

THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA

CASE No. IT-95-5/18-T

IN TRIAL CHAMBER No. 3

Before: Judge O-Gon Kwon, Presiding
Judge Howard Morrison
Judge Melville Baird
Judge Flavia Lattanzi, Reserve Judge

Registrar: Mr. John Hocking

Date: 25 November 2010

THE PROSECUTOR

v.

RADOVAN KARADZIC

Public

MOTION FOR FINDING OF DISCLOSURE
VIOLATION AND FOR REMEDIAL MEASURES #17 *bis*

The Office of the Prosecutor:

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

The Accused:

Radovan Karadzic

Standby Counsel:

Mr. Richard Harvey

1. On 11 September 2010, Dr. Radovan Karadzic filed his *Seventeenth Motion for Finding of Disclosure Violation and for Remedial Measures* alleging that the prosecution has violated Rule 68 by failing to disclose exculpatory evidence as soon as practicable from the search of the Belgrade apartment of Dragomir Pecanac.

2. On 29 September 2010, the Trial Chamber found that the prosecution had indeed violated Rule 68 with respect to material found on DVDs during the Pecanas search by not disclosing such material until 31 August 2010.¹

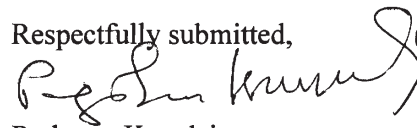
3. On 23 November 2010, the prosecution disclosed an additional 461 pages of material from the Pecanas DVDs that it had inadvertently failed to disclose on 31 August 2010.² As with the earlier disclosure, a preliminary review of this disclosure indicates that it contains exculpatory material such as documents relating to the shipment of arms by Iran (item 6), involvement of the Mujahedin on the side of the Muslim Army (item 7) and Republika Srpska Ministry of Interior reports of war crimes (item 8).

4. The Trial Chamber is therefore requested to make a finding that the prosecution has once again violated Rule 68 by failing to provide these materials as soon as practicable.

5. Dr. Karadzic and his defence team will now have to carefully review these additional 461 pages of material and incorporate it into his preparation for upcoming witnesses. It is respectfully requested that the Trial Chamber extend the winter recess by one additional day to enable the new disclosure to be reviewed.

Word count:

Respectfully submitted,



Radovan Karadzic

¹ *Decision on Accused's Seventeenth Motion for Disclosure Violation and for Remedial Measures* (29 September 2010) at para. 20

² See disclosure letter of 23 November 2010 attached as Annex "A". The prosecution subsequently indicated that the material came from the DVDs and not the hard drive and that the reason for the late disclosure was inadvertence.

ANNEX "A"



United Nations
Nations Unies



International
Criminal Tribunal
for the Former
Yugoslavia

Tribunal Pénal
International pour
l'ex-Yougoslavie

Office of the
Prosecutor

Bureau du
Procureur

Case No. IT-95-5/18

23 November 2010

Disclosure Batch 461: Disclosure of additional Pećanac Hard Drive Materials

Please find enclosed the items detailed below for delivery to the accused Mr. Radovan Karadžić. These items were seized by the Serbian MUP during searches of the apartment of Dragomir Pećanac, in addition to items contained in batches 363, 418 and 432.

We would appreciate acknowledgement of receipt of the material by signature and returning the signed receipt to our office.

The Prosecution also wishes to remind the Accused of the terms of non-disclosure detailed in the Trial Chamber "Decision on Prosecution Motion for Non-Disclosure" dated 2 September 2008 and the "Decision on Protective Measures for Witnesses" dated 30 October 2008.

Yours truly,

Hildegard Uertz-Retzlaff
Senior Trial Attorney

1) 1 CD entitled "Disclosure Batch 461 – Hard Drive Materials" containing the materials listed below:

Churchillplein 1, 2517 JW The Hague. P.O. Box 13888, 2501 EW The Hague. Netherlands
Churchillplein 1, 2517 JW La Haye. B.P. 13888, 2501 La Haye. Pays-Bas
Tel.: +31 (0)70 512 8851 Fax: +31 (0)70 512 5325

Item No.	ERN	Document Title
1	0554-8139-0554-8406	Final Voter's List Bosnia and Herzegovina Elections 1996 - 60. Srebrenica (RS)
2	0554-9251-0554-9283	Book of deceased Serbs 1992-95
3	0554-9304-0554-9309	ARBiH order no 4/19-2 dated 12 January 1995 on reorganization of army in the AoR of the 2nd Corps. Signed by Rasim Delić
4	0554-9327-0554-9327	Fahrudin Salihović letter number 01-06/94, dated 11 January 1994. Detailing number of Muslims in Srebrenica Municipality.
5	0554-9412-0554-9428	List of persons from the area of the Han Pijesak SJB
6	0554-9429-0554-9430	Letter sent on 22 July 1994 from Tolimir to Karadžić entitled "Information on the involvement of Iran in the war in former BiH"
7	0554-9431-0554-9432	Letter sent on 21 July 1994 from Tolimir to Karadžić entitled "Engagement of foreign mercenaries - Mujahedin - in the war in former BiH"
8	0555-1186-0555-1295	RS Ministry of Interior, CJB Bijeljina, document no. 12-02/4-230-163/05 I-140, dated 9 February 2002. Re: Report on committed crime of genocide and other war crimes.
9	0555-3710-0555-3711	ABiH 2nd Corps Command dispatch no. 02/2-13/500 dated 13 Jul 1995 type-signed by Commander Brig. Sead DELIĆ to ABiH General Staff and 2nd Corps Forward Command Post: special report on situation in the area of the 28th Division
10	0555-3712-0555-3715	ABiH 2nd Corps Command dispatch no. 02/2-13/501 dated 14 Jul 1995 stamped and signed by Commander Brig. Sead DELIĆ to ABiH General Staff and 2nd Corps Forward Command Post: daily combat report
11	0555-3716-0555-3718	ABiH 2nd Corps Command dispatch no. 02/2-13/506 dated 18 Jul 1995 stamped and signed by Commander Brig. Sead DELIĆ to ABiH General Staff and 2nd Corps Forward Command Post: daily combat report
12	0555-3719-0555-3721	ABiH 2nd Corps Forward Command Post dispatch no. 02/1-727/6 dated 18 Jul 1995 stamped and signed illegibly to ABiH 2nd Corps Command attn. Brig. Sead DELIĆ: combat report
13	0555-3722-0555-3724	ABiH 2nd Corps Command dispatch no. 02/2-13-509 dated 21 Jul 1995 stamped and signed for Commander Brig. Sead DELIĆ to ABiH General Staff and 2nd Corps Forward Command Post: daily combat report
14	0555-3725-0555-3727	ABiH 2nd Corps Command dispatch no. 02/2-13-510 dated 22 Jul 1995 stamped and signed by Commander Brig. Sead DELIĆ to ABiH General Staff and 2nd Corps Forward Command Post: daily combat report
15	0555-3728-0555-3731	ABiH 2nd Corps Command dispatch no. 02/2-13-511 dated 23 Jul 1995 stamped and signed by Commander Brig. Sead DELIĆ to ABiH General Staff and 2nd Corps Forward Command Post: daily combat report
16	0555-3732-0555-3734	ABiH 2nd Corps Command dispatch no. 02/2-13-512 dated 24 Jul 1995 stamped and signed by Commander Brig. Sead DELIĆ to ABiH General Staff and 2nd Corps Forward Command Post: daily combat report
17	0555-3798-0555-3798	Handwritten coversheet for case file no. KP KY-190/94 re crimes committed in the villages Pelemiš, Jelačić and Majdan
18	0555-3876-0555-3877	Statement of Mirsad HODŽIĆ no. 6/06-230-64 dated 17 Jun 1994 to the Zvornik CJB
19	0555-3878-0555-3880	Zvornik CJB Official note dated 23 Jun 1994 drafted and signed by Milče PAJIĆ re arson and looting of Serbian villages Jelačić and Majdan by Muslim forces following the attack on 13 Jan 1994
20	0555-3884-0555-3884	Statement of Dragan MILIĆ no. 12-6/04-230- /94 dated 8 Jul 1994 to the Zvornik CJB

Item No.	ERN	Document Title
21	0555-3895- 0555-3896	Statement of Ratko MILIĆ no. 12-6/04-230- /94 dated 5 Jul 1994 to the Zvornik CJB

Please acknowledge disclosure of the above mentioned material by signing this receipt below.

Signature: _____

Date: _____