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International
Criminal Tribunal
for the Former
Yugoslavia

Court
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Tribunal Pénal
International pour
l'ex-Yougoslavie

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D 36802

CASE/AFFAIRE NO. IT-95-5/18-T (R. KARADŽIĆ) **DATE** 29 June 2010

FROM/DE RAM DORAISWAMY, COURT OFFICER

TO/A		
<input checked="" type="checkbox"/> President/Président (1)	<input checked="" type="checkbox"/> Prosecutor/Procureur	0 Defense Counsel/Conseil de la Défense
<input checked="" type="checkbox"/> Vice President/Vice-Président		
0 Appeals Chamber/ Chambre d'appel	<input checked="" type="checkbox"/> Case Manager/ Commis aux affaires	<input checked="" type="checkbox"/> Self-representing Accused/ Accusé assurant lui-même sa défense MR. R. KARADŽIĆ (1)
0 Trial Chamber I/ Chambre de 1ère instance I	0 Chief of Investigations/ Chef des enquêtes	<input checked="" type="checkbox"/> Legal Advisers/ Conseillers juridiques MR. G. PETRONIJEVIĆ MR. P. ROBINSON MR. M. SLADOJEVIĆ
0 Trial Chamber II/ Chambre de 1ère instance II		<input checked="" type="checkbox"/> Standby Counsel MR. R. HARVEY
<input checked="" type="checkbox"/> Trial Chamber III/ Chambre de 1ère instance III		
<input checked="" type="checkbox"/> Embassy/Ambassade STATE (1 cc)		
<input checked="" type="checkbox"/> Pro Se Legal Liaison Officer/Juriste chargé de la liaison avec l'accusé MS. V. TASEVA		
0 Other/Autre		
<input checked="" type="checkbox"/> Registrar/Deputy Registrar/Greffier/Greffier adjoint MS. F. REINHARDT	0 VWS Coordinator/Coordinateur de la SVT	
<input checked="" type="checkbox"/> Senior Legal Officer/Juriste hors-classe MS. Y. FEATHERSTONE / MS. L. DAVIDSON	0 UNDU Commanding Officer/Commandant du QPNU	
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0 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 ___/___/___
0 Order/Decision issued by the President on/Ordonnance/Décision émise par le Président le ___/___/___
0 Motion/Request/Application submitted by Prosecution/Defence Counsel/Accused on/ Motion/Requête/Demande présentée par l'Accusation/le Conseil de la défense/ Accusé 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/ Accusé le 29/06/2010
0 Decision of the Registrar on/Décision du Greffier le ___/___/___
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Pour les procédures concernant le dépôt des documents, voir la Directive relative à la Section d'administration et d'appui judiciaire, Services judiciaires, Greffe, IT/121/Rev.1, Titre XI: Communication des documents

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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: 29 June 2010

THE PROSECUTOR

v.

RADOVAN KARADZIC

Public

RESPONSE TO FILING OF
GOVERNMENT OF GERMANY

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

Government of Germany:
Ambassador Thomas Laufer

The Accused:
Radovan Karadzic


1. On 18 June 2010, the government of Germany filed a response to the Trial Chamber's *Decision on Accused's Application for Binding Order Pursuant to Rule 54 bis (Federal Republic of Germany)*(19 May 2010) indicating that it did not have possession of the documents required to be produced.

2. Dr. Karadzic has reason to believe that this response may not be correct and has undertaken to assist the government of Germany in locating the documents responsive to his request. He attaches two letters he has sent concerning this matter, as well as a recent news article.

3. Dr. Karadzic will keep the Trial Chamber apprised of the results of these efforts and may file a further motion to compel compliance with the Trial Chamber's decision if necessary.

Word count:

Respectfully submitted,

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

Radovan Karadzic

ANNEX "A"

Dr. Radovan Karadzic
International Criminal Tribunal for the former Yugoslavia
The Hague, Netherlands

28 June 2010

The Honorable Thomas Laufer
Ambassador
Embassy of Government of Germany
Groot Hertoginnelaan 18-20
The Hague, The Netherlands

Dear Mr. Ambassador,

Thank you for the *Response of the Federal Republic of Germany* filed on 18 June 2010 in which you advised the Trial Chamber that your government did not possess any of the requested documents ordered to be produced.

I note that my request number (i), which was granted by the Trial Chamber, requested "all reports or memoranda concerning the suspected delivery of arms at Tuzla, Bosnia in February 1995 and the efforts to conceal those deliveries, including reports made by German personnel serving in Bosnia."

Your response that no records exist seems at odds with information that the Government of the Netherlands reported. It indicated that the United Kingdom Defence Intelligence Service (DIS) revealed that it "received some intelligence on shipment of arms to Bosnia from the Germany military intelligence service and the Bundesnachrichtendienst because some of the flights departed from Frankfurt."¹

Therefore, I would appreciate it if you would redouble your efforts to locate this material. In the meantime, I will contact the United Kingdom and see if they can assist you in further identifying their source of this information.

I noted with interest the statements attributed last week to former telecommunications Minister Christian Schwarz-Schilling to *Deutsche Welle* to the effect it was "possible that the documentation has compromising information, for example, information that France or Great Britain smuggled weapons into Bosnia-Herzegovina," and that "if the German documentation contains this information, this would be a great embarrassment for our NATO allies,"

I think we can both agree that it is important that if Germany have this information, it comply with the order of the Tribunal regardless of any embarrassment it may cause its allies.

¹ Wiebes, *Intelligence and the War in Bosnia* @ 197

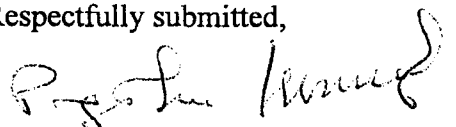
The Honorable Thomas Laufer

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If you have any further questions on this matter, please feel free to contact my Legal Advisor Peter Robinson at peter@peterrobinson.com.

I look forward to your further cooperation with me and the Tribunal.

Respectfully submitted,



Dr. Radovan Karadzic

ANNEX “B”

Dr. Radovan Karadzic
International Criminal Tribunal for the former Yugoslavia
The Hague, Netherlands

28 June 2010

The Honorable Paul Arkwright
Ambassador
Embassy of Government of United Kingdom
Lange Voorhout 10
2514 ED The Hague

Dear Mr. Ambassador,

On 2 June 2009, I requested certain items from the United Kingdom including:

- (7) All information received by the DIS from the Germany military intelligence service or the Bundesnachrichtendienst concerning delivery of arms to Bosnia in 1995.

Your government responded on 9 September 2009. With respect to item #7, the response indicated:

“No searches have been made for this information. Any such information would have been owned by the German military intelligence services and/or the Bundesnachrichtendienst and it would be more appropriate to approach the German government about that issue.”

As the response indicated, we had obtained information from a study commissioned by the government of The Netherlands written by Cees Wiebes in which it was stated that:

The United Kingdom DIS also received some intelligence on shipment of arms to Bosnia from the Germany military intelligence service and the Bundesnachrichtendienst because some of the flights departed from Frankfurt.¹

I have indeed requested this information from the German government. In fact, I was successful in obtaining an order from our ICTY Trial Chamber that Germany produce such information. However, on 18 June 2010, the German government claimed that they did not have anything to produce—which is at odds with what the Dutch report says about the matter.

¹ Wiebes. *Intelligence and the War in Bosnia* @ 197

The Honorable Paul Arkwright

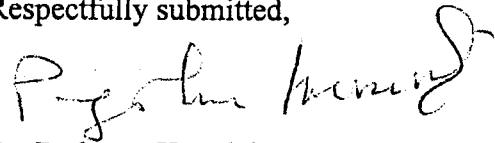
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In order to assist the government of Germany in locating and producing this information, I am requesting that the government of the United Kingdom search for and provide to our ICTY Trial Chamber, on an *ex parte* basis, copies of the documentation that you have on this matter. The Trial Chamber can then transmit the relevant information to the government of Germany to allow them to either consent to the production of the material supplied by the United Kingdom, or locate the relevant documents in its own files and produce them to me.

Please advise me at your earliest convenience whether your government is willing to undertake this task on a voluntary basis.

Thank you for your consideration of this request.

Respectfully submitted,



Dr. Radovan Karadzic

ANNEX “C”

Karadžić request could prove "troublesome for Germany"

23 June 2010 | 10:39 | Source: Tanjug

BERLIN -- The document that the Hague Tribunal is asking for from Germany in the trial of Radovan Karadžić could cause problems for Berlin, say reports.

Deutsche Welle reports that the German government believes the request could endanger its national and security interests and will appeal the decision.

Christian Schwarz-Schilling, who was the telecommunications minister in 1995, as the Bosnian 1992-95 war was coming to an end, said that it was "possible that the documentation has compromising information, for example, information that France or Great Britain smuggled weapons into Bosnia-Herzegovina."

"If the German documentation contains this information, this would be a great embarrassment for our NATO allies," Schwarz-Schilling said, who said that the former Bosnian Serb political leader, undergoing war crimes trial at The Hague, was "throwing such information into the case in order to move attention away from the real facts".

Meanwhile, the lawyer for the 6,000 Srebrenica survivors in the process against the United Nations, Axel Hagedorn, said that the appeal of the German government will serve Karadžić in "proving his strategy thus far" – that the Tribunal is not conducting an honest process and that it does not wish to investigate the real truth, Deutsche Welle reports.

International law professor Christian Tomuschat said that Karadžić's defenders were doing everything to slow down the process and that the Hague Tribunal has the right to demand all documentation that has direct ties to the process, but that it had not been tasked with "writing the history of the civil war in the former Yugoslavia".

"It cannot be ruled out that Karadžić found documents that prove certain arms shipments. For that reason he is now trying to prove that Western countries had taken an active part in the Bosnian war," this expert said.

Karadžić and his defense team are asking the government in Berlin to hand over eight categories of documents: reports, memorandums, correspondence and reports of the German intelligence service related to arms shipments to Bosnia, and above all to Srebrenica, in 1995.

"In the earlier process led against Slobodan Milošević, the defense attorneys had a similar strategy. They demanded various documentation from the Germany government, and the former foreign minister and prime minister had to personally testify as well. In that way, they want to gain time and to show the general explanation of historical trends, which did not have much to do with the case for which the process was being led," Tomuschat said.