



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: 25 February 2014

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: 25 February 2014

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

**DECISION ON ACCUSED'S MOTION TO ADMIT
DOCUMENTS PREVIOUSLY MARKED FOR IDENTIFICATION**

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 Documents Previously Marked for Identification”, filed on 12 February 2014 (“Motion”), and hereby issues its decision thereon.

I. Background and Submissions

1. In the Motion, the Accused requests that the Chamber admit into evidence six documents previously marked for identification (“MFI”)—MFI D4172, D4173, D4175, D4183, D4203, and D4256—as their English translations have now been uploaded into e-court.¹

2. On 20 February 2014, the Office of the Prosecutor (“Prosecution”) filed the “Consolidated Response to Karadžić’s Motions to Admit Documents and Intercepts Previously Marked for Identification” (“Response”), in which it submits *inter alia* that it does not object to the admission of two of the documents, namely MFI D4172 and D4256.² Furthermore, the Prosecution submits that it does not object to the admission of the two pages of MFI D4183 which were shown to the witness through whom it was tendered and marked for identification by the Chamber.³ The Prosecution also notes that D4173 has already been admitted into evidence.⁴

3. However, the Prosecution objects to the admission of the two remaining documents—MFI D4175 and D4203.⁵ With regard to MFI D4175, the Prosecution submits that although it was offered into evidence for the limited purpose of establishing the appearance of the stamp of the Public Security Station (“SJB”) of Sanski Most at the relevant time, the English translation uploaded into e-court does not contain a translation of the stamp.⁶ Second, the Prosecution submits that for MFI D4203, the witness did not confirm or comment on the contents of the portion of the document for which an English translation has been uploaded into e-court, but rather on a different portion of the original BCS document, and therefore argues that it should not be admitted.⁷

¹ Motion, para. 1.

² Response, para. 2.

³ Response, para. 2, footnote 5.

⁴ Response, para. 3.

⁵ Response, paras. 4–5.

⁶ Response, para. 4.

⁷ Response, para. 5, footnote 9. The Chamber notes that the Prosecution preserved an objection as to the document’s overall admission, pending its own review of the document after receiving the translation. *See* Milomir Stakić, T. 45300 (17 December 2013).

II. Discussion

4. The Chamber recalls the “Order on the Procedure for the Conduct of the Trial,” issued on 8 October 2009 (“Order on Procedure”), in which it stated, *inter alia*, that any item marked for identification in the course of the proceedings, either because there is no English translation or for any other reason, will not be admitted into evidence until such time as an order to that effect is issued by the Chamber.⁸

5. Preliminarily, the Chamber notes that D4173 has already been admitted into evidence.⁹

6. MFI D4175 was marked for identification pending translation through witness Mile Dobrijević on 6 December 2013.¹⁰ The Chamber recalls that the Accused tendered this document for the purpose of establishing the appearance of the stamp of the Sanski Most SJB;¹¹ however, the writing on the stamp is not translated in the English translation uploaded into e-court. Accordingly, the Chamber instructs the Accused to upload into e-court a complete English translation for MFI D4175, including of the writing on the stamp of the document. The Chamber is otherwise satisfied that MFI D4175 shall be admitted into evidence pending the ordered instruction.

7. With regard to MFI D4183, the Chamber notes that only the two pages of the document that were shown to witness KW012 were marked for identification, under seal, pending translation.¹² However, the Chamber notes that both the BCS original and English translation uploaded into e-court still contain the entire document. Therefore, the Chamber instructs the Accused to upload into e-court only the relevant pages shown to the witness and shall admit MFI D4183 into evidence under seal.

8. In relation to MFI D4203, the Chamber notes that it was marked for identification pending translation through witness Milomir Stakić on 17 December 2013.¹³ The witness was shown two articles contained in the BCS original of the document, *i.e.*, one titled “Attackers Came From Stari Grad” and a second article referring to the Crisis Staff’s consideration of the problem of the “temporarily resettled population”;¹⁴ however, the latter article is not included in the English translation of MFI D4203 uploaded into e-court. The Chamber further considers that Stakić

⁸ Order on Procedure, Appendix A, paras O, Q.

⁹ Mile Dobrijević, T. 44628 (6 December 2013).

¹⁰ Mile Dobrijević, T. 44674 (6 December 2013).

¹¹ Mile Dobrijević, T. 44673–44674 (6 December 2013).

¹² KW012, T. 44816–44817 (10 December 2013). The Chamber notes that the relevant pages are pages 1 and 7 (e-court) of the BCS original and pages 1, 3, and 4 (e-court) of the English translation.

¹³ Milomir Stakić, T. 45300 (17 December 2013).

¹⁴ Milomir Stakić, T. 45296–45300 (17 December 2013).

commented sufficiently upon both articles for the purposes of their admission at this stage. However, the Chamber has not reviewed the English translation of the second article shown to the witness and accordingly, will stay its decision on the admission of MFI D4203 pending its complete review. The Chamber thus instructs the Accused to upload into e-court a complete English translation for MFI D4203, including a translation of the second article shown to the witness.¹⁵

9. Finally with regard to the remaining two documents—MFI D4172 and D4256—on the basis of the information provided by the Accused in the Motion, having reviewed the documents along with the relevant transcripts and translations, the Chamber is satisfied that they should now be marked as admitted.

¹⁵ See Milomir Stakić, T. 45299–45300 (17 December 2013).

III. Disposition

10. Accordingly, for the reasons outlined above and pursuant to Rule 89 of the Tribunal's Rules of Procedure and Evidence, the Chamber hereby **GRANTS** the Motion, in part, and:

- a) **ADMITS** into evidence the documents currently marked for identification as MFI D4172 and D4256;
- b) **ADMITS** into evidence the documents currently marked for identification as MFI D4175 and **INSTRUCTS** the Accused to upload the revised English translations as set out in paragraph 6 above by 28 February 2014;
- c) **ADMITS** into evidence, under seal, the document currently marked for identification as MFI D4183 and **INSTRUCTS** the Accused to upload the accurate portions of the BCS original and the English translation as set out in paragraph 7 above by 28 February 2014; and
- d) **STAYS** its decision on the admission of MFI D4203, **INSTRUCTS** the Registry to retain it as marked for identification until further order, and **INSTRUCTS** the Accused to upload the revised English translation as set out in paragraph 8 above by 28 February 2014.

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



Judge O-Gon Kwon
Presiding

Dated this twenty-fifth day of February 2014
At The Hague
The Netherlands

[Seal of the Tribunal]