



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: 8 June 2016
Original: English

IN TRIAL CHAMBER I

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

Registrar: Mr John Hocking

Decision of: 8 June 2016

PROSECUTOR

v.

RATKO MLADIĆ

PUBLIC

**DECISION ON DEFENCE'S THIRD MOTION FOR THE
ADMISSION OF DOCUMENTS FROM THE BAR TABLE**

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 18 January 2016, the Defence filed its third bar table motion (“Motion”), tendering 192 documents into evidence.¹ On 16 February, the Prosecution responded to the Motion (“Response”).² On 23 February, the Defence requested leave to reply to the Response, as well as an additional seven days to file the reply, should leave be granted.³ On 29 February, the Chamber granted both requests *via* email, which is hereby put on the record. On 1 March, the Defence replied (“Reply”).⁴ On 2 March, the Prosecution requested leave to sur-reply and sur-replied (“Sur-Reply”).⁵

II. SUBMISSIONS OF THE PARTIES

2. The Defence submits that all tendered documents are relevant and have sufficient probative value to be admitted pursuant to Rule 89 (C) of the Rules of Procedure and Evidence (“Rules”).⁶ It argues that the tendered documents address and rebut a number of allegations against the Accused as set out in the Indictment, such as his responsibility for crimes committed by members of the Bosnian-Serb Army (“VRS”), paramilitary groups, and police officers employed within the Ministry of Interior (“MUP”).⁷ It further submits that the tendered documents show a lack of criminal intent on the part of the Accused, evidenced by orders requiring compliance with international humanitarian law (“IHL”) and domestic military law, as well as orders for the arrest and punishment of those persons under his command who disobeyed such laws.⁸ The Defence argues that the lack of a genocidal plan is supported by documents providing information on the multi-ethnic composition of the VRS.⁹ The Defence further submits that the documents serve to prove or disprove important matters at issue, including whether paramilitaries and the civilian police were acting outside the effective control of the VRS, the efforts undertaken by and the

¹ Defence Third Motion to Admit Documents from the Bar – Military Power and Structure, 18 January 2016. Initially, the Defence indicated that it is tendering 197 documents. The Chamber notes, however, that the annex to the motion contains only 194 documents, two of which are tendered twice under the same Rule 65 *ter* number. These documents will therefore not be considered twice.

² Prosecution Response to Defence Third Motion to Admit Documents from the Bar Table – Military Power and Structure, 16 February 2016 (Public with Confidential Annex). On 27 January, the Prosecution filed a request for an extension of time to respond to the Motion, which was granted on 1 February. *See* Prosecution Omnibus Request for an Extension of Time to File Responses to Six Defence Bar Table Motions Distributed on 19 January 2016, 27 January 2016; T. 42913-42914.

³ Defence Request for Leave to Reply in Support of Third Motion to Admit Documents from the Bar – Military power and Structure, 23 February 2016, paras 2, 6, 9.

⁴ Reply in Support of Third Defence Motion to Admit Documents from the Bar – Military and Power Structure, 1 March 2016 (Confidential).

⁵ Prosecution Request for Leave to Sur-Reply to Defence Reply to Defence Third Motion to Admit Documents from the Bar Table, 2 March 2016 (Confidential with Confidential Annex).

⁶ Motion, paras 2, 8-14.

⁷ Motion, para. 8.

⁸ *Ibid.*

⁹ *Ibid.*

intention of VRS commanders to order their troops to comply with IHL, disciplinary action and criminal investigations undertaken by relevant Serb authorities for crimes committed against non-Serbs, and the lack of professional and junior officers within the VRS.¹⁰ The Defence also submits that the tendered documents are authentic and display *prima facie* proof of reliability, thus satisfy the probative value criterion for admission.¹¹ Also, the Defence submits that a number of documents were included in the Prosecution's Rule 65 *ter* exhibit list and uploaded into eCourt by the Prosecution, thus is aware of their provenance, therefore presumed to be satisfied with their reliability.¹²

3. The Prosecution opposes the admission of seven documents tendered by the Defence due to insufficient information on their provenance and/or lack of probative value.¹³ It further notes that 14 documents are identical to documents already admitted into evidence,¹⁴ one document is tendered in the Defence's First Bar Table Motion,¹⁵ and five documents are identical to other documents included in the Motion.¹⁶ It also requests the official translation of two documents before admission,¹⁷ and takes no position on the admission of four other documents.¹⁸ With regard to the remaining 159 documents, the Prosecution does not oppose their admission, but submits that the Defence has made misstatements regarding the relevance of their content.¹⁹ Furthermore, the Prosecution seeks to tender 17 documents ("contextual documents") that it submits are necessary to contextualize 31 of the documents tendered by the Defence.²⁰ The Prosecution opposes the admission of five of these 31 documents, unless the Chamber admits the respective contextual documents into evidence.²¹ The Prosecution alleges that these documents clarify and contextualize excerpts of investigative files tendered by the Defence relating to crimes committed by VRS soldiers or other members of the Serb forces against non-Serbs.²² It submits that each contextual document will assist the Chamber to properly understand the corresponding Defence documents to which they are intimately linked.²³

¹⁰ Motion, para. 9.

¹¹ Motion, paras 10-11, Annex A.

¹² Motion, para. 12.

¹³ Response, para. 1, Annex A (pp. 19, 25-28, 32, 36).

¹⁴ Response, para. 4, Annex A (pp. 1-2, 7, 13, 21-22, 27-28, 30, 32, 35). In the Response, the Prosecution refers to 13 duplicates, but in Annex A, it identifies 14 duplicates.

¹⁵ Response, para. 4, Annex A (p. 36).

¹⁶ Response, Annex A (pp. 10, 12, 21; 34).

¹⁷ Response, para. 4, Annex A (pp. 31, 37).

¹⁸ Response, para. 4, Annex A (pp. 13, 28, 36, 38).

¹⁹ Response, para. 2.

²⁰ Response, paras 4-5, Annex A (pp. 2, 4, 11-13, 15-19, 23-25, 27, 29, 33-35, 38).

²¹ Response, Annex A (pp. 19, 24, 29, 34).

²² Response, paras 4-5.

²³ Response, para. 4.

4. In the Reply, the Defence requests an extension of the word limit of 643 words.²⁴ Furthermore, it contends that the Prosecution's submissions about the content of tendered documents, the admission of which it does not oppose, are "inappropriate and unfair" and that since the documents are unopposed, they should be admitted into evidence.²⁵ In relation to the contextual documents, the Defence argues that allowing the Prosecution to introduce these documents is inappropriate at this stage of the proceedings and that the proposed procedure should be dismissed.²⁶ Finally, the Defence withdraws its request to admit documents that have already been admitted into evidence and requests the Chamber to disregard any duplicates of documents included in the Motion, but continues to seek admission of one copy of each of the documents listed more than once.²⁷

5. In the Sur-Reply, the Prosecution withdraws its objection to the document bearing Rule 65 *ter* number 1D03264.²⁸ Finally, the Prosecution notes that the correct Rule 65 *ter* number for the document contextualizing the convictions of Daniluško Kajtez is 31556, not 31566.²⁹

III. APPLICABLE LAW

6. The Chamber recalls and refers to the applicable law governing the admission into evidence of documents tendered from the bar table, as set out in a previous decision.³⁰

7. The Chamber further recalls and refers to its previous decision regarding the phase at which the Prosecution may tender contextual documents in response to the Defence's bar table motions.³¹

IV. DISCUSSION

A. Preliminary Considerations

8. Given that the Prosecution raises new issues in the Response and that the requested word limit extension is very limited, the Chamber finds that the Defence has shown good cause for the request and will therefore grant it. Given that the Defence raised a new issue in its Reply, the

²⁴ Reply, para. 2.

²⁵ Reply, paras 2, 38.

²⁶ Reply, paras 25, 27.

²⁷ Reply, para. 4.

²⁸ Sur-Reply, para. 3.

²⁹ The Chamber will therefore only consider document bearing Rule 65 *ter* number 31556.

³⁰ Decision on Defence's Eighth Motion for the Admission of Documents from the Bar Table, 24 March 2016, paras 6-7.

³¹ Reasons for Decision on Prosecution Request to Tender Documents and Decision on Defence Motion for Certification to Appeal, 10 March 2016. *See also* Decision on Defence's Eighth Motion for the Admission of Documents from the Bar Table, 24 March 2016, paras 11-12.

Chamber finds that the Prosecution has shown good cause for the request to sur-reply and will grant the requested leave.

9. In accordance with previous decisions on the matter, the Chamber will deny the Defence request to strike from the Response the Prosecution's submissions on each tendered document.³²

10. The documents bearing Rule 65 *ter* numbers 10510 and 1D03599 are identical to documents bearing Rule 65 *ter* numbers 1D02607 and 1D05095, respectively, which are also tendered in the Motion. The Chamber understands the Defence's request in the Reply to disregard duplicates as a withdrawal of its request to admit one copy of the any duplicates.³³ Therefore, the Chamber will only consider the admission of the documents bearing Rule 65 *ter* numbers 1D02607 and 1D05095 and will not further consider documents bearing Rule 65 *ter* numbers 10510 and 1D03599.

11. The document bearing Rule 65 *ter* number 1D05271 can also be found in pages 5 through 8 of the document bearing Rule 65 *ter* number 1D05275, which is also tendered in the Motion. The Chamber considers it more appropriate to consider the complete version of the document, rather than a selected portion of it. For this reason, the Chamber will only consider the admission of the document bearing rule 65 *ter* number 1D05275 and will not further consider the document bearing Rule 65 *ter* number 1D05271.

12. Contrary to the Prosecution's contention that the documents bearing Rule 65 *ter* numbers 11152 and 14727 are duplicates,³⁴ the Chamber notes that their content is the same, as they are both an order for unhindered passage of humanitarian aid, signed by Stanislav Galić, but their stamps and addressees/recipients are different. In the interest of the completeness of the record of the distribution of the order, the Chamber will consider both documents.

13. Contrary to the Prosecution's contention that the documents are duplicates,³⁵ the Chamber notes that the documents bearing Rule 65 *ter* numbers 14553 and 1D03381 are the official and the published versions of the same document relating to the promulgation of the law on the mandatory reporting of crimes against humanity and international law, respectively. The Chamber also notes that the document bearing Rule 65 *ter* number 14553 contains the decree on promulgation in question, as well as the law itself, while the document bearing Rule 65 *ter* number 1D03381 only contains the decree. The Chamber also notes that the date of the document bearing Rule 65 *ter*

³² Decision on Defence's Eighth Motion for the Admission of Documents from the Bar Table, 24 March 2016, para. 10. *See also* Decision on Prosecution Motion to Admit Evidence from the Bar Table: Foča Municipality, 14 November 2013, para. 17.

³³ Reply, para. 4.

³⁴ Response, Annex A (p. 7).

³⁵ Response, Annex A (p. 21).

number 1D03381 does not correspond to the date on the original decree in the document bearing Rule 65 *ter* number 14553. For these reasons, the Chamber considers it more appropriate to consider the complete version of the document, namely the document bearing Rule 65 *ter* number 14553,³⁶ and to not further consider the document bearing Rule 65 *ter* number 1D03381.

14. The documents bearing Rule 65 *ter* numbers 1D01232,³⁷ 11170, 14980, 1D04764, 1D02862,³⁸ 10525, 10997, 03016, 1D00835, 1D02250, 1D02276, 1D02249, 03833, and 1D00822 have already been admitted into evidence.³⁹ The Defence has withdrawn its request for admission of the documents bearing Rule 65 *ter* numbers 1D01232, 11170, 14980, 1D04764, 1D02862, 10525, 10997, 03016, 1D00835, 1D02250, 1D02276, 1D02249, 03833, and 1D00822.⁴⁰ Therefore, the Chamber will not consider these documents further.

15. Contrary to the Prosecution's contention, the document bearing Rule 65 *ter* number 1D02456 is not a duplicate of the document bearing Rule 65 *ter* number 1D02475, which was admitted into evidence by this Chamber in its Decision on Defence's First Motion for the Admission of Documents from the Bar Table.⁴¹ Rather, the two documents have similar content, different format and bear different recipient stamps. After careful examination and comparison between the two documents, however, the Chamber notes that the document bearing Rule 65 *ter* number 1D02456 does not provide any new information, which the Chamber can use in the assessment of the evidence before it. For these reasons, the document bearing Rule 65 *ter* number 1D02456 will not be considered further.

B. Documents with Identified Translation Issues

16. With regard to the document bearing Rule 65 *ter* number 1D01456, the Chamber notes that the date on the BCS original does not correspond to the date on its English translation. Furthermore, the English translation contains a page, the provenance of which has not been clarified, which does not appear in the BCS original. The Chamber notes that the English translation should correspond

³⁶ The Chamber notes that the date of the decision to promulgate the law in the original BCS version of the document (4 January 1994) precedes the date of the law itself (30 December 1994). However, the translation of the English translation of the decree seems to be depicted correctly (4 January 1995) and this is the date the Chamber will take into account.

³⁷ The Chamber notes that in the Reply, the Defence incorrectly referred to the document bearing Rule 65 *ter* number 1D01232 as 1D02132.

³⁸ The Chamber notes that in the Reply, the Defence incorrectly referred to the document bearing Rule 65 *ter* number 1D02862 as 1D02682.

³⁹ These documents are admitted as Exhibits D1054, P3528 (pp. 5-6), P3528 (pp. 41-43), D424, D434, D421, D433, D1138, P6894, P1058 (pp. 35-40), P1058 (pp. 50-51), P1058 (pp. 52-53), P3095 (pp. 2-3), and D1300, respectively. In relation to Exhibit P3528, the Chamber notes that on p. 41 of its English translation, the VTK No. is reflected as 359/93, while the BCS version on p. 30 refers to VTK No. 375/93. The Chamber notes that this is a minor translation error, without significant consequences.

⁴⁰ Response, para. 4.

to the BCS original. The Chamber will only assess the English translation portion of document bearing Rule 65 *ter* number 1D01456, which corresponds to the BCS version.

17. With regard to the document bearing Rule 65 *ter* number 1D00169, the Chamber notes that its BCS original is eight pages long, while the English translation is only two pages long. The Chamber will only assess the English portion of the document.

18. The Prosecution opposes the admission of the documents bearing Rule 65 *ter* numbers 1D02526, 1D04572, 1D05327, and 1D02949, unless the Defence uploads a revised translation for the first two of them,⁴² translates the third document in its entirety,⁴³ and replaces the existing translation of the fourth document with a translation provided by the Conference and Language Service Section of the Tribunal (“CLSS”) bearing Rule 65 *ter* number 12966, which is identical to 1D02949.⁴⁴ The Chamber notes that the Defence has replaced the translation of the document bearing Rule 65 *ter* number 1D05327, as requested by the Prosecution. The Chamber will therefore discuss the admissibility of this document below. The Defence did not replace the translation of the document bearing Rule 65 *ter* number 1D02949. However, the Chamber finds that it is appropriate to consider the CLSS translation and, instead of the document bearing Rule 65 *ter* number 1D02949, it will consider the admission of the document bearing Rule 65 *ter* number 12966. The Defence did not replace the current translations of the documents bearing Rule 65 *ter* numbers 1D02526 and 1D04572 with complete revised translations. In particular, the current English translation of the document bearing Rule 65 *ter* number 1D02526 is incomplete, and the date in the English translation of the document bearing Rule 65 *ter* number 1D04572 does not correspond to the date in the BCS original. The Chamber notes that the English translation should correspond to the BCS original. The content of the documents bearing Rule 65 *ter* numbers 1D02526 and 1D04572, which correspond to their BCS versions, will be considered below.

19. The Prosecution requests that the document bearing Rule 65 *ter* number 1D05369 be marked for identification pending the upload of its English translation into eCourt.⁴⁵ On 21 April, after the translation was uploaded into eCourt, the Prosecution informed the Chamber and the Defence *via* email that it does not oppose the admission of this document. Under these circumstances, the Chamber will assess the admissibility of the document below.

⁴¹ Decision on Defence’s First Motion for Admission of Documents from the Bar Table, 18 May 2016, para. 17.

⁴² Response, Annex A (p. 7). The Prosecution requests the Defence to upload a revised translation of the documents bearing Rule 65 *ter* numbers 1D02526 and 1D04572.

⁴³ Response, Annex A (p. 10). The Prosecution requests that the document bearing Rule 65 *ter* number 1D05327 be translated and admitted in its entirety.

⁴⁴ Response, Annex A (p. 37).

⁴⁵ Response, Annex A (p. 31).

C. Documents Opposed by the Prosecution

a) Documents bearing Rule 65 *ter* numbers 1D00836, 1D02795, 1D02257, 1D00838, and 1D04506

20. The Prosecution opposes the admission of the documents bearing Rule 65 *ter* numbers 1D00836, 1D02795, 1D02257, 1D00838, and 1D04506, unless the Chamber admits four contextual documents.⁴⁶ The Chamber finds that the Prosecution has not set out with sufficient clarity the basis on which it opposes the admission of the Defence documents. The Chamber will therefore assess the admissibility of the aforementioned documents below.

b) Documents bearing Rule 65 *ter* number 1D03388 and 1D03391

21. The document bearing Rule 65 *ter* number 1D03388 is a Bijeljina Municipal Assembly Presidency order of 8 April 1992 that prohibits the carrying of weapons in public by persons not in uniform and persons without a permit. The document bearing Rule 65 *ter* number 1D03391 is a Bijeljina Municipal Assembly Presidency decision of 12 May 1992 on the tasks and duties concerning law and order and traffic control in Bijeljina Municipality. The Prosecution challenges the admission of both documents on the basis that their provenance is unclear, they are not signed, and that the document bearing Rule 65 *ter* number 1D03391 is not stamped.⁴⁷ The Chamber notes that both documents are type-signed by Cvijetin Simić and follow the same format as Prosecution documents admitted into evidence in this case, for example exhibit P1056. Moreover, the tendered documents, together with P1056, appear to be a part of a collection of similar documents, which all contain an instruction that they should be published in the Bulletin of the Presidency of Bijeljina Municipal Assembly. The Chamber further finds that the documents are relevant to charges in the Municipalities component of the case, as they concern the prohibition of the carrying of weapons in public by persons without a permit, and the maintenance of law, order and traffic control in Bijeljina Municipality. Furthermore, the Defence has set out with sufficient clarity and specificity how the documents fit into its case. The Chamber therefore finds that both documents are relevant and have probative value pursuant to Rule 89 (C) of the Rules and will admit them into evidence.

c) Document bearing Rule 65 *ter* number 1D04532

22. The document bearing Rule 65 *ter* number 1D04532 is an excerpt from a list of persons detained during the war in a Penal and Correctional Institution in Serb Sarajevo. The Defence submits that the excerpt only contains names of Serbs and serves to demonstrate an effort on the

⁴⁶ Response, Annex A (pp. 5, 24, 29, and 34). The Prosecution tendered the documents bearing Rule 65 *ter* numbers 1D02329, 33647, 16819, and 33650.

⁴⁷ Response, Annex A (pp. 26, 28).

Serb side to uphold law and order and rebuts the Prosecution allegations concerning the existence of a joint criminal enterprise (“JCE”).⁴⁸ The Prosecution challenges the admission of the document into evidence, arguing that it is a simple list of names and does not contain any evidence to support the Defence’s assertions.⁴⁹ The Defence submits that the Prosecution ignores the fact that all names contained in the document belong to Serbs and that the Prosecution’s objections are directed to the weight which will be attributed to the document, and not to its admissibility.⁵⁰ The Chamber finds that it is not able to assess the relevance of the document, as there is no support for the claim that the names listed in the document are only of Serbs. Also, no further information can be found in relation to the time, duration or reasons for these persons to be remanded in custody. Finally, pages 2 through 20 of the document are missing. For these reasons, the Chamber will deny admission of this document into evidence without prejudice.

d) Document bearing Rule 65 ter number 17090

23. The document bearing Rule 65 ter number 17090 is a report from the MUP on the activities of the paramilitary formation led by Vojin Vučković, a.k.a. Žučo. The Prosecution opposes the admission of the document, and submits that it has minimal probative value and that it does not support the Defence’s claim that paramilitaries were acting outside the effective control of the VRS.⁵¹ The Defence submits that the document is an intelligence update referring to problems the VRS had with the paramilitary group Yellow Wasps, and that the information contained therein is corroborated by documents that are already in evidence in this case.⁵² The Chamber finds that the document is relevant to the Municipalities component of the case, as it relates to intelligence gathered by the MUP on the activities of the paramilitary formation of Vojin Vučković in the area of Zvornik. The document indicates its source, date, location, and recipients, and thus bears sufficient *indicia* of authenticity and reliability. The Chamber finds that the document is relevant and has probative value pursuant to Rule 89 (C) of the Rules. The Defence has set out with sufficient clarity and specificity how this document fits into its case. Based on the foregoing, the Chamber will admit the document bearing Rule 65 ter number 17090 into evidence.

e) Document bearing Rule 65 ter number 1D04972

24. The document bearing Rule 65 ter number 1D04972 is an order from Mićo Stanišić to the detachment of the special MUP units to send 50 policemen to Public Security Station Rudo in Višegrad to prevent illegal entry into Bosnian-Serb territory, and to prevent criminal activities. The

⁴⁸ Motion, Annex A (p. 70).

⁴⁹ Response, Annex A (p. 25).

⁵⁰ Reply, para. 16.

⁵¹ Response, Annex A (p. 19).

Prosecution opposes the admission of the document, arguing that it lacks specificity about the crimes committed and therefore does not support the Defence's contention that the crimes described in the report pertain to paramilitaries.⁵³ The Defence argues that the document concerns the prevention of entry of people from other countries who would engage in criminal activities, and that, since such individuals could not have been members of the VRS or the police, they must have been members of paramilitary groups.⁵⁴ It further submits that the order sought to prevent future crimes and can therefore not refer to specific crimes.⁵⁵ The Chamber finds that the document is relevant to the charges in the Municipalities component of the case, as well as to the liability of the Accused in relation to the overarching JCE and his alleged superior responsibility for crimes charged in the Indictment. The Chamber further finds that the document bears sufficient *indicia* of authenticity and reliability, such as a stamp, signature, and date. Therefore, the document is relevant and has probative value pursuant to Rule 89 (C) of the Rules. Additionally, the Defence has set out with sufficient clarity and specificity how it fits into its case. Based on the foregoing, the Chamber will admit the document bearing Rule 65 *ter* number 1D04972 into evidence.

f) Document bearing Rule 65 *ter* number 1D03530

25. The document bearing Rule 65 *ter* number 1D03530 consists of an order by Radovan Karadžić regarding the free travel of delegates of the International Committee of the Red Cross ("ICRC") within the territory of Bosnia-Herzegovina. The Prosecution opposes the admission of this document, arguing that its provenance is unclear and that Karadžić's signature appears to be crossed out.⁵⁶ The Defence submits that the document was transmitted by a telex device and resembles other such documents that have been admitted into evidence, that the signature is not crossed out, but highlighted, and that the handwriting on the top right corner of the document appears to be a signature acknowledging receipt of the document.⁵⁷ The Chamber notes that the document does not contain a date, which makes it difficult for the Chamber to assess its probative value. This concern is strengthened by the reference in page 2 of the document to 26 ICRC delegates, who had received the instructions contained in page 1 of the same document and were told to carry the instructions with them. It is unclear if, when, or where the visit of these delegates took place. Furthermore, the Defence failed to address the Prosecution's objections in relation to the provenance of the document. The Chamber notes that, apart from the type-written signature, the tendered document does not contain any *indicia* of reliability that would aid in determining its

⁵² Reply, para. 15.

⁵³ Response, Annx A (p. 27).

⁵⁴ Reply, para. 18.

⁵⁵ Reply, para. 18.

⁵⁶ Response, Annex A (p. 36).

⁵⁷ Reply, para. 20.

origin. The Chamber, therefore, is not satisfied that the document has sufficient probative value and will deny its admission into evidence without prejudice.

D. Documents Unopposed by the Prosecution

26. The Prosecution does not oppose the admission of the remaining 167 documents.⁵⁸

a) Documents bearing Rule 65 *ter* numbers 17192 and 1D02789

27. The documents bearing Rule 65 *ter* numbers 17192 and 1D02789 are a compilation of orders, decisions and other acts of the RS Presidency; and an order by Radovan Karadžić regarding the free travel of delegates of the ICRC within the territory of Bosnia-Herzegovina, respectively. The Chamber notes that page 18 of the document bearing Rule 65 *ter* number 17192 and the document bearing Rule 65 *ter* number 1D02789 have similar content, the only difference being the addressees of the two documents. The Chamber finds that neither document contains a date, which makes it difficult for the Chamber to assess their provenance and authenticity. Moreover, the content of both documents strongly resembles the content of the document bearing Rule 65 *ter* number 1D03530, save for the former lacking the information about 26 ICRC delegates, contained in the latter. For the above reasons, the Chamber will deny admission of the document bearing Rule 65 *ter* number 1D02789 into evidence from the bar table without prejudice, and will only consider the content of pages 1 through 17 and 19 through 26 of the document bearing Rule 65 *ter* number 17192.

b) The remaining unopposed documents

28. Fifty-two of these remaining documents comprise investigation files, criminal reports, indictments, decisions, ballistic reports, expert reports, medical reports, decisions and judgments by judicial authorities operating in Bosnian-Serb territory, and other documents relating to the initiation of criminal proceedings against acting members of the VRS or other Serbs for their involvement in criminal activities, including for the commission of crimes against non-Serbs.⁵⁹ The Chamber finds these documents relevant to the Municipalities component of the case, as well as to the liability of the Accused in relation to both the overarching and the Sarajevo JCE, and his alleged superior responsibility for crimes charged in the Indictment.

⁵⁸ Response, para. 2.

⁵⁹ Documents bearing Rule 65 *ter* numbers 01842, 06164, 06376, 06458, 06475, 06486, 06488, 06504, 06511, 06519, 06522, 06528, 06530, 06531, 06532, 06674, 06681, 12777, 16463, 16545, 20011, 1D00826, 1D00836, 1D00838, 1D02248, 1D02254, 1D02263, 1D02281, 1D02607, 1D02795, 1D02879, 1D03380, 1D03382, 1D03409, 1D03518, 1D03575, 1D03576, 1D03597, 1D03602, 1D03603, 1D04334, 1D04335, 1D04597, 1D05087, 1D05091, 1D05092, 1D05093, 1D05095, 1D05097, 1D05101, 1D05104, and 1D05327.

29. Thirty-two of the remaining documents comprise orders, warnings, combat reports, decrees, decisions, directives, bulletins, a manual, and other documents issued by, among others, Radovan Karadžić, the MUP, different corps commands, including those of the Sarajevo-Romanija Corps, 1st Krajina Corps, 2nd Krajina Corps, and the Drina Corps, a United Nations Protection Force (“UNPROFOR”) representative, and the United States concerning the promulgation and applicability of IHL and other laws, problems maintaining law and order, the morale within VRS units, and the lack of trained officers within the VRS.⁶⁰ The Chamber is satisfied that the aforementioned documents are relevant to the Municipalities, Sarajevo and/or Srebrenica components of the case, as well as to the liability of the Accused in relation to the overarching, Sarajevo, and Srebrenica JCEs and his alleged superior responsibility for crimes charged in the Indictment.

30. The Defence also tenders 22 documents, including combat and other reports, statements, orders, and letters, from, among others, Radovan Karadžić, the MUP, various corps commands, and the VRS Main Staff, concerning the formation and activities of paramilitary and other groups allegedly acting outside VRS control, and attempts made to curtail their activities.⁶¹ The Chamber finds that these documents are relevant to the Municipalities component of the case, as well as to the liability of the Accused in relation to the overarching JCE and his alleged superior responsibility for crimes charged in the Indictment.

31. Eight of the remaining documents, which comprise a telegram, orders, reports, and other documents issued by the Central Commission for the Exchange of Prisoners and Civilians, Radovan Karadžić, the MUP, the operative team of the Manjača Camp for prisoners of war (“POW”), and other VRS authorities, relate to the treatment of POWs, their exchange, and steps taken in order to comply with agreements concerning POWs.⁶² The Chamber is satisfied that the aforementioned documents are relevant to the Municipalities component of the case, as well as to the liability of the Accused in relation to the overarching JCE and his alleged superior responsibility for crimes charged in the Indictment.

32. The Defence further tendered 19 documents relating to the relationship between the Serb authorities on the one hand, and UNPROFOR and other international actors, on the other hand; the

⁶⁰ Documents bearing Rule 65 *ter* numbers 02623, 03339, 04049, 04648, 06612, 06907, 06983, 08447, 10656, 10793, 11434, 13745, 14553, 14810, 16557, 16584, pages 1 through 17 and 19 through 26 (pages 1 through 11 and 13 through 20 of the original BCS version) of 17192, 18598, 19167, 31864, 1D00458, 1D01456, 1D02609, 1D02770, 1D02813, 1D03402, 1D03625, 1D03630, 1D03833, 1D04094, 1D04718, and 1D05369.

⁶¹ Documents bearing Rule 65 *ter* numbers 02913, 02932, 03299, 06636, 06987, 08588, 16504, 16571, 17012, 17086, 17098, 31137, 1D00169, 1D02257, 1D02602, 1D02672, 1D02791, 1D03285, 1D03392, 1D03395, 1D03401, and 1D04651.

delivery of humanitarian aid, convoys, and the presence and activities of the ICRC.⁶³ The Chamber is satisfied that the aforementioned documents are relevant to the Municipalities component of the case, as well as to the liability of the Accused in relation to the overarching JCE and his alleged superior responsibility for crimes charged in the Indictment.

33. The remaining 34 documents tendered by the Defence comprise official notes, reports, conclusions, and other documents sent by or to the VRS Main Staff and other VRS officials, the MUP, and the Bosanski Novi Municipal Assembly, concerning the relationship between the police, the MUP, and the VRS; the efforts by the VRS Main Staff, including Mladić, to conclude agreements that would contribute to the end of the conflict, efforts undertaken to protect citizens from all ethnic groups; the presence of non-Serbs within the VRS; the presence and activities undertaken by non-Serb groups that jeopardized the efforts to establish peace; and the adherence to ceasefire agreements.⁶⁴ The Chamber finds these documents relevant to the Municipalities, Sarajevo, and/or Srebrenica components of the case, as well as to the liability of the Accused in relation to the overarching, Sarajevo, and Srebrenica JCEs and his alleged superior responsibility for crimes charged in the Indictment.

34. The Chamber is satisfied that all aforementioned 166 documents bear sufficient *indicia* of reliability and authenticity for admission into evidence. All of them contain dates, signatures and/or stamps, or contain information about who authored, sent or received the documents. While some of the documents fall outside the temporal scope of the Indictment, the Chamber finds that they are relevant for understanding the background and the context leading up to, or of the aftermath of the events included in the Indictment. Furthermore, the Defence has set out with sufficient clarity and specificity how the documents would fit into its case. For the reasons mentioned above, the Chamber will admit these documents into evidence.

E. Contextual Documents

35. Since the Prosecution makes no submissions on why it should be allowed to tender contextual documents at this stage of the proceedings, the Chamber will deny the admission of the contextual documents bearing Rule 65 *ter* numbers 07068, 07081, 07082, 07083, 07084, 08354,

⁶² Documents bearing Rule 65 *ter* numbers 06949, 09799, 1D02260, 1D03646, 1D04504, 1D04506, 1D04539, and 1D04548.

⁶³ Documents bearing Rule 65 *ter* numbers 00071, 03453, 05982, 10932, 11088, 11152, 12966 (instead of 1D02949, which was tendered by the Defence), 14727, 17457, 1D02184, 1D02452, 1D02526, 1D03264, 1D03634, 1D03814, 1D04365, 1D04637, and 1D04708.

⁶⁴ Documents bearing Rule 65 *ter* numbers 01157, 03735, 07995, 09896, 10159, 11266, 11420, 15153, 15156, 15157, 15158, 16621, 31337, 1D00312, 1D00313, 1D01006, 1D02242, 1D02353, 1D02459, 1D02469, 1D02588, 1D02612, 1D02613, 1D02614, 1D02621, 1D02871, 1D04390, 1D04499, 1D04527, 1D04558, 1D04572, 1D04704, 1D04707, and 1D05275.

08624, 10514, 10682b, 16819, 31556, 33647, 33649, 33650, 33651, 33652, and 1D02329, without prejudice.

V. DISPOSITION

36. For the foregoing reasons, pursuant to Rule 89 (C) of the Rules, the Chamber

GRANTS leave to extend the word count of the Reply;

GRANTS leave to file the Sur-Reply;

GRANTS the Motion **IN PART**;

ADMITS into evidence the documents bearing Rule 65 *ter* numbers 00071, 01157, 01842, 02623, 02913, 02932, 03299, 03339, 03735, 03453, 04049, 04648, 05982, 06164, 06376, 06458, 06475, 06486, 06488, 06504, 06511, 06519, 06522, 06528, 06530, 06531, 06532, 06612, 06636, 06674, 06681, 06907, 06949, 06983, 06987, 07995, 08447, 08588, 09799, 09896, 10159, 10656, 10793, 10932, 11088, 11152, 11266, 11420, 11434, 12777, 12966, 13745, 14553, 14727, 14810, 15153, 15156, 15157, 15158, 16463, 16504, 16545, 16571, 16557, 16584, 16621, 17012, 17086, 17090, 17098, pages 1 through 17 and 19 through 26 (pages 1 through 11 and 13 through 20 of the original BCS version) of 17192, 17457, 18598, 19167, 20011, 31137, 31337, 31864, 1D00458, 1D00169, 1D00312, 1D00313, 1D00826, 1D00836, 1D00838, 1D01006, 1D01456, 1D02184, 1D02242, 1D02248, 1D02254, 1D02257, 1D02260, 1D02263, 1D02353, 1D02281, 1D02452, 1D02459, 1D02469, 1D02526, 1D02588, 1D02602, 1D02607, 1D02609, 1D02612, 1D02613, 1D02614, 1D02621, 1D02672, 1D02770, 1D02791, 1D02795, 1D02813, 1D02871, 1D02879, 1D03264, 1D03285, 1D03380, 1D03382, 1D03388, 1D03391, 1D03392, 1D03395, 1D03401, 1D03402, 1D03409, 1D03518, 1D03575, 1D03576, 1D03597, 1D03602, 1D03603, 1D03625, 1D03630, 1D03634, 1D03646, 1D03814, 1D03833, 1D04094, 1D04334, 1D04335, 1D04365, 1D04390, 1D04499, 1D04504, 1D04506, 1D04527, 1D04539, 1D04548, 1D04558, 1D04572, 1D04597, 1D04637, 1D04651, 1D04704, 1D04707, 1D04708, 1D04718, 1D04972, 1D05087, 1D05091, 1D05092, 1D05093, 1D05095, 1D05097, 1D05101, 1D05104, 1D05275, 1D05327, and 1D05369;

DENIES admission into evidence of the documents bearing Rule 65 *ter* numbers 07068, 07081, 07082, 07083, 07084, 08354, 08624, 10514, 10682b, 16819, 31556, 33647, 33649, 33650, 33651, 33652, 1D02329, 1D02789, 1D03530, and 1D04532, without prejudice;

DENIES admission into evidence of the document bearing Rule 65 *ter* numbers 1D02949;

DECLARES the Motion moot with regard to the tendering of the document bearing Rule 65 *ter* numbers 31566;

INSTRUCTS the defence to separately upload the admitted pages of document bearing Rule 65 *ter* number 17192 into eCourt;

INSTRUCTS the Defence to upload into eCourt a BCS version of document bearing Rule 65 *ter* number 1D00169 that corresponds to its English translation;

INSTRUCTS the Defence to upload into eCourt English translations of documents bearing Rule 65 *ter* numbers 1D01456, 1D02526, and 1D04572 that correspond to their BCS originals; and

REQUESTS the Registry to assign numbers to the exhibits admitted by this decision and inform the parties and the Chamber of the numbers so assigned.

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



Judge Alphons Orie
Presiding Judge

Dated this eighth day of June 2016
At The Hague
The Netherlands

[Seal of the Tribunal]