



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:

11 February 2014

Original:

English

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D76448 - D76442  
11 February 2014

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**IN TRIAL CHAMBER I**

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

**Registrar:** Mr John Hocking

**Decision of:** 11 February 2014

**PROSECUTOR**

v.

**RATKO MLADIĆ**

***PUBLIC***

**DECISION ON PROSECUTION RESIDUAL BAR TABLE  
MOTION**

**Office of the Prosecutor**

Mr Dermot Groome  
Mr Peter McCloskey

**Counsel for Ratko Mladić**

Mr Branko Lukić  
Mr Miodrag Stojanović

## I. PROCEDURAL HISTORY

1. On 15 January 2014, the Prosecution filed a motion (“Motion”) tendering 99<sup>1</sup> documents from the bar table.<sup>2</sup> In the alternative, considering that some of these documents had previously been denied admission as associated exhibits, the Prosecution requests reconsideration of the respective Chamber decisions.<sup>3</sup> 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.<sup>4</sup> The Chamber also recalls and refers to a previous decision in relation to the applicable law on granting amendments to the Prosecution’s Rule 65 *ter* exhibit list.<sup>5</sup>

## III. DISCUSSION

3. At the outset, the Chamber notes that it considered the relevance and probative value of Rule 65 *ter* numbers 30501 and 30596 also in light of the fact that these two documents are not on the Prosecution’s Rule 65 *ter* exhibit list. Notwithstanding the Defence’s non-objection to the Motion, the Chamber considered whether there would be any prejudice caused to the Defence by granting leave to add these two documents to the Prosecution’s Rule 65 *ter* exhibit list. The Chamber did not find any such prejudice. The remaining requirements for adding these two documents to the Prosecution’s Rule 65 *ter* exhibit list are addressed below.

4. The 99 documents are categorised in six sections. For each document, the Prosecution has described in sufficient detail how it intends to rely on it. Accordingly, the Chamber is satisfied that

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<sup>1</sup> On 23 January 2014, through an informal communication, the Prosecution informed the Chamber that document bearing Rule 65 *ter* number 6634 was inadvertently listed twice in Annex A to the Motion and should be replaced by Rule 65 *ter* number 3120 at entry 75.

<sup>2</sup> Prosecution Residual Bar Table Motion, 15 January 2014. The Chamber refers to the Motion for the Prosecution’s submissions. The Prosecution also indicated that it requests the Chamber to take judicial notice of some documents’ authenticity, Motion, para. 9 and Annex A. However, as this request is not repeated at the end of the Motion under ‘Relief Requested’ and considering that the Prosecution has not directed the Chamber to the exact instances (transcript pages or paragraphs of decisions) where previous Chambers explicitly ruled on the documents’ authenticity, the Chamber will not further consider this issue.

<sup>3</sup> Motion, para. 20. The documents for which the Prosecution requests reconsideration are those in sections I and II. The Chamber clarifies that these documents were previously denied admission solely because they did not meet the legal test for admission as associated exhibits.

<sup>4</sup> Decision on Prosecution’s Bar Table Motion for the Admission of Intercepts: Srebrenica Segment, 2 May 2013, paras 7-8.

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

the Prosecution has demonstrated how the 99 documents fit into its case, thereby finding that this requirement for admitting documents from the bar table has been met.

5. Section one contains documents which were previously denied as associated exhibits to the statement of witness Eset Muračević.<sup>6</sup> Although these documents do not meet the test for admission as exhibits associated to a witness's statement or prior evidence, the Chamber notes that five of the documents in this section (Rule 65 *ter* numbers 3738, 3739, 3731, 3721, and 7982) relate to similar matters as discussed in witness Muračević's evidence in relation to alleged persecutions (Schedule C.8.1 of the Indictment) and considers them relevant to the Indictment. Another document (Rule 65 *ter* number 3733) may add to the understanding of relations between Serb military and political leaders in Vogošća in July 1992. The Prosecution tenders two additional documents in this section (Rule 65 *ter* numbers 3751 and 3755) which relate to the role of Momčilo Mandić, an alleged Joint Criminal Enterprise ("JCE") member in this case. All documents in this section either bear a stamp, a signature, or both. Based on the foregoing, the Chamber is satisfied that the documents in question are relevant and have probative value.

6. Section two contains 15 documents. Twelve of these documents, bearing Rule 65 *ter* numbers 26215, 2572, 6601, 6897, 8058, 15680, 17481, 18891, 30355, 30357, 30358, and 30362, are reports from the so-called "Miloš group" which were authenticated in witness Radulović's statement (exhibit P3207) and received from either the Banja Luka Collection or the Serbian State Security archives.<sup>7</sup> With regard to document bearing Rule 65 *ter* number 26215, the Chamber recalls its decision of 20 December 2013 in which it denied admission of the document under Rule 89 (D) of the Tribunal's Rules of Procedure and Evidence ("Rules") and notes the Prosecution's motion for partial reconsideration of this decision ("Reconsideration Motion").<sup>8</sup> Considering the Prosecution's detailed arguments in that motion, the Chamber considers it more appropriate to deal with the admissibility of this document – whether as an exhibit associated to the witness's statement or as a bar table document – in its decision on the Reconsideration Motion. With regard to the remaining eleven "Miloš group" reports, the Chamber notes that they relate to the Serbian Democratic Party's involvement in Kotor Varoš, the situation of the civilian population of Prijedor and Sanski Most, mobilization of Serbs in the Serb Autonomous Region of Bosanska Krajina, the destruction of civilian and religious property in the municipalities charged in the Indictment, the

<sup>6</sup> Motion, Confidential Annex A, pp. 1-9; Decision on Prosecution 35th Motion to Admit Evidence Pursuant to Rule 92 *bis*: Eset Muračević, 18 December 2013.

<sup>7</sup> Motion, para. 13.

<sup>8</sup> Decision on Prosecution Motion to Admit the Evidence of Pursuant [*sic*] to Rule 92 *quater*: Witness Predrag Radulović, 20 December 2013 (Confidential); Prosecution's Motion for Partial Reconsideration of the Chamber's Decision on the Prosecution's Motion to Admit Evidence Pursuant to Rule 92 *quater* (RM096) and Motion to Supplement, 23 January 2014 (Confidential).

lead-up to the conflict in Bosnia-Herzegovina, or to coordination between various alleged JCE members during the war and considers them to be relevant to, *inter alia*, Schedules A.4, A.6, A.7, as well as paragraphs 37 and 47 of the Indictment. While none of the reports bear a stamp or seal, all of them are signed and dated, and, moreover, include a sequential number that is consistent with other "Miloš group" reports.<sup>9</sup> All documents further relate to the substance of the evidence given by witness Radulović. Based on the foregoing, the Chamber considers that the documents have probative value.

7. In relation to the remaining three documents in section two, the document bearing Rule 65 *ter* number 695 directly relates to the Accused's involvement in combat operations. The document bearing Rule 65 *ter* number 6779 lists various alleged JCE members who were conferred awards by Radovan Karadžić. The document bearing Rule 65 *ter* number 9697 contains information about cooperation between the Bosnian-Serb Republic Ministry of Interior and the Serbian Ministry of Interior. The Chamber recalls that the Defence did not object to the Motion. Moreover, the documents bear dates, signatures, and/or have their provenance clearly indicated by the Prosecution. For the foregoing reasons, the Chamber finds these three documents to be relevant and to have probative value.

8. The documents in section three contain documents relevant to witness Theunens's testimony. In relation to these documents,<sup>10</sup> the Chamber considers that they relate to activities of alleged JCE members, including the Accused, during or prior to the Indictment period. The Prosecution further indicated the provenance for all documents, which includes government archives and other collections from which many documents admitted in this case stem. The Chamber is satisfied that the documents in this section are relevant and have probative value. In relation to the document bearing Rule 65 *ter* number 226, an incorrect or incomplete B/C/S version was uploaded into eCourt. The Prosecution will be instructed to upload the correct version within two weeks of the date of this decision.

9. The eleven documents in section four relate to the conditions at Manjača camp, Serb authorities' discussions of "resettling the population", the command structure of the first Krajina Corps of the Bosnian Serb army, and the military's role in Crisis staffs. The Prosecution indicated the provenance for all eleven documents. The Chamber also recalls that the Defence did not raise

<sup>9</sup> For example exhibits P3210, P3211, or P3222.

<sup>10</sup> Rule 65 *ter* numbers 226, 729, 30289, 635, 2456, 622, 2471, 7671, 3791, 9628, 45, 14544, 11771, 1765, 1835, 13472, 25448, 3175, 14420, 14422, 8582, 14423-14425, 14432-14433, 2483, 7667, 8319, 777, 794, 765, 17331, 8552, 17338, 13580, 3992, 14345, 14817, and 14579.

any objections to these documents. Accordingly, the Chamber finds the documents in this section to be relevant (specifically Counts 3 and 7-8 of the Indictment) and to have probative value.

10. The documents in section five, namely those bearing Rule 65 *ter* numbers 3120, 28800, and 28808 are relevant to Count 3 of the Indictment, and more specifically the charges of wanton destruction of public property, including cultural monuments and sacred sites (Schedule D of the Indictment). The document bearing Rule 65 *ter* number 3120 is a report on the destruction of religious buildings in Ključ, by the Committee of the Islamic Community of the Municipality of Ključ. The report is dated, signed, and stamped. The documents bearing Rule 65 *ter* numbers 28800 and 28808 are newspaper articles. They indicate the dates of the articles and the name of the newspaper. All three documents relate to similar evidence as given by expert witness Riedlmayer and two of the documents were discussed by the witness.<sup>11</sup> Based on the foregoing, the Chamber considers that the documents are relevant and have probative value.

11. Section six contains 22 documents. The document bearing Rule 65 *ter* number 23435 represents the minutes from the 4th expanded meeting of the War Presidency of the Bosnian-Serb republic, held on 9 June 1992. The documents bearing Rule 65 *ter* numbers 2358, 6021, 2377, and 2381 contain, respectively, the minutes from the 20th, 24th, 32nd, and the 34th sessions of the Bosnian-Serb Assembly. These five documents relate to the coordination between members of the alleged JCEs. The documents bearing Rule 65 *ter* numbers 24514<sup>12</sup>, 741, 8131, 8124, 9823, 752, 775, 14524, 25239, 9015, 23465, 19256, 15698, 9712, 30596, and 18383 are military reports, intelligence reports, payment lists, requests, articles, or documentation drafted by various organs of the Bosnian-Serb republic. They all relate to acts and conduct of the Accused or other alleged JCE members during the Indictment period in relation to the Sarajevo, municipalities, and Srebrenica components of the case. The document bearing Rule 65 *ter* number 11642 is a press report from *The Guardian*. It describes, among other things, the conditions in Trnopolje and Manjača camps, the expulsion of non-Serbs from the Bosnian Krajina and Foča, the commission of crimes against non-Serbs in Banja Luka, and the destruction of the town of Kozarac.<sup>13</sup>

12. Based on the above, the Chamber finds these 22 documents to be relevant to the charges against the Accused, in particular to Counts 3 and 7-8, as well as the alleged JCEs. The Prosecution

<sup>11</sup> T. 17915-17916, 17933-17937, 17952-17955.

<sup>12</sup> The Chamber notes that this document was previously denied admission without prejudice due to a missing English translation in Decision on Prosecution Motion for Admission of Documents from the Bar Table (Sarajevo Documents), 17 December 2013, paras 17, 20.

<sup>13</sup> The Chamber notes that it previously denied admission into evidence without prejudice of this document for lacking detail specifically related to Foča municipality in Decision on Prosecution Motion to Admit Evidence from the Bar Table: Foča Municipality, 14 November 2013, paras 16, 21. As the Prosecution's submissions in the Motion are phrased broader, the Chamber is satisfied with the document's admissibility.

indicated the provenance for all 22 documents, which includes government archives and other collections from which many documents admitted in this case stem. The Defence did not raise any challenge to these sources. Moreover, with the exception of document bearing Rule 65 *ter* number 9823, all the documents contain dates. Furthermore, the majority of the documents bear signatures and/or stamps. For the documents that do not contain signatures or stamps, the Chamber notes that the absence of dates, stamps, or signatures is not a bar to admission, but may be a factor which the Chamber will bear in mind when attributing weight to the documents at a later stage. Accordingly, the Chamber finds that all of the 22 documents addressed above have probative value.

#### IV. DISPOSITION

13. 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 documents bearing Rule 65 *ter* numbers 30501 and 30596 to the Prosecution's Rule 65 *ter* exhibit list;

**DEFERS** its decision on admission of document bearing Rule 65 *ter* number 26215;

**ADMITS** into evidence the remaining 98 documents listed in Annex A to the Motion subject to footnote 1 of this decision;

**ORDERS** that the documents bearing Rule 65 *ter* numbers 8131 and 8124 remain confidential;

**INSTRUCTS** the Registry to change the status of these two documents to public 45 days after the filing date of this decision unless the Republic of Serbia or the Prosecution file a request for keeping these documents confidential within this period;

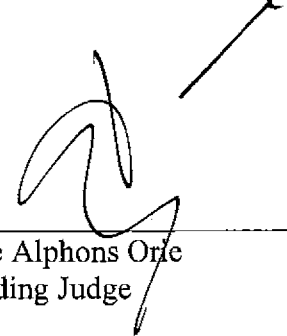
**INSTRUCTS** the Prosecution to inform the Republic of Serbia, if need be, of the admission of these two documents and the Chamber's instructions to the Registry with regard to lifting the documents' confidentiality unless the Republic of Serbia requests that they be kept confidential;

**INSTRUCTS** the Prosecution to upload into eCourt within two weeks of the filing date of this decision, a revised B/C/S version of the document bearing Rule 65 *ter* number 226 which corresponds to the English translation;

**INSTRUCTS** the Registry to replace the current B/C/S version of the document bearing Rule 65 *ter* number 226 with the newly uploaded one;

**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 Eleventh day of February 2014  
At The Hague  
The Netherlands

[Seal of the Tribunal]