

**UNITED
NATIONS**

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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-04-75-T
Date: 22 January 2015
Original: English

IN THE TRIAL CHAMBER

Before: Judge Guy Delvoie, Presiding
Judge Burton Hall
Judge Antoine Kesia-Mbe Mindua

Registrar: Mr. John Hocking

Decision: 22 January 2015

PROSECUTOR

v.

GORAN HADŽIĆ

PUBLIC

**DECISION ON PROSECUTION SECOND RENEWED MOTION FOR THE
ADMISSION OF RULE 65 *ter* DOCUMENT 00656 AND SUBSTITUTION OF
TRANSLATIONS OF ADMITTED EXHIBITS**

The Office of the Prosecutor:

Mr. Douglas Stringer

Counsel for Goran Hadžić:

Mr. Zoran Živanović

Mr. Christopher Gosnell

1. **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 hereby seised of the “Prosecution Second Renewed Motion for the Admission of Rule 65 *ter* Document 00656 and Substitution of Translations of Admitted Exhibits” filed on 31 October 2014 (“Motion”). The Defence filed the “Response to Prosecution Second Renewed Motion for the Admission of Rule 65 *ter* Document 00656 and Substitution of Translations of Admitted Exhibits” on 14 November 2014 (“Response”). On 24 November 2014, the Prosecution filed the “Prosecution Request for Leave to Reply and Reply to Response to Prosecution Second Renewed Motion for the Admission of Rule 65 *ter* Document 00656 and Substitution of Translations of Admitted Exhibits” (“Reply”).

A. Submissions

2. The Prosecution seeks to admit Rule 65 *ter* number 00656 which was used during Reynaud Theunens’s testimony but, due to an oversight, has not yet been admitted.¹ The Prosecution submits that Rule 65 *ter* number 00656 is essential for a complete understanding of Theunens’s evidence since he referred to it during his testimony and in the Expert Report of Reynaud Theunens (“Expert Report”).² In addition, the Prosecution seeks to substitute: (a) exhibit P1779 with the correct English translation;³ (b) exhibit P3260 with the full English translation;⁴ (c) exhibit P256.253 with a revised English translation;⁵ and (d) exhibit P244 with a revised BCS transcript and English translation.⁶ With respect to exhibit P2969.2913, the Prosecution seeks to admit the BCS transcript and English translation of a segment of the video clip that GH-027 discussed but that was not admitted with the transcript and translation of that same video clip.⁷ Finally, the Prosecution submits that an error in the “Main Date” in exhibit P2675’s eCourt metadata should be rectified.⁸

3. The Defence does not object to admitting Rule 65 *ter* number 00656 provided that the third paragraph on the second page of the English translation is revised,⁹ nor does it object to substituting exhibit P244’s English translation with a revised translation provided that the paragraph that falls outside the scope of what was previously admitted is removed.¹⁰ The Defence agrees with the

¹ Motion, paras 1-3, 11.

² Motion, para. 4.

³ Motion, paras 5, 11.

⁴ Motion, paras 6, 11.

⁵ Motion, paras 7, 11.

⁶ Motion, paras 8, 11.

⁷ Motion, paras 9, 11.

⁸ Motion, para. 10.

⁹ Response, para. 1.

¹⁰ Response, para. 2.

proposed correction of exhibit P2675's eCourt metadata.¹¹ It does not raise any objections with respect to the remaining exhibits.¹²

4. In the Reply, the Prosecution seeks leave to file a reply and submits that it agrees with the revisions proposed by the Defence.¹³ The Prosecution also informs the Trial Chamber that revised versions of Rule 65 *ter* number 00656 and of exhibit P244's BCS transcript and English translation reflecting these changes have been uploaded to eCourt.¹⁴

B. Discussion

5. The Trial Chamber notes that Theunens referred to Rule 65 *ter* number 00656, a combat report from 20 November 1991, in the Expert Report and that he answered questions about its content during his testimony.¹⁵ The Trial Chamber finds that Rule 65 *ter* number 00656 is probative, has a sufficient degree of reliability, and meets the requirements of Rules 89 (C) and (D) of the Rules of Procedure and Evidence ("Rules"). The Trial Chamber also finds that Rule 65 *ter* number 00656 will assist it in assessing the basis on which Theunens reached his conclusions.

6. The Trial Chamber recalls that it previously considered that exhibit P2969.2913 formed an "inseparable and indispensable part of [GH-027's] evidence" and found that it was relevant and had probative value.¹⁶ The Trial Chamber considers that this reasoning applies equally to the BCS transcript and English translation of the segment of the video clip that GH-027 discussed but that was not admitted in its entirety at the time.

7. The Trial Chamber also notes that the parties agree on: (a) the admission of Rule 65 *ter* number 00656 and of the BCS transcript and English translation related to exhibit P2969.2913; (b) the substitution of BCS transcripts and/or English translations related to exhibits P1779, P3260, P256.253, and P244; and (c) the correction of exhibit P2675's eCourt metadata. The Trial Chamber finds that, in the particular circumstances of the aforementioned documents, it is appropriate to admit, substitute, and/or correct them as agreed upon by the parties.

¹¹ Response, para. 3.

¹² Response, para. 2.

¹³ Reply, paras 1-3.

¹⁴ Reply, paras 2-3.

¹⁵ Reynaud Theunens, P1753, Expert Report: Goran Hadžić and the SAO SBWS/RSK TO – SVK (1991-1993), 10 July 2012, pp. 197, 446, 470, 478, 515; Reynaud Theunens, 8 May 2013, T. 4283-4284.


¹⁶ Aleksandar Vasiljevic, 2 September 2013, T. 7886-7887; Decision on Prosecution Motion for Admission of Evidence of GH-027 Pursuant to Rule 92 *ter*, 9 July 2013 (confidential), paras 6-7.

C. Disposition

8. Accordingly, the Trial Chamber, pursuant to Rules 54, 89, and 126 *bis* of the Rules, hereby:
- (a) **GRANTS** the Prosecution leave to file the Reply;
 - (b) **GRANTS** the Motion and **ORDERS** as follows:
 - (i) Rule 65 *ter* number 00656 shall be admitted into evidence;
 - (ii) Document ID 0266-8407A-ET shall replace the current English translation of exhibit P1779;
 - (iii) Document ID 0684-6709-ET-1 shall replace the current English translation of exhibit P3260;
 - (iv) Document ID 0087-1582-ET-rev shall replace the current English translation of exhibit P256.253;
 - (v) Document ID V000-2220-part-BCS-rev shall replace the current BCS transcript of exhibit P244 and document ID V000-2220-part-ET-rev shall replace its current English translation;
 - (vi) The BCS transcript and the English translation of the segment of the video that runs from 14:55 to 15:37, document ID V000-1450-BCST-2 and document ID V000-1450-ET-2, respectively, shall be added to the current transcript and translation available in eCourt as part of exhibit P2969.2913;
 - (vii) Exhibit P02675's "Main Date" in eCourt, which now reads "19 November 1992", shall be changed to "19 November 1991";
 - (c) **INSTRUCTS** the Registry to take all necessary and appropriate measures to implement this decision and inform the Trial Chamber and the parties when this has been done.

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

Done this twenty-second day of January 2015,
At The Hague,
The Netherlands.


 Judge Guy Delvoie
 Presiding

[Seal of the Tribunal]