

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: 2 May 2011

THE PROSECUTOR

v.

RADOVAN KARADZIC

Public

WITHDRAWAL OF
FOURTH MOTION FOR BINDING ORDER:
UNITED STATES OF AMERICA

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

United States of America

The Accused:
Radovan Karadzic

1. On 12 April 2011, Dr. Radovan Karadzic moved for an order to the United States of America, compelling it to produce the following documents:

- (1) (E) All reports or memoranda of investigation and interviews conducted by the Department of Defence, National Security Council, or Central Intelligence Agency concerning the delivery of arms, ammunition, or military equipment by air to Tuzla in February-March 1995.

2. Dr. Karadzic based his motion upon two reports of the United States Congress and represented to the Trial Chamber that:

“The Congressional reports indicate that specific investigations into who was responsible for the February 1995 arms shipments to Tuzla were undertaken by the United States Department of Defence and Central Intelligence Agency, as well as the National Security Council. Although it was concluded that the United States government was not directly involved in these shipments, the reports of the investigations are likely to provide important information as to the identity of those responsible for the shipments.”¹

3. On 28 April 2011, the United States filed its response.² Using the American litigation tactic that “the best defence is a good offence”, the response accuses Dr. Karadzic of misrepresenting the existence and content of the reports he sought. The existence of the materials, which the House Committee explicitly stated it had “reviewed”³, is beyond question. The United States now claims it has been unable to locate them. An apology, rather than an attack, would have been a more appropriate response.

4. Nevertheless, as he has done with other States, Dr. Karadzic will accept the representation of the United States, and commence his own investigation into the matter by seeking to interview persons with knowledge of the events.⁴

¹ *Fourth Motion for Binding Order: United States of America* (12 April 2011) at para. 20

² *Response of the United States of America to the Trial Chamber’s 13 April 2011 Invitation to the United States of America*

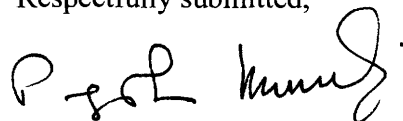
³ Final Report of the Select House Subcommittee to Investigate the United States’ Role in Arms Transfers to Croatia and Bosnia (10 October 1996) at p. 146

⁴ See, for example, Croatia: *Motion for Subpoena to Interview: Miroslav Tadjman* (6 September 2010); France: *Motion for Subpoena to Interview: Colonel de Haynin de Bry* (9 November 2010); Bosnia: *Motion for Subpoena to Interview: General Sead Delic and Brigadier Refik Brdjanovic* (6 January 2011); Germany: *Motion for Subpoena to Interview: Christoph von Bezold* (5 April 2011); Iran: *Motion for Subpoena to Interview: General Director Sadeghi* (5 April 2011)

5. Dr. Karadzic hereby withdraws his *Fourth Motion for Binding Order: United States of America*. Should his own investigation result in the location the reports, he may seek further relief pursuant to Rules 54 and 77 at that time.

Word count: 549

Respectfully submitted,

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

Radovan Karadzic