



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-95-5/18-T
Date: 6 July 2011
Original: English

IN THE TRIAL CHAMBER

Before: Judge O-Gon Kwon, Presiding Judge
Judge Howard Morrison
Judge Melville Baird
Judge Flavia Lattanzi, Reserve Judge

Registrar: Mr. John Hocking

Decision of: 6 July 2011

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

**DECISION ON ACCUSED'S MOTION TO ADMIT DOCUMENT RELEVANT TO
INCIDENT G7 FROM THE BAR TABLE**

Office of the Prosecutor

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

The Accused

Mr. Radovan Karadžić

Standby Counsel

Mr. Richard Harvey

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 Accused’s “Motion to Admit Document Relevant to Incident G7 from the Bar Table” filed on 20 June 2011 (“Motion”), and hereby issues its decision thereon.

1. In the Motion, the Accused requests that the document bearing Rule 65 *ter* number 1D1654, a report of the Sarajevo Romanija Corps (“SRK”) dated 4 February 1994, be admitted into evidence from the bar table pursuant to Rule 89(C) of the Rules of Procedure and Evidence of the Tribunal (“Rules”).¹ The Accused submits that the document is relevant to the issue of whether Bosnian Serbs fired shells which hit civilians in the Dobrinja residential area on 4 February 1994 (shelling incident G7 listed in Schedule G to the Indictment).² He also submits that the document has probative value as it indicates that the SRK assessed whether its units had fired the shells and determined that they had not.³ In terms of reliability, the Accused refers to the document’s prior admission into evidence in the *Galić* case.⁴

2. The Office of the Prosecutor (“Prosecution”) states that it has no objection to the admission of this document.⁵

3. The Chamber recalls that evidence may be admitted from the bar table if it is considered to fulfil the requirements of Rule 89 that it be relevant, of probative value, and bear sufficient indicia of authenticity.⁶ Once these requirements are satisfied, the Chamber maintains discretionary power over the admission of the evidence.⁷

4. The Chamber also recalls its “Order on Procedure for Conduct of Trial” filed on 8 October 2009 (“Order”), which states, with regard to any request for the admission of evidence from the bar table, that:

the requesting party shall: (i) provide a short description of the document of which it seeks admission; (ii) clearly specify the relevance and probative value of each document;

¹ Motion, para. 1. The Motion erroneously refers to the document bearing 65 *ter* number 1D1604, whereas Annex A correctly refers to the document bearing 65 *ter* number 1D1654. Both the subject matter of the Motion and subsequent clarification by the Accused’s legal adviser confirm that the Accused requests the admission of the document bearing 65 *ter* number 1D1654.

² Motion, Annex A.

³ Motion, Annex A.

⁴ Motion, Annex A.

⁵ Motion, para. 3.

⁶ Rule 89(C), (E).

⁷ Decision on the Prosecution’s First Bar Table Motion, 13 April 2010, para. 5 (citations omitted).

(iii) explain how it fits into the party's case, and (iv) provide the indicators of the document's authenticity.⁸

5. The Chamber has examined the relevance, probative value, and authenticity of Rule 65 *ter* number 1D1654, and whether the Accused has satisfactorily explained how it fits into his defence. The Chamber is satisfied that the document is relevant and probative to scheduled incident G7, as it provides details in relation to the Dobrinja incident, and more specifically that "no fire had been opened at the sector of Dobrinja". The Chamber is further satisfied that the document has sufficient indicia of authenticity for the purposes of admission under Rule 89.

6. Accordingly, the Trial Chamber, pursuant to Rule 89 of the Rules, hereby **GRANTS** the Motion and **DECIDES** to:

- 1) admit into evidence the document bearing Rule 65 *ter* number 1D1654; and
- 2) request the Registry to assign an exhibit number to this document.

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



Judge O-Gon Kwon
Presiding

Dated this sixth day of July 2011
At The Hague
The Netherlands

[Seal of the Tribunal]

⁸ Order, Appendix A, Part VII, para. R.