

IT-95-5/18-T
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21 June 2011

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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: 21 June 2011

THE PROSECUTOR

v.

RADOVAN KARADZIC

Public

FIFTY-SECOND MOTION FOR FINDING OF DISCLOSURE
VIOLATION AND FOR SANCTIONS: RULE 66(A)(ii)

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 66(A)(ii) by failing to disclose two statements of witness Nebojsa Ristic until today.¹ It appears that the statements have been in the possession of the prosecution since approximately February 2009, when the investigator requested them from the Ministry of Interior of Republika Srpska.

2. This delay in disclosure of the statements violates not only the original 7 May 2009 disclosure deadline for Rule 66(A)(ii) material, but the 1 October 2010 “final” deadline for disclosure of all remaining Rule 66(A)(ii) material.

3. The Trial Chamber is respectfully requested to make a finding that Rule 66(A)(ii) was once again violated. This would be the 400th and 401st statements disclosed in violation of Rule 66(A)(ii).

4. Dr. Karadzic respectfully requests that the testimony of Mr. Ristic be excluded as a sanction for the failure to disclose the statements not only after the May 2009 deadline, but after the 1 October 2010 deadline to rectify the earlier disclosure violations.

5. The Trial Chamber has warned the prosecution to improve its disclosure practices so that an occurrence such as this would never happen again after 1 October 2010. Yet the prosecution has repeatedly been found to have failed to disclose Rule 66(A)(ii) statements which had been in its possession.

6. These continuing violations simply flout the Trial Chamber’s order. Suspensions of the trial on seven occasions have not served to stop the flow of disclosure violations. Therefore, the sanction of exclusion is warranted at this stage.

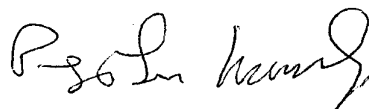
7. Should the Trial Chamber decline to impose the remedy of exclusion of the testimony, it is nevertheless requested to make an express finding that Rule 66(A)(ii) has been violated by the failure to disclose these documents within the time set by the Chamber. It is further requested to postpone the testimony of Mr. Ristic until after the summer recess.

¹ The statements are attached as Annexes “A” and “B” to the *Prosecution Response to Fifty-First Motion for Finding of Disclosure Violation and to Postpone Testimony of Nebojsa Ristic* (21 June 2011)

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Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Radovan Karadzic', written in a cursive style.

Radovan Karadzic