



International Tribunal for the
Prosecution of Persons
Responsible for Serious Violations
of International Humanitarian Law
Committed in the Territory of the
former Yugoslavia since 1991

Case No.: IT-95-5/18-PT

Date: 22 October 2009

Original: English

IN THE TRIAL CHAMBER

Before: Judge O-Gon Kwon, Presiding
Judge Howard Morrison
Judge Melville Baird
Judge Flavia Lattanzi, Reserve Judge

Registrar: Mr. John Hocking

Order of: 22 October 2009

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

**INVITATION TO THE PROSECUTION
(MOTION FOR BINDING ORDER: GOVERNMENT OF GERMANY)**

Office of the Prosecutor

Mr. Alan Tieger
Ms Hildegard Uertz-Retzlaff

The Accused

Mr. Radovan Karadžić

THIS TRIAL CHAMBER of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991 (“Tribunal”),

BEING SEISED OF the Accused’s “Motion for Binding Order: Government of Germany”, filed publicly on 12 August 2009 (“Motion”), whereby the Accused requests the Trial Chamber to issue a binding order pursuant to Rule 54 *bis* of the Rules of Procedure and Evidence of the Tribunal (“Rules”) requiring the Government of the Federal Republic of Germany (“Government of Germany”) to produce a number of documents;¹

NOTING that, on 25 September 2009, following an invitation by the Chamber to respond to the Motion, the Government of Germany submitted that the documents referred to in categories numbered (i) to (vii) in the Motion are “manifestly not relevant to the charges” against the Accused;²

NOTING that, on 28 September 2009 the Accused filed a “Motion for Leave to Reply and Reply Brief: Binding Order to Germany” (“Reply”), in which he stated that “the Appeals Chamber has held that a State lacks standing to object to a request on grounds of relevance”;³

NOTING FURTHER that the Office of the Prosecutor (“Prosecution”) has indicated that it does not take any position on the Accused’s requests for binding orders.

CONSIDERING, however, that the Accused argues that the requested documents are relevant to his case and his intention to (i) challenge the status of the United Nations Protection Forces (“UNPROFOR”) hostages as civilians; (ii) challenge the credibility and bias of international personnel who were involved “on the side of the Bosnian Muslims”; (iii) show that the ABiH and various states were violating the arms embargo, justifying a military response; (iv) show that the Accused was not part of a joint criminal enterprise to eliminate Bosnian Muslims in Srebrenica as Srebrenica was a legitimate military objective.⁴

¹ Motion, para. 1.

² Answer to the Request for Motion for a Binding Order to be issued to the Government of the Federal Republic of Germany for the Production of Documents pursuant to Rule 54bis, 25 September 2009, para. 1.

³ Reply, para. 4.

⁴ Motion, paras. 24-27.

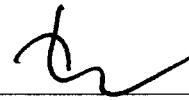
CONSIDERING also, that the Prosecution appears to agree that the Srebrenica area was not a completely demilitarized zone in 1995 and that weapons were present in Srebrenica at least during some part of that year;⁵

CONSIDERING that it would be of assistance to the Chamber to hear from the Prosecution as to whether the documents requested by the Accused are relevant and necessary for the fair determination of his case.

PURSUANT TO Rule 54 of the Rules,

HEREBY INVITES the Prosecution to file a submission in response to the Motion by no later than 6 November 2009.

Done in English and French, the English text being authoritative.



Judge O-Gon Kwon, Presiding

Dated this twenty-second of October 2009
At The Hague
The Netherlands

[Seal of the Tribunal]

⁵ Prosecution's Pre-Trial Brief, 18 May 2009, para.195: "Earlier Bosnian Serb efforts to take over the Srebrenica enclave had been hampered by the international community through the Security Council resolution declaring the enclave a "safe area". Although this was supposed to result in the demilitarization of the enclave, Bosnian Muslim forces used Srebrenica as a base to launch raids on Serb villages."