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31 January 2014

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**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-09-92-T
Date: 31 January 2014
Original: English

IN TRIAL CHAMBER I

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

Registrar: Mr John Hocking

Decision of: 31 January 2014

PROSECUTOR

v.

RATKO MLADIĆ

PUBLIC

**DECISION ON PROSECUTION BAR TABLE SUBMISSION OF
PROOF OF DEATH DOCUMENTS IN CONNECTION WITH
WITNESS EWA TABEAU**

Office of the Prosecutor

Mr Dermot Groome
Mr Peter McCloskey

Counsel for Ratko Mladić

Mr Branko Lukić
Mr Miodrag Stojanović

I. PROCEDURAL HISTORY AND SUBMISSIONS

1. On 19 December 2013, the Prosecution filed a motion (“Motion”) tendering 1,205 proof of death documents (“Proffered Documents”) from the bar table.¹ The Prosecution also sought leave from the Chamber to add 516 of the Proffered Documents to its Rule 65 *ter* exhibit list. The Defence did not respond to the Motion.

II. APPLICABLE LAW

2. The Chamber recalls and refers to the applicable law governing the admission of documents from the bar table as set out in a previous decision.²

III. DISCUSSION

3. The Prosecution informed the Chamber on 30 January 2014, through an informal communication, that a translation for document bearing Rule 65 *ter* number 26547 was still missing. The Chamber therefore defers its decision on admission in relation to this document.

4. The remainder of the Proffered Documents relate to proving the death or identity of alleged victims of crimes charged in the Indictment, including those in Schedules A, B, F, and G. Under these circumstances, the Chamber finds them to be relevant. The Prosecution has categorised the Proffered Documents in relation to the exact charged scheduled incidents in Annex A of the Motion. The Chamber is thus satisfied that it has demonstrated with sufficient clarity and specificity how they fit into the Prosecution’s case. Regarding their probative value, the Chamber considers that the Proffered Documents are official reports, court documents, missing person certificates, or similar types of documents, all aimed at establishing death or identity of individuals. Considering also the absence of Defence objections, the Chamber finds that the requirements for admission from the bar table have been met.

5. The Chamber notes that the Prosecution’s descriptions of certain of the Proffered Documents refer to names of victims, whereas the actual documents do not mention such names but

¹ Prosecution Bar Table Submission of Proof of Death Documents in Connection With Witness Ewa Tabeau, 19 December 2013. The Chamber refers to the Motion for the Prosecution’s submissions.

only a reference number.³ The Chamber admits these documents on the basis of the Prosecution's submissions but clarifies that if the Prosecution wants to establish the identity of the individuals at issue, it would need to correct this gap by evidentiary means, for example by tendering a document which connects the reference number to the name.⁴

6. Considering the above findings, as well as the fact that the Defence neither objected to admission nor addition (and thus did not argue any prejudice), the Chamber also finds that the requirements for adding the 516 documents to the Prosecution's Rule 65 *ter* exhibit list have been met.

IV. DISPOSITION

7. For the foregoing reasons, pursuant to Rule 89 (C) of the Rules, the Chamber

GRANTS the Motion **IN PART**;

GRANTS the Prosecution leave to add the 516 documents to its Rule 65 *ter* exhibit list;

ADMITS into evidence the documents listed in Annex A of the Motion with the exception of document bearing Rule 65 *ter* number 26547;

ORDERS that the following exhibits shall remain under seal: Rule 65 *ter* numbers 29241, 29246, 29254, 29318, 29342, 16657, 30569, 16654a, 27292a, 27300, 28824, 28830, 29781, 29787, 29798, 27475, 27293a, 29845, 27291a, 29954, 30570, 30578, 27302a, 29955a, and 29953a;

INSTRUCTS the Prosecution to file a submission within two weeks of the filing of this decision, explaining why these documents need to remain under seal; and

² Decision on Prosecution's Bar Table Motion for the Admission of Intercepts: Srebrenica Segment, 2 May 2013, paras 7-8.

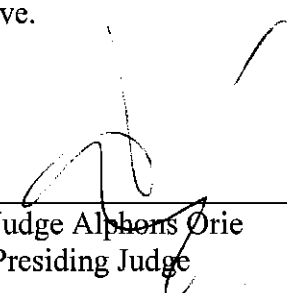
³ See e.g. Rule 65 *ter* numbers 27448, 27374, or 27461.

⁴ The Chamber acknowledges that such documents may have been tendered already but the Chamber was unable to always establish a link without clear guidance from the Prosecution.

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

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



Judge Alphons Orie
Presiding Judge

Dated this Thirty-First day of January 2014
At The Hague
The Netherlands

[Seal of the Tribunal]