

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: 12 January 2012

THE PROSECUTOR

v.

RADOVAN KARADZIC

Public

MOTION TO EXCLUDE EVIDENCE
OF 1993 SREBRENICA CRIMES

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 order that~~ the Trial Chamber exclude evidence of crimes committed in Srebrenica in 1993 by the Bosnian Serbs. Such evidence is contained in the amalgamated statement of Pyers Tucker and is likely to be elicited by the prosecution in his direct examination.

2. The indictment does not charge Dr. Karadzic with responsibility for crimes committed in Srebrenica in 1993. Dr. Karadzic is charged with participation in an alleged joint criminal enterprise “commencing in the days immediately preceding the 11 July 1995 implementation of the plan to eliminate the Bosnian Muslims in Srebrenica.”¹ None of the allegations refer to events in 1993.

3. With respect to crimes alleged to have occurred in various municipalities in 1992 and 1993, Srebrenica is not among the listed municipalities.

4. With respect to alleged disproportionate and indiscriminate shelling, the charges in the indictment are limited to Sarajevo.

3. Nevertheless, the prosecution seeks to elicit from witness Colonel Pyers Tucker extensive evidence of crimes committed by the Bosnian Serbs in Srebrenica in 1993.²

4. Dr. Karadzic contends that such evidence is not relevant to the charges in the indictment and should be excluded.

5. In the *Popovic et al* case, the Trial Chamber excluded evidence of 1993 crimes, holding that the crimes were not relevant to the allegations of the crimes committed in July 1995 in Srebrenica.³

6. In this case, as well as in the *Popovic* case, the Trial Chamber has taken judicial notice of some adjudicated facts from 1993 as background information.⁴ However, these facts do not include evidence of other crimes.

7. This Trial Chamber has excluded evidence of crimes in municipalities other than those charged in the indictment, most recently in connection with the testimony of

¹ Third Amended Indictment, para. 20

² See paragraphs 154-59, 176-81, 193-96, 201-204, 209, 211-12, 219-21, 228-37, 252-54, 263-76. Dr. Karadzic also moves to exclude evidence of events in Jajce municipality contained in para. 50.

³ *Prosecutor v Popovic et al*, No. IT-05-88-T, *Decision on Prosecution's Confidential Motion for Admission of Written Evidence in Lieu of Viva Voce Testimony Pursuant to Rule 92 bis* (12 September 2006) at para. 73

⁴ See adjudicated facts #1403-04

prosecution military expert Ewan Brown.⁵ The same rationale should lead to the exclusion of evidence of the uncharged crimes in Srebrenica.

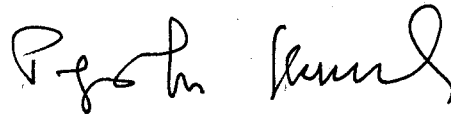
8. Admission of this evidence would not only be prejudicial to the defence, but will unnecessarily broaden the issues of the trial and lengthen the proceedings. In addition to the time taken to receive Colonel Tucker's evidence, the defence will be required to call its own witnesses concerning the 1993 Srebrenica events.

9. Neither Colonel Tucker nor General Morillon have been called to testify in the cases of General Krstic, Colonel Blagojevic, Popovic et al, and General Tolimir. If such evidence was neither relevant nor necessary in those cases, it is hard to see the relevance or necessity of such evidence in this case.

10. Therefore, it is respectfully requested that evidence of crimes committed by the Bosnian Serbs in Srebrenica in 1993 be excluded.

Word count: 596

Respectfully submitted,



Radovan Karadzic

⁵ Transcript of 17 November 2011 at pp. 21495-96