

**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: 15 July 2015
Original: English

IN TRIAL CHAMBER I

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

Registrar: Mr John Hocking

Decision of: 15 July 2015

PROSECUTOR

v.

RATKO MLADIĆ

PUBLIC

**DECISION ON ADMISSION OF REMAINING DOCUMENTS
ASSOCIATED WITH THE RULE 92 *TER* STATEMENT OF
DESIMIR ŠARENAC**

Office of the Prosecutor
Mr Peter McCloskey
Mr Alan Tieger

Counsel for Ratko Mladić
Mr Branko Lukić
Mr Miodrag Stojanović

I. PROCEDURAL HISTORY

1. On 9 October 2014, following the testimony of Desimir Šarenac, the Defence filed a motion (“Motion”) seeking the admission into evidence of the remaining 22 documents associated with the witness’s statement, exhibit D653.¹ On 23 October, the Prosecution filed its response to the Motion (“Response”).² On 4 November, the Defence requested and was granted an extension of the deadline by which to file a request for leave to reply to the Response.³ On 12 November, the Defence filed its request to reply (“Request”), attaching its reply as an annex.⁴

II. SUBMISSIONS OF THE PARTIES

2. The Defence submits that the remaining 22 associated exhibits should be admitted because they are directly relevant to the case, form an inseparable and indispensable part of the witness’s evidence, and are important to the Defence case.⁵ The Prosecution objects to the admission of seven of the associated exhibits on the basis that they lack relevance and probative value; does not oppose the admission of two documents; and takes no position on the remaining thirteen.⁶

III. APPLICABLE LAW

3. The Chamber recalls and refers to the applicable law governing the admission of associated exhibits as set out in previous decisions.⁷

IV. DISCUSSION

4. The Chamber recalls its guidance on requests for leave to reply⁸ and notes that the original deadline for filing a request to reply expired on 30 October 2014. On 4 November, the Defence asked for a retroactive deadline extension, which the Chamber granted, setting a new deadline of 10

¹ Defence Submission as to Associated Exhibits -- Desimir Sarenac, 9 October 2014.

² Prosecution Response to Defence Submission as to Associated Exhibits for Desimir Šarenac, 23 October 2014.

³ T. 26590-26599.

⁴ Defence Request to File Reply in Support of Defence Submission as to Associated Exhibits for Desimir Sarenac, 12 November 2014.

⁵ Motion, paras 3-10.

⁶ Response, para. 2, Annex A.

⁷ Decision on Prosecution Motion to Admit the Evidence of Witness RM-266 Pursuant to Rule 92 *quater*, 23 July 2012, paras 12-13. *See also*, Decision on Prosecution’s Motion for Reconsideration, Granting Admission from the Bar Table or Certification in Relation to Decision Regarding Associated Exhibits of Witness Tucker, 7 February 2013, para. 8; T. 530-531, 5601-5603.

⁸ T. 85

November.⁹ Nonetheless, the Request was not filed until 12 November. Absent any submissions to justify such a late filing by the Defence, the Chamber will not further consider the Request.

5. Turning now to the decision on the remaining exhibits associated with the witness's statement, the Chamber finds that without some of the tendered documents it would not be able to comprehend the statement and, for this reason, finds that the following documents form an inseparable and indispensable part of exhibit D653. The Chamber will therefore admit the documents bearing Rule 65 *ter* numbers 1D03019, 1D03020, 1D03033, 1D03076, 1D03077, and 1D04399 into evidence.

6. With regard to the remaining associated exhibits, the Chamber considers that these were not discussed by Šarenac to such an extent that they form an inseparable and indispensable part of his statement, nor does the denial of their admission result in the statement having lesser probative value. The Chamber will therefore deny admission into evidence of the following 16 documents bearing Rule 65 *ter* numbers 1D03031, 1D03034 up to and including 1D03039, 1D03057 up to and including 1D03061, 1D03075, and 1D03078 up to and including 1D03080.

V. DISPOSITION

7. For the foregoing reasons, pursuant to Rules 89 (C), and 92 *ter* of the Rules, the Chamber

DISMISSES the Request;

GRANTS the Motion **IN PART**;

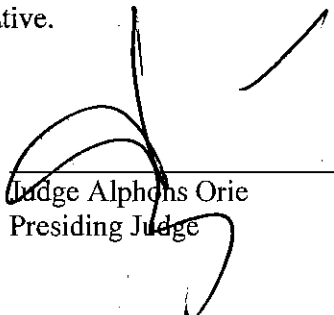
ADMITS into evidence the documents bearing Rule 65 *ter* numbers 1D03019, 1D03020, 1D03033, 1D03076, 1D03077, and 1D04399;

DENIES the admission into evidence of the documents bearing Rule 65 *ter* numbers 1D03031, 1D03034 up to and including 1D03039, 1D03057 up to and including 1D03061, 1D03075, and 1D03078 up to and including 1D03080; and

⁹ T. 27757-27758.

REQUESTS the Registry to assign exhibit numbers to the documents admitted and to inform the parties and the Chamber of the numbers so assigned.

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



Judge Alphons Orié
Presiding Judge

Dated this fifteenth day of July 2015
At The Hague
The Netherlands

[Seal of the Tribunal]