

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 November 2011

THE PROSECUTOR

v.

RADOVAN KARADZIC

Public

MOTION FOR INVITATION
TO UNITED KINGDOM

The Office of the Prosecutor:
Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

Government of United Kingdom

The Accused:
Radovan Karadzic

1. On 11 September 2009, Dr. Radovan Karadzic filed his *Motion for Binding Order: Government of United Kingdom*. The motion sought production of 14 categories of documents relevant to his case.

2. On 14 October 2009, Dr. Karadzic filed his *Withdrawal of Motion for Binding Order: Government of United Kingdom* after receiving responsive documents from the United Kingdom on a voluntary basis. At that time, he specifically “reserves the right to make further requests to the United Kingdom should he learn that it is in possession of other relevant documents.”

3. On 9 November 2011, Dr. Karadzic received a letter from the government of the United Kingdom which indicated that:

It has come to our attention that seven documents potentially relevant to your request...are in the United Kingdom's possession. The United Kingdom is, however, unable to release these documents to you. The documents in question are highly classified reports provided to the United Kingdom by a third State. The third State in question has not provided its consent to the disclosure of the documents. As a consequence, according to the originator principle, and for reasons of national security, the United Kingdom is prevented from disclosing the documents to you. We are sorry about the delay in informing you of this issue.¹

4. Dr. Karadzic accepts that under the originator principle, the government of the United Kingdom cannot be compelled to produce documents originating with another State.² However, this Trial Chamber has held that when asserting the originator principle, a State should indicate to the Chamber which particular documents originated in third states and thus cannot be disclosed to the party without that state's permission.³

5. It is respectfully requested that the United Kingdom be invited to provide the identity of the State which originated the seven documents and a description of the documents. This will enable Dr. Karadzic to file a motion with the Trial Chamber to

¹ A copy of this letter is attached as Annex “A”.

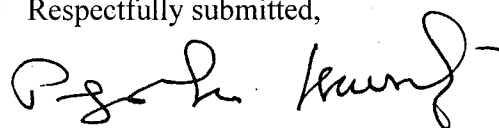
² *Prosecutor v Milutinovic et al*, No. IT-05-87-AR108bis.2, *Decision on Request of United States of America for Review* (12 May 2006) at para. 45; *Prosecutor v Milutinovic et al*, No. IT-05-87-AR108bis.1, *Decision on Request of NATO for Review* (12 May 2006) at para. 20

³ *Decision on the Accused's Application for Binding Order Pursuant to Rule 54 bis (Federal Republic of Germany)* (19 May 2010) at para. 43

compel that State to provide the documents or consent to the United Kingdom's disclosure of them to this Tribunal.

Word count: 493

Respectfully submitted,

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

Radovan Karadzic

ANNEX "A"



British Embassy
The Hague

Dr Radovan Karadzic
c/o- International Criminal Tribunal for the former Yugoslavia
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2517 JW The Hague

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09 November 2011

Dear Dr Karadzic,

I am writing to you regarding your requests for documents dated 2 June 2009 and the subsequent motion for binding order dated 11 Sep 2009 directed to the Government of the United Kingdom of Great Britain and Northern Ireland.

It has come to our attention that seven documents potentially relevant to your request for discovery dated 2 June 2009 are in the United Kingdom's possession. The United Kingdom, however, is unable to release the documents to you. The documents in question are highly classified reports provided to the United Kingdom by a third State. The third State in question has not provided its consent to the disclosure of the documents. As a consequence, in line with the originator principle and for reasons of national security, the United Kingdom is prevented from disclosing the documents to you.

We are sorry for the delay in informing you about this issue.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'for Kanbar', written over a horizontal line.

Kanbar Hossein Bor

Legal Adviser