

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: 10 January 2012 *P. X.*

THE PROSECUTOR

v.

RADOVAN KARADZIC

*Public w/ Confidential annexes*

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67<sup>th</sup> MOTION FOR FINDING OF DISCLOSURE  
VIOLATION AND FOR REMEDIAL MEASURES  
(DECEMBER 2011)

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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 violated Rule 68 by failing to timely disclose records of benefits it promised to and/or conferred upon its witnesses.

2. On 13 December 2011, the prosecution disclosed letters and memoranda it had sent to national authorities in which it sought and obtained benefits for 41 prosecution witnesses in this case.<sup>1</sup>

3. Of the 41 witnesses, 16 had already testified before the date of disclosure: KDZ011, KDZ017, KDZ051, KDZ052, KDZ310, KDZ490, KDZ605, Ivo Atlija, Armin Bazdar, , Isak Gasi, , Nenad Krejic, Idriz Merdzanic, Kerim Mesanovic, Mirsad Mujadzic, , Izet Redzic, and Nusret Sivac,

4. Of the 41 witnesses, 13 had their statements or testimony admitted without cross examination pursuant to Rule 92 *bis*: KDZ010, KDZ023, KDZ054, KDZ070, KDZ092, KDZ407, , KDZ611, Jusuf Avdispahic, Drazen Erdemovic, Sakib Husrefovic, Nermin Karagic, Mirsad Kuralic and Safet Taci.

5. Of the 41 witnesses, 12 have not yet testified. KDZ015, KDZ045, KDZ047, KDZ067, KDZ068, KDZ084, KDZ114, KDZ122, KDZ296, KDZ610, Midho Alic, Momir Nikolic

6. This Trial Chamber has already held that such material was required to be disclosed pursuant to Rule 68.<sup>2</sup> Therefore, it is respectfully requested that the Trial Chamber make a finding that the prosecution has once again violated its obligations under Rule 68 with respect to the 41 prosecution witnesses who are the subject of this motion.

7. As a remedy, the Trial Chamber is respectfully requested to order exclusion of the testimony of each of these witnesses. While exclusion of evidence is considered an extraordinary remedy, the pattern of disclosure violations in this case, and the fact that violations continue to be uncovered after all of the warnings given by the Chamber, warrant an extraordinary remedy.

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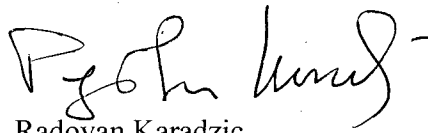
<sup>1</sup> The letters containing this disclosure are attached as Confidential Annex "A". The documents themselves are attached as Confidential Annex "B".

<sup>2</sup> *Decision on Accused's Sixtieth, Sixty-First, Sixty-Third, and Sixty-Fourth Disclosure Violation Motions* (22 November 2011)

8. Should the Trial Chamber decline to exclude the testimony, Dr. Karadzic requests that each of the witnesses who have already testified or whose statements or testimony have been admitted pursuant to Rule 92 *bis*, be called or recalled for cross examination so that the promises made to them, and the impact of those promises on their credibility, can be explored.

Word count: 471

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Radovan Karadzic', with a horizontal line extending from the end of the signature.

Radovan Karadzic