



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: 11 May 2012

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:** 11 May 2012

**PROSECUTOR**

v.

**RADOVAN KARADŽIĆ**

***PUBLIC***

---

**DECISION ON PROSECUTION'S BAR TABLE MOTION FOR THE ADMISSION OF  
DOCUMENTS RELATED TO THE SARAJEVO COMPONENT**

---

**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 “Prosecution’s Bar Table Motion for the Admission of Documents Related to the Sarajevo Component With Appendices A and B”, filed on 4 May 2012 (“Motion”), and hereby issues its decision thereon.

### I. Submissions

1. In the Motion, the Office of the Prosecutor (“Prosecution”) seeks the admission of two videos and 40 documents from the bar table (collectively “Items”) pursuant to Rule 89(C) of the Tribunal’s Rules of Procedure and Evidence (“Rules”), which relate primarily to the Sarajevo component of this case.<sup>1</sup> The Prosecution submits that it has explained the relevance, probative value, and authenticity of the Items, in addition to explaining how they fit into its case.<sup>2</sup> It also notes that the Accused was given an opportunity to comment on each of the Items and has outlined the Accused’s response in a separate column to its submissions in Appendix A.<sup>3</sup> The Prosecution then sets out its arguments with respect to the Accused’s objections to the admission of 15 of the Items, namely Rule 65 *ter* numbers 01369, 01414, 01491, 01570, 01661, 01663, 07114, 07371, 07818, 09083, 10747,<sup>4</sup> 13830, 22031, 40171D, and 1D03471, which it considers to be unfounded.<sup>5</sup>

2. Having been instructed by the Chamber, via email of 4 May 2012, to respond to the Motion by 11 May 2012, the Accused filed his “Response to Prosecution’s Sarajevo Bar Table Motion” on 7 May 2012 (“Response”). The Accused objects to the admission of news media reports from the bar table and, relying on a Chamber’s earlier decision, notes that the Prosecution has been on notice for the past two years that such reports would not be admitted in this case through the bar table.<sup>6</sup> In addition, he argues that “consistent with the rationale applied to the admission of written evidence pursuant to Rule 92 *bis*, and adjudicated facts pursuant to Rule 94, purported statements of the accused, or going to acts, conduct, or mental state of the accused, are particularly unsuitable for admission from the bar table given the importance of that evidence to the case and the need for cross-examination”.<sup>7</sup> The Accused also objects to the

---

<sup>1</sup> Motion, paras. 1, 62, Appendix A.

<sup>2</sup> Motion, para. 2, Appendix A.

<sup>3</sup> Motion, para. 3, Appendix A.

<sup>4</sup> In the Motion, the Prosecution refers to an article containing parts of an interview with the Accused (65 *ter* number 10747) but eventually tenders a television version of that interview (65 *ter* number 45305). *See* Motion, paras. 27–28.

<sup>5</sup> Motion, paras. 7–58.

<sup>6</sup> Response, para. 1.

<sup>7</sup> Response, paras. 2–3.

admission through the bar table of documents authored by or sent to a person who has testified as a witness in this trial on the ground that they should have been put to the witness or included in the witness's written statement.<sup>8</sup> Finally, the Accused objects to a number of documents on the ground that they are cumulative to evidence already admitted.<sup>9</sup>

## **II. Applicable Law**

3. Rule 89 of the Rules provides, in relevant parts, that:

- (C) A Chamber may admit any relevant evidence which it deems to have probative value.
- (D) A Chamber may exclude evidence if its probative value is substantially outweighed by the need to ensure a fair trial.
- (E) A Chamber may request verification of the authenticity of evidence obtained out of court.

4. While the most appropriate method for the admission of a document is through a witness who can speak to it and answer questions in relation thereto, admission of evidence from the bar table is a practice established in the case-law of the Tribunal.<sup>10</sup> Evidence may be admitted from the bar table if it fulfils the requirements of Rule 89, namely that it is relevant, of probative value, and bears sufficient indicia of authenticity. Once these requirements are satisfied, the Chamber maintains discretionary power over the admission of the evidence, including by way of Rule 89(D), which provides that it may exclude evidence if its probative value is substantially outweighed by the need to ensure a fair trial.<sup>11</sup> Admission from the bar table is a mechanism to be used on an exceptional basis since it does not necessarily allow for the proper contextualisation of the evidence in question.<sup>12</sup>

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

---

<sup>8</sup> Response, para. 4.

<sup>9</sup> Response, para. 5.

<sup>10</sup> Decision on Prosecution's First Bar Table Motion, 13 April 2010 ("First Bar Table Decision"), para. 5.

<sup>11</sup> First Bar Table Decision, para. 5.

<sup>12</sup> First Bar Table Decision, paras. 9, 15.

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; (iii) explain how it fits into the party's case; and (iv) provide the indicators of the document's authenticity.<sup>13</sup>

### III. Discussion

6. The Chamber has previously stated that in seeking the admission of evidence from the bar table it is incumbent upon the offering party to demonstrate, with sufficient clarity and specificity, where and how each of the documents fits into its case.<sup>14</sup> The Chamber notes that, in the Motion, the Prosecution has explained how the Items fit into its case.<sup>15</sup> The Chamber is satisfied with the Prosecution's explanations therein.

7. With respect to the requirement that the evidence offered from the bar table bear sufficient indicia of authenticity, the Chamber first notes that the Accused does not contest the authenticity of any of the Items.<sup>16</sup> In addition, the Chamber, having itself analysed the Items, is of the view that they do bear sufficient indicia of authenticity, such that they may be admitted into evidence from the bar table, if the remaining requirements of Rule 89(C) are met.

8. The Accused's specific objections to admission from the bar table relate to 15 of the Items,<sup>17</sup> which will be analysed individually later below. Having reviewed the 27 Items to which no objection is made, the Chamber notes that all are relevant to the present case and have probative value as they go to one or more of the following: (i) the chain of command in, and the centralised control over, the Sarajevo Romanija Corps ("SRK"), as well as the Accused's authority over the SRK and the Army of Republika Srpska ("VRS");<sup>18</sup> (ii) the Accused's authority over the police in Republika Srpska ("RS")<sup>19</sup> (iii) the Accused being put on notice of certain crimes alleged in the Third Amended Indictment ("Indictment") and the allegation that he modulated the conditions in Sarajevo in order to secure political leverage;<sup>20</sup> (iv) the relationship between the civil and military authorities;<sup>21</sup> (v) the relationship between the VRS

<sup>13</sup> Order on Procedure, Appendix A, Part VII, para. R.

<sup>14</sup> First Bar Table Decision, para. 6.

<sup>15</sup> Motion, paras. 7–58, Appendix A.

<sup>16</sup> Motion, para. 7.

<sup>17</sup> The Chamber notes that in his Response, the Accused generally objects to "those documents authored by or sent to a person who has testified as a witness in this trial" on the ground that such documents should have been put to that person during his or her testimony. However, for a number of such documents, namely orders and letters authored by Manojlo Milovanović, the Accused explicitly states that he has no objections (or objects on different grounds), even though it is clear from the Motion that these were authored by Milovanović. See Rule 65 *ter* numbers 11282, 16352, 21914, and 1D03471 in Appendix A to the Motion. Under these circumstances, the Chamber considers that the Accused's general objection to the admission of documents authored by a witness does not cover documents bearing Rule 65 *ter* numbers 11282, 16352, 21914, and 1D03471.

<sup>18</sup> Rule 65 *ter* numbers 01448, 06877, 06906, 08326, 09461, 10625, 10768, 11282, 18378, 21914, 23082.

<sup>19</sup> Rule 65 *ter* number 08437.

<sup>20</sup> Rule 65 *ter* numbers 01243, 05968, 09574, 21914.

<sup>21</sup> Rule 65 *ter* numbers 10625, 18378, 23082.

and the Yugoslav Army (“VJ”);<sup>22</sup> (vi) the use of modified air bombs by the SRK;<sup>23</sup> (vii) the presence of paramilitary groups in the Sarajevo area;<sup>24</sup> (viii) specific scheduled incidents alleged in the Indictment;<sup>25</sup> and (ix) other events, such as cease fire agreements, taking place in Sarajevo and other parts of Bosnia and Herzegovina (“BiH”) during the Indictment period.<sup>26</sup> The Chamber also notes that the document bearing Rule 65 *ter* number 07697, while relevant to this case, has already been admitted into evidence as P1277 (with a different Rule 65 *ter* number, namely 06923), and therefore considers that there is no need to admit it again. Accordingly, documents bearing the following Rule 65 *ter* numbers shall be admitted into evidence from the bar table: 01243, 01448, 05968, 09574, 06877, 06882, 06906, 08326, 08437, 09143, 09461, 09540, 10625, 10626, 10735, 10768, 11282, 13637, 13675, 13677, 16352, 18378, 21914, 22792, 23082, and 23705.

9. More specifically, with respect to the document bearing Rule 65 *ter* number 09540, the Chamber notes that it is relevant to this case as it identifies the name of the victim of the scheduled sniping incident F2 who has been identified simply as Witness E in the adjudicated facts of which judicial notice has been taken by the Chamber and who was a protected witness in another case before the Tribunal. Accordingly, that document shall be admitted under seal.

10. The Chamber will now turn to the 15 Items the admission of which the Accused challenges. With respect to documents with Rule 65 *ter* numbers 01491, 01570, 07114, 07818, and 1D03471, the Accused contends that they are cumulative of other evidence in the case and, with the exception of 65 *ter* 01570, are either irrelevant or of marginal relevance.<sup>27</sup> The Chamber has examined these documents and considers that they are all relevant to the present case and have probative value as they go to (i) the co-operation between the Yugoslav People’s Army (“JNA”) and the Serb Territorial Defence (“TO”) units in the RS (Rule 65 *ter* number 01491); (ii) the functioning VRS chain of command (Rule 65 *ter* number 01570); (iii) the fact that the Accused’s orders were implemented by the VRS (Rule 65 *ter* number 1D03471); and (iv) the relationship between the Accused and the RS Presidency on one hand and the SRK commander, Stanislav Galić, on the other (Rule 65 *ter* numbers 07114 and 07818).

11. As for the Accused’s argument regarding the cumulative and/or repetitive nature of these documents, the Chamber recalls its earlier decision that, when assessing material against the

<sup>22</sup> Rule 65 *ter* number 22792.

<sup>23</sup> Rule 65 *ter* numbers 09143, 22792.

<sup>24</sup> Rule 65 *ter* number 10735.

<sup>25</sup> Rule 65 *ter* number 09540.

<sup>26</sup> Rule 65 *ter* numbers 06882, 08326, 10626, 13637, 13675, 13677, 16352, 23705.

<sup>27</sup> Motion, paras. 9–10, Appendix A.

requirements of Rule 89(C), it does not take into account the fact that other exhibits may speak to the same or similar issues as the material before it. On the contrary, the Chamber assesses each item in light of Rule 89(C) of the Rules on a case-by-case basis.<sup>28</sup> However, this does not mean that the Prosecution can at the end of its case use bar table motions to tender documents which are plainly unnecessary given the extremely voluminous amount of other evidence on similar issues. Thus, with respect to Rule 65 *ter* number 01491, which is an order issued by the Commander of the 2<sup>nd</sup> Military District of the JNA to provide weapons to Novo Sarajevo TO, the Chamber notes that it has throughout the case heard from a multitude of witnesses on the issue of the JNA arming the Bosnian Serbs.<sup>29</sup> In addition, as pointed out by the Prosecution, documents going to this issue have also been admitted into evidence by the Chamber.<sup>30</sup> The same argument can be applied to the document bearing Rule 65 *ter* number 01570, which is an SRK combat report, dated 18 June 1992, reporting on combat operations conducted the previous day. The Prosecution states that it is being offered for the purpose of proving a “functioning chain of command and reporting structure within the VRS”.<sup>31</sup> However, the Chamber notes that it has, throughout the Prosecution case, admitted countless VRS and SRK combat reports reporting on the activities of various VRS units, which could potentially go to the same issue.<sup>32</sup> For that reason, the Chamber has decided not to admit into evidence Rule 65 *ter* numbers 01491 and 01570. Rule 65 *ter* number 1D03471 is a VRS Main Staff order signed by Manojlo Milovanović, in which he refers to an order issued by the Accused on the transport of deputies from Srebrenica, Žepa, and Goražde, to attend the Muslim Assembly in Sarajevo. The Chamber considers that this order is not unduly cumulative as it refers to a specific event and the Accused’s involvement therein. Finally, with respect to Rule 65 *ter* numbers 07114 and 07818, the Chamber does not consider them to be unduly cumulative as they pertain to the issue of the SRK commander’s close relationship with the RS Presidency and the Accused. Accordingly, the Chamber shall admit all three of these documents into evidence from the bar table.

12. The Accused also objects to the admission of documents bearing Rule 65 *ter* numbers 01663, 07371, 09083, and 22031, on the ground that they should have been put to a witness during the trial.<sup>33</sup> The Chamber recalls its earlier finding that failure by a party to tender a document through a witness during the trial does not in and of itself prevent it from being

<sup>28</sup> See Decision on Prosecution’s Motion for the Admission of 68 Sarajevo Romanija Corps Documents from the Bar Table, 16 June 2011, para. 11.

<sup>29</sup> See e.g. the testimony of Asim Džambasović, Elvir Pašić, KDZ051, KDZ059, and KDZ555.

<sup>30</sup> See e.g. P979 (Report from JNA 2nd Military District to JNA General Staff, 20 March 1992); P2833 (Order of JNA General Staff, 3 April 1992).

<sup>31</sup> Motion, Appendix A, p. 3.

<sup>32</sup> See e.g. P991, P992, P1063, P1064, P1066, P1067, P1312, P1491, P1514, P1782, P2256, and P2303.

<sup>33</sup> Motion, paras. 11–12, Appendix A.

tendered from the bar table and that such a document may be admitted where its probative value is not substantially outweighed by the need to ensure a fair trial.<sup>34</sup> The Chamber still remains of that view. However, while the Chamber may on an exceptional basis allow for the admission of isolated documents from the bar table which could have been tendered through a witness, this should not be the default position. Furthermore, a failure to tender a substantial number of documents through a single witness in order to save time may in fact lead the Chamber to conclude that the probative value of these documents would be substantially outweighed by the need to ensure a fair trial. Bearing all this in mind, the Chamber shall analyse the four documents which are objected to by the Accused on the basis that they should have been put to a witness during trial.

13. The document bearing Rule 65 *ter* number 01663 is a list of conclusions from the meeting on 9 May 1993 attended by the heads of the Serb municipalities in the Sarajevo area and members of the SRK, during which the attendees discussed the Vance-Owen plan and decided that Nebojša Prstojević was to contact the Accused and the VRS Main Staff in order to inform them of the conclusions reached at the meeting. The Chamber considers that this document is relevant and of probative value as it goes to the co-ordination between military and political authorities in these municipalities, as well as to the fact that local leaders would contact the Accused with their concerns. The Accused objects to its admission on the ground that it should have been tendered through Prstojević during his testimony.<sup>35</sup> However, having determined that the document satisfies the requirements of Rule 89(C) of the Rules, the Chamber does not consider that it should be rejected for admission on the basis that its probative value is substantially outweighed by the need to ensure a fair trial. The document simply records conclusions reached at the said meeting and does not require further contextualisation. In any event, it has in fact been contextualised by Robert Donia, an expert witness who testified in these proceedings and who referred to this meeting in his expert report entitled “Bosnian Serb Leadership and the Siege of Sarajevo, 1990-1995”.<sup>36</sup> Accordingly, the Chamber shall admit Rule 65 *ter* number 01663 into evidence from the bar table.

14. With respect to the document with Rule 65 *ter* number 07371, it is an urgent warning sent by Manojlo Milovanović to all the VRS Corps on 25 December 1993 forbidding them to use the term “Yugoslav Army units” in their combat reports in order to “protect confidentiality and other measures and activities” that the VRS was undertaking at the time. According to the

---

<sup>34</sup> See Decision on Prosecution’s Motion for Admission of Evidence from the Bar Table (Hostages), 1 May 2012 (“Hostages Bar Table Decision”), para. 11.

<sup>35</sup> Motion, Appendix A, p. 7.

Prosecution, this document is relevant to the chronology of events related to a military advance ordered by the Accused on the Žuč and Mojmiło features of Sarajevo and thus to the division of Sarajevo into two parts, in compliance with the fifth strategic objective. In addition, the Prosecution claims that the document shows that the Serb authorities did not wish to publicise the fact that VJ forces were actively involved in the VRS activities.<sup>37</sup> The Accused, however, challenges the document on the basis that it is irrelevant and that it should have been put to Milovanović to determine if it has the connotation suggested by the Prosecution.<sup>38</sup> The Chamber considers that the document is relevant and has probative value, as it goes to the relationship between the VJ and the VRS and, by extension, to the alleged overarching joint criminal enterprise. However, admitting it from the bar table for the purpose of proving that Milovanović and the VRS Main Staff attempted to conceal the participation of VJ units in the VRS advance on Mojmiło and Žuč, without confronting Milovanović with that interpretation and thus giving him an opportunity to comment and without giving an opportunity to the Accused to cross-examine on the same point, is in the Chamber's view unfair to the Accused. Accordingly, the Chamber considers that the probative value of this document is substantially outweighed by the need to ensure a fair trial and shall therefore not admit this document into evidence from the bar table.

15. With respect to the document bearing Rule 65 *ter* number 09083, it is an order of the SRK Command, based on a request by Nikola Koljević, a member of the RS Presidency, to send soldiers to the Nevesinje area. The Prosecution claims that it is relevant to this case as it shows that members of the RS Presidency issued tactical orders to the SRK forces outside the normal military chain of command.<sup>39</sup> The Accused challenges the admission of this document on the basis that it should have been put to General Abdel-Razek during his testimony before the Chamber and that it is of marginal relevance.<sup>40</sup> The Chamber considers that the document is relevant to this case as it goes to the issue of the VRS chain of command and the control the members of the RS Presidency had over the VRS. The document also has probative value. As for the Accused's position that it should have been put to General Abdel-Razek, the Chamber notes that the document was in fact put to General Abdel-Razek, who commented on the fact that such an order should have come from Ratko Mladić and not from Koljević. The Accused then objected to its admission on the basis that General Abdel-Razek could not speak to the document and the Chamber upheld the objection, noting that it could be offered through a bar

---

<sup>36</sup> See P973 (Robert Donia's expert report entitled "Bosnian Serb Leadership and the Siege of Sarajevo, 1990–1995", January 2010), p. 77.

<sup>37</sup> See Motion, Appendix A, pp. 16–17.

<sup>38</sup> See Motion, Appendix A, p. 16.

<sup>39</sup> Motion, Appendix A, p. 6.



table motion.<sup>41</sup> The Chamber remains of the view that the nature of this document is such that it may be offered from the bar table and that its probative value is not substantially outweighed by the need to ensure a fair trial. The document is self-explanatory and it is for the Chamber to draw inferences from it in light of other evidence on the record. Accordingly, the Chamber shall admit Rule 65 *ter* number 09083 from bar table.

16. Finally, with respect to the document bearing Rule 65 *ter* number 22031, it is a message sent to the Accused by General Morillon of UNPROFOR just after midnight on 2 June 1993, informing him that Dobrinja was shelled that morning, causing the death of a number of women and children. The Prosecution claims that the document is relevant because it shows that the Accused was put on notice about this particular shelling which is one of the shelling incidents listed in Schedule G in the Indictment.<sup>42</sup> The Accused, however, objects to the admission of this document on the basis that it should have been put to KDZ185 and that there is no evidence that the message was sent or received.<sup>43</sup> The Chamber considers that this document is both relevant to this case and of probative value as it goes to the issue of the Accused being put on notice of a shelling incident which is alleged in the Indictment. Given that KDZ185 was not involved in the preparation of this fax but merely testified about the said shelling incident,<sup>44</sup> coupled with the Accused's failure to provide a specific reason as to why KDZ185 should have been used as a vehicle for its admission, the Chamber is not satisfied that this document should be denied admission from the bar table because it should have been put to KDZ185 during his testimony. As for the Accused's submission that there is no evidence that this fax was ever sent to or received by him, the Chamber notes that it presents the same features as other similar UNPROFOR faxes that have been admitted into evidence throughout this trial and, as such, has a date and the time on which it was sent. In any event, the Accused can make this argument to the Chamber at the end of his case in his final brief. Accordingly, the Chamber is of the view that this document's probative value is not substantially outweighed by the need to ensure a fair trial and shall, therefore, admit it into evidence.

17. The Accused's next set of objections relates to four of the Items, bearing Rule 65 *ter* numbers 10747, 13830, 40171D, and 01369, which he claims should not be admitted from the bar table as they are news media reports which the Chamber has already ruled would not be admitted from the bar table.<sup>45</sup> The Chamber notes that Rule 65 *ter* number 01369 is a written

---

<sup>40</sup> Motion, Appendix A, p. 6.

<sup>41</sup> See T. 5495–5498 (19 July 2010).

<sup>42</sup> Motion, Appendix A, p. 8.

<sup>43</sup> Motion, Appendix A, p.8.

<sup>44</sup> See Motion, para. 48, Appendix A, p. 8.

<sup>45</sup> Motion, para. 13, Appendix A. See also Response, para. 2.

interview with the Accused, and Generals Mladić and Milošević, given to the publication entitled “Srpski Borac” (Serb fighter), while Rule 65 *ter* number 13830 is a written interview with the Accused published by Glas Srpski. The Prosecution has decided not to tender Rule 65 *ter* number 10747 which is also an article containing parts of an interview with the Accused and, in its stead has decided to tender Rule 65 *ter* number 45305, which is a TV version, and a more complete one, of that interview. Finally, item with Rule 65 *ter* number 40171D is a television news extract showing a visit of the Accused and General Mladić to VRS positions above Sarajevo.

18. The Chamber recalls that it has previously indicated that *written* media reports are unlikely to be considered admissible from the bar table, stating:

There are certain Proposed Exhibits which the Chamber would be unlikely to consider admissible from the bar table. First, the written media reports would not meet the reliability and probative value requirements without a witness to testify to the accuracy of the information contained therein.<sup>46</sup>

The Prosecution argues that, guided by this ruling, it has selected for admission “only records which convey information where there is a minimal intervention by any journalist” and that these “include records of interviews with the Accused and other persons”.<sup>47</sup> Further, the Prosecution submits that such interviews are distinguishable from a “newspaper article containing a journalist’s account of events, where the accuracy of the information contained therein might need to be verified” and notes that the interviews submitted here are from the publications controlled by the Bosnian Serb leadership, which in turn means that the risk of manipulation of interviews with the Accused is minimal.<sup>48</sup> Finally, the Prosecution submits that these interviews fall within the same category as the excerpt from a BBC television programme featuring an interview with the Accused, which the Chamber has recently admitted from the bar table.<sup>49</sup>

19. The Chamber considers that its earlier ruling was clear that no *written media reports* are likely to be admitted through the bar table. The fact that such written media reports may be interviews with the Accused or other relevant persons and thus consist of questions and answers does not alleviate the Chamber’s concern that they may be subject to journalistic analysis or

---

<sup>46</sup> Decision on the First Bar Table Motion, 13 April 2010, para. 12.

<sup>47</sup> Motion, paras. 14–16.

<sup>48</sup> Motion, paras. 17–19.

<sup>49</sup> Motion, para. 16, citing to Hostages Bar Table Decision, para. 13.

interpretation or may have been manipulated in some other way. Accordingly, the Chamber has decided not to admit into evidence Rule 65 *ter* numbers 01369 and 13830.

20. The Chamber's ruling does not cover video media reports, however, because the video footage contained therein will usually speak for itself. Thus, such material may be admitted through the bar table, assuming all the requirements of Rule 89(C) are met and its probative value is not substantially outweighed by the need to ensure a fair trial. With respect to Rule 65 *ter* number 40171D, the Chamber considers that it is relevant to this case and has probative value as it shows the Accused and General Mladić touring the VRS positions above Sarajevo. The Chamber notes that the footage is a news extract and thus contains some commentary of the television presenter. Given that it is being offered through the bar table and thus is not subject to cross-examination, the Chamber shall instruct the Prosecution to remove the audio commentary from the video clip. In the Chamber's view, the probative value of this video without the accompanying audio commentary is not substantially outweighed by the need to ensure a fair trial. As for the video with Rule 65 *ter* number 45305, the Chamber can observe both the questions presented to the Accused and the answers he provides. Furthermore, the video is relevant and of probative value as it pertains to the Accused's position in relation to the Contact Group plan, as well as the division of Sarajevo. The Chamber also does not consider that its probative value is substantially outweighed by the need to ensure a fair trial, if admitted through the bar table. Accordingly, for all those reasons, the Chamber shall admit into evidence Rule 65 *ter* numbers 40171D and 45305.

21. The Accused also objects to the admission of the document bearing Rule 65 *ter* number 01414 on the basis that it "will require [the] defence to call Šešelj as a witness".<sup>50</sup> This document is an order of Vojislav Šešelj proclaiming several individuals the Chamber has heard evidence about in relation to crimes allegedly committed in the Sarajevo area as "Chetnik Vojvodas". Given that Vojislav Šešelj is an alleged member of two of the four alleged joint criminal enterprises, this document goes to his role therein. As such, it is relevant to this case and of probative value. The Chamber finds the Accused's objection to the admission of this document unclear and without merit. It also does not consider that the probative value of this document is substantially outweighed by the need to ensure a fair trial and thus considers that it should be admitted into evidence from the bar table.

22. Finally, the Accused objects to the document bearing Rule 65 *ter* number 01661 on the basis that it is irrelevant and does not show effective control.<sup>51</sup> It is a decision of the Council of

---

<sup>50</sup> Motion, Appendix A, p. 7.

<sup>51</sup> Motion, Appendix A, p. 6.

the Serbian City of Sarajevo establishing the territorial boundaries of the Serbian city of Sarajevo, and the composition of its authorities. It also contains a provision giving the President of the RS power to choose the President of the City Assembly in the case of war or an immediate threat of war. In the Chamber's view, this document is relevant to this case as it pertains to the division of Sarajevo, as well as the Accused's *de jure* control over the local authorities in the Sarajevo area. This document is also of probative value and the Chamber does not consider that this probative value is substantially outweighed by the need to ensure a fair trial. Accordingly, it shall be admitted into evidence from the bar table.

#### IV. Disposition

23. Accordingly, the Trial Chamber, pursuant to Rule 89 of the Rules, hereby **GRANTS** the Motion **IN PART** and:

- (a) **ADMITS** into evidence documents bearing the following Rule 65 *ter* numbers: 01243, 01414, 01448, 01661, 01663, 05968, 06877, 06882, 06906, 07114, 01818, 08326, 08437, 09083, 09143, 09461, 09574, 10625, 10626, 10735, 10768, 11282, 13637, 13675, 13677, 16352, 18378, 21914, 22031, 22792, 23082, 23705, 40171D, 45305 and 1D03471;
- (b) **ADMITS** into evidence, under seal, the document bearing Rule 65 *ter* number 09540;
- (c) **INSTRUCTS** the Registry to mark as admitted the documents referred to in paragraphs (a) and (b) above; and
- (d) **DENIES** the remainder of the Motion.

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




---

Judge O-Gon Kwon  
Presiding

Dated this eleventh day of May 2012  
At The Hague  
The Netherlands

[Seal of the Tribunal]