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DT0693 - DT0679
11 January 2013

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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-09-92-T
Date: 11 January 2013
Original: English

IN TRIAL CHAMBER I

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

Registrar: Mr John Hocking

Decision of: 11 January 2013

PROSECUTOR

v.

RATKO MLADIĆ

PUBLIC

**DECISION ON PROSECUTION FIFTH MOTION TO ADMIT
EVIDENCE PURSUANT TO RULE 92BIS: SARAJEVO
WITNESSES**

Office of the Prosecutor

Mr Dermot Groome
Mr Peter McCloskey

Counsel for Ratko Mladić

Mr Branko Lukić
Mr Miodrag Stojanović

I. PROCEDURAL HISTORY

1. On 6 September 2012, the Prosecution filed a motion pursuant to Rule 92 *bis* of the Tribunal's Rules of Procedure and Evidence ("Rules") seeking to admit into evidence material with regard to Witness RM-169, Witness RM-155, Medina Omerović (Witness RM-149), Alen Gičević (Witness RM-119), Refik Aganović (Witness RM-102), Witness RM-126, Tarik Žunić (Witness RM-179), Witness RM-151, and Witness RM-112 ("Motion").¹ On 20 September 2012, the Defence filed its response ("Response").² The Prosecution requested leave to reply on 27 September 2012 ("Request").³ The Request was granted by the Chamber on 18 October 2012 and the parties were informed accordingly through an informal communication. The Chamber considers the attached reply to the Request as validly filed on 27 September 2012 ("Reply").⁴

II. SUBMISSIONS OF THE PARTIES

2. The Prosecution considers the evidence of all nine witnesses to be relevant and probative of issues in the instant case, and submits that the proposed evidence is reliable and does not address the acts or conduct of the Accused.⁵ The Prosecution submits that the associated exhibits comprise an inseparable and indispensable part of the witnesses' evidence, and that it relies on the transcript excerpts in order to avoid taking supplementary statements and thereby re-traumatizing the witnesses.⁶ The Prosecution submits that calling the witnesses for cross-examination is unnecessary because, *inter alia*, all of the witnesses are either victims of scheduled incidents or eye-witnesses to those incidents and provide pure crime-base evidence which is cumulative of and corroborated by other witnesses, and that none of their evidence concerns the acts and conduct of the Accused.⁷ For Witness RM-169, the Prosecution seeks admission of a Rule 92 *bis* witness package consisting of a statement, a supplementary statement, and five associated exhibits.⁸ For Witness RM-155, the Prosecution seeks admission of a Rule 92 *bis* witness package consisting of a witness statement, an addendum, an Attestation and Declaration, excerpts from the witness's evidence in *Prosecutor v. Dragomir Milošević*, and four associated exhibits.⁹ The Rule 92 *bis* witness package of Omerović

¹ Prosecution Fifth Motion to Admit Evidence Pursuant to Rule 92 *bis*, 6 September 2012 (Confidential).

² Defence Response to Prosecution Fifth Motion to Admit Evidence Pursuant to Rule 92 *bis*, 20 September 2012 (Confidential).

³ Prosecution Request for Leave to Reply to Defence Response to Prosecution Fifth Motion to Admit Evidence Pursuant to Rule 92 *bis*, 27 September 2012 (Confidential).

⁴ Prosecution Reply to Defence Response to Prosecution Fifth Motion to Admit Evidence Pursuant to Rule 92 *bis*, 27 September 2012 (Confidential).

⁵ Motion, paras 2, 5-8, 10.

⁶ Motion, paras 11-12.

⁷ Motion, para. 10; Reply, paras 4-5.

⁸ Motion, paras 13-14.

⁹ Motion, paras 16-18.

consists of two witness statements, an addendum, excerpts from the witness's testimony in *Prosecutor v. Stanislav Galić*, and two associated exhibits.¹⁰ For Gičević, the Prosecution seeks admission of a Rule 92 *bis* witness package consisting of two witness statements, excerpts from the witness's testimony in *Prosecutor v. Momčilo Perišić* and *Prosecutor v. Radovan Karadžić*, and four associated exhibits.¹¹ One of these exhibits, a photograph with ERN 0646-8273-0646-8273, is not currently on the Prosecution's Rule 65 *ter* exhibit list, and the Prosecution seeks leave to add this item.¹² For Aganović, the Prosecution seeks admission of a Rule 92 *bis* witness package consisting of a witness statement and excerpts of the witness's testimony in *Prosecutor v. Stanislav Galić*.¹³ The Rule 92 *bis* witness package of Witness RM-126 consists of three witness statements, a document containing corrections to the witness statements, and two associated exhibits.¹⁴ For Žunić, the Prosecution seeks admission of the Rule 92 *bis* witness package consisting of two witness statements with corresponding Attestations and Declarations, two addendums, approximately 50 pages of transcript from *Prosecutor v. Dragomir Milošević*, and nine associated exhibits.¹⁵ For Witness RM-151, the Prosecution seeks admission of a Rule 92 *bis* witness package consisting of a Rule 92 *bis* statement, the Attestation and Declaration thereof, and one associated exhibit.¹⁶ The Rule 92 *bis* witness package of Witness RM-112 consists of two witness statements with corresponding Attestations and Declarations, excerpts from the witness's testimony in *Prosecutor v. Dragomir Milošević*, and three associated exhibits.¹⁷ Lastly, the Prosecution requests that it be permitted to exceed the word limit for motions considering that the Motion addresses the evidence of nine Rule 92 *bis* witnesses.¹⁸

3. The Defence submits that Witnesses RM-169, RM-155, Omerović, Žunić, and RM-112 are alleged eye-witnesses to scheduled incidents of the Indictment and should be brought for cross-examination.¹⁹ Further, the Defence submits that the statements of Witnesses RM-169, Omerović, Gičević, Aganović, and RM-126 have not been certified as required by Rule 92 *bis* of the Rules and that the tender of the statements without the Attestation and certification is premature and unreliable, and should be denied.²⁰ The Defence submits that the Prosecution is improperly

¹⁰ Motion, paras 20-22.

¹¹ Motion, paras 24, 26-27, 29-31. The Prosecution notes that adjudicated fact 2343, which relates to the incident about which the witness provides testimony, incorrectly states that the incident occurred on 3 May 1995 instead of 3 March 1995, and the Prosecution places no reliance on the date set out in this adjudicated fact (Motion, para. 25).

¹² Motion, para. 30.

¹³ Motion, para. 33. Annex A of the Motion lists the date of the witness statement as 18 February 1996, but the statement actually appears to be dated 28 February 1996.

¹⁴ Motion, paras 39-40.

¹⁵ Motion, paras 42-43.

¹⁶ Motion, paras 36-37.

¹⁷ Motion, paras 45, 48.

¹⁸ Motion, para. 50.

¹⁹ Response, para. 8.

²⁰ Response, paras 9, 15.

attempting to introduce the uncertified statement of Witness RM-169 as an associated exhibit.²¹ Furthermore, it submits that admission of the transcript excerpts of Witnesses RM-155, Omerović, Gičević, and RM-112 should be denied because they are not translated into the language the Accused understands.²² The Defence also submits that the Motion should be deemed deficient and denied on the grounds that the Prosecution did not attach excerpts from the transcripts to the Motion.²³ If the witness materials are admitted pursuant to Rule 92 *bis* of the Rules, the Defence submits that all witnesses must be called for cross-examination in order to preserve the rights of the Accused.²⁴ Finally, the Defence submits that the Prosecution's motion to add an associated exhibit to its Rule 65 *ter* exhibit list should be denied because it is untimely, not supported by "good cause", and fails to demonstrate whether the Prosecution exercised due diligence in identifying additional exhibits at the earliest possible opportunity and that the Defence would not be prejudiced by the amendment.²⁵

III. APPLICABLE LAW

(a) Rule 92 bis

4. The Chamber recalls and refers to the applicable law governing the admission of evidence pursuant to Rule 92 *bis* of the Rules, as set out in a previous decision.²⁶

(b) Admission of Associated Exhibits

5. With regard to the applicable law related to the admission of associated exhibits, the Chamber recalls and refers to one of its previous decisions dealing with this matter.²⁷

(c) Additions to the Rule 65 *ter* exhibit list

6. The Chamber recalls and refers to the applicable law governing additions to the Rule 65 *ter* exhibit list, as set out in a previous decision.²⁸

²¹ Response, para. 10.

²² Response, paras 18, 20.

²³ Response, para. 19.

²⁴ Response, para. 21.

²⁵ Response, paras 27-30. As noted by the Prosecution in paragraph 10 of its Reply, the Defence erroneously identifies this exhibit as an exhibit associated with the testimony of Witness RM-160. The exhibit which the Prosecution seeks leave to add to its Rule 65 *ter* Exhibit List is associated with the testimony of Gičević.

²⁶ Decision on Prosecution Third Motion to Admit Evidence Pursuant to Rule 92 *bis*: Sarajevo Witnesses ("Decision on Third 92 *bis* Motion"), 19 October 2012.

²⁷ Decision on Prosecution Motion to Admit the Evidence of Witness RM-266 Pursuant to Rule 92 *quater*, 22 July 2012, para. 13.

²⁸ Decision on Prosecution Second Motion to Amend Rule 65 *ter* Exhibit List, 27 June 2012, paras 5-6.

IV. DISCUSSION

(a) Preliminary matters

7. The Chamber grants the Prosecution's request to exceed the word limit for the Motion given the number of witnesses it needed to address therein.

8. The Chamber has considered that the document with ERN 0646-8273-0646-8273, which the Prosecution seeks leave to add to its Rule 65 *ter* exhibit list, is one photograph of Sarajevo marked by Gičević during his testimony in the *Perišić* case. Given the nature of the exhibit, the Chamber has considered that the addition of the photograph to the Prosecution's Rule 65 *ter* exhibit list does not prejudice the Defence. The Chamber finds that it is in the interests of justice to add the document to the Prosecution's Rule 65 *ter* exhibit list.

9. As to the Defence objection concerning a failure to furnish the Accused with BCS versions of the tendered portions of the prior witness testimonies of Witnesses RM-155, Omerović, Gičević, and RM-112, the Chamber is satisfied with the Prosecution's assurance that the BCS audio of all testimony in question was disclosed to the Defence on 29 June 2012.²⁹ Further, Counsel for the Accused is able to identify the relevant segment of said audio from the English version of the transcript tendered. Therefore, the Defence's objection fails in this respect.

10. As to the Defence objection that the Motion is deficient in that the Prosecution did not attach the transcript excerpts to the annex where the proposed witness statements are contained, the Chamber considers that the relevant transcript excerpts are sufficiently identified in the annex and that they are accessible to the Defence. The Chamber finds that the Defence is not prejudiced by the Prosecution's failure to attach the transcript excerpts and will not deny the relevant parts of the Motion on this ground, but orders that for future Rule 92 *bis* motions, the Prosecution provide the Chamber and the Defence with the relevant transcript excerpts in the annex to the motion.

11. After a thorough review of all the witness materials contained in the Motion, the Chamber notes that many of the witness materials appear to overlap substantially with adjudicated facts of which the Chamber has taken judicial notice. Where the Chamber finds that the witness materials appear to overlap substantially with the adjudicated facts and appear to not add relevant evidence to the adjudicated facts, the Chamber denies admission of the materials, in line with the Chamber's previous Guidance.³⁰ For several of the witnesses, the Chamber finds that the witness statements

²⁹ Reply, para. 7.

³⁰ T. 203-205.

overlap substantially with the adjudicated facts but also provide relevant evidence outside the scope of the adjudicated facts. In these cases, the Chamber admits the evidence, where all of the other admissibility requirements are met, but reminds the Prosecution that in similar situations in the future, the Prosecution should avoid duplicating evidence on facts of which the Chamber has already taken judicial notice.

12. The Chamber will now assess the admissibility of the witnesses' evidence under Rule 92 *bis* of the Rules.

(b) Witness RM-169

13. The statement of Witness RM-169 has no corresponding Attestation or Declaration as required by Rule 92 *bis* (B) of the Rules. Unattested witness statements have been provisionally admitted by this Chamber pending their formal attestation pursuant to Rule 92 *bis* (B) of the Rules.³¹

14. The Chamber considers the evidence of this witness relevant to Scheduled Sniping Incident F.4 of the Indictment.³² The witness's evidence is therefore relevant pursuant to Rule 89 (C) of the Rules. The Defence has not made any objections to the witness materials for Witness RM-169 with regard to its probative value and the Chamber finds that, should the missing Attestation and Declaration be submitted, the evidence has probative value.

15. With regard to admissibility pursuant to Rule 92 *bis* of the Rules, the Defence has not argued, and the Chamber does not find, that Witness RM-169's evidence relates to the acts and conduct of the Accused. Further, the Chamber considers that the evidence relates to one specific incident of the crime-base part of the case and that a number of other witnesses are reasonably expected to give evidence with regard to the same incident. Other witnesses expected to provide evidence regarding the same incident include Witness RM-148, scheduled to provide testimony pursuant to Rule 92 *bis* of the Rules, Witness RM-126, whose witness materials are submitted as part of this Motion, and Witness RM-165, scheduled to testify pursuant to Rule 92 *ter* of the Rules.³³

16. After careful review of the materials of Witness RM-169, the Chamber has determined that there appears to be significant overlap between the materials which the Prosecution is seeking to

³¹ Decision on Third 92 *bis* Motion, para. 27 and references cited therein.

³² Prosecution Submission of the Fourth Amended Indictment and Schedules of Incidents, 16 December 2011, Public Annex A ("Indictment"), Schedule F, Incident 4.

³³ Prosecution Rule 65 *ter* Witness List, 10 February 2012 (Confidential) ("Prosecution Witness List"), pp. 216-217, 223-224, 239-240.

have admitted into evidence and the adjudicated facts taken judicial notice of by this Chamber, including adjudicated facts numbered 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2252, and 2256. The Chamber finds that the witness materials do not appear to add additional relevant evidence to the adjudicated facts. For this reason, the Chamber will deny without prejudice the admission of the materials of Witness RM-169. The Chamber invites the Prosecution to review the witness materials of Witness RM-169 to consider whether it is necessary to adduce evidence from the witness in light of the adjudicated facts and, if appropriate, to call the witness to testify *viva voce* or to resubmit the witness materials in a way that complies with the Chamber's Guidance.³⁴

17. In light of this decision, the Defence objection regarding the Prosecution improperly attempting to introduce a witness statement under Rule 92 *bis* of the Rules by labelling it an "associated exhibit" is moot at this time.

18. The Chamber also notes that there is a discrepancy regarding the need for protective measures for Witness RM-169, with the Prosecution indicating in its Witness List that no protective measures are necessary for the witness, but indicating in Annex A of the Motion that the witness materials should be admitted under seal.³⁵ The Chamber requests that, should the Prosecution determine it is necessary to adduce evidence from the witness, the Prosecution review the witness materials and provide clarification to the Chamber on the need for protective measures for Witness RM-169.

(c) Witnesses RM-155, Medina Omerović, Alen Gičević, Refik Aganović, RM-126, Tarik Žunić, RM-151, and RM-112

i. Attestations and Declarations

19. The statements of Witnesses Omerović, Gičević, Aganović, and RM-126 have no corresponding Attestations or Declarations as required by Rule 92 *bis* (B) of the Rules. Unattested witness statements have been provisionally admitted by this Chamber pending their formal attestation pursuant to Rule 92 *bis* (B) of the Rules.³⁶ In line with this practice, the Chamber will conditionally admit the unattested witness statements, pending the submission of the required Attestations and Declarations, provided that all other admissibility requirements are met.

³⁴ T. 203-205.

³⁵ Prosecution Witness List, p. 254; Motion Annex A, p. i.

³⁶ Decision on Third 92 *bis* Motion, para. 27 and references cited therein.

ii. Relevance and Probative Value

20. The Chamber considers the evidence of Witnesses RM-155, Omerović, Gičević, Aganović, RM-126, Žunić, RM-151, and RM-112 relevant to a number of sniping incidents in Sarajevo, including Scheduled Sniping Incidents F.4, F.9, F.11, F.15, and F.16 of the Indictment, as well as relevant to Scheduled Shelling Incidents G.2, G.6, and G.15 of the Indictment.³⁷ The witnesses' evidence is therefore relevant pursuant to Rule 89 (C) of the Rules. The Defence has not made any objections to the materials of these witnesses with regard to their probative value and the Chamber finds that, should the missing Attestations and Declarations be submitted, the evidence has probative value.

iii. Admissibility Pursuant to Rule 92 *bis* of the Rules

21. With regard to admissibility pursuant to Rule 92 *bis* of the Rules, the Defence has not argued, and the Chamber does not find, that the evidence of Witnesses RM-155, Omerović, Gičević, Aganović, RM-126, Žunić, RM-151, and RM-112 relates to the acts and conduct of the Accused.

22. The Chamber considers that the evidence provided by the witnesses relates to the crime base part of the case, and that the evidence is cumulative in nature, since a number of other witnesses have provided or are reasonably expected to provide evidence with regard to the same incidents.

23. In addition to Witness RM-155, other witnesses are expected to provide evidence regarding Scheduled Shelling Incident G.15, including Witnesses RM-159 and RM-165, scheduled to testify pursuant to Rule 92 *ter* of the Rules.³⁸

24. In addition to Omerović, other witnesses expected to provide evidence regarding Scheduled Sniping Incident F.9 include Witnesses RM-148 and RM-123, both scheduled to testify pursuant to Rule 92 *bis* of the Rules.³⁹

25. Concerning Scheduled Sniping Incident F.15, other witnesses in addition to Gičević expected to provide evidence include Witness RM-148, who is scheduled to testify pursuant to Rule 92 *bis* of the Rules, and Witnesses RM-134 and RM-139, who are sources of evidence pursuant to Rule 92 *quater* of the Rules.⁴⁰

³⁷ Indictment, Schedule F, Incident 4; Schedule F, Incident 9; Schedule F, Incident 11; Schedule F, Incident 15; Schedule F, Incident 16; Schedule G, Incident 2; Schedule G, Incident 6; and Schedule G, Incident 15.

³⁸ Prosecution Witness List, pp. 231-232, 239-240.

³⁹ Prosecution Witness List, pp. 214-217.

⁴⁰ Prosecution Witness List, pp. 216-217, 225-228.

26. In addition to Aganović, Muhamed Kapetanović has already provided evidence pursuant to Rule 92 *ter* of the Rules regarding Scheduled Shelling Incident G.6. Other witnesses expected to provide evidence regarding the same incident include Witnesses RM-118, RM-148, and RM-172, scheduled to testify pursuant to Rule 92 *bis* of the Rules, and Witnesses RM-175, RM-157, and RM-510, scheduled to testify pursuant to Rule 92 *ter* of the Rules.⁴¹

27. Regarding Scheduled Sniping Incident F.4, in addition to Witness RM-126 other witnesses expected to provide evidence relevant to the incident include Witness RM-148, scheduled to testify pursuant to Rule 92 *bis* of the Rules, and Witness RM-165, scheduled to testify pursuant to Rule 92 *ter* of the Rules.⁴²

28. In addition to Žunić, the Chamber heard testimony relevant to Scheduled Sniping Incident F.16 from Dragan Mioković pursuant to Rule 92 *ter* of the Rules. Witness RM-148 is also scheduled to testify about this incident pursuant to Rule 92 *bis* of the Rules.⁴³

29. Concerning Scheduled Shelling Incident G.2, on which Witness RM-151 provides testimony, the Chamber has already admitted relevant evidence from Zilha Granilo, Fahra Mujanović, and Ziba Avdić, all victims or eye-witnesses to the incident, pursuant to Rule 92 *bis* of the Rules. Aernout Van Lynden also provided testimony on the incident pursuant to Rule 92 *ter* of the Rules. In addition, Witness RM-511 provided testimony on the incident *viva voce*.

30. In addition to Witness RM-112, Witness RM-110 already provided testimony on Scheduled Sniping Incident F.11 pursuant to Rule 92 *ter* of the Rules. Other witnesses expected to provide evidence relevant to the incident include Witness RM-148, scheduled to testify pursuant to Rule 92 *bis* of the Rules, and Witness RM-510, who is scheduled to testify pursuant to Rule 92 *ter* of the Rules.⁴⁴

31. Furthermore, apart from the reliability issue regarding the uncertified witness statements of Omerović, Gičević, Aganović, and Witness RM-126 discussed in paragraphs 13 and 15 of the Response and which the Chamber has addressed above, the Defence has invoked no other factors against admission, and the Chamber does not find that there are any other factors against admitting the proffered witness statements pursuant to Rule 92 *bis* of the Rules.

32. For the above reasons, the witness statements are conditionally admissible under Rule 92 *bis* of the Rules, pending the submission of all missing Attestations and Declarations.

⁴¹ Prosecution Witness List, pp. 54-56, 214, 216-217, 228-230, 235-236, 277-278.

⁴² Prosecution Witness List, pp. 216-217, 239-240.

iv. Associated Exhibits

33. Concerning the admission of the associated exhibits which are part of the Rule 92 *bis* witness packages of Witnesses RM-155, Omerović, Gičević, RM-126, RM-151, and RM-112, the Chamber is of the view that the exhibits are an inseparable and indispensable part of the witnesses' testimony. In light of this, the Chamber finds that the requirements for admission have been met with respect to the associated exhibits for these witnesses and will admit them into evidence. The Chamber will conditionally admit the exhibits associated with unattested witness statements, pending the fulfilment of all Rule 92 *bis* (B) requirements.

34. The admissibility of the nine exhibits which are part of the Rule 92 *bis* package of Žunić will be addressed in the following section.

v. Compliance with Guidance and Overlap with Adjudicated Facts

35. The Chamber finds that the tendering of the transcript evidence as part of the Rule 92 *bis* packages of Witnesses RM-155, Omerović, Gičević, Aganović, and RM-112 is in line with the Chamber's Guidance.⁴⁵ Considering in particular that for these witnesses the Prosecution wishes to tender limited portions of the transcripts from previous cases, which supplement the evidence in the witness statements, the Chamber deems that the Prosecution has complied with the Guidance.

36. For Žunić, the Prosecution seeks to tender over 50 pages of testimony from a previous case, which, in the view of the Chamber, appears to largely overlap with the adjudicated facts relevant to the scheduled incident, including adjudicated facts numbered 2354 and 2362, and appears to not add relevant evidence beyond the scope of the adjudicated facts. Given the length of the transcript excerpts and the apparent overlap with the adjudicated facts, the Chamber denies the admission of that transcript evidence without prejudice. The Chamber invites the Prosecution to review the transcript evidence to determine whether its admission is necessary in light of the adjudicated facts and, if appropriate, to resubmit the transcript evidence after making the appropriate redactions in line with the Chamber's Guidance.⁴⁶

37. In light of the decision to deny admission of the transcript evidence that is part of Žunić's Rule 92 *bis* package, the Chamber also denies without prejudice admission of the nine associated exhibits, which are referenced by the witness in the transcript evidence. The Prosecution is invited

⁴³ Prosecution Witness List, pp. 216-217.

⁴⁴ Prosecution Witness List, pp. 54-56, 216-217.

⁴⁵ T. 106-110, 137-138, 194, 315-325, 525-532.

⁴⁶ T. 203-205.

to resubmit the associated exhibits along with the transcript evidence if necessary, once appropriate redactions have been made.

V. DISPOSITION

38. For the foregoing reasons, pursuant to Rules 73, 89, and 92 *bis* of the Rules, the Chamber

GRANTS the Prosecution request to exceed the word limit in its Motion;

GRANTS the Motion **IN PART**;

With respect to

(i) Witness RM-169

DENIES the admission of the proffered evidence of Witness RM-169 under Rule 92 *bis* of the Rules;

(ii) Witness RM-155

ADMITS into evidence, **UNDER SEAL**,

- a) the Statement of Witness RM-155 and corresponding Attestation and Declaration dated 17 May 2006, and Addendum to Witness Statement dated 22 April 2010, bearing ERNs 0675-5396-0675-5413;
- b) the testimony of Witness RM-155 dated 12 March 2007 in *Prosecutor v. Dragomir Milošević*, Case No. IT-98-29/1, T.3507:25–3508:15, 3508:25–3509:17, 3510:5–3518:24, 3519:25–3520:21, 3542:22–3544:8, 3545:2–3546:16;
- c) the colour photograph of apartment buildings marked by the witness in *Prosecutor v. Dragomir Milošević*, Rule 65 *ter* no. 10367;
- d) the Official Note of the Novi Grad Public Security Station no. 19/13-4-255/95 regarding the explosion of a modified airbomb on 16 June 1995, Rule 65 *ter* no. 10139;
- e) the Medical document discharge form, Rule 65 *ter* no. 09968; and
- f) the Pseudonym sheet for Witness W-107 in Case No. IT-98-29/1;

(iii) Medina Omerović (Witness RM-149)

CONDITIONALLY ADMITS

- a) the Statement of Medina Omerović dated 8 November 1995 bearing ERNs 0036-0860-0036-0862 and corrections dated 4 October 2000 bearing ERN 0107-6824-0107-6824, and the Statement of Medina Omerović dated 26 September 2001 bearing ERNs 0211-4222-0211-4225, into evidence pending the filing of a corresponding Attestation and Declaration in compliance with the requirements of Rule 92 *bis* (B) of the Rules; and
- b) the photograph of a building in Sarajevo attached to 26 September 2001 statement of Medina Omerović, Rule 65 *ter* no. 10497;

ADMITS into evidence

- a) the testimony of Medina Omerović dated 15 February 2002 in *Prosecutor v. Stanislav Galić*, Case no. IT-98-29-T, T.3848:9–3852:5, 3870:7-12; and
- b) the video pertaining to sniping incident F9, Rule 65 *ter* no. 10496;

(iv) Alen Gičević (Witness RM-119)

CONDITIONALLY ADMITS

- a) the Statement of Alen Gičević dated 15 November 1995 bearing ERNs 0036-1395-0036-1398 and the Statement of Alen Gičević dated 21 April 2006 bearing ERNs 0600-0887-0600-0892 into evidence pending the filing of a corresponding Attestation and Declaration in compliance with the requirements of Rule 92 *bis* (B) of the Rules; and
- b) the Medical Report regarding sniping injuries sustained by Alen Gičević, Rule 65 *ter* no. 15084;

GRANTS LEAVE to add the photograph bearing ERN 0646-8273-0646-8273 to the Prosecution's Rule 65 *ter* Exhibit List;

ADMITS into evidence

- a) the testimony of Alen Gičević dated 28 October 2008 in *Prosecutor v. Momčilo Perišić*, Case no. IT-04-81-T, T.800:20–802:14, 810:19–813:12;

- b) the testimony of Alen Gičević dated 11 October 2010 in *Prosecutor v. Radovan Karadžić*, Case no. IT-95-5/18-T, T.7613:20–7614:18, T.7626:1–7627:22, 7655:11-19, 7667:8-15;
- c) the colour photograph of Sarajevo marked by Alen Gičević on 28 October 2008, Rule 65 *ter* no. 12803;
- d) the criminal investigation file pertaining to sniping incident F16 on 3 March 1995, Rule 65 *ter* no. 10456; and
- e) the photograph of Sarajevo marked by Alen Gičević bearing ERN 0646-8273-0646-8273;

(v) Refik Aganović (Witness RM-102)

CONDITIONALLY ADMITS into evidence the Statement of Refik Aganović dated 28 February 1996 bearing ERNs 0037-8897-0337-8899, pending the filing of a corresponding Attestation and Declaration in compliance with the requirements of Rule 92 *bis* (B) of the Rules;

ADMITS into evidence the testimony of Refik Aganović dated 24 April 2002 in *Prosecutor v. Stanislav Galić*, Case no. IT-98-29-T, T. 7715:17–7719:3, 7719:18–7720:25, 7722:1–7728:20;

(vi) Witness RM-126

CONDITIONALLY ADMITS into evidence, **UNDER SEAL**,

- a) the Statement of Witness RM-126 dated 18 November 1995 bearing ERNs 0036-1353-0036-1356, the Statement of Witness RM-126 dated 25 June 2001 bearing ERNs 0208-1025-0208-1028, the Statement of Witness RM-126 dated 1 September 2000 bearing ERNs 0103-9106-0103-9109, and the corrections made by witness RM-126 to the 18 November 1995 statement bearing ERN 0107-6806-0107-6806, pending the filing of a corresponding Attestation and Declaration in compliance with the requirements of Rule 92 *bis* (B) of the Rules;
- b) the Official Report no. 17-1/08-7-/rest illegible/ of the Crime Prevention and Detection Department within the Novo Sarajevo Public Security Station in Hrasno regarding the killing of TRTO Edina dated 26 September 1993 (Includes death certificate), Rule 65 *ter* no. 13795; and
- c) the witness-marked Map of Novo Sarajevo, Rule 65 *ter* no. 10478;

(vii) Tarik Žunić (Witness RM-179)

ADMITS into evidence the Statements and corresponding Attestations and Declarations of Tarik Žunić dated 21 April 2006 and 10 November 1995, and Addendums dated 25 April 2010, bearing ERNs 0675-5590-0675-5616;

DENIES the admission of

- a) the testimony of Tarik Žunić dated 7 February 2007 in *Prosecutor v. Dragomir Milošević*, Case no. IT-98-29/1, T.1702:18–1754:21; and
- b) the nine associated exhibits of Tarik Žunić which the Prosecution seeks to tender pursuant to Rule 92 *bis* of the Rules;

(viii) Witness RM-151

ADMITS into evidence, **UNDER SEAL**,

- a) the Statement and corresponding Attestation and Declaration of Witness RM-151 dated 30 October 2008, bearing ERNs 0675-5529-0675-5536; and
- b) the Medical Records and Official Note relating to Wounding of Witness and other Family Members and Death of Sadeta Škulj, Rule 65 *ter* no. 12843.

(ix) Witness RM-112

ADMITS into evidence, **UNDER SEAL**,

- a) the Statements of Witness RM-112 and corresponding Declarations and Attestations dated 19 April 2006 and 21 February 1996, bearing ERNs 0675-5363-0675-5377;
- b) the testimony of Witness RM-112 dated 22 January 2007 in *Prosecutor v. Dragomir Milošević*, Case no. IT-98-29/1, T.818:6–819:1, 824:7–825:4, 826:9–828:10, 830:8–832:16; and
- c) the Victim's Medical Records, Rule 65 *ter* no. 09512;

ADMITS into evidence

- a) the colour aerial map of Sarajevo marked by Witness RM-112 during the testimony in *Prosecutor v. Dragomir Milošević*, Case no. IT-98-29/1, Rule 65 *ter* no. 10289; and

- b) the colour aerial photograph of Sarajevo marked by Witness RM-112 on 22 January 2007 during the testimony in *Prosecutor v. Dragomir Milošević*, Case no. IT-98-29/1, Rule 65 *ter* no. 10290;

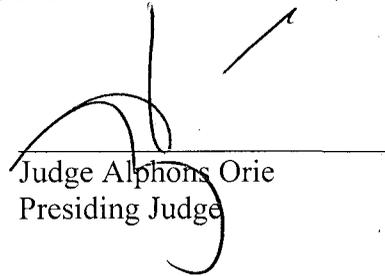
INSTRUCTS the Registry to change the status of the evidence identified in paragraph *ix* (a-c) above into public, unless the Prosecution files a request for protective measures for Witness RM-112 within 14 days;

INSTRUCTS the Prosecution to file the corresponding Attestations and Declarations to the statements of Omerović, Gičević, Aganović, and Witness RM-126 within four weeks of the filing of this decision;

INSTRUCTS the Prosecution to upload into eCourt all admitted documents within two weeks of the date of issue of this decision; and

REQUESTS the Registry to assign exhibit numbers to the documents admitted 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 Orié
Presiding Judge

Dated this Eleventh of January 2013
At The Hague
The Netherlands

[Seal of the Tribunal]