

**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: 13 June 2016
Original: English

IN TRIAL CHAMBER I

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

Registrar: Mr John Hocking

Decision of: 13 June 2016

PROSECUTOR

v.

RATKO MLADIĆ

PUBLIC

**DECISION ON DEFENCE'S RENEWED BAR TABLE
SUBMISSION FOR DOCUMENTS BEARING
RULE 65 *TER* NUMBERS 1D02620 AND 1D02624**

Office of the Prosecutor

Mr Peter McCloskey
Mr Alan Tieger

Counsel for Ratko Mladić

Mr Branko Lukić
Mr Miodrag Stojanović

I. PROCEDURAL HISTORY AND SUBMISSIONS

1. On 31 May 2016, the Defence tendered the documents bearing Rule 65 *ter* numbers 1D02620 and 1D02624 into evidence (“Motion”)¹ The Chamber previously denied without prejudice the admission of these documents into evidence, having found that the Defence’s submissions did not correspond to the documents’ contents, and that the Defence had therefore failed to set out with sufficient clarity and specificity how the documents would fit into its case.² The Defence submits that the documents are relevant and have sufficient probative value to be admitted into evidence from the bar table pursuant to Rule 89 (C) of the Tribunal’s Rules of Procedure and Evidence (“Rules”).³ Specifically, the Defence submits that the documents are important to establish the Defence’s case and to rebut the Prosecution’s case as they contain evidence demonstrating, *inter alia*, the Army of Bosnia-Herzegovina (“ABiH”)’s misuse of the Žepa safe area, the ABiH’s violation of the demilitarization agreement, and the ABiH’s prevention of humanitarian aid distribution.⁴ The Defence further submits that the documents are *prima facie* reliable since they bear sufficient indicia of authenticity.⁵ On 8 June 2016, the Prosecution responded that it does not object to the documents’ admission into evidence but that it does not fully accept the Defence’s interpretation of their content.⁶

II. APPLICABLE LAW

2. The Chamber recalls and refers to the applicable law governing the admission of evidence tendered from the bar table pursuant to Rule 89 (C) of the Rules, as set out in a previous decision.⁷

III. DISCUSSION

3. The document bearing Rule 65 *ter* number 1D02620 is a 23 October 1993 report from the Supreme Command Staff of the ABiH Security Administration. It contains, *inter alia*, allegations that certain members of the ABiH intended to rouse the Muslim population against the legally elected organs of Novi Grad Municipality and that the ABiH 5th Motorised Brigade was denying humanitarian aid to some people.⁸ The Chamber finds that the document is relevant because it

¹ Renewed Bar Table Submission as to 65ter #1D02620 and #1D02624, 31 May 2016, paras 2, 10.

² Decision on Defence’s Second Motion to Admit Documents from the Bar Table, 23 May 2016, paras 21, 30.

³ Motion, paras 6-8, 10, Annex A (pp. 1-2).

⁴ Motion, paras 6-7, Annex A (pp. 1-2).

⁵ Motion, para. 8, Annex A (pp. 1-2).

⁶ Prosecution Response to Defence Renewed Bar Table Submission as to 65ter #1D02620 and #1D02624, 8 June 2016, para. 1.

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

⁸ Rule 65 *ter* no. 1D02620, p. 2.

relates to the Defence's arguments that the ABiH was provoking the Serbs and that it was not the Army of the Bosnian-Serb Republic that prevented the distribution of humanitarian aid. Moreover, the Chamber finds that because the document is stamped and signed, it bears sufficient indicia of reliability for the purpose of admission into evidence.

4. The document bearing Rule 65 *ter* number 1D02624 is a 15 December 1994 communication from the ABiH 1st Žepa Light Brigade. It refers to the 1st Žepa Light Brigade carrying out two 'sabotage operations' in the Laze-Mislovo sector on 12 December 1994.⁹ The Chamber finds that the document is relevant because it relates to the Defence's argument that the ABiH did not comply with the agreed demilitarization of the Žepa enclave and that the safe area therefore constituted a legitimate military target. Moreover, the Chamber finds that because the document is dated and identifies its author and recipient, it bears sufficient indicia of reliability for the purpose of admission into evidence.

5. Considering the above, the documents meet the standard for admission set out in Rule 89 (C) of the Rules. Additionally, the Defence has set out with sufficient clarity and specificity how the documents would fit into its case. The Chamber will therefore admit the documents into evidence.

IV. DISPOSITION

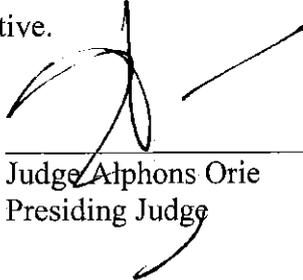
6. For the foregoing reasons, pursuant to Rule 89 (C) of the Rules, the Chamber

GRANTS the Motion;

⁹ Rule 65 *ter* no. 1D02624, p. 1.

ADMITS into evidence the documents bearing Rule 65 *ter* numbers 1D02620 and 1D02624; and **REQUESTS** the Registry to assign numbers to the exhibits admitted by this decision 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 Orie
Presiding Judge

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

[Seal of the Tribunal]