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International
Criminal Tribunal
for the Former
Yugoslavia

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Tribunal Pénal
International pour
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Section des
Services
d'administration et
d'appui judiciaire

D44280

CASE/AFFAIRE NO.	IT-95-5/18-T (R. KARADŽIĆ)	DATE	11 January 2011
FROM/DE RAM DORAISWAMY, COURT OFFICER			
TO/A			
<input checked="" type="checkbox"/> President/Président (1)	<input checked="" type="checkbox"/> Prosecutor/Procureur	0 Defense Counsel/Conseil de la Défense	
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0 Appeals Chamber/ Chambre d'appel	<input checked="" type="checkbox"/> Case Manager/ Commis aux affaires	<input checked="" type="checkbox"/> Self-representing Accused/ Accusé assurant lui-même sa défense MR. R. KARADŽIĆ (1)	
0 Trial Chamber I/ Chambre de 1ère instance I	0 Chief of Investigations/ Chef des enquêtes	<input checked="" type="checkbox"/> Legal Advisers/ Conseillers juridiques MR. G. PETRONIJEVIĆ MR. P. ROBINSON MR. M. SLADOJEVIĆ	
0 Trial Chamber II/ Chambre de 1ère instance II		<input checked="" type="checkbox"/> Standby Counsel MR. R. HARVEY	
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0 Embassy/Ambassade			
<input checked="" type="checkbox"/> Pro Se Legal Liaison Officer/Juriste chargé de la liaison avec l'accusé MS. V. TASEVA			
<input checked="" type="checkbox"/> Other/Autre 102 (1)			
<input checked="" type="checkbox"/> Registrar/Deputy Registrar/Greffier/Greffier adjoint MS. T. MAIKOWSKI		0 VWS Coordinator/Coordinateur de la SVT	
<input checked="" type="checkbox"/> Senior Legal Officer/Juriste hors-classe MS. Y. FEATHERSTONE / MS. L. DAVIDSON		0 UNDU Commanding Officer/Commandant du QPNU	
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<input checked="" type="checkbox"/> Motion/Request/Application submitted by Prosecution/Defence Counsel/Accused on/ Motion/Requête/Demande présentée par l'Accusation/le Conseil de la défense/ Accusé le 11 / 01 / 2011 30th
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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: 11 January 2011

THE PROSECUTOR

v.

RADOVAN KARADZIC

Public w/Confidential Annex B

THIRTIETH MOTION FOR FINDING OF DISCLOSURE
VIOLATION AND FOR REMEDIAL MEASURES

The Office of the Prosecutor:

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

The Accused:

Radovan Karadzic

1. Dr. Radovan Karadzic respectfully moves for a finding that the prosecution has once again violated Rule 68 by failing to disclose, as soon as practicable, an exculpatory document.¹ By delaying its disclosure, the prosecution prevented Dr. Karadzic from using the document in his cross examination of General David Fraser.

2. The document in question was disclosed by the prosecution on 7 January 2011 after General Fraser had completed his testimony.²

3. The document is a memorandum sent by the UN Center for Human Rights field office in Sarajevo on 17 August 1994. The memorandum contains, *inter alia*, the following information obtained from a meeting that day with UNPROFOR Sarajevo Sector Commander General Andre Soubirou:

- a. The Bosnian government obstructs its citizens from leaving Sarajevo as a matter of policy.
- b. The forced eviction of citizens from Rogatica, which was covered by the media as ethnic cleansing was part of an agreement between the two parties.

4. The exculpatory nature of the document is demonstrated by the fact that it was disclosed by the prosecution pursuant to Rule 68 and by the fact that the information tends to contradict two fundamental allegations in the indictment—denying freedom of movement in Sarajevo,³ and the charges of persecution and forcible transfer from Rogatica municipality.⁴

5. Had the document been timely disclosed, Dr. Karadzic would have put these issues, and perhaps introduced the document, through his cross examination of General David Fraser, who served as General Soubirou's Military Assistant and who was serving in that capacity on the date of the meeting—17 August 1994.⁵

6. The document appears to be part of a collection of United Nations documents which have likely been in the possession of the prosecution for at least 10 years. Its disclosure, 15 months after the trial commenced, and after the testimony of General Fraser, was not in compliance with the "as soon as practicable" requirement of Rule 68.

¹ A copy of this document is attached as Annex "A".

² The disclosure letter is attached as Confidential Annex "B".

³ Third Amended Indictment at paras 48, 60(k)(i)

⁴ Third Amended Indictment at para. 48; Counts 3, 7 and 8

⁵ Exhibit P1762; Fraser amalgamated statement at p. 4

7. Dr. Karadzic has been prejudiced by the late disclosure because he was unable to assess the documents in preparing for trial as part of the development of his overall defence strategy and was unable to use the documents with General Fraser.

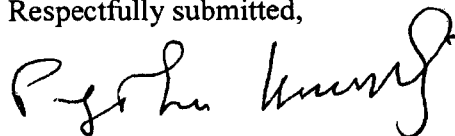
8. The Trial Chamber has already held that the prosecution's policy of delaying disclosure of exculpatory material violates Rule 68.⁶ This latest example indicates that the violations are continuing. The disclosure letter attached as Annex "B" also indicates that the prosecution continues to delay compliance with Dr. Karadzic's June 2010 Rule 66(B) request until just prior to the testimony of upcoming witnesses.

9. Therefore, the Trial Chamber is requested to first make a finding that Rule 68 has been violated by the failure to disclose the UN Human Rights document as soon as practicable.

10. As a remedial measure, Dr. Karadzic renews his request for suspension of the trial for a three month period prior to the municipalities component of the case so that he can review and assimilate all of the late disclosure, under Rule 66(A)(ii), Rule 66(B) and Rule 68, rather than having to deal with it on the eve of the testimony of the affected witness.

Word count: 685

Respectfully submitted,



Radovan Karadzic

⁶ *Decision on Prosecution's Motion for Reconsideration of Trial Chamber's 11 November 2010 Decision* (10 December 2010) at para. 11; *Decision on Accused's Seventeenth bis and Twenty-Eighth Disclosure Violation Motions* (16 December 2010) at para. 23

ANNEX "A"

①

R0079471

**UNITED NATIONS CENTRE FOR HUMAN RIGHTS
FIELD OFFICE, SARAJEVO.**

ROUTINE PRIORITY **IMMEDIATE** MOST IMMEDIATE
UNCLASSIFIED UN RESTRICTED ~~UN CONFIDENTIAL~~ UN SECRET

PAGES: 3	DATE : August 17, 1994
TO: Mr. George Mautner- Markhof Chief, Special Procedures Branch, United Nations Centre for Human Rights, Geneva	FROM: Field Office, SARAJEVO UN Centre for Human Rights TEL/FAX: 176-704 (VSAT 7634)
Fax No: 41-22-917-0118	APPROVED BY: D.M.
ATT: Mr. R. Wieruszewski Mr. M. O'Flaherty	FILE REF NO: 119 DRAFTER: Diakite Maradi
SUBJECT: MEETING WITH GENERAL SOUBIROU, UNPROFOR COMMANDER FOR SECTOR SARAJEVO.	

UN CENTRE FOR HUMAN RIGHTS
FIELD OPERATION, ZAGREB

ACTION:

Copy:

File / Ref:

Received: 17 AUG 1994

②

R0079472

On August 16, 1994, I had a very interesting meeting with General Soubirou, who has been the UNPROFOR Commander for Sector Sarajevo since last October, 1993. The purpose of the meeting was to:

- officially introduce the Sarajevo Field Office of the UN Centre for Human Rights, and its activities in BiH;
- make an overview about the human rights situation in Sector Sarajevo;
- discuss about some specific human rights issues raised to our attention recently, concerning Rogatica and the event of forced evictions of Moslem civilians by the Bosnian Serbs on July 18.

As General Soubirou is very pragmatic, he started the meeting by inquiring about our mandate. After briefing him on the mandate of the Special Rapporteur, I mentioned that the Field Office in Sarajevo covers all of BiH. As we have not received an official authorization for the Bosnian Serb areas, we gather information on human rights issues from various sources, which, unfortunately, we can not double check. Deeply concerned, General Soubirou added that he will be greatly supportive of the activities of the Centre, mainly because he believes that the concept of human rights is extremely important and that the principles must be warranted. He pointed out that the situation in Sarajevo is not really dramatic and illustrated his explanation through several points:

- 1 - As the Bosnian Serbs had committed many violations of human rights which are well known to the International Community, attention must also be paid to some allegations of human rights violations committed by the BiH side. The military situation being tense between the two sides, the Serbs are taking Sarajevo as a "hostage", and this situation affects the civilian population which is deprived of its freedom of movement, and which is mostly targeted and victim of sniping activities.
- 2 - The BiH Government seem to present the International Community with propaganda regarding violations committed by the Serb side, omitting to do the same regarding violations committed by them. For example the civilian population has major administrative obstacles in leaving Sarajevo, and the police and military officials being powerful, contribute significantly to this policy.
- 3 - Refugees and displaced persons, most of whom are sympathizers of Moslem fundamentalism, cases of evictions from homes, and sometimes cases of loss of employment for those who are not members of the SDA Party, etc., are the priority issues.
- 4 - Concerning the forced eviction of civilians in Rogatica which was covered by the media as ethnic cleansing, General Soubirou believes that it was part of an agreement between the two parties.

(3)

R0079473

5 - As I inquired whether there are signs of deviation from part of the authorities in form of a fundamentalist regime headed by some extremists, the General was doubtful but emphasized that he believes the majority of people would not take such a course since they do not believe in that idea. However the minority of Moslem extremists may become very influential.

He reiterated that the situation concerning human rights in Sarajevo is understandable due to war circumstances, and that the respect for all the basic human rights principles can not be expected now. As he is very encouraging in regard to our activities, he took this opportunity to introduce me to several colleagues from G5, dealing specifically with daily complaints from the people as to have insight into the recent events. They review important allegations that they receive, and then discuss priority points for cooperation. I welcomed the idea of cooperation on common concerns and the establishing of a system of exchange of information between us, which should be useful in understanding the development of events.

The meeting ended in an informal discussion with his team from G5, and I really appreciated the spirit of conviviality and General Soubirou's availability for any kind of assistance we may raise to his attention in the future, concerning the implementation of the mandate of the UN Centre for Human Rights.

Mark L.

CONFIDENTIAL
ANNEX "B"



United Nations
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International
Criminal Tribunal
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Tribunal Pénal
International pour
l'ex-Yougoslavie

Office of the
Prosecutor

Bureau du
Procureur

Case No. IT-95-5/18

6 January 2011

Disclosure Batch 501: Disclosure of Materials Stemming from a Search for Materials Relating to Witness KDZ450 (Andre SOUBIROU), KDZ026 (Muharem NEZIREVIĆ) and KDZ356 (Jeremy BOWEN)

Please find enclosed the items detailed below for delivery to the Accused Mr. Radovan Karadžić. This material may fall within the ambit of Rule 68 or may be of relevance for the defence case. Note that this material has been identified in searches specifically searching for documents in which the witness's name is mentioned, and is additional to material previously disclosed under Rule 68 of the Rules. The first item is now provided to you upon obtaining clearance from the Rule 70 provider.

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 02 September 2008 and the "Decision on Protective Measures for Witnesses" dated 30 October 2008.

Yours sincerely,

Hildegard Uertz-Retzlaff
Senior Trial Attorney

1) 1 CD entitled "Disclosure Batch 501 – Rule 68 materials" containing the materials listed below:

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Item No.	Description	UN	Comments
Materials relating to Witness KDZ450 (Andre SOUBIROU)			
1	Memo from UN Centre for Human Rights Sarajevo to MAUTNER-MARKHOF, dated 17-Aug-94 re. Meeting with Gen. SOUBIROU, UNPROFOR commander for Sector Sarajevo	R007-9471- R007-9473	Cleared upon obtaining Rule 70 clearance
Materials relating to Witness KDZ026 (Muharem NEZIREVIĆ)			
2	Memo re. information provided by Muharem NEZIREVIĆ	0679-5225- 0679-5225	
3	Proffer of testimony of witness RAJKOVIĆ, Zdenka	0074-2976- 0074-2981	
4	Proffer of testimony of witness STRIKOVIĆ, Ermin	0081-3435- 0081-3442	
5	Book named -10th gate of Hell/Half year of imprisonment in Omarska and Manjaca death camps- Author: HUKANOVIC, Rezak	0111-0687- 0111-0816	
6	Kozarski vjesnik newspaper, 28 Sep 1990, year XV, no. 784	0146-8162- 0146-8185	
7	Kozarski vjesnik newspaper, 16 Nov 1990, year XV, no. 791	0146-8330- 0146-8361	
8	Kozarski vjesnik newspaper, 28 Dec 1990, year XV, no. 797-8	0146-8458- 0146-8493	
9	Kozarski Vjesnik newspaper, 11 Jan 1991, year XVII, no. 799	0146-8494- 0146-8517	
10	Kozarski Vjesnik newspaper, 18 Jan 1991, year XVII, no. 800	0146-8518- 0146-8541	
11	Kozarski Vjesnik newspaper, 12 Apr 1991, year XVII, no. 812	0146-8806- 0146-8829	
12	Kozarski Vjesnik newspaper, 17 May 1991, year XVII, no. 817	0146-8930- 0146-8953	
13	Extract of "Simo MISKOVIĆ - FILE - 1/2" BiH witness statement by Ismet SARIC dated 8-Jul-99	0341-9605- 0341-9611	
Materials relating to Witness KDZ356 (Jeremy BOWEN)			
14	BBC TV Catalogue and Index of News Transmissions A catalogue and index of news transmissions covering Bosnia during the period 1992-1995 Ref: 443-666; TX 26/07/92-19/08/9	0029-4375- 0029-4474	Also relevant to request dated 21-Jun-10 Authored by BOWEN, Jeremy
15	BBC TV Catalogue and Index of News Transmissions 1992-1995 (Bosnia), submitted on 04-05-1995.	0029-4583- 0029-4682	Also relevant to request dated 21-Jun-10 Authored by BOWEN, Jeremy

Item No.	Document Title	ERN	Comments
16	BBC TV Catalogue and Index of News Transmissions 1992-1995 (Bosnia) 1135-1361; TX 15/12/92 - 04/02/93 Submitted on 04-05-1995	0029-4683- 0029-4784	Also relevant to request dated 21-Jun-10 Authored by BOWEN, Jeremy
17	Morning edition broadcast by NPR In BiH the first UNHCR relief convoy to reach Gorazde returned safely to Sarajevo. Serbs say that the defenders of Gorazde used the relief convoy as a cover for a surprise attack, they showed the bodies of 8 dead fighters.	M000- 5674- M000-5677	
18	BBC selections (Pt. 3880 = Assignment - Cracks in the armour).	V000-3326- V000-3326	
19	Selected sequences from BBC tapes relating to Radovan KARADŽIĆ.	V000-3328- V000-3328	
20	Video tape re. Deportation of Muslim civilians 1992	V000-3335- V000-3335	

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

Signature: _____

Date: _____