted in this case. The Defence objects, arguing that the document should have been tendered through a witness who could have assisted in properly interpreting it. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

72. Rule 65 *ter* 06123 is a JNA report on the number and ethnic composition of the population in the village of Orolik, dated 10 March 1992. The Prosecution argues that the report is relevant to the alleged displacement of non-Serbs and the resettlement of Serbs in Orolik in Western Srem, including the JNA's knowledge of such, and is consistent with other exhibits admitted in this case. The Defence objects, arguing that the document should have been tendered through a witness who could have assisted in properly interpreting it. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

73. Rule 65 *ter* 06126 is a JNA report on the ethnic composition in the area of responsibility of the 3<sup>rd</sup> Motorised Brigade before and after combat operations, dated 10 March 1992 and signed by Slobodan Antić. The Prosecution argues that the report is relevant to the displacement of non-Serbs in villages in Western Srem and is corroborated by other evidence admitted in this case. The Defence objects. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

74. Rule 65 *ter* 05876 is a mission report dated 10–11 March 1992 regarding Baranja, Vukovar, and Ilok. The Prosecution tenders the document under seal. The Prosecution argues that the report is relevant to the prevailing conditions in the SAO SBWS in early 1992, in particular in relation to Croats. The Defence objects. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber observes that the document does not bear a letter head and is not signed or stamped; the Chamber is therefore unable to ascertain the source of the document. The Chamber finds that the document is not sufficiently reliable and therefore lacks sufficient probative value for admission into evidence.

75. Rule 65 *ter* 06136 is a JNA order dated 16 March 1992 signed by Colonel Novica Gušić, Assistant Commander for Civil Affairs of the 1<sup>st</sup> Mechanised Corps. The Prosecution argues that the order is relevant to show that the JNA viewed the government of the SAO SBWS as a legitimate entity and that the laws the latter adopted were valid and enforceable. The Defence objects, arguing for a different interpretation of the order. The Prosecution replies that the Defence arguments go to weight not admissibility. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

76. Rule 65 *ter* 06140 is a JNA order to the Command of the 1<sup>st</sup> Mechanised Corps dated 17 March 1992 and signed by Colonel Mihajlo Stakić of the 1<sup>st</sup> Proletarian Guards. The Prosecution argues that the order is relevant to the alleged knowledge of the JNA of expulsions in the SAO SBWS. The Defence objects, arguing that the document should have been tendered through a

witness who could have assisted in properly interpreting it. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

77. Rule 65 *ter* 00985 is a report of a criminal investigation dated 18 March 1992 and signed by alleged JCE member Milan Martić. The Prosecution argues that the report is relevant to show that the RSK Ministry of Internal Affairs had the ability to take measures to investigate crimes committed by members of special purpose units. The Defence objects, arguing that the document should have been tendered through a witness who could have assisted in properly interpreting it. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

78. Rule 65 *ter* 06146 is an order dated 20 March 1992 signed by Major-General Mićo Delić of the 1<sup>st</sup> Mechanised Corps in relation to the alleged resettlement of military personnel in the Krajina. The Prosecution argues that the order is relevant to the alleged intent of members of the alleged JCE to create an ethnically pure territory in the Krajina. The Defence does not object. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

79. Rule 65 *ter* 06147 is a request to the 1<sup>st</sup> Mechanised Corps for weapons to be delivered to the Ilok police station dated 20 March 1992 and signed by R. Knežević. The Prosecution argues that the request is relevant to the alleged cooperation between the RSK police and JNA and the alleged arming of the police force in violation of the Vance Plan. The Defence objects. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

80. Rule 65 *ter* 05878 is a press release, dated 22 March 1992. The Prosecution tenders the document under seal. The Prosecution argues that the press release is relevant to the alleged expulsion of non-Serbs and corroborates the evidence of GH-154 that expulsions continued into 1992 and 1993; the Prosecution also avers that the document is supported by the evidence of Jakub Bijak. The Defence objects, arguing that the press release is not reliable and does not provide precise information about the source of the information. The Prosecution replies that the document is reliable and that the Prosecution is not limited to tendering documents solely through witnesses. The Chamber finds that the document is not sufficiently reliable and therefore lacks sufficient probative value for admission into evidence.

81. Rule 65 *ter* 05881 is a report on the situation in parts of Croatia during the week of 16 March 1992. The Prosecution tenders the document under seal. The Prosecution argues that the report is relevant to the alleged expulsion of non-Serbs in the greater Vukovar area in March 1992

and is consistent with other evidence admitted in this case. The Defence objects, arguing that the document should have been tendered through a witness who could have assisted in properly interpreting it, and that the document is not sufficiently reliable because it has no identified author and was based on other reports that have not been tendered. The Prosecution replies that (a) it is not limited to tendering documents solely through witnesses and (b) the document is sufficiently reliable as it is dated and indicates, in general terms, who authored it. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

82. Rule 65 *ter* 01001 was withdrawn by the Prosecution in the Reply.<sup>41</sup>

83. Rule 65 *ter* 05886 is a report that includes anonymous statements of Croatians who had allegedly fled their homes in JNA controlled areas in Croatia, dated 2 April 1992. The Prosecution tenders the document under seal. The Prosecution argues that the report is relevant to the alleged expulsion of non-Serbs, particularly in Sector South in March 1992. The Defence objects, arguing that the report is not reliable because it is based on reports of anonymous witnesses and does not indicate how these witnesses were able to identify the perpetrators. The Prosecution replies that the Defence arguments go to weight not admissibility. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence. The Chamber, when deciding what weight to give to this evidence, will take into account the circumstances under which the evidence arose and will consider the context and character of the evidence in question.<sup>42</sup>

84. Rule 65 *ter* 05888 is a report, dated 8 April 1992, of a meeting that was held with Major-General Milan Pujić. The Prosecution tenders the document under seal. The Prosecution argues that the report is relevant to alleged expulsions from towns in the Vukovar area. The Defence objects, arguing that the report is not reliable as it contains the statements of Pujić, the accuracy of which cannot be tested, and that the report should have been tendered through a witness who could have assisted in properly interpreting it. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

85. Rule 65 *ter* 05894 is a letter dated 7 April 1992 in relation to displaced persons from the village of Lovas. The Prosecution tenders the document under seal. The Prosecution argues that the letter is relevant to the alleged expulsion of non-Serbs from Lovas. The Defence objects, arguing that the letter is not reliable. The Prosecution replies that (a) the document is sufficiently reliable

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<sup>41</sup> Reply, paras 2, 22.

<sup>42</sup> *Aleksovski* Decision, para. 15.



and (b) the Defence arguments go to weight not admissibility. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

86. Rule 65 *ter* 05895 is a report of a meeting with members of the JNA and police in Dalj and Erdut, dated 11 April 1992. The Prosecution tenders the document under seal. The Prosecution argues that the report is relevant to the alleged expulsion of non-Serbs during the Indictment period. The Defence objects, arguing that the document should have been tendered through a witness who could have assisted in properly interpreting it and that the Chamber already has more than enough evidence on these issues. The Prosecution replies that (a) it is not limited to tendering documents solely through witnesses and (b) no specific information is provided in respect of the Defence argument that it is duplicative. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

87. Rule 65 *ter* 06175 is a JNA order dated 14 April 1992 and signed by Major-General Mićo Delić. The Prosecution argues that the order is relevant to demonstrating the alleged division of responsibility between the JNA and local authorities and alleged efforts to conceal weapons in contravention of the Vance Plan. The Prosecution also avers that the document is consistent with other evidence admitted at trial. The Defence objects, arguing that the order is not relevant and should have been addressed by a witness. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

88. Rule 65 *ter* 05897 is a report on the conditions in Croatia from 30 March to 5 April 1992. The Prosecution tenders the document under seal. The Prosecution argues that the report is relevant to the alleged expulsion of non-Serbs and supports other evidence admitted at trial. The Defence objects, arguing that the document should have been tendered through a witness. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

89. Rule 65 *ter* 01036 contains the minutes of a meeting of the 10<sup>th</sup> session of the RSK government, dated 21 April 1992. The Prosecution argues that the minutes are relevant to the alleged transfer or deportation of non-Serbs from the territory of the RSK and the alleged misappropriation of property. The Defence objects, arguing that the minutes are not relevant and that the document should have been tendered through a witness who could have assisted in properly interpreting it. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

90. Rule 65 *ter* 05900.1 is an excerpt of a report dated 21 April 1992. The Prosecution tenders the document under seal. The Prosecution argues that the report is relevant to the alleged expulsion of non-Serbs from Tenja, Marinci, and Vukovar in 1992 and corroborates the evidence of James Lubin and other exhibits admitted at trial. The Prosecution notes that the remainder of the report has already been admitted as a Defence exhibit. The Defence objects, arguing that the excerpt of the report is not relevant and that it should have been tendered through a witness who could have assisted in properly interpreting it. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

91. Rule 65 *ter* 05902 is a report, dated 22 April 1992. The Prosecution tenders the document under seal. The Prosecution argues that the report is relevant to an alleged expulsion on 20 April 1992 from Vukovar and confirms the evidence of multiple witnesses and other exhibits admitted at trial. The Defence objects, arguing that the report is not reliable as it includes anonymous accounts. The Prosecution replies that (a) the Defence arguments go to weight not admissibility and (b) a witness in this case provided direct evidence of the same events. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence. The Chamber, when deciding what weight to give to this evidence, will take into account the circumstances under which the evidence arose and will consider the context and character of the evidence in question.<sup>43</sup>

92. Rule 65 *ter* 01105 is a declaration on the political goals of the RSK dated 19 May 1992. The Prosecution argues that the declaration is relevant to Hadžić's alleged power and actions as the President of the RSK and that it is corroborated by other evidence admitted at trial. The Defence objects, arguing that the declaration should have been tendered through a witness with whom the Prosecution's interpretation could have been explored. The Prosecution replies that (a) it is not limited to tendering documents solely through witnesses and (b) the Defence arguments go to weight not admissibility. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

93. Rule 65 *ter* 03153 is the record of the 201<sup>st</sup> session of the Presidency of the SFRY held on 20 May 1992. The Prosecution argues that the record is relevant to the relationships between alleged members of the alleged JCE and their alleged knowledge of consultations involving Krajina authorities about how to avoid fully withdrawing upon the arrival of UNPROFOR; the Prosecution also avers that the record is consistent with evidence already admitted at trial. The Defence does not

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<sup>43</sup> *Aleksovski* Decision, para. 15.

object. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

94. Rule 65 *ter* 01140 is a report prepared by the British section of the International Society for Human Rights, dated 29 May 1992. The Prosecution argues that the report is relevant to alleged forcible transfer and deportation in SBWS and the fact that the occurrence of such crimes was public knowledge; the Prosecution also avers that the document is supported by other evidence admitted at trial. The Defence objects, arguing that the report is not reliable because it contains double anonymous hearsay. The Prosecution replies that the Defence arguments go to weight not admissibility. The Chamber finds that, in the particular circumstances of this document, the document's probative value is substantially outweighed by the need to ensure a fair trial; it therefore will not be admitted into evidence.

95. Rule 65 *ter* 01142 is UN Security Council resolution 757 of 30 May 1992. The Prosecution argues that the resolution is relevant to Hadžić's alleged knowledge of the ongoing forcible transfer of the non-Serb population from the territory under his control. The Defence objects. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

96. Rule 65 *ter* 05175 is an UNPROFOR message, dated 2 June 1992. The Prosecution argues that the message is relevant to alleged crimes committed against non-Serbs in Baranja and supports other evidence admitted at trial. The Defence objects, arguing that the message is not reliable or relevant and that it should have been tendered through a witness. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

97. Rule 65 *ter* 05906 is a note on the security situation in Sector East, dated 26 May 1992. The Prosecution tenders the document under seal. The Prosecution argues that the note is relevant to the alleged discrimination and crimes against Hungarians and other non-Serbs in the Baranja Region and that it is consistent with other evidence admitted at trial. The Defence objects, arguing that the document is not reliable because it contains double anonymous hearsay in respect of some information. The Defence also notes that the Chamber denied admission of this note when it was tendered during the evidence of Jakub Bijak. The Prosecution replies that (a) it is not limited to tendering documents solely through witnesses and (b) it did not use the document with Bijak because the Defence had successfully challenged the use of similar documents with that witness. The Chamber notes that the Prosecution discussed this note with Bijak and requested its admission. The note was denied admission at that time because the witness had not relied on the document in

his expert report.<sup>44</sup> This does not preclude admission into evidence from the bar table. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

98. Rule 65 *ter* 05907 is a report on Sector East, dated 5 June 1992. The Prosecution has tendered the document under seal. The Prosecution argues that the document relates to the disappearance of Marija Senaši and the RSK authorities' alleged awareness of the crime committed against her. According to the Prosecution, the document further supports the evidence of GH-062 on this issue. The Defence does not object. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

99. Rule 65 *ter* 05181 is an UNPROFOR letter dated 11 June 1992. The Prosecution argues that the document relates to the alleged expulsion of 22 persons from Tovarnik in May 1999 and corroborates other evidence identifying the perpetrators. The Defence objects, arguing that the document is not reliable as the information contained within it constitutes double hearsay. It argues that the Defence was deprived of an opportunity to test its reliability and that the admission of the document is inappropriate given the specific information about the affiliation of the perpetrators. The Prosecution replies that the Defence's arguments go to weight not admissibility. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence. The Chamber, when deciding what weight to give to this evidence, will take into account the circumstances under which the evidence arose and will consider the context and character of the evidence in question.<sup>45</sup>

100. Rule 65 *ter* 03617 is an UNPROFOR situation report, dated 30 June 1992, on Sector South. The Prosecution argues that the document relates to the alleged commission of crimes against non-Serbs and the failure of the RSK authorities to take measures to prevent or punish these crimes. The Defence objects. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

101. Rule 65 *ter* 06088 is a JNA report of the 1<sup>st</sup> Mechanised Corps about the removal of the population from the territory of the municipality of Vukovar of June 1992. The Prosecution argues that the document reports on the alleged organised expulsions of non-Serb families from Tovarnik and Mikluševci in May and June 1992 and shows that the SBWS government supported and helped the planned expulsions. The Defence objects, arguing that this document should have been tendered through a witness in order to assist the Chamber in determining its relevance and probative value,

<sup>44</sup> Jakub Bijak, 3 June 2013, T. 5256-5257.

<sup>45</sup> *Aleksovski* Decision, para. 15.

especially given the highly incriminating interpretation placed on the document by the Prosecution. The Prosecution replies that it is not limited to tendering documents solely through witnesses. Moreover, it argues that it was unable to put the document to GH-168 following a Defence objection in court. The Chamber notes that the Prosecution sought to put the document in question to witness GH-168 in re-direct examination. At the time, the Chamber sustained the Defence objection.<sup>46</sup> However, this does not preclude admission from the bar table. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

102. Rule 65 *ter* 01191.1 is a compilation of selected pages of stenographic transcript from the 2<sup>nd</sup> session of the Supreme Defence Council (“SDC”) held on 8 and 10 July 1992. The Prosecution tenders this document under seal. The Prosecution argues that the document relates to Hadžić’s alleged command and control and his powers as President of the RSK. It further submits that the document shows the views held by Slobodan Milošević with respect to Hadžić and his government. The Defence objects, arguing that the Prosecution should have tendered this document through a witness who could have contextualised the document. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

103. Rule 65 *ter* 06403 contains the minutes of the negotiations of 22 and 23 July 1992 held at Subotica between representatives of the government of the Republic of Croatia, the JNA, and the ICRC. The Prosecution argues that the document is relevant to prisoners of war held in detention facilities in Serbia, the killings at Ovčara, and the SFRY leadership’s alleged efforts to cover up crimes. The Defence objects. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

104. Rule 65 *ter* 06400 contains the minutes of a meeting of the Joint Commission for Tracing Missing Persons in Budapest of 30 July 1992. The Prosecution argues that the document is relevant to prisoners of war held in detention facilities in Serbia, the killings at Ovčara, and the SFRY leadership’s alleged efforts to cover up crimes by concealing the truth about missing non-Serb victims. The Defence does not object. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

105. Rule 65 *ter* 01217 contains the minutes of a meeting of the *ad hoc* group on Vukovar of the Joint Commission for Tracing Missing Persons of 31 July 1992. The Prosecution argues that the document relates to the alleged cover-up efforts of the Serb authorities in relation to the killings at

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<sup>46</sup> Hearing, 11 September 2013, T. 8519-8522 (confidential).

Ovčara. It is submitted that this document shows that the JNA and the Serbian leadership were on notice about missing persons from Vukovar. The Defence does not object. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

106. Rule 65 *ter* 01228 is a transcript of the tape recording of the 18<sup>th</sup> session of the National Assembly of the Republika Srpska (“RS”) dated, 11 August 1992. The Prosecution argues that this document demonstrates Hadžić’s contribution to the alleged JCE and his relationship with other members of the alleged JCE in addressing the Bosnian Serb Assembly about cooperation between the RSK and the RS. The Defence objects, arguing that the Prosecution should have tendered the document through a witness if it had wished to give the information contained within it such an incriminating connotation. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

107. Rule 65 *ter* 01229 is a letter of the President of the municipality of Slunj to the RSK government of 11 August 1992. The Prosecution argues that this document, which states that 12,000 Croats have left the municipality of Slunj, relates to the alleged forcible transfer or deportation of non-Serbs from the territory of the RSK. The Defence objects, arguing that the Prosecution should have tendered the document through a witness if it had wished to give the information contained within it such an incriminating connotation. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber notes that the document was previously put to Jakub Bijak in court, but that the Defence objection to this document being used with the witness was sustained.<sup>47</sup> As admission was denied on the basis that Bijak was not the appropriate witness to comment on the document, the Chamber considers that its earlier ruling did not deny the admissibility of the document *per se*. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

108. Rule 65 *ter* 05959 is an UNPROFOR memorandum from the acting Civil Affairs Coordinator Mohamed Abdul-Aziz of Sector East sent to Cedric Thornberry on 12 August 1992. The Prosecution argues that the document relates to crimes and acts of discriminatory measures that were committed, in particular against the non-Serb population, in Sector East in August 1992 and the failure of the police to investigate. The Defence objects, arguing that the document was authored by a witness in the trial and should have been explored with him in court. It further submits that the witness did not author many such documents and none with such level of detail. The Prosecution replies that the document was not authored by a witness in this case. The Chamber

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<sup>47</sup> Jakub Bijak, 3 June 2013, T. 5273-5276.

agrees with the Prosecution that the author of the document, Mohamed Abdul-Aziz, has not appeared as a witness in this case and rejects the argument of the Defence. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

109. Rule 65 *ter* 05224 is a document setting out media reports from *Tanjug* press of 17 August 1992. The Prosecution argues that the document relates to the alleged policies of the RSK government to prevent persons in Croatia from returning to their homes. The Defence objects, arguing that the document lacks reliability by virtue of being a transcription of media reports. The Prosecution replies that media articles may be tendered from the bar table. The Chamber considers that the document is not sufficiently reliable and therefore lacks sufficient probative value for admission into evidence.

110. Rule 65 *ter* 05247 is an UNPROFOR diagram setting out the regional police forces in the Baranja and Beli Manastir region, dated 11 September 1992. The Prosecution argues that it relates to the capacity of the relevant organs of the RSK government to monitor the commission of crimes in their territory in 1992. The Defence objects, arguing that (a) the document appears to be an annex of a larger document that would have indicated its authorship and (b) its authorship thus cannot be verified. The Prosecution replies that the document was obtained from the UN in its present form and not as part of a larger document. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

111. Rule 65 *ter* 01263 is a note to Stojan Španović on the transfer of funds from the FRY to the RSK of 16 September 1992. The Prosecution argues that the document relates to the relationship between the alleged JCE institutions and the assistance Serbia provided through veiled transfers of money. The Defence objects, questioning the meaning of the term “JCE institutions”. The Prosecution replies that the “JCE institutions” are defined in the Indictment and its Pre-Trial Brief. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

112. Rule 65 *ter* 01265 is an UNPROFOR cable, dated 18 September 1992. The Prosecution argues that the report relates to Hadžić’s powers as RSK President and the RSK government’s alleged failure to fulfil its international obligations under the Vance Plan. The Defence objects, arguing that the document should have been tendered through a witness. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

113. Rule 65 *ter* 03050 is purportedly an UNPROFOR weekly situation report dated 24 September 1992. The Prosecution argues that the document is an UNPROFOR weekly situation

report of 24 September 1992 that relates to the expulsion of non-Serbs from the territory of the RSK and the alleged RSK's deliberate delay in disarmament. The Defence objects, arguing that the document lacks authenticity. The Prosecution replies that the document bears identifying information and that it forms part of a larger range of documents previously admitted that were signed by a senior military officer. The Chamber agrees with the Defence. The report does not display the same indicia found on other UN documents, and in particular other weekly situation reports, which have been admitted before this Chamber. It thus finds that the document is not sufficiently reliable and therefore lacks sufficient probative value for admission into evidence.

114. Rule 65 *ter* 01284 is a newspaper article published by *Vreme* on 28 September 1992. The Prosecution argues that the article relates to Hadžić's alleged state of mind during the period relevant to the Indictment and the relationship he allegedly shared with other members of the alleged JCE. The Defence objects, arguing that (a) media articles are not sufficiently reliable; (b) if the Prosecution wished to impose such an incriminating connotation on the article, it should have tendered the document through a witness; and (c) no translation has been uploaded to eCourt. In its Reply, the Prosecution makes further submissions on the document's relevance. The Chamber notes that a translation is uploaded to eCourt; nevertheless, the Chamber finds that the document is not sufficiently reliable and therefore lacks sufficient probative value for admission into evidence.

115. Rule 65 *ter* 01292 is a list of 137 RSK MUP personnel who completed a training course between 22 February 1992 and 22 August 1992 at the Belgrade Police Academy, dated 30 September 1992. The Prosecution argues that the document shows that the RSK received support from the Republic of Serbia. The Defence does not object. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

116. Rule 65 *ter* 05263 is a document that summarises media reports of 30 September 1992. The Prosecution argues that the document relates to the opposition of the RSK government to Croats "resuming their lives" in Serb-held territory in the autumn of 1992. The Defence objects, arguing that the document (a) lacks reliability by virtue of being a transcription of media reports, (b) should have been tendered through a witness, and (c) is cumulative of other more direct information. The Prosecution replies that (a) the Defence arguments go to weight not admissibility, (b) the Prosecution is not limited to tendering documents solely through witnesses, and (c) media articles may be tendered from the bar table. The Chamber finds that the document is not sufficiently reliable and therefore lacks sufficient probative value for admission into evidence.

117. Rule 65 *ter* 01302 is a newspaper article published by *Vreme* on 5 October 1992. The Prosecution argues that the newspaper article reports on "Goran Hadžić's hostile views" towards SFRY Prime Minister Milan Panić and Hadžić's "belligerent standpoint." It further avers that the



article corroborates testimony of GH-026 and exhibit P2947. The Defence objects, arguing that in the absence of information as to the authorship of the newspaper article, it lacks reliability. Moreover, the Defence submits that the available indicia of reliability are outweighed by the prejudicial effect of the document as the Defence was deprived of an opportunity to test or challenge it. The Prosecution replies that (a) the Defence arguments go to weight not admissibility and (b) media articles may be tendered from the bar table. The Chamber finds that the document's probative value is substantially outweighed by the need to ensure a fair trial; it therefore will not be admitted into evidence.

118. Rule 65 *ter* 01327 is a letter from Milan Ilić of the Regional Council to Larry Moore regarding an UNPROFOR request to conduct exhumations, dated 28 October 1992. The Prosecution argues that the document relates to the alleged cover-up of the killings at Ovčara and the delays in allowing access to the mass grave to international monitors. The Defence objects, arguing that the document should have been tendered through a witness if the Prosecution wished to place such an incriminating connotation on the document. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

119. Rule 65 *ter* 01353 is an UNPROFOR coded cable of 9 November 1992. The Prosecution argues that the document relates to the alleged failure of the RSK authorities to abide by the principles of the Vance Plan by *inter alia* strengthening its special police force and the alleged ongoing persecution of non-Serbs. The Defence objects, arguing that it was incumbent upon the Prosecution to elicit testimonial commentary about this comprehensive document with a witness in court, specifically because the document contains many subjective opinions and comments rather than facts. The Prosecution replies that it is not limited to tendering documents solely through witnesses. Moreover, the Prosecution argues that the topics covered in the document relate to topics covered in previously admitted, related exhibits. Recalling that it is the province of the Trial Chamber to draw ultimate conclusions from the evidence adduced during the trial, the Chamber finds that the document is relevant and sufficiently probative for admission into evidence. The Chamber, when deciding what weight to give to this evidence, will take into account the circumstances under which the evidence arose and will consider the context and character of the evidence in question.<sup>48</sup>

120. Rule 65 *ter* 01390 is a stenographic transcript of the 6<sup>th</sup> session of the SDC of 9 December 1992. The Prosecution tenders this document under seal. The Prosecution argues that the transcript

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<sup>48</sup> *Aleksovski* Decision, para. 15.

relates to the relationship between the alleged “JCE institutions” and other issues relevant to the Indictment. The Defence objects, arguing that the document is not relevant and that it should have been introduced through a witness in order to ascertain its reliability. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

121. Rule 65 *ter* 05308 is an UNPROFOR facsimile of 15 December 1992 regarding UNPROFOR’s monitoring of the local justice system. The Prosecution argues that the document relates to the alleged failure to punish crimes committed against non-Serbs and the alleged environment of impunity in the UN Protected Areas (“UNPAs”). The Defence objects. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

122. Rule 65 *ter* 01394 is a report of Special Rapporteur Bacre Ndiaye on the situation of human rights in the territory of the former Yugoslavia, dated 20 December 1992, dealing with alleged expulsions and extra-judicial killings. The Prosecution argues that the document relates to Hadžić’s alleged authority, the discovery of mass graves, and alleged ethnic cleansing being carried out by Serb Forces in Sector East. The Defence objects, arguing that the report offers conclusions upon material not before the Chamber and is inadmissible as evidence. It is further submitted that the Prosecution should have tendered the report through a witness and that the incriminating purpose is disproportionate to the probative value of the document. The Prosecution replies that it is not limited to tendering documents solely through witnesses and that the document was produced by a highly reputable source, describes the methodology used to compile the report, and clearly distinguishes allegations from the Special Rapporteur’s observations. In the Prosecution’s submission, the Defence’s arguments go to weight not admissibility. The Chamber observes that the report has no cover page and bears no letter head, stamp, or signature. The Chamber finds that the document is not sufficiently reliable and therefore lacks sufficient probative value for admission into evidence.

123. Rule 65 *ter* 02538.1 is a decision of the Municipal Court of Vukovar, issued on 21 December 1992. The Prosecution submits that the document relates to alleged persecution, cruel treatment, torture, and inhumane acts of imprisoned persons at Sremska Mitrovica prison. The Defence objects, arguing that a judicial ruling from a Croatian court is inadmissible as evidence. The Prosecution replies that an objection to the mere fact that the document originates from Croatian sources cannot be sustained and that judicial rulings from Croatian courts have previously been accepted as evidence before the Tribunal. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

124. Rule 65 *ter* 01395 is a letter from Hadžić to Slobodan Milošević of 23 December 1992, wherein the former congratulates the latter on his re-election. The Prosecution argues that the document is relevant to the relationship between the members of the alleged JCE. The Defence objects, arguing that the Prosecution misquotes the document in its submissions. The Prosecution replies with a correction to its quotation from the document. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

125. Rule 65 *ter* 05310 is an UNPROFOR briefing report regarding Erdut, dated 23 December 1992. The Prosecution argues that the document relates to the alleged perpetration of crimes in the UNPAs, including expulsions, bombings, and persecutions, and further describes the alleged non-compliance of the RSK government with the Vance Plan. The Defence objects, arguing that the document lacks reliability and should have been explored with and tendered through a witness. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

126. Rule 65 *ter* 03058 is an UNPROFOR weekly situation report of 6 January 1993. The Prosecution argues that the report relates to violations of the Vance Plan and reports on the alleged persecution of Croats. It furthermore argues that the report describes suspected movements between personnel between the RSK and the RS. The Defence objects, arguing that the report lacks reliability and that the document should have been tendered through a witness. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

127. Rule 65 *ter* 01415 is a transcript of the enlarged session of the SFRY Council for Coordinating Stands of State Policy. The Prosecution argues that the document is relevant to the relationship between members of the alleged JCE. In the Prosecution's submission, the statements made at the meeting—attended by representatives of Serbia, the SFRY, the JNA, the RSK, and the RS—display solidarity regarding a unified Serbia, including the RSK and RS. The Defence objects, arguing that the document is irrelevant to Hadžić's alleged criminal responsibility. Moreover, the Defence argues that the Prosecution should have tendered the document through a witness, had it wished to place such an incriminating connotation on it. The Prosecution replies that the Defence's arguments go to weight not admissibility. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence. Rule 65 *ter* 01416 is a continuation of Rule 65 *ter* 01415 and for the same reasons will also be admitted into evidence.

128. Rule 65 *ter* 01423 is a report written by Physicians for Human Rights on the preliminary site exploration of a mass grave found at Ovčara, dated 19 January 1993. The Prosecution argues that the report is relevant to Hadžić and the RSK government's alleged knowledge of a serious crime

having been committed on its territory; according to the Prosecution, the report was given to the Joint Commission for Tracing Missing Persons, and Croatian and Serbian authorities were therefore aware of the conclusion that a mass grave containing 200 bodies of patients allegedly taken from Vukovar Hospital on 20 November 1991 existed in Ovčara. The Defence objects, arguing that the document should have been tendered through a witness. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

129. Rule 65 *ter* 01455 is an *FBIS* news article, entitled “Serb Krajina President: Counteroffensive Ready”, published by *Tanjug* on 27 January 1993. The Prosecution argues that this article demonstrates Hadžić’s alleged powers as RSK President and his control and involvement in military situations because it shows that Hadžić was in a command position with knowledge of the situation on the ground. The Defence objects, arguing that this article does not have sufficient indicia of reliability for admission and that the article is tendered for the directly incriminating purpose of establishing Hadžić’s “powers”. Additionally, the Defence notes that *FBIS* media reports are not the media reports as they appeared in the press, but rather reports that have been translated and transcribed by a media-monitoring organisation. The Prosecution replies that media articles may be tendered from the bar table. The Chamber finds that the document is not sufficiently reliable and therefore lacks sufficient probative value for admission into evidence.

130. Rule 65 *ter* 05910 is a report for Sector East, dated 28 January 1993. The Prosecution tenders the document under seal. The Prosecution argues that the report is relevant to ethnic cleansing in Sector East. The Defence objects, arguing that the report was not put to a witness whose testimony could have assisted the Chamber in determining the relevance of the document. The Defence also argues that the report is not reliable due to a lack of transparency: the report relies extensively on testimonial evidence, rather than direct observation of events, and is extensively based on media reports that would, themselves, not be admissible. The Prosecution replies that the objection is misleading as nothing in the document suggests that the report was “extensively based on media reports” as asserted by the Defence. Additionally, the Prosecution replies that the contents of the report were corroborated by UN personnel who were present in Sector East, who appeared as witnesses in the trial. The Chamber notes that the report appears to be a compilation of answers to a number of questions, but only the answers are given in the report; it is therefore difficult to determine what has been asked. Additionally, the answers provided are of a broad nature with no reference to locations or dates. The Chamber finds that the document is not sufficiently reliable and therefore lacks sufficient probative value for admission into evidence.

131. Rule 65 *ter* 05328 is an UNPROFOR message, dated 6 February 1993, regarding the situation in the RSK and a report of how RSK officials would not travel to negotiations at UNHQ in New York. The Prosecution argues that this document relates to the close relationship and cooperation between Slobodan Milošević and Hadžić. The Defence objects. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence. The Chamber, when deciding what weight to give to this evidence, will take into account the circumstances under which the evidence arose and will consider the context and character of the evidence in question.<sup>49</sup>

132. Rule 65 *ter* 01479 is a UN Economic and Social Council report on the situation of human rights in the territory of the former Yugoslavia submitted by the Special Rapporteur of the Commission on Human Rights, dated 10 February 1993. The Prosecution argues that this report relates to the alleged forcible transfer and deportation of non-Serbs from the RSK. The Prosecution also alleges that Hadžić would have known about the international condemnation by the UN of the expulsions taking place in the RSK. The Defence objects, arguing that the report makes wide-ranging conclusions, many of which concern the ultimate legal and factual issues to be determined by the Chamber based on the evidence before it. The Prosecution replies that the Defence arguments go to weight. Recalling that it is the province of the Trial Chamber to draw ultimate conclusions from the evidence adduced during the trial, the Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

133. Rule 65 *ter* 05331 is an UNPROFOR facsimile, dated 10 February 1993, purporting to summarise two media articles on the mobilisation of RSK youth of draft age into the army. The Prosecution argues that this document relates to military support between the FRY and the RSK. The Defence objects, arguing that this document does not have sufficient indicia of reliability for admission, especially because the document is tendered for the directly incriminating purpose of establishing the ostensibly criminal policies of the RSK government. The Prosecution replies that media articles may be tendered from the bar table. The Chamber finds that the document is not sufficiently reliable and therefore lacks sufficient probative value for admission into evidence.

134. Rule 65 *ter* 05334 is an UNPROFOR facsimile, dated 11 February 1993, attaching a letter from Hadžić in which he accepts an invitation for an RSK delegation to meet with Lord David Owen and Cyrus Vance in New York. The Prosecution argues that this document relates to the powers of Hadžić as President of the RSK and Supreme Commander of the Army of SAO Krajina (“SVK”). The Defence objects, arguing that the document should have been tendered through a

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<sup>49</sup> *Aleksovski* Decision, para. 15.

witness, especially considering the incriminating connotation provided by the Prosecution. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds the document is relevant and sufficiently probative for admission into evidence.

135. Rule 65 *ter* 05335 is an UNPROFOR “note to file”, dated 11 February 1993, regarding a telephone report on Sector South and consultations with Knin authorities. The Prosecution argues that this document relates to the alleged authority of Hadžić in the RSK. The Defence objects, arguing that the document should have been tendered through a witness, especially considering the incriminating connotation provided by the Prosecution. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds the document is relevant and sufficiently probative for admission into evidence. The Chamber, when deciding what weight to give to this evidence, will take into account the circumstances under which the evidence arose and will consider the context and character of the evidence in question.<sup>50</sup>

136. Rule 65 *ter* 05338 is an UNPROFOR facsimile, dated 25 February 1993, containing summaries of Belgrade press coverage on developments within the Knin leadership prior to and following their participation in the New York talks. The Prosecution argues that this document relates to Hadžić’s role in international negotiations and his relationship with Arkan. The Prosecution further submits that this document provides background on the events described in P2989. The Defence objects, arguing that there is no confirmation that the UNPROFOR summaries of the media articles are accurate and that there is no source whose reliability can be checked or challenged. The Defence further argues that the absence of any indication of a source renders the information at least double anonymous hearsay and of too low a probative value in relation to the pejorative and specific nature of the information tendered. The Prosecution replies that the Defence ignored the cover memorandum and two-page report preceding the attached newspaper articles and that media articles may be tendered from the bar table. The Chamber notes that the facsimile primarily consists of summaries of media articles. The Chamber finds that the document’s probative value is substantially outweighed by the need to ensure a fair trial; it therefore will not be admitted into evidence.

137. Rule 65 *ter* 01526 is an intelligence and security report from the 39<sup>th</sup> Corps Command to the RSK Army Main Staff in Knin, dated 2 March 1993. The Prosecution argues that this report is relevant to the alleged relationship shared by Hadžić and alleged JCE institutions and shows the alleged links between Hadžić and paramilitary groups operating in the RSK. The Defence objects, arguing that the Prosecution appears to be tendering the document for the truth of its contents, but a

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<sup>50</sup> *Aleksovski* Decision, para. 15.

review of the document as a whole strongly suggests a propaganda exercise; therefore, in the view of the Defence, the document is not sufficiently reliable for admission. The Prosecution replies that nothing in the report suggests its intended purpose was propaganda and that the Defence arguments go to weight not admissibility. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

138. Rule 65 *ter* 01561 is an UNPROFOR cable, dated 25 March 1993, regarding a meeting with Slobodan Milošević. The Prosecution argues that this document relates to Hadžić's alleged powers and *de facto* control over units on the territory of the RSK. The Defence objects, arguing that there is a reliability issue in relation to the specific purpose of admission proffered by the Prosecution: it is not clear whether it was Hadžić who exercised the "fairly" effective control referred to by Milošević, and the context of Milošević's statement is not clear. The Prosecution replies that the Defence arguments go to weight not admissibility. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

139. Rule 65 *ter* 01580 is a document containing various items of legislation from the RSK, dated 4 April 1992. The following are included: a decision on promulgating the Statute of the SAO SBWS, the Statute of the SAO SBWS, a decision on implementation of the Statute of the SAO SBWS, a decision on the organisation and mode of operation of the District Council of the SAO SBWS, and a decision to organise the district administrative organs. The Prosecution argues that this document is related to the legal and constitutional framework of events that unfolded in the SAO SBWS in 1992 and 1993 and that, because these decisions were adopted after the SAO SBWS joined the RSK, they establish the relationship between the two entities. The Defence objects, arguing that the document should have been tendered through a witness, especially considering the incriminating connotations provided by the Prosecution. The Defence argues that witnesses Christian Nielsen, Veljko Džakula, GH-016, and Reynaud Theunens would have been in a position to comment on this document. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

140. Rule 65 *ter* 01588 is an urgent request for the Serbian Ministry of Defence to send officers with a law degree to the RSK. The Prosecution argues that this document relates to the relationship between alleged JCE institutions, showing that, as late as April 1993, the RSK leadership was allegedly still dependant on military support from Serbia. The Defence objects, questioning what the "JCE institutions" are. The Prosecution replies that the JCE institutions are defined in the Indictment. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

141. Rule 65 *ter* 01592 is a report from the Novi Sad State Security Department to the RS MUP, dated 16 April 1993, regarding a meeting of the SBWS District Council held in Erdut on 9 April 1993. Rule 65 *ter* 01592.1 is the public redacted version of this document. The Prosecution argues that the document shows Hadžić's alleged authority *vis-à-vis* the SBWS District Council, of which Milan Ilić was a member. The Prosecution further states that the document complements the evidence of, *inter alia*, Blandina Negga and John McElligott concerning the role of Ilić in allegedly supporting crimes in SBWS and preventing the investigation of alleged crimes, such as those at Ovčara. The Defence objects, arguing that the document does not identify the source of the information and is thus based on double hearsay. The Prosecution replies that the Defence arguments go to weight not admissibility. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence. The Chamber, when deciding what weight to give to this evidence, will take into account the circumstances under which the evidence arose and will consider the context and character of the evidence in question.<sup>51</sup>

142. Rule 65 *ter* 01597.1 is a document containing transcribed excerpts from an audio-recording of the first session of the first regular sitting of the RSK Assembly held on 20 April 1993. The Prosecution argues that the document reflects the alleged authority of Hadžić to negotiate on an international level, specifically on the implementation of UN Security Council resolution 802, and that Hadžić allegedly had a lack of concern for non-Serbs and an alleged willingness to utilise a military option to prevent any negotiated solution involving the return of any of the territory of the RSK to Croatia. The Defence objects, arguing that the document is a draft transcription that may include inaccuracies and that the document is not suitably reliable for the purpose for which it is tendered because the words of Hadžić the document purports to contain are subject to interpretation. Additionally, the Defence notes that the Prosecution has not proffered that the audio-tape of the meeting is unavailable, thus violating the best evidence principle. The Prosecution replies that (a) the Defence fails to cite any compelling basis for the conclusory statement that the tendered transcript may include inaccuracies and the objection therefore amounts to conjecture, (b) the objection goes to weight not admissibility, and (c) the Chamber has previously admitted similar minutes and transcripts of various assembly sessions for which no audio recording was required. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

143. Rule 65 *ter* 01606 is a decision of the RSK Assembly to reject the administrative division of the Kingdom of Yugoslavia carried out by the leadership of the banned Communist Party of Yugoslavia in late November 1943, dated 20 April 1993. The Prosecution argues that this decision

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<sup>51</sup> *Aleksovski* Decision, para. 15.



by the RSK Assembly relates to the political background of the armed conflict and events charged in the Indictment. The Defence does not object. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

144. Rule 65 *ter* 01636 is a copy of the minutes of the 46<sup>th</sup> regular session of the government of the RSK held on 13 May 1993. The Prosecution argues that these minutes relate to the failure of the RSK government to take measures against paramilitary units and shows that it maintained a relationship with such units, corroborating evidence from John McElligott and John Brian Wilson. The Defence objects, arguing that it was incumbent upon the Prosecution to elicit testimonial commentary on the document, given the highly incriminating interpretation placed upon it by the Prosecution. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

145. Rule 65 *ter* 01647 is a report from the Novi Sad State Security Department, dated 26 May 1993, on the activity of criminals in Vukovar and Borovo Naselje. The Prosecution tenders this document under seal. Rule 65 *ter* 01647.1 is the public, redacted version of this document. The Prosecution argues that the document refers to the failure of the RSK and SBWS authorities to take measures against Serb perpetrators. The Defence objects, arguing that the document is based on an anonymous source and thus is unreliable. The Defence also argues that the Prosecution's attempt to link Hadžić to the incidents described by way of GH-024 should have required putting the document to GH-024. The Prosecution replies that the drafter of the report is named on the final page. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence. The Chamber, when deciding what weight to give to this evidence, will take into account the circumstances under which the evidence arose and will consider the context and character of the evidence in question.<sup>52</sup>

146. Rule 65 *ter* 01661 is an *FBIS* news article entitled "Croats Fire on UN-protected Krajina Area, Croatia Amassing Troops" and published by *Tanjug* on 4 June 1993. The Prosecution argues that this article relates to Hadžić's alleged knowledge of military events on the ground and his alleged powers as Commander in Chief. The Defence objects, arguing that this article does not have sufficient indicia of reliability for admission and that the article is tendered for the directly incriminating purpose of establishing Hadžić's criminal intent. Additionally, the Defence notes that *FBIS* media reports are not the media reports as they appeared in the press, but rather reports that have been translated and transcribed by a media-monitoring organisation. The Prosecution replies

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<sup>52</sup> *Aleksovski* Decision, para. 15.

that media articles may be tendered from the bar table. The Chamber finds that the document is not sufficiently reliable and therefore lacks sufficient probative value for admission into evidence.

147. Rule 65 *ter* 01665 is an *FBIS* news article entitled “RSK Serbs Holding Referendum on Joining Bosnian Serbs—Serb Leaders Welcome Decision”, dated 5 June 1993. The Prosecution argues that the article provides evidence of Hadžić’s relationship with other alleged JCE members and the common purpose of the alleged JCE. The Defence objects, arguing that the article lacks relevance and reliability and that the article is not probative as to the existence of a JCE or criminal intent. The Prosecution replies that media articles may be tendered from the bar table. The Chamber finds that the document is not sufficiently reliable and therefore lacks sufficient probative value for admission into evidence.

148. Rule 65 *ter* 02473.1 is a letter, dated 20 June 1993, from Mile Novaković to Slobodan Milošević informing Milošević about a request for assistance from officers of the SVK to the Chief of the General Staff of the JNA. The Prosecution argues that this letter relates to the cooperation and support between alleged JCE member Milošević and the SVK and VRS. Specifically, it is said to relate to another letter sent four days later by Hadžić (P209.140) to Milošević about providing resources to the SVK. The Defence does not object. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

149. Rule 65 *ter* 05393.1 is an ECMM letter to the Commission of Experts, entitled “Information on Paramilitary Organisations”. The Prosecution argues that the document provides evidence of the links between paramilitary groups and the RSK government, as well as their continued presence in the region after 1991. The Defence objects to pages 5–10, arguing that these pages are transcripts, translations, or summaries of newspaper articles that contain inconsistencies and therefore lack sufficient indicia of reliability for admission into evidence. The Prosecution replies that the Defence arguments regarding pages 5–10 go to weight not admissibility. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence. The Chamber, when deciding what weight to give to pages 5–10, will take into account the circumstances under which the evidence arose and will consider the context and character of the evidence in question.<sup>53</sup>

150. Rule 65 *ter* 01699 is an UNPROFOR facsimile regarding the visit of high level representatives from the RS to Sector North, dated 7 July 1993. The Prosecution argues that the document is relevant to the plurality of persons and the common purpose of the alleged JCE leaders and that it shows Hadžić representing the RSK in meetings regarding military cooperation with RS leaders. The Defence objects, arguing that the degree of uncertainty as to the source and origin of

the information, coupled with the incriminating connotation advanced by the Prosecution, render the document unreliable and unfairly prejudicial. The Prosecution replies that (a) it is not limited to tendering documents solely through witnesses and (b) the Defence arguments go to weight not admissibility. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence. The Chamber, when deciding what weight to give to the document, will take into account the circumstances under which the evidence arose and will consider the context and character of the evidence in question.<sup>54</sup>

151. Rule 65 *ter* 01700 is a daily report of the Croatian Army Main Staff of the Gospić Military District, dated 7 July 1993. The Prosecution argues that this document relates to Hadžić's mindset in 1993 with respect to peace negotiations by providing quotations that demonstrate his mistrust in the Geneva talks and in Croats. The Defence objects, arguing that the use of a Croatian Army report to establish Hadžić's mindset is subject to obvious bias and is manifestly unreliable and inappropriate, particularly in the absence of identified specific authorship. The Prosecution replies that (a) an objection based on the fact that the document originates from Croatian sources does not render it inadmissible, (b) the Defence arguments go to weight not admissibility, and (c) the document is reliable. The Chamber finds that the document's probative value is substantially outweighed by the need to ensure a fair trial; it therefore will not be admitted into evidence.

152. Rule 65 *ter* 01702 is a newspaper article entitled "Should the Croats Shell Knin, Serbs will Shell Zagreb", containing a purported interview with Hadžić published in *Globus* newspaper, dated 7 July 1993. The Prosecution argues that the document corroborates an exhibit that was tendered through Fred Noseworthy concerning a speech given by Hadžić that demonstrates his propensity to take retaliatory measures. Further, the Prosecution asserts that the article confirms the testimony of Blandina Negga that Hadžić had a policy of an eye for an eye and relates to Hadžić's powers over RSK territory. The Defence objects, arguing that the article lacks reliability and misstates or exaggerates the words of Hadžić and therefore is not suitable for the purposes proposed by the Prosecution. The Prosecution replies that (a) media articles may be tendered from the bar table and (b) the Defence arguments go to weight not admissibility. The Chamber finds that the document's probative value is substantially outweighed by the need to ensure a fair trial; it therefore will not be admitted into evidence.

153. Rule 65 *ter* 01708 is Opinion Number 11 of the Badinter Commission regarding dates of secession of each state from the SFRY, dated 16 July 1993. The Prosecution argues that this document sets out conclusions on the dates of secession and compliments Agreed Fact 34. The

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<sup>53</sup> *Aleksovski* Decision, para. 15.

Defence does not object. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

154. Rule 65 *ter* 01725 is a media article from *NIN* magazine, entitled “Patriot-Profiteer”, by B. Gulan, dated 30 July 1993. The Prosecution argues that the document is relevant to the plurality of persons of the alleged JCE and corroborates the close relationship between Hadžić and Slobodan Milošević, as described by witness Borivoje Savić. The Defence objects, arguing that the document lacks sufficient indicia of reliability for its admission into evidence. The Prosecution replies that media articles may be tendered from the bar table. The Chamber finds that the document is not sufficiently reliable and therefore lacks sufficient probative value for admission into evidence.

155. Rule 65 *ter* 05408 is a UN Secretariat memorandum from Vladmir Kotliar to Knut Vollebaek, entitled “Cooperation of the Serb-Krajina Administration in the Implementation of Mass Grave Investigations”, dated 5 August 1993. The Prosecution argues that the document is relevant to the killings in Ovčara and discusses the uncooperative stance of the RSK authorities in the implementation of mass grave investigations. The Defence objects, arguing that the Prosecution failed to put the document to a witness whose testimony could have assisted the Chamber in determining the proper interpretation and relevance of the document. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

156. Rule 65 *ter* 05413 is a report, dated 19 August 1993, regarding negotiations between Croatia and the RSK. The Prosecution tenders the document under seal. The Prosecution argues that the document relates to Hadžić’s contribution to the alleged JCE through his control of the RSK delegation at international negotiations. The Defence objects, arguing that the document lacks relevance because Hadžić’s alleged control at a negotiation is not legally relevant to control over the crimes charged. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

157. Rule 65 *ter* 05417 is an UNPROFOR memorandum regarding events in Plitvice, dated 20 August 1993. The Prosecution argues that the document is relevant to Hadžić’s alleged contribution to the alleged JCE through his control of international negotiations on behalf of the RSK and shows that Milan Martić was a member of his negotiating team. Furthermore, the Prosecution asserts that this document complements the testimony of Geert Ahrens. The Defence objects, arguing that the document lacks relevance and reliability and that it should have been shown to a witness to elicit

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<sup>54</sup> *Aleksovski* Decision, para. 15.

testimonial commentary regarding its proper interpretation. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

158. Rule 65 *ter* 01760 is an UNPROFOR mission report concerning support for excavation operations in Sector East and Sector West, dated 26 August 1993. The Prosecution argues that the document relates to delays and resistance by the RSK authorities to the Ovčara exhumation and corroborates evidence received by witness John McElligott. The Defence objects, arguing that the document lacks relevance and that it should have been shown to a witness to elicit testimonial commentary given the incriminating character advanced by the Prosecution. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

159. Rule 65 *ter* 01765 is a Croatian Army daily report regarding the situation in the Gospić Military District for 31 August 1993. The Prosecution argues that the report is relevant to Hadžić's intent in participating in the alleged JCE aimed at removing non-Serbs from large parts of Serb-controlled areas in Croatia and demonstrates that he was of the position that cohabitation was impossible between Serbs and Croats. The Defence objects, arguing that the use of a Croatian Army report to establish Hadžić's mindset is subject to obvious bias and is manifestly unreliable and inappropriate, particularly in the absence of identified specific authorship. The Prosecution replies that an objection based on the fact that the document originates from Croatian sources does not render it inadmissible. The Chamber finds that the document's probative value is substantially outweighed by the need to ensure a fair trial; it therefore will not be admitted into evidence.

160. Rule 65 *ter* 01768 is a letter from the Serbian "Chetnik" Organisation Main Board to the RSK Ministry of Defence regarding participation of "Chetnik" volunteers, dated 7 September 1993. The Prosecution argues that this letter, submitted simultaneously with Rule 65 *ter* 01775 in the Motion, provides evidence of the link between the RSK government and paramilitary groups operating with the support of politicians in Serbia. The Defence objects, arguing that the document should have been tendered through a number of witnesses who were in the position to address its proper interpretation. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

161. Rule 65 *ter* 01769 is an *FBIS* news article, entitled "Goran Hadžić Rejects Any Co-existence with Croats", published by *Borba* newspaper on 7 September 1993. The Prosecution argues that this document, in conjunction with Rule 65 *ter* 01765, provides evidence of Hadžić's intent in participating in the alleged JCE aimed at removing non-Serbs from large parts of Serb-controlled

areas of Croatia. The Defence objects, arguing that the article is not relevant to any of the alleged crimes in the Indictment, nor does it show proof of a shared intent to remove non-Serbs from Serb-controlled areas of Croatia. Further, the Defence asserts that the Prosecution's characterisation is taken out of context and is at odds with other purported statements by Hadžić in the same document. The Prosecution replies that (a) the Defence arguments go to weight not admissibility and (b) media articles may be tendered from the bar table. The Chamber finds that the document is not sufficiently reliable and therefore lacks sufficient probative value for admission into evidence.

162. Rule 65 *ter* 01772 contains a stenographic transcript of the 13<sup>th</sup> session of the SDC, dated 7 September 1993. The Prosecution tenders the document under seal. The Prosecution argues that the document corroborates the evidence of GH-027 on an issue relevant to the Indictment. The Defence objects, arguing that the document should have been tendered through a number of witnesses, especially given the document's incriminating connotation advanced by the Prosecution. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

163. Rule 65 *ter* 01775 is a letter from the RSK Ministry of Defence to the Serbian "Chetnik" Organisation Main Board regarding engagement of "Chetnik" volunteers in war units of the RSK Army, dated 9 September 1993. The Prosecution argues that this document, in conjunction with Rule 65 *ter* 01768, shows evidence of various institutions working together as part of the alleged JCE, specifically the link between the RSK government and paramilitary groups operating with the support of politicians in Serbia. The Defence objects. The Prosecution replies that the Defence arguments go to weight not admissibility. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

164. Rule 65 *ter* 01788 contains the minutes of the continued 66<sup>th</sup> session of the RSK government held in Knin on 16 September 1993. The Prosecution argues that this document shows that members of the RSK government, and specifically alleged JCE members, were informed about and accepted problems related to the use of volunteer units. The Defence objects, arguing that the document should have been tendered through a witness whose testimony could have aided the Chamber in determining its relevance and probative value. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

165. Rule 65 *ter* 01800 is an *FBIS* news article published by *Novosti* newspaper, entitled "Krajina's Goran Hadžić Predicts SDS to Take Power", dated 28 September 1993. The Prosecution argues that the article provides evidence of Hadžić's acknowledgement of his authority as RSK President, including the power to appoint and dismiss members of the Government and armed

forces. The Defence objects, arguing that the article lacks reliability as no author is indicated, the Prosecution has not obtained the original article, and there are contradictions within the proposed translation. The Prosecution replies that media articles may be tendered from the bar table. The Chamber finds that the document is not sufficiently reliable and therefore lacks sufficient probative value for admission into evidence.

166. Rule 65 *ter* 01802 is a document containing the minutes of the continued 66<sup>th</sup> session of the RSK government on 28 September 1993 in Knin. The Prosecution argues that the document relates to the common plan of the alleged JCE, the contributions of alleged JCE members to the plan, and the foreign policy being conducted by the RSK. The Defence objects, arguing that the document should have been tendered through a witness whose testimony could have aided the Chamber in determining its relevance. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

167. Rule 65 *ter* 05441 is an UNPROFOR memorandum, dated 30 September 1993, regarding UNPROFOR's request for an assessment of the situation of Croats. The Prosecution argues that the document relates to the alleged removal of the non-Serb population from certain areas of Croatia and depicts the situation for Croats in Sector East. The Defence objects, arguing that the document lacks relevance and reliability and that the document should have been tendered through a witness whose testimony could have aided the Chamber in determining its relevance and probative value. Further, the Defence asserts that the document provides legal conclusions that are properly within the competence of the Chamber. The Prosecution replies that (a) it is not limited to tendering documents solely through witnesses and (b) the Defence arguments go to weight not admissibility. Recalling that it is the province of the Trial Chamber to draw ultimate conclusions from the evidence adduced during the trial, the Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

168. Rule 65 *ter* 05443 is a document containing selected excerpts of the UNPROFOR monthly analysis for Sector East, dated 4 October 1993, including a summary of an UNPROFOR meeting with Hadžić. The Prosecution argues that the document shows Hadžić's powers as President, as well as the links between Arkan's Men and the RSK government. The Defence objects to the portion of the document concerning a meeting with a person who appeared as a witness in the trial; therefore, in the view of the Defence, the document should have been tendered through him in order to confirm or clarify the propositions recorded in the statement. The Prosecution replies that (a) the Defence is incorrect in its assertion that part of the document is ambiguous, (b) the Prosecution is not limited to tendering documents solely through witnesses, (c) the Prosecution planned to tender

Rule 65 *ter* 05443 through the witness, but chose not to do so due to time constraints, and (d) Rule 65 *ter* 05443 corroborates evidence contained in the witness's written statement. The Chamber finds that the portion of the document that pertains to the witness called by the Prosecution should have been put to that witness and is not appropriate for admission from the bar table; however, the Chamber finds that the remainder of the document is relevant and sufficiently probative for admission into evidence. The Chamber will therefore order the Prosecution to prepare a version of the document with the portion redacted that pertains to the witness who appeared in the trial (pages 7 and 8 in their entirety and the first three lines of page 9).

169. Rule 65 *ter* 05445 is an UNPROFOR facsimile, dated 6 October 1993, attaching the local press summary for Belgrade. The Prosecution argues that the document relates to the policies of Hadžić and actions he took that display his intent to discriminate against Croats by encouraging further conflict, including drastic and inflammatory statements made by him concerning the conflict. The Defence objects, arguing that the document lacks the indicia of reliability to provide the Chamber with an adequate basis on which to attribute weight to the information contained therein. Further, the Defence asserts that the indicia of reliability are particularly deficient in relation to the words attributed to Hadžić, which are at least triple hearsay from anonymous sources. The Prosecution replies that (a) media articles may be tendered from the bar table and (b) the document is reliable. The Chamber finds that the document's probative value is substantially outweighed by the need to ensure a fair trial; it therefore will not be admitted into evidence.

170. Rule 65 *ter* 05448 is a memorandum, dated 7 October 1993, regarding Krajina. The Prosecution tenders the document under seal. The Prosecution argues that the document relates to the issue of Hadžić's alleged discriminatory intent to separate Serbs from non-Serbs and his efforts to neutralise the efforts of moderates trying to negotiate a peaceful settlement. According to the Prosecution, the report is consistent with the testimony of witnesses Aernout Van Lynden, GH-154, and Veljko Džakula. The Defence objects, arguing that the document is devoid of indicia of reliability due to its lack of authorship and that it covers a wide range of topics "culled from various sources" that are mostly unidentified and therefore unsuitable for admission into evidence. The Prosecution replies that (a) the Defence arguments go to weight not admissibility and (b) the document is reliable. The Chamber finds that the document's probative value is substantially outweighed by the need to ensure a fair trial; it therefore will not be admitted into evidence.

171. Rule 65 *ter* 01822 is an UNPROFOR coded cable regarding a letter from the RSK Ministry of Foreign Affairs, dated 9 October 1993. The Prosecution argues that the document relates to the alleged intent of the RSK leadership to block efforts of the international community to disarm the UNPAs according to the Vance Plan and resolve the crisis in Croatia. The Defence objects, arguing



that the document should have been tendered through a witness whose testimony could have aided the Chamber in determining its relevance and probative value. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

172. Rule 65 *ter* 03138 is an UNPROFOR report concerning an incident on Batina Bridge, dated 9 October 1993. The Prosecution argues that this report relates to the close relationship between Arkan, Arkan's Men, and the RSK government. Specifically, the Prosecution avers that the report corroborates the testimony of John Wilson regarding the Batina Bridge incident and the testimony of GH-024 regarding the security Arkan and his men provided to the RSK government. The Defence objects, arguing that the document should have been tendered through a witness whose testimony could have aided the Chamber in determining its relevance and probative value. Specifically, the Defence asserts that the Prosecution questioned Wilson about the Batina Bridge incident, but failed to show the document to him because it contained information that was contrary to Prosecution submissions on the issue. The Prosecution replies that the document is relevant and contests the Defence's characterisation of its tendering of this document as a "Trojan Horse". The Chamber considers that the Prosecution is tendering the document to show two separate assertions—(a) the close relationship between Arkan's men and the RSK government and (b) the Batina Bridge incident—and not to show that Hadžić was present at the time of this incident. The Chamber also observes that the proposed evidence is corroborated by the testimony of GH-024, John Wilson, and other documentary evidence. Accordingly, the Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

173. Rule 65 *ter* 01827 contains a stenographic transcript of the 14<sup>th</sup> session of the SDC, dated 11 October 1993. The Prosecution tenders the document under seal. The Prosecution argues that the document is relevant to issues in the Indictment. The Defence objects, arguing the document should have been tendered through a witness whose testimony could have aided the Chamber in determining its relevance and probative value. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber has already taken judicial notice of this document's authenticity;<sup>55</sup> moreover, the Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

174. Rule 65 *ter* 05459 is an UNPROFOR Sector East situation report sent to UNPROFOR headquarters, dated 21 October 1993. The Prosecution argues that the document relates to the close relationship between Hadžić and alleged JCE member Arkan and demonstrates the ties between

Arkan's Men and the RSK government. The Defence objects, arguing that the document should have been tendered through a witness whose testimony could have aided the Chamber in determining its relevance and probative value. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

175. Rule 65 *ter* 05463 is an UNPROFOR cable, dated 23 October 1993, reporting on Sector South. The Prosecution argues that the document shows that Hadžić and Milan Martić shared a working relationship and that ethnic cleansing was being committed against Croats in Sector South. The Defence objects, arguing that, because of its incriminating nature, the Prosecution should have tendered the document through a witness. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

176. Rule 65 *ter* 01861 is an UNPROFOR facsimile, dated 31 October 1993, regarding the Ovčara mass grave exhumation. The Prosecution argues that the document relates to the failure of the RSK leadership to allow an investigation into the killing of non-Serbs at Ovčara by purposefully prolonging agreement on the operational modalities for such an investigation. The Defence objects, arguing that the Prosecution should have tendered the document through a witness. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

177. Rule 65 *ter* 05471 is a coded cable, dated 1 November 1993. The Prosecution tenders the document under seal. The Prosecution argues that this document shows Hadžić's leading role in negotiations and corroborates Geert Ahrens's evidence in this respect. The Defence objects, arguing that the Prosecution should have tendered the document through a witness and that the Prosecution's interpretation is "unhelpful". The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

178. Rule 65 *ter* 01882 is a decision of the RSK MUP in relation to the entry of Croatian citizens into the RSK, dated 12 November 1993. The Prosecution argues that the document is relevant because it relates to the alleged discriminatory policies of the RSK. The Defence objects, arguing that the law is not discriminatory and that the Prosecution should have tendered the document through a witness, had it wished to place such an incriminating connotation on it. The Prosecution

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<sup>55</sup> Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts and Documents, 23 May 2013, para. 22(d), Annex B, tab 151.

replies that (a) it is not limited to tendering documents solely through witnesses and (b) the Defence arguments go to weight not admissibility. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

179. Rule 65 *ter* 01895 is a letter of the UN Commission of Experts, dated 19 November 1993, regarding the political situation in the RSK and the probable consequences of an investigation at Ovčara. The Prosecution argues that the document is relevant to (a) the Ovčara killings and the RSK and Serbia's alleged attempts to delay UN Commission access to the mass grave, (b) the alleged JCE, in that it confirms evidence about strong ties between the RSK leaders and the Belgrade leadership, and (c) Hadžić's continued relationship with Arkan in late 1993. The Defence objects, arguing that the Prosecution should have tendered the document through a witness. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

180. Rule 65 *ter* 03621.1 consists of excerpts from the fifth periodic report of the Special Rapporteur of the UN Commission on Human Rights on the situation in the former Yugoslavia, dated 20 November 1993. The Prosecution argues that (a) the report covers the situation (violence, intimidation, destruction, discrimination, and population displacement) for persons remaining in Serb-controlled areas of Croatia, including all four sectors, during 1993 and (b) the Special Rapporteur concludes that the massive "ethnic cleansing" of Croats and other non-Serbs was largely a *fait accompli* in the UNPAs. The Defence objects, arguing that the report consists of mere commentary that cannot form a basis for proper findings of fact. The Prosecution replies that the Defence arguments go to weight not admissibility. Recalling that it is the province of the Trial Chamber to draw ultimate conclusions from the evidence adduced during the trial, the Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

181. Rule 65 *ter* 01908 is a UN military intelligence report, dated 26 November 1993, regarding Arkan. The Prosecution argues that the report contains a review of Arkan's alleged actions in the conflict, including his use of the Erdut Training Centre and his alleged role as Hadžić's special security detail well into 1993. The Defence objects, arguing that the document identifies no sources and mainly expresses impressions and conclusions. The Prosecution replies that the document is reliable and relates to facts and events in concrete terms. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence. The Chamber, when deciding what weight to give to this evidence, will take into account the circumstances under which the evidence arose and will consider the context and character of the evidence in question.<sup>56</sup>

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<sup>56</sup> *Aleksovski* Decision, para. 15.

182. Rule 65 *ter* 01814.1 is the final report of the UN Commission of Experts on the former Yugoslavia established pursuant to Security Council resolution 780, of 6 October 1992. The Prosecution argues that the document relates to Hadžić's alleged authority and knowledge of crimes. The Defence objects, arguing that the Prosecution should have tendered the report through a witness, especially given its subjective interpretation of the document that cannot be tested by the Defence. The Prosecution replies that (a) it is not limited to tendering documents solely through witnesses and (b) the Defence arguments go to weight not admissibility. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

183. Rule 65 *ter* 01925 is an UNPROFOR cable from Thorvald Stoltenberg to Kofi Annan, dated 15 December 1993, in relation to the RSK presidential elections. The Prosecution argues that the cable is relevant because it describes Hadžić and Slobodan Milošević as being closely aligned. The Defence objects, arguing that the content of the document is speculative and unreliable. The Prosecution replies that the Defence arguments go to weight not admissibility. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

184. Rule 65 *ter* 02924 is a document listing employees decorated by the RSK Ministry of Internal Affairs, including J. Stanišić. The Prosecution argues that this document relates to alleged JCE members and institutions working together pursuant to a common plan. The Defence does not object. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

185. Rule 65 *ter* 01870.1 is a purported excerpt of Ratko Mladić's handwritten diary from the time period 8 November 1993 to 11 January 1994. The Prosecution argues that this excerpt is relevant because it relates to a meeting of alleged JCE members that Hadžić attended, which therefore is relevant to his continuing role in and contribution to the alleged JCE. The Defence objects, arguing that the diary has not been authenticated and that there is no proof that it actually is a "diary" or that it is contemporaneous to any relevant events. The Prosecution replies that the Defence arguments go to weight not admissibility. The Chamber finds that the Prosecution has failed to authenticate the document in this case; it will therefore not be admitted into evidence.

186. Rule 65 *ter* 05915 is a facsimile, dated 1 February 1994, regarding alleged crimes committed in Sector East. The Prosecution tenders this document under seal. The Prosecution argues that the document shows that during 1993, minorities in Sector East lacked protection under RSK laws and were subjected to discrimination and ethnically motivated crimes. The Defence objects, arguing that the document is not reliable because the author is not identified and because it mainly consists of double hearsay. The Prosecution replies that (a) the author of the report is identified but has been redacted pursuant to Rule 70, (b) the assertion made by the Defence that the

report pertains to events from 1992 is incorrect, and (c) the report is reliable. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence. The Chamber, when deciding what weight to give to this evidence, will take into account the circumstances under which the evidence arose and will consider the context and character of the evidence in question.<sup>57</sup>

187. Rule 65 *ter* 01978 is a Croatian missing persons questionnaire for Zorislav Gašpar, dated 14 February 1994. The Prosecution argues that the document relates to the killing of non-Serbs after the fall of Vukovar, in particular victims from Vukovar Hospital. The Defence does not object, so long as the use of the document is limited to the purpose of showing the person's disappearance. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence. The Chamber notes that it has admitted a plethora of missing persons questionnaires during the trial and sees no need to admit this document for a limited purpose.

188. Rule 65 *ter* 02023.1 is a Croatian missing persons questionnaire for Siniša Glavašević, dated 4 March 1994. The Prosecution argues that the document is relevant to the killings at Ovčara and the alleged cover-up by the RSK authorities. The Defence objects, arguing that the Prosecution should have tendered the document through a witness. The Prosecution replies that (a) it is not limited to tendering documents solely through witnesses and (b) it attempted to tender the document through GH-080, but was unable to do so due to an objection from the Defence. The Chamber recalls that it sustained a Defence objection in relation to this document and disallowed the Prosecution from using it with a witness during the trial.<sup>58</sup> However, this does not preclude admission from the bar table. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

189. Rule 65 *ter* 05495 is the Council of Europe's fifth information report on war damage to the cultural heritage in Croatia and Bosnia and Herzegovina, dated 12 April 1994. The Prosecution argues that the document is relevant to the destruction of Catholic sites in Sector East, which was more pronounced than the destruction of Orthodox sites. The Defence objects, arguing that the report gives little or no indication of the cause of the damage. The Prosecution replies that the report details the damage done to religious and cultural buildings, which should be reviewed together with other evidence to assess the cause of such damage. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence. The Chamber, when deciding what weight to give to this evidence, will take into account the circumstances under which the evidence arose and will consider the context and character of the evidence in question.<sup>59</sup>

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<sup>57</sup> *Aleksovski* Decision, para. 15.

<sup>58</sup> Hearing, 6 March 2013, T. 3386-3393 (confidential).

<sup>59</sup> *Aleksovski* Decision, para. 15.

190. Rule 65 *ter* 02038.1 is a series of orders from 1995 of the Serbian “Chetnik” Movement, reprinted in a book of Vojislav Šešelj. The Prosecution argues that the document relates to the combat activities and positions of members of paramilitary units under the alleged direction of Serbian political leaders, in particular alleged JCE member Vojislav Šešelj; the Prosecution also avers that the document shows the widespread participation of Šešelj’s paramilitaries in the conflict and his power to strip his fighters of their titles. The Defence does not object. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

191. Rule 65 *ter* 03135.1 is a UN report, from approximately late April 1994, regarding Arkan’s Men. The Prosecution argues that the document is relevant to the alleged cooperation of Arkan’s units with military and political leaders in the RSK. The Defence objects, arguing that the document has no author, almost no sources, and mainly sets out general expressions and conclusions; moreover, according to the Defence, the document should have been put to a UN-related witness. The Prosecution replies that the Defence arguments go to weight not admissibility. Recalling that it is the province of the Trial Chamber to draw ultimate conclusions from the evidence adduced during the trial, the Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

192. Rule 65 *ter* 02056 is an annex to a 1994 final report of the UN Commission of Experts for the former Yugoslavia, regarding the battle of Vukovar and crimes committed in connection therewith. The Prosecution argues that the document is relevant to (a) the commission of crimes committed before, during, and after the battle of Vukovar, including crimes committed at Ovčara, (b) the removal of the population of Western Srem, and (c) the treatment of detainees at various prison camps in Croatia and Serbia. The Defence objects, arguing that the report is retrospective and either relies on unidentified sources or on sources to which the Chamber has no access. Furthermore, the Defence argues that the report is not reliable given the lack of methodology or bibliography. The Prosecution replies that the Defence arguments go to weight not admissibility. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence. The Chamber, when deciding what weight to give to this evidence, will take into account the circumstances under which the evidence arose and will consider the context and character of the evidence in question.<sup>60</sup>

193. Rule 65 *ter* 02059 is the final report of the UN Commission of Experts for the former Yugoslavia, dated 27 May 1994. The Prosecution argues that this document relates to (a) the widespread and systematic nature of crimes committed during the Indictment period, including in

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<sup>60</sup> *Aleksovski* Decision, para. 15.

the SBWS region, (b) the impediments posed by the government of the RSK to the exhumation of the remains of victims at Ovčara, and (c) the activities of the Serb forces in SBWS during the period relevant to the Indictment. The Defence objects, arguing that the report is retrospective and either relies on unidentified sources or on sources to which the Chamber has no access. Furthermore, the Defence argues that it is not reliable given the lack of methodology or bibliography. The Prosecution replies that the Defence arguments go to weight not admissibility. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence. The Chamber, when deciding what weight to give to this evidence, will take into account the circumstances under which the evidence arose and will consider the context and character of the evidence in question.<sup>61</sup>

194. Rule 65 *ter* 02200 is an interview with Vojislav Šešelj published in a Zagreb newspaper on 22 September 1995. The Prosecution argues that the document is relevant to the plurality of persons involved in the commission of crimes pursuant to the alleged JCE. The Defence objects, arguing that statements by witnesses or prospective witnesses long after the events are not admissible merely because they have been published in a newspaper. The Prosecution replies that the Defence arguments go to weight not admissibility. The Chamber finds that the document is not sufficiently reliable and therefore lacks sufficient probative value for admission into evidence.

195. Rule 65 *ter* 02108.2 is purportedly an excerpt from a book authored by Borislav Jović, which discusses Jović's resignation on 16 March 1991. The Prosecution argues that the document supports the date of the video clip Rule 65 *ter* 04866.1, which involves a speech by Slobodan Milošević on the occasion of Jović's resignation. The Defence objects, arguing that the information does not prove or disprove anything. The Prosecution replies that it has already specified that the document is relevant and is tendered to support the date of the video clip Rule 65 *ter* 04866.1, to which the Defence does not object. The Chamber finds that the excerpt of the book, which bears no cover page or other contextualising information, is not appropriate for admission from the bar table.

196. Rule 65 *ter* 02108.3 is purportedly an excerpt from a book authored by Borislav Jović, which relates to a 17 March 1991 meeting between alleged JCE members. The Prosecution argues that the document shows that the leadership of the armed forces had already decided to support the position of Slobodan Milošević on Croatia. The Defence objects, arguing that the information does not prove or disprove anything. The Prosecution replies that (a) it has specified that the document is relevant to the development of the alleged JCE and (b) the Defence arguments go to weight not admissibility. The Chamber finds that the excerpt of the book, which bears no cover page or other contextualising information, is not appropriate for admission from the bar table.

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<sup>61</sup> *Aleksovski* Decision, para. 15.

197. Rule 65 *ter* 02232 is purportedly a report from the Serbian MUP regarding an official ceremony held on 16 January 1996. The Prosecution argues that the document relates to the plurality of persons involved in the alleged JCE, including Hadžić and Jovica Stanišić. The Prosecution also avers that the document complements the information in exhibit P1943 concerning the ceremonies held on the Day of Security and at Kula. The Defence objects, arguing that the information does not prove or disprove anything. The Prosecution replies that (a) it has already specified that the document is relevant in relation to the development of the alleged JCE and (b) the Defence arguments go to weight not admissibility. The Chamber notes that the document bears no letter head and is neither stamped nor signed. The Chamber finds that the document is not sufficiently reliable and therefore lacks sufficient probative value for admission into evidence.

198. Rule 65 *ter* 02252 is a newspaper article entitled “Tracking Down the Crime: The Bloody Bijeljina Bayram”, published by *Slobodna Bosna* newspaper on 5 April 1996. The Prosecution argues that this news report relates to the alleged close relationship of Hadžić and Arkan and the alleged role of Arkan’s Men. The Defence objects, arguing that news articles do not have sufficient indicia of reliability for admission, especially given that the article purports to re-print an article published four years before. The Prosecution replies that (a) media articles may be tendered from the bar table and (b) the article’s author, title, date and the newspaper in which it was published are specified. The Chamber finds that the document is not sufficiently reliable and therefore lacks sufficient probative value for admission into evidence.

199. Rule 65 *ter* 02272 is a media article, entitled “We Have Not Lost a Single Battle”, containing a purported interview with Arkan in July 1996. The Prosecution argues that the interview is related to the activities and authority of alleged JCE member Arkan during the Indictment period. The Prosecution also avers that the article corroborates the testimony of a number of witnesses. The Defence objects, arguing that the document, as a press article, is not reliable and that the document’s indicia of reliability are not proportionate to the incriminating interpretation placed on it by the Prosecution. The Prosecution replies that (a) media articles may be tendered from the bar table and (b) the Defence arguments go to weight not admissibility. The Chamber finds that the document is not sufficiently reliable and therefore lacks sufficient probative value for admission into evidence.

200. Rule 65 *ter* 02862 is an undated handwritten letter from Milan Ilić to Hadžić, President of RSK, regarding the importance and necessity of the Regional Council. The Prosecution argues that this document demonstrates the authority of Hadžić, the fact he was responsible for establishing the SBWS district council, and his alleged close connection with Milan Ilić. The Defence objects, arguing that the document has not been authenticated and that there is no way of verifying whether



or not it was ever sent or delivered to Hadžić. The Prosecution replies that (a) the document is authentic, (b) the Defence arguments go to weight not admissibility, and (c) the Prosecution is not limited to tendering documents solely through witnesses. The Chamber finds that the document is not sufficiently reliable and therefore lacks sufficient probative value for admission into evidence.

201. Rule 65 *ter* 02916 is an undated list of prisoners at Begejci Camp, containing prisoners' names, dates of birth, and places from which they were taken. The Prosecution argues that the document relates to the alleged persecution and unlawful detention of persons in the Begejci agricultural complex during the Indictment period and has been annotated by three different witnesses and tendered in excerpted form. Therefore, in the view of the Prosecution, the list should be admitted in full as a record of the persons detained at the facility. The Defence objects. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence.

202. Rule 65 *ter* 03048 is a list of personnel who held RSK MUP identification cards. The Prosecution argues that the document relates to the alleged JCE institutions, including the Serbian DB and the Red Berets, and establishes a link between the RSK police and the Red Berets. The Prosecution also avers that the document provides context to documents associating the Red Berets with the RSK police. The Defence objects, arguing that the document has not been authenticated and bears no indication of its authorship, date, or creation. The Prosecution replies that (a) the document is authentic and (b) the Defence arguments go to weight not admissibility. The Chamber notes that the document bears no letter head, is undated, and is neither stamped nor signed. The Chamber finds that the document is not sufficiently reliable and therefore lacks sufficient probative value for admission into evidence.

203. Rule 65 *ter* 03371.1 and 03386.1 are the personnel files of two individuals. The Prosecution tenders the documents under seal. The Prosecution argues that the documents relate to the participation of the Red Berets in attacks on towns in Western Srem in September 1991. The Defence objects, arguing that the documents have not been authenticated and that they are not relevant to any of the charges against Hadžić. The Prosecution replies that the documents are authentic and reiterates that the documents are relevant. The Chamber notes that the documents were provided to the Prosecution by a state and in response to an official request for assistance; the documents also bear official letter head, are dated, and bear both a stamp and signature. The Chamber finds that the documents are relevant and sufficiently probative for admission into evidence.

# 1. Law library documents

204. In the Motion, the Prosecution tenders 17 documents that consist of “laws and decrees published in official gazettes.”<sup>62</sup> It proposes that they be admitted as “Law Library” exhibits and designated “L” exhibit numbers pursuant to paragraph 7 of the Guidelines, unless the Defence objects to the admission of the documents or such a designation, in which case it submits they should be marked as “P” exhibits.<sup>63</sup>

205. The Chamber notes that the Defence does not object to the admission of ten of these documents;<sup>64</sup> it objects to the admission of six;<sup>65</sup> and it makes no submission in respect of one of the documents.<sup>66</sup> As to this last document, the Chamber will consider the lack of submissions to be an indication that there is no objection to its admission.

206. With regard to the eleven documents to which the Defence does not object, the Chamber finds that they are relevant and sufficiently reliable for admission into evidence.

207. The Chamber will now turn to discuss each of the “Law Library” documents to which the Defence has objected.

208. Rule 65 *ter* 01319 is a decree issued by Hadžić promoting Colonel Mile Novaković to the rank of Major-General of the SVK, issued on 25 October 1992. The Prosecution argues that the document is relevant to Hadžić’s powers as President of the RSK. The Defence objects, arguing that the Prosecution should have put the document to numerous witnesses who could have interpreted it. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence as it is signed by Hadžić, stamped, and pertains to his authority at the time relevant to the Indictment.

209. In the Motion, the Prosecution states that it is tendering Rule 65 *ter* 01514, a 98-page document in the original BCS, with only a two-page translation. The Chamber understands that Rule 65 *ter* 01514.1 is being tendered by the Prosecution, a one-page document in both the BCS and English translation, which is the first page of the Decree on the Law of the SVK issued by Hadžić on 24 February 1993. The Prosecution argues that the document is relevant to Hadžić’s powers as RSK President, more specifically his ability to exercise legislative authority. The Defence objects, arguing that a decree formally promulgating a law passed by another body is not

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<sup>62</sup> Motion, para. 12.

<sup>63</sup> Motion, para. 12. *See* fn. 22.

<sup>64</sup> Rule 65 *ter* 00270, 00377, 01429, 01430, 01431, 01432, 01440, 01445, 01614, and 01836.

<sup>65</sup> Rule 65 *ter* 01319, 01514, 01515, 01595, 01664, and 01739.

necessarily indicative of Hadžić's authority. It further argues that the document should have been put to a number of witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence as it is signed by Hadžić, stamped, and pertains to his authority at the time relevant to the Indictment.

210. Rule 65 *ter* 01515 is a decree about the enactment of the law on the military prosecutor's office issued by Hadžić on 24 February 1993. The Prosecution argues that the document shows Hadžić's authority as RSK president and his ability to exercise legislative authority. The Defence objects, arguing that this document should have been put to numerous witnesses. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence as it is signed by Hadžić, stamped, and pertains to his authority at the time relevant to the Indictment.

211. Rule 65 *ter* 01595 is the Law on Military Courts published in the RSK Official Gazette on 22 April 1993. The Prosecution argues that it is relevant to show Hadžić's failure to exercise his powers as President of the RSK to punish crimes. The Defence objects. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence as it pertains to the authority of the RSK President, Hadžić's alleged position at the time relevant to the Indictment.<sup>67</sup>

212. Rule 65 *ter* 01664 is a decision on the status of the Serbian District of Western Slavonia issued by the President of the RSK Assembly Mile Paspalj on 5 June 1993. The Prosecution argues that it shows the RSK government's position with respect to the status of Western Slavonia. The Defence objects, arguing that the document should have been shown to witnesses, and also questions the relevance of the document. The Chamber notes that, on 23 October 2012, the Prosecution was granted leave to use this document in the re-direct examination of witness Veljko Džakula.<sup>68</sup> Although the Prosecution did not make use of this opportunity, the Chamber finds that this does not preclude the Prosecution from tendering the document at this stage. The Chamber further finds that the document is relevant and sufficiently probative for admission into evidence as it relates to the development of the political organisation of Serbs in Croatia at the time relevant to the Indictment.

213. Rule 65 *ter* 01739 is a decree concerning SVK recruitment issued by the RSK government and published in the RSK Official Gazette on 18 August 1993. The Prosecution argues that it is relevant because it shows the powers of the RSK President over the armed forces. The Defence objects, arguing that the Prosecution should have shown the document to witnesses who would have

<sup>66</sup> Rule 65 *ter* 00807. The Chamber notes that this document was not listed in the annex to the Motion, but that it was referred to in the Motion. *See* Motion, fn. 22.

<sup>67</sup> *See, e.g.*, Articles 4, 11, 30, 36, and 41 of the Law.

<sup>68</sup> Veljko Džakula, 23 October 2012, T. 519-520, 553.

been in position to address the Prosecution's interpretation of the document. The Chamber finds that the document is relevant and sufficiently probative for admission into evidence as it pertains to the authority of the RSK President, Hadžić's alleged position at the time relevant to the Indictment.<sup>69</sup>

## 2. Videographic evidence

214. Rule 65 *ter* 04866.1 is a video, from 16 March 1991, which in pertinent part contains a speech by Slobodan Milošević telecast by Radio Television Belgrade news. The Prosecution argues that the speech relates to the actions of alleged JCE members preparing for the conflict in Croatia through the call for mobilisation and Serb unity. The Defence objects to the admission of the video because it lacks context. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the video is relevant and sufficiently probative for admission into evidence.

215. Rule 65 *ter* 04873.2 is a video containing excerpts of Serbian television and news broadcasts from September and October 1991. The Prosecution seeks to have exhibit P58 replaced by this video because it is a fuller version of an interview with Hadžić. The Defence does not object to the admission of the video, but states that the Prosecution mischaracterises the comments made by Hadžić. The Chamber finds that the video is relevant and sufficiently probative for admission into evidence and will order that Rule 65 *ter* 04873.2 replace exhibit P58.

216. Rule 65 *ter* 04886.3 is a video containing excerpts of Serbian television and news broadcasts, including a statement made by Hadžić from Vukovar on 22 November 1991. The Prosecution submits that the video footage comes from the SAO SBWS Assembly of 22 November 1991, where several laws were adopted. The Defence does not object to the admission of the video. The Chamber finds that the video is relevant and sufficiently probative for admission into evidence.

217. Rule 65 *ter* 04896.6 is a video containing excerpts of Serbian television and news broadcasts, including an interview with Hadžić after the fall of Vukovar. The Prosecution submits that the video footage comes from the SAO SBWS Assembly of 22 November 1991, where Hadžić spoke of the establishment of civilian rule and the negotiations with internationals. The Defence does not object to the admission of the video. The Chamber finds that the video is relevant and sufficiently probative for admission into evidence.

218. Rule 65 *ter* 04766.3 is a video depicting Laslovo in November 1991 following its takeover, including the desecration of the Croatian flag by Arkan's Men. The Prosecution submits that the

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<sup>69</sup> See Articles 20 and 22 of the Decree.

video accompanies the evidence of Aleksandar Filković on the takeover of Laslovo. The Defence objects to the video on the basis that it ought to have been tendered along with the Rule 92 *quater* evidence of Filković. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the video is relevant and sufficiently probative for admission into evidence.

219. Rule 65 *ter* 04766.4 is a video containing footage of Arkan and his men in Eastern Slavonia in late November 1991. The Prosecution submits that the video—wherein Arkan is speaking of the training of his men in Erdut and of their cooperation with the JNA—complements the evidence of other witnesses, namely GH-101 and Filković. The Defence objects to the admission of the video. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the video is relevant and sufficiently probative for admission into evidence.

220. Rule 65 *ter* 04811.3 is a video excerpt from a press conference of members of the Serb parliament in Vukovar held in November 1991. The Prosecution submits that the video goes to show the cooperation between the JNA, TO, and volunteer forces in the takeover of Vukovar. The Defence does not object to the admission of the video. The Chamber finds that the video is relevant and sufficiently probative for admission into evidence.

221. Rule 65 *ter* 04831.1 is a video excerpt of a news telecast of 19 December 1991 depicting the SAO Krajina and SAO SBWS Assembly adopting the RSK constitution. The Prosecution submits that the video is relevant to the cooperation between alleged JCE members, including Hadžić. The Defence objects to the admission of the video. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the video is relevant and sufficiently probative for admission into evidence.

222. Rule 65 *ter* 04809.13 is a video of an interview by Croatian television with Hadžić from mid-1992. The Prosecution submits that the video is relevant to Hadžić's alleged view that the RSK should be a strong state with a stable army and that the RSK would not be a part of Croatia. The Defence objects to the admission of the video. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the video is relevant and sufficiently probative for admission into evidence.

223. Rule 65 *ter* 04849.2 is a video depicting Hadžić and Milan Martić inspecting soldiers involved in the Posavina operation in mid-1992. Rule 65 *ter* 04945.4 is a video of an interview with Milan Martić from mid-1992 at a ceremony celebrating the opening of the Posavina Corridor. The Prosecution submits that the videos show the close cooperation between two alleged JCE members, as well as their involvement with military activities of the Serb Forces. The Prosecution further

submits that the videos complement the evidence of Veljko Džakula. The Defence objects, questioning the relevance of the activities in the Posavina Corridor, and argues that without proper context the videos risk being misinterpreted. The Prosecution replies that the video clips are relevant to the charges in the Indictment. The Chamber finds that the videos are relevant and sufficiently probative for admission into evidence.

224. Rule 65 *ter* 04851.1 is a video excerpt of Serbian television and news broadcasts from February 1993, depicting Hadžić stating that RSK Serbs “cannot live with Croats” and that he was opposed to the withdrawal of UNPROFOR from the RSK. The Prosecution submits that the video is relevant since it complements the evidence of John Wilson that the presence of UNPROFOR was of assistance to the RSK in maintaining territorial control. The Defence objects to the admission of the video. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the video is relevant and sufficiently probative for admission into evidence.

225. Rule 65 *ter* 04859.1 is video footage of Hadžić delivering a speech at the RSK Assembly session held on 27 March 1993 in Beli Manastir. The Prosecution submits that the video complements the minutes of the assembly session, which were admitted as exhibit P998. The Defence does not object to the admission of the video. The Chamber finds that the video is relevant and sufficiently probative for admission into evidence.

226. Rule 65 *ter* 04809.18 is a video of an interview with Hadžić by Croatian television in mid-1993, wherein he threatens to strike Zagreb in response to the shelling of Knin and other military action. The Prosecution submits that the video corroborates exhibit P2886, admitted into evidence through Geert Ahrens. The Defence objects, arguing that the Prosecution’s characterisation of the interview is misleading and placed out of context. The Prosecution replies that (a) it is not limited to tendering documents solely through witnesses and (b) the Defence arguments go to weight not admissibility. The Chamber finds that the video is relevant and sufficiently probative for admission into evidence.

227. Rule 65 *ter* 04921.7 is a video of an interview with Milan Martić from July 1993 regarding the celebration of the three-year anniversary of the implementation of SDS policy from 1990 through to 1993. The Prosecution submits that the video is relevant to the formation and continuation of the alleged JCE. The Defence objects to the admission of the video. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the video is relevant and sufficiently probative for admission into evidence.

228. Rule 65 *ter* 04896.7 is video footage of Hadžić and other alleged JCE members at the second session of the RSK Assembly in Beli Manastir on 9 October 1993. The Prosecution submits that the video attests to the continued authority of Hadžić, who is seen seated close to Arkan in the front row. The minutes of the second assembly session were admitted into evidence as exhibit P999. The Defence does not object to the admission of the video. The Chamber finds that the video is relevant and sufficiently probative for admission into evidence.

229. Rule 65 *ter* 04921.8 is a video compilation of media coverage of Milan Martić from 1993. The Prosecution submits that the video is relevant to the alleged relationship between Jovo Ostojić and Hadžić and Ostojić and Vojislav Šešelj. The Defence objects to the admission of the video. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the video is relevant and sufficiently probative for admission into evidence.

230. Rule 65 *ter* 04990.4 is video footage of an interview with Mirko Jović of the SNO in 1993. The Prosecution submits that the video complements the evidence of GH-024 on Mirko Jović's role in bringing volunteers to assist Serbs in taking over areas in Croatia. The Defence objects to the admission of the video. The Prosecution replies that it is not limited to tendering documents solely through witnesses. The Chamber finds that the video is relevant and sufficiently probative for admission into evidence.

231. Rule 65 *ter* 04795.5 is a video excerpt depicting Hadžić attending Arkan's wedding reception in Belgrade on 19 February 1995. The Prosecution submits that the video is relevant to and corroborative of other evidence on the alleged close relationship between Hadžić and Arkan. The Defence objects, arguing lack of relevance of the video. The Prosecution replies that the video is relevant to the charges in the Indictment. The Chamber finds that the video is relevant and sufficiently probative for admission into evidence.

### 3. Supplement to Motion

232. Rule 65 *ter* 06500 is a note from JNA Colonel Maksimović to JNA Colonel Gligorević. The Prosecution requests that the document be added to its exhibit list and admitted into evidence from the bar table, arguing that (a) it recently obtained the document from the Republic of Serbia and (b) the note describes a meeting held on 10 December 1991 at the Sremska Mitrovica detention facility with a delegation from the SAO SBWS headed by Hadžić.<sup>70</sup> The Defence does not object.<sup>71</sup> The Chamber is satisfied that, taking into account the specific circumstances of this document and the lack of opposition from the Defence, good cause has been shown for amending the exhibit list;

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<sup>70</sup> Supplemental Motion, paras 1-6, 8-9, 11-14.

moreover, the Chamber, again taking into account the lack of opposition of the Defence, finds that the document is relevant and sufficiently probative for admission into evidence.

233. Rule 65 *ter* 06501 is a daily operations bulletin from the SFRY SSNO Duty Team to the Chief of the SSNO Security Administration, dated 1 November 1991. The Prosecution requests that the document be added to its exhibit list and admitted into evidence from the bar table, arguing that (a) it recently obtained the document from the Republic of Serbia and (b) the document is relevant to alleged expulsions from Lovas after October 1991.<sup>72</sup> The Defence objects, arguing that no good cause has been established for the late addition to the exhibit list because the Prosecution, with the exercise of due diligence, could have requested the document at a much earlier stage of the proceedings.<sup>73</sup> The Chamber finds that the Prosecution has not demonstrated good cause for adding the document to the exhibit list.

### **E. Disposition**

234. For the foregoing reasons, the Trial Chamber, pursuant to Rules 54, 65 *ter*, 89, and 126 *bis* of the Rules and paragraphs 5 and 7 of the Practice Direction on the Length of Briefs and Motions,<sup>74</sup> hereby

(a) **GRANTS** the Defence leave to exceed the word limitation for the Response;

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

(c) **GRANTS** the Motion in part;

(d) **ORDERS** as follows:

- (i) **ADMITS** into evidence the following documents: Rule 65 *ter* 00084, 00086.1, 00197, 00203, 00214, 00277, 00304 (under seal), 00304.1, 00333, 00335, 00345, 00373, 00400, 00414.2, 00483, 00488, 00594, 00607, 00694, 00696, 00745, 00759, 00798, 00813, 00939, 00941, 00953, 00985, 01036, 01105, 01142, 01191.1 (under seal), 01217, 01228, 01229, 01263, 01265, 01292, 01319, 01327, 01353, 01390 (under seal), 01395, 01415, 01416, 01423, 01479, 01514.1, 01515, 01526, 01561, 01580, 01588, 01592 (under seal), 01592.1, 01595, 01597.1, 01606, 01636, 01647 (under seal), 01647.1, 01664, 01699, 01708, 01739, 01760, 01768, 01772 (under seal), 01775, 01788, 01802, 01814.1, 01822, 01827 (under

<sup>71</sup> Supplemental Response, para. 1.

<sup>72</sup> Supplemental Motion, paras 1-4, 7, 10-14.

<sup>73</sup> Supplemental Response, para. 2.



seal), 01861, 01882, 01895, 01908, 01925, 01978, 02023.1, 02038.1, 02056, 02059, 02473.1, 02538.1, 02916, 02924, 03058, 03124 (under seal), 03124.1, 03135.1, 03138, 03153, 03371.1 (under seal), 03386.1 (under seal), 03470, 03617, 03621.1, 04766.3, 04766.4, 04795.5, 04809.13, 04809.18, 04811.3, 04831.1, 04849.2, 04851.1, 04859.1, 04866.1, 04886.3, 04896.6, 04896.7, 04921.7, 04921.8, 04945.4, 04990.4, 05039, 05052, 05123.1 (under seal), 05175, 05181, 05247, 05308, 05310, 05328, 05334, 05335, 05393.1, 05408, 05413 (under seal), 05417, 05441, 05459, 05463, 05471 (under seal), 05495, 05559 (under seal), 05881 (under seal), 05886 (under seal), 05888 (under seal), 05894 (under seal), 05895 (under seal), 05897 (under seal), 05900.1 (under seal), 05902 (under seal), 05906 (under seal), 05907 (under seal), 05915 (under seal), 05917, 05959, 06061, 06062, 06074, 06088, 06091, 06097, 06103, 06116, 06119, 06123, 06126, 06136, 06140, 06146, 06147, 06175, 06349, 06353, 06400, 06401, 06403, 06404, 06455, 06458, 06460, 06461;

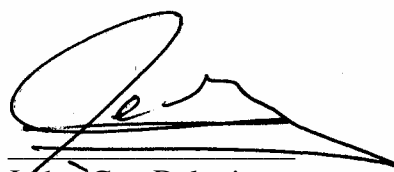
- (ii) **ORDERS** that Rule 65 *ter* 04873.2 shall replace exhibit P58;
- (iii) **ADMITS** into evidence the following documents: Rule 65 *ter* 00270, 00377, 00807, 01429, 01430, 01431, 01432, 01440, 01445, 01614, 01836; and **INSTRUCTS** the Registry to assign “L” exhibit numbers to these exhibits;
- (iv) **DENIES** admission into evidence of the following documents: Rule 65 *ter* 00096, 00198, 00328, 00525, 00535, 00543, 00628.1, 00713, 00718, 00959.1, 01140, 01187, 01284, 01302, 01394, 01455, 01661, 01665, 01700, 01702, 01725, 01765, 01769, 01800, 01870.1, 01939.1, 02108.2, 02108.3, 02200, 02232, 02252, 02272, 02862, 03048, 03050, 03088, 05224, 05263, 05331, 05338, 05445, 05448, 05876, 05878, 05910, 05967;
- (v) **ORDERS** the Prosecution to—by no later than 6 December 2013—(a) upload to eCourt a version of Rule 65 *ter* 05443 with pages 7 and 8 redacted in their entirety and with the first three lines of page 9 redacted and (b) inform the Chamber, Registry, and Defence—via a written notice on the official record of the proceedings—when this has been accomplished, after which the revised version of the document shall be deemed admitted into evidence;

<sup>74</sup> IT/184/Rev.2, 16 September 2005.

- (vi) **CONFIRMS** the Prosecution's withdrawal of the Motion with respect to Rule 65 *ter* 01001;
- (e) **GRANTS** the Supplemental Motion in part and **ORDERS** as follows:
- (i) Rule 65 *ter* 06500 shall be added to the exhibit list and admitted into evidence;
- (ii) Rule 65 *ter* 06501 shall not be added to the exhibit list;
- (f) **INSTRUCTS** the Registry to take the appropriate and necessary measures to implement this decision.

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

Done this twenty-eighth day of November 2013,  
At The Hague,  
The Netherlands.



Judge Guy Delvoie  
Presiding

[Seal of the Tribunal]