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D43490

CASE/AFFAIRE NO. IT-95-5/18-T (R. KARADŽIĆ) **DATE** 07 December 2010

FROM/DE RAM DORAISWAMY, COURT OFFICER *[Signature]*

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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: 7 December 2010

THE PROSECUTOR

v.

RADOVAN KARADZIC

Public

MOTION FOR ADMISSION OF
REPORT: ZIBA AVDIC STATEMENT

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

The Accused:
Radovan Karadzic

1. Dr. Radovan Karadzic respectfully requests that the Trial Chamber admit as an exhibit the Sarajevo Police report of 26 June 2000 pertaining to the testimony of Rule 92 *bis* witness Ziba Avdic.

2. On 5 March 2010, the Trial Chamber admitted the statement of Ms. Avdic pursuant to Rule 92 *bis*.¹ In her statement, Ms. Avdic accounts how on 6 June 1992, at approximately 9:30 pm, a shell fell outside her house in front of Abdulah Fetahovic, killing Mr. Fetahovic and Ms. Avdic's husband, Muhamed, who were putting out fires.²

3. At the time the statement was admitted, the prosecution had represented that it had disclosed all Rule 66(A)(ii) material for its witnesses. However, on 30 November 2010, the prosecution disclosed a report of interview with Ms. Avdic conducted by the Bosnian authorities on 23 June 2000.³

4. In the report, it is indicated that Ms. Avdic and Mejra Fetahovic, the wife of Abdallah, submitted a Death Certificate for Abdulah issued by the Command of the VJ fire-fighting unit 5459 of the ABH indicating that Abdulah was coming home from the defence positions of that unit during the time in question.

5. This new information is relevant because it is lawful to kill a combatant at any time. It sheds a new light on the shelling of 6 June 1992 to which Ms. Avdic's statement refers. While it is not known if the shell was fired by the Bosnian Serb forces, even if it was, Mr. Abdulah Fetahovic was a legitimate military target.

6. Because this information was not known to the defence or the Trial Chamber at the time it admitted the statement of Ms. Avdic, the issue could not be addressed at the time the Rule 92 *bis* motion was considered.

7. Dr. Karadzic is willing to have the 26 June 2000 report admitted as an exhibit so that the Trial Chamber has the complete information before it. The authenticity of the document is unquestioned, and he has explained above how the information therein is relevant and how it fits into his case.

¹ *Decision on Prosecution's Fourth Motion for Admission of Statements and Transcripts of Evidence in lieu of Viva Voce Testimony Pursuant to Rule 92 bis—Sarajevo Siege Witnesses*

² Exhibit P500 at para. 7. This testimony is presumably relevant to scheduled shelling incident G2.

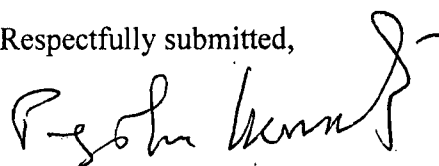
³ A copy of that interview is attached as Annex "A" to this motion.

8. Alternatively, the Trial Chamber is requested to reconsider its decision to admit the statement of Ziba Avdic pursuant to Rule 92 *bis*. The prosecution can then decide whether it wishes to call Ms. Avdic as a live witness at the trial.

9. Granting either form of the requested relief is necessary to ameliorate the prejudice to the defence from the prosecution's violation of its Rule 66(A)(ii) disclosure obligations.

Word count: 549

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Radovan Karadzic', with a stylized flourish at the end.

Radovan Karadzic

ANNEX "A"

26 June 2000

OFFICIAL NOTE

On 23 June of this year we conducted an interview with Mejra FETAHOVIĆ and Ziba AVDIĆ about the circumstances of death of Mejra's husband /sic/ Abdulah (Šemso) FETAHOVIĆ, born on 1 April 1964 in Sarajevo, Centar municipality, and the husband of Ziba, Muhamed (Šaćir) AVDIĆ, born on 24 January 1934 in Sarajevo, Centar municipality.

During the interview they stated that both Abdulah and Muhamed got killed on 6 June 1992 in M. Trifunovića Uče Street from a shell that was sent from the positions of the Serb armed forces underlining that they suffered immediate death.

They also stated that, together with them, Osman (Abeg) KAPETANOVIĆ, born on 5 January 1942 in Tomislavgrad also got killed by the same shell, and that Ivan (Jakov) ORUŠČUK, born on 3 April 1929 in Ljubuško, presently residing at Mario Mikulić Street 33, and a certain Hašim, got wounded during the incident.

At the end of the interview they submitted the Death Certificate written out to the name of Abdulah issued by the Command of the VJ /?fire fighting unit/ 5459 of the ABH, because, Abdulah was coming back home from the defense positions of that unit during the time in question, and the Death Certificate written out to the name of Muhamed AVDIĆ, issued by the Forensics Institute, which we attach to this Official Note.

We also addressed the family of Osman KAPETANOVIĆ who confirmed the aforementioned allegations, but did not have possession of any documents in relation to Osman's death.

Please note that we attempted to get in touch with Ivan ONEŠČUK on several occasions, but that we didn't not succeed getting in touch with him due to the reasonable circumstances.

Attachments:

English Translation

ET 0330-5082-0330-5082

1. Abdulah FETAHOVIĆ: Death Certificate,
2. Muhamed AVDIĆ: Death Certificate.

Note made by:

/signed/

UNREVISED