



United Nations  
Nations Unies



International  
Criminal Tribunal  
for the Former  
Yugoslavia

Court  
Management and  
Support Services  
Section

Tribunal Pénal  
International pour  
l'ex-Yougoslavie

Section des  
Services  
d'administration et  
d'appui judiciaire

D 30565

**CASE/AFFAIRE NO.** IT-95-5/18-T (R. KARADŽIĆ) **DATE** 14 January 2010

**FROM/DE** RAM DORAISWAMY, COURT OFFICER

**TO/A**

<input checked="" type="checkbox"/> President/Président (1)	<input checked="" type="checkbox"/> Prosecutor/Procureur	<input type="checkbox"/> Defense Counsel/Conseil de la Défense
<input checked="" type="checkbox"/> Vice President/Vice-Président		
<input type="checkbox"/> Appeals Chamber/ Chambre d'appel	<input checked="" type="checkbox"/> Case Manager/ Commis aux affaires	<input checked="" type="checkbox"/> Self-representing Accused <b>MR. R. KARADŽIĆ (1)</b>
<input type="checkbox"/> Trial Chamber I/ Chambre de 1ère instance I	<input type="checkbox"/> Chief of Investigations/ Chef des enquêtes	<input checked="" type="checkbox"/> Legal Advisers <b>MR. G. PETRONIJEVIĆ</b> <b>MR. P. ROBINSON</b> <b>MR. M. SLADOJEVIĆ</b>
<input type="checkbox"/> Trial Chamber II/ Chambre de 1ère instance II		
<input checked="" type="checkbox"/> Trial Chamber III/ Chambre de 1ère instance III		<input checked="" type="checkbox"/> Court Appointed Counsel <b>MR. R. HARVEY</b>
<input type="checkbox"/> Embassy/Ambassade		
<input checked="" type="checkbox"/> Pro Se Legal Liaison Officer/Juriste chargé de la liaison avec l'accusé <b>MS. J. GUDURIĆ</b>		
<input type="checkbox"/> Other/Autre		
<input checked="" type="checkbox"/> Registrar/Deputy Registrar/Greffier/Greffier adjoint <b>MS. T. MAIKOWSKI / MS. S. FOFANA</b>	<input checked="" type="checkbox"/> VWS Coordinator/Coordinateur de la SVT <b>MR. A. DE WITT</b>	
<input checked="" type="checkbox"/> Senior Legal Officer/Juriste hors-classe <b>MS. Y. FEATHERSTONE / MS. L. DAVIDSON</b>	<input type="checkbox"/> UNDU Commanding Officer/Commandant du QPNU	
<input checked="" type="checkbox"/> Communications Service/Service Communication	<input checked="" type="checkbox"/> OLAD	

**PLEASE FIND ATTACHED/VEUILLEZ TROUVER CI-JOINT**

<input type="checkbox"/> Order/Warrant/Decision issued by Appeals Chamber or Trial Chamber or a Judge on/ Ordonnance/Mandat/Décision émis(e) par la Chambre d'appel ou les Chambres de 1ère instance ou un Juge le ___/___/___
<input type="checkbox"/> Order/Decision issued by the President on/Ordonnance/Décision émise par le Président le ___/___/___
<input type="checkbox"/> Motion/Request/Application submitted by Prosecution/Defence Counsel/Accused on/ Motion/Requête/Demande présentée par l'Accusation/le Conseil de la défense le ___/___/___
<input checked="" type="checkbox"/> Response/Reply/Brief submitted by Prosecution/Defence Counsel/Accused on/ Réponse/Réplique/Mémoire présenté(e) par l'Accusation/le Conseil de la défense/ l'Accusé le <b>14 / 01 / 2010</b> <b>PARTIAL</b>
<input type="checkbox"/> Decision of the Registrar on/Décision du Greffier le ___/___/___
<input type="checkbox"/> Other/Autre

**RECEIVED/RECU** **FILED/ENREGISTRE**

<input checked="" type="checkbox"/> Office hours/heures ouvrables Date: <b>14 / 01 / 2010</b>	<input checked="" type="checkbox"/> Office hours/heures ouvrables Date: <b>14 / 01 / 2010</b>
<input type="checkbox"/> Outside Office hours/en dehors des heures ouvrables Date: ___/___/___ Time/Heure: ___h___	<input type="checkbox"/> Outside Office hours/en dehors des heures ouvrables Date: ___/___/___ Time/Heure: ___h___

**Article 27.2- Directive for the Registry: A party anticipating a late filing will call the Registry during office hours to request permission of the Registrar and instruction for after hour filing.**  
**Article 27.2-Directive pour le Greffe: une partie prévoyant un dépôt hors des heures ouvrables se mettra en rapport avec le personnel du Greffe durant les heures de bureau pour solliciter l'autorisation du Greffier et les instructions nécessaires.**

Churchillplein 1, 2517 JW The Hague. P.O. Box 13888, 2501 EW The Hague. Netherlands  
Churchillplein 1, 2517 JW La Haye. B.P. 13888, 2501 La Haye. Pays-Bas  
Tel.: 31-70-416 5000 Fax: 31-70-416 8637

**Notice of confidentiality applicable to fax**  
This facsimile transmission contains United Nations proprietary information that is strictly confidential and/or legally privileged, and is intended solely for the use of officials of the United Nations and/or the named recipient hereof. Any unauthorized disclosure, copying, distribution or other use of the information herein is strictly prohibited. If you have erroneously received this facsimile transmission, please notify the United Nations immediately.

THE INTERNATIONAL CRIMINAL TRIBUNAL  
FOR THE FORMER YUGOSLAVIA

CASE No. IT-95-05/18-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: 14 January 2010

THE PROSECUTOR

v.

RADOVAN KARADZIC

*Public*

---

PARTIAL RESPONSE TO PROSECUTION'S FOURTH RULE 92 *BIS*  
MOTION: SARAJEVO SEIGE (WITNESS JOHN HAMILL)

---

The Office of the Prosecutor:

Mr. Alan Tieger  
Ms. Hildegard Uertz-Retzlaff

The Accused:

Radovan Karadzic

1. On 29 May 2009, there was filed the *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*. The Trial Chamber has not yet ruled on the motion.

2. Among the witnesses whose testimony was sought to be admitted was KDZ219—Lieutenant Colonel John Hamill of the Irish Army who investigated the 1994 Markale Market shelling while a United Nations Military Observer (“UNMO”).

3. On 12 January 2010, Dr. Karadzic interviewed Colonel Hamill at the United Nations Detention Unit in the presence of the prosecution.

4. During the interview, it became apparent that Colonel Hamill possesses a wealth of information which is relevant and material to the defence of Dr. Karadzic and should be heard by the Trial Chamber at his trial.

5. For example, Colonel Hamill served for three months in the barracks of the Bosnian Serb Army (“VRS”) as a UNMO. He indicated that whenever the VRS intended to fire one of its mortars, it fetched a UNMO and allowed them to observe the weapon being fired and explained the reason for the firing. He was not aware of any deliberate targeting of civilians by the Bosnian Serb Army while he was stationed in Sarajevo.

6. During his tour of duty in Sarajevo in 1993, Colonel Hamill obtained an excellent familiarity with the confrontation lines and position of the various armies. He can testify to what areas were controlled by the Bosnian Muslims, including many peaks such as Mount Igman. He can also testify to the control by the Bosnian Muslims of several skyscrapers from which snipers operated. Colonel Hamill was aware of sniper fire which resulted in the death of Serbs in Sarajevo.

7. Colonel Hamill can testify that he personally inspected the evidence of a shelling which occurred at the Kosevo Hospital in Sarajevo in 1993. He concluded that the shelling had been caused by a shell fired from a tank by the Bosnian Muslim Army.

8. With respect to the Markale incident, Colonel Hamill explained that as a result of his investigation, and knowledge of the accuracy of mortar fire, the shell which landed on the marketplace on 5 February 1994, being a single shot, was a “fluke” and that it could not have been deliberately aimed at the market. This directly refutes proposed

adjudicated facts 342 and 343,<sup>1</sup> and an element of the offenses charged against Dr. Karadzic.

9. Colonel Hamill also indicated that he disagreed with the conclusion reached in the *Galic* trial, based upon the testimony of prosecution witness Berko Zecevic, that the shell which landed on the market was fired from territory controlled by the Bosnian Serbs. This is also proposed adjudicated fact 341 in our trial. Colonel Hamill indicated that it is not possible to determine the range of the mortar which landed on the market, only the direction. Since there were six possible positions in the direction from which the missile was fired, and two of those positions were in territory controlled by the Bosnian Muslim Army, Colonel Hamill maintains that it is not possible to conclude which side fired the missile.

10. The responsibility for the shelling of the Markale market is a core issue in the case and a hotly disputed one. Dr. Karadzic is convinced that the VRS is not responsible for that shelling and that General Galic has been wrongly convicted for it. His sentiments are shared by Judge Nieto-Navia, who dissented in *Galic* concerning this incident.

11. Therefore, Dr. Karadzic contends that Colonel Hamill should be called as a live witness at the trial. If the Trial Chamber is inclined to admit his prior testimony, it should order that he be called for cross examination so these additional facts can be elicited.<sup>2</sup>

12. Dr. Karadzic is not averse to supplementing the written evidence of Rule 92 *bis* witnesses and has done so in the past. However, he believes that Colonel Hamill's information is particularly significant and that his live testimony should be heard by the Trial Chamber.

13. Dr. Karadzic expresses his appreciation to Colonel Hamill for being willing to travel to The Hague to be interviewed by him, and to the prosecution for being present during the interview.

---

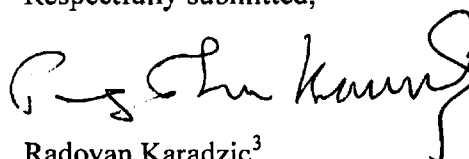
<sup>1</sup> *First Prosecution Motion for Judicial Notice of Adjudicated Facts* (27 October 2008)

<sup>2</sup> Dr. Karadzic objects to the admission of Colonel Hamill's testimony in the *Kordic and Cerkez* trial as irrelevant.

14. Dr. Karadzic is endeavoring to interview the remaining Rule 92 *bis* witnesses with the limited resources provided to him by the Registry. He will file additional responses to the prosecution's Rule 92 *bis* motions as he completes those interviews.

Word count: 885

Respectfully submitted,

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

Radovan Karadzic<sup>3</sup>

---

<sup>3</sup> The assistance of Legal Intern Lorinda Laryea of Georgetown University (USA) in the preparation for Colonel Hamill's interview is gratefully acknowledged.