

IT-09-92-T
D 77068 - D 77066
28 March 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: 28 March 2014
Original: English

IN TRIAL CHAMBER I

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

Registrar: Mr John Hocking

Decision of: 28 March 2014

PROSECUTOR

v.

RATKO MLADIĆ

PUBLIC

**DECISION ON MOTION FOR PARTIAL RECONSIDERATION
OF DECISION ADMITTING DOCUMENTS FROM THE BAR
TABLE (MUNICIPALITIES COMPONENT)**

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 11 February 2014, the Chamber issued a decision admitting documents into evidence from the bar table ("Impugned Decision").¹ On 18 February 2014, the Defence filed a motion seeking partial reconsideration of the Impugned Decision ("Motion").² On 4 March 2014, the Prosecution filed a response, opposing the Motion ("Response").³

II. SUBMISSIONS OF THE PARTIES

2. The Defence requests that the Chamber partially reconsider the Impugned Decision, arguing that there is new evidence showing that the documents originating from the Agency for Investigation and Documentation ("AID") and Mrs Vidović lack authenticity and reliability.⁴ In support of its argument, the Defence seeks to rely on a statement of 25 April 2003 ("Statement") made in a previous case by one of the Prosecution's witnesses in the present case, Witness RM-507, which states that documents originating from Mrs Vidović lacked authenticity since they did not entirely correlate with the originals.⁵ The Prosecution submits that the Defence fails to articulate an error of reasoning or the existence of particular circumstances justifying reconsideration of the Impugned Decision in order to avoid injustice, and that the Motion should therefore be denied.⁶

III. APPLICABLE LAW

3. The Chamber recalls and refers to the applicable law governing reconsideration of decisions as set out in a previous decision.⁷

IV. DISCUSSION

4. With regard to the Defence submission that the Chamber should reconsider its Impugned Decision based upon the new evidence in form of the Statement, the Chamber notes that the Defence was in possession of the Statement at the time of Witness RM-507's testimony and at the

¹ Decision on Prosecution Motion for Admission of Documents from the Bar Table (Municipalities Component), 11 February 2014.

² Defence Motion for Partial Reconsideration of Decision on Prosecution Motion for Admission of Documents from the Bar Table (Municipalities Component), 18 February 2014; Defence Notice to Change the Status of Filings, 20 February 2014.

³ Prosecution Response to Defence Motion for the Partial Reconsideration of Decision on Prosecution Motion for Admission of Documents from the Bar Table (Municipalities Component), 4 March 2014.

⁴ Motion, paras 8-11.

⁵ Motion, paras 7-11; Confidential Annex A, paras 37-38.

⁶ Response, paras 5-6.

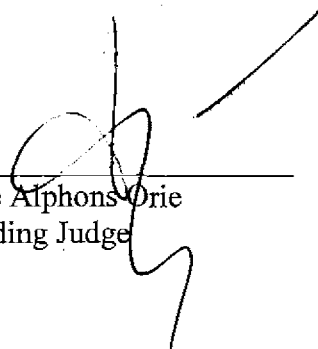
⁷ Reasons for Decision on Defence Motion for Reconsideration, 29 June 2012, para. 10.

time of the Prosecution's original motion.⁸ The Defence has not provided any reasons why the Statement was not put to Witness RM-507 when testifying, arguing that it did not need to put the Statement to Witness RM-507.⁹ The Chamber recalls Rule 90 (H) (ii) of the Rules of Procedure and Evidence ("Rules") pursuant to which the Defence has an obligation to put the nature of its case which is in contradiction to the evidence given by a witness. In addition, the Chamber notes that the Statement does not specify which documents RM-507 considered to lack authenticity and that the Defence fails to further specify why it considers that the documents in question are not reliable. For the reasons stated above, the Chamber considers that the Defence submissions concerning the reliability of the documents in question are impermissibly vague and do not constitute new evidence. The Chamber finds therefore that the Defence has failed to establish an error of reasoning or the existence of particular circumstances justifying reconsideration of the Impugned Decision in order to avoid an injustice.

V. DISPOSITION

5. For the foregoing reasons, pursuant to Rule 89 of the Rules, the Chamber **DENIES** the Motion.

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



Judge Alphons Orie
Presiding Judge

Dated this Twenty-Eight day of March 2014
At The Hague
The Netherlands

[Seal of the Tribunal]

⁸ Motion, paras 8-11; Response, para. 6.

⁹ Motion, para. 7.