

**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-04-75-PT
Date: 14 September 2012
Original: English

IN THE TRIAL CHAMBER

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

Registrar: Mr. John Hocking

Decision: 14 September 2012

PROSECUTOR

v.

GORAN HADŽIĆ

PUBLIC

**DECISION ON PROSECUTION REQUEST FOR EARLY
BAR TABLE MOTION**

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 seised of the “Prosecution Motion for Variation of Draft Guidelines on the Management of Evidence (Bar Table Motion)” filed on 4 September 2012 (“Motion”). Hadžić filed a “Response to Prosecution Motion for Variation of Draft Guidelines on the Management of Evidence (Bar Table Motion)” on 6 September 2012 (“Response”).

2. In the Motion, the Prosecution seeks permission to file an early bar table motion, in addition to the bar table motion that will be filed at the end of the Prosecution’s case, in order to tender three categories of documents: (a) public reference documents such as laws, regulations, and other public instruments as contained in gazettes and other publicly available sources during the period relevant to the Indictment; (b) a proof of death collection of documentation relating to each of the victims listed in the Indictment; and (c) a reference collection of maps and relevant locations.¹ The Prosecution argues that an early bar table motion will focus litigation on the core issues in the case and improve the efficiency of trial proceedings by allowing for the smooth presentation of evidence in court.²

3. Hadžić opposes the Motion and responds that the Chamber’s draft guidelines on the management of evidence provide for one bar table motion at the end of the Prosecution’s case and deviations from the guidelines would only be justified on the basis of “cogent reasons.”³ Hadžić argues that (a) the tendering of evidence through witnesses ensures a more orderly trial and more clarity in respect of key issues;⁴ (b) allowing an early bar table motion risks documents being entered on the record without adequate explanation and the Prosecution relying on those documents in unexpected ways at the end of the case;⁵ and (c) an early bar table motion relieves the Prosecution from providing an evidential foundation and context for the documents.⁶

4. The Trial Chamber’s draft guidelines on the management of evidence allow for the submission of a bar table motion at the end of the Prosecution’s case.⁷ Where there are cogent reasons to depart from the guidelines, the parties have been asked to bring these reasons to the attention of the Chamber.⁸ Having considered the arguments of the parties, the Trial Chamber does

¹ Motion, paras 1, 14.

² Motion, para. 4.

³ Response, paras 4-5, 12.

⁴ Response, paras 1-3.

⁵ Response, para. 6.

⁶ Response, paras 8-9.

⁷ Rule 65 *ter* Conference of 14 December 2011, T. 20 (confidential); Rule 65 *ter* Conference of 12 June 2012, T. 62 (confidential).

⁸ Rule 65 *ter* Conference of 14 December 2011, T. 17-18 (confidential).

not find that there are cogent reasons, in the present circumstances, to depart from its draft guidelines on the management of evidence in relation to bar table motions.

5. Accordingly, the Trial Chamber hereby DENIES the Motion.

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

Done this fourteenth day of September 2012,
At The Hague,
The Netherlands.



Judge Guy Delvoic
Presiding

[Seal of the Tribunal]