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Tribunal Pénal  
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<b>CASE/AFFAIRE NO.</b> IT-95-5/18-T (R. KARADŽIĆ)		<b>DATE</b> 11 February 2011
<b>FROM/DE</b> RAM DORAISWAMY, COURT OFFICER		
<b>TO/A</b>		
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<input checked="" type="checkbox"/> Vice President/Vice-Président		
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		
IOR (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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Motion/Request/Application submitted by Prosecution/Defence Counsel/Accused on/  
Motion/Requête/Demande présentée par l'Accusation/le Conseil de la défense/ Accusé le 11/02/2011  
FORTY-FIRST

0 Response/Reply/Brief submitted by Prosecution/Defence Counsel/Accused on/  
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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 February 2011

THE PROSECUTOR

v.

RADOVAN KARADZIC

*Public w/Confidential Annexes*

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FORTY-FIRST MOTION FOR FINDING OF DISCLOSURE  
VIOLATION

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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, a transcript of interview with a Republika Sprska Ministry of Interior official who told them in 2005 that in 1992 the Ministry arrested paramilitaries and police officers who committed crimes.<sup>1</sup>

2. The document in question was disclosed by the prosecution on 10 February 2011.<sup>2</sup>

3. In the transcript, the witness clearly informed the prosecution that the authorities sought to prevent crimes by paramilitaries, chase them from the area, and arrest them.<sup>3</sup> He also indicated that the authorities took steps to train persons who volunteered to be police officers, and that police officers who committed crimes were prosecuted.<sup>4</sup>

4. The exculpatory nature of this transcript is that it tends to refute the allegations in the indictment that the paramilitary groups and their leaders were part of a joint criminal enterprise with Dr. Karadzic, Minister of Interior Mico Stanisic, and Minister of Justice Momcilo Mandic.<sup>5</sup> It also tends to refute the allegations of the Third Amended Indictment that Dr. Karadzic is liable for failing to punish crimes pursuant to Article 7(3) of the Statute.

5. This document has been in the possession of the prosecution since 2005. The failure to disclose this statement prior to the testimony of Momcilo Mandic prejudiced Dr. Karadzic by preventing him from using the information concerning the efforts against paramilitaries, efforts to train police officers, and punishment of officers who committed crimes during his cross examination of Mr. Mandic.

6. It should also be noted that the prosecution itself has indicated that the documents may fall within Rule 68 in its disclosure letter.

7. Dr. Karadzic has also been prejudiced by the late disclosure because he was unable to assess the document in preparing for trial as part of the development of his overall defence strategy.

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<sup>1</sup> The document in question is attached as Confidential Annex "A".

<sup>2</sup> The disclosure letter is attached as Confidential Annex "B".

<sup>3</sup> See Annex A at pp. 21-24

<sup>4</sup> See Annex A at pp. 18,40

<sup>5</sup> See Third Amended Indictment at paras. 11-13

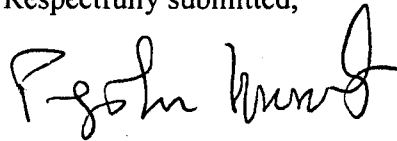
8. The Trial Chamber has already held that the prosecution's policy of delaying disclosure of exculpatory material violates Rule 68.<sup>6</sup> This latest example indicates that the violations are continuing.

9. Therefore, the Trial Chamber is requested to make a finding that Rule 68 has been violated by the failure to disclose this transcript as soon as practicable.

10. Given the six week adjournment granted by the Trial Chamber for the late disclosure of the 31 January 2011 material, Dr. Karadzic does not seek an additional adjournment for this violation which came to his attention on 10 February 2011. He will decide whether it is necessary to recall Mr. Mandic once the full scope of the prosecution's disclosure violations is known at the end of their case.

Word count: 896

Respectfully submitted,



Radovan Karadzic

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<sup>6</sup> *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