



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-T

Date: 9 December 2010

Original: English

IN THE TRIAL CHAMBER

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

Registrar: Mr. John Hocking

Order of: 9 December 2010

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

SECOND INVITATION TO THE BOLIVARIAN REPUBLIC OF VENEZUELA

Office of the Prosecutor

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

The Government of Venezuela

via the Embassy of Venezuela to
The Netherlands, The Hague

The Accused

Mr. Radovan Karadžić

Standby Counsel

Mr. Richard Harvey

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 Venezuela”, filed on 1 November 2010 (“Motion”), whereby the Accused requests the Trial Chamber to issue a binding order, pursuant to Article 29 of the Statute of the Tribunal and Rule 54 *bis* of the Rules of Procedure and Evidence of the Tribunal (“Rules”), requiring the Government of the Bolivarian Republic of Venezuela (“Venezuela”) to provide certain documents to him, which relate to the testimony of the scheduled Prosecution witness, Ambassador Diego Arria of Venezuela;¹

NOTING that in the Motion the Accused indicates that he sent a letter to Venezuela requesting these documents on 19 October 2010, but submits that he received no response and thus decided to file the Motion;²

NOTING that the Chamber invited Venezuela, on 2 November 2010, to respond to the Motion by close of business on 16 November 2010 but that no such response has been filed;³

RECALLING that, also on 1 November 2010, the Accused filed his “Motion for Binding Order: United Nations”, (“UN Motion”) in relation to, *inter alia*, the identical category of documents as requested in the Motion,⁴ and that the Chamber invited the United Nations (“UN”) to respond to it;⁵

NOTING that, on 17 November 2010, the UN filed its response, stating, *inter alia*, that “correspondence between Ambassador Arria and the [UN] during the period of Venezuela’s membership in the Security Council [...], other than the one-month period of Venezuela’s presidency and in his role as Security Council President, may not be disclosed without breaching the duty of confidentiality that the [UN] owes to Venezuela” and that the Accused’s Motion to Venezuela “may be an appropriate means of obtaining such documentation directly from Venezuela” (“Response to UN Motion”);⁶

¹ Motion, para. 1.

² Motion, paras. 4-5, Annex B.

³ Invitation to the Bolivarian Republic of Venezuela, 2 November 2010.

⁴ UN Motion, para. 1.

⁵ Invitation to United Nations, 2 November 2010.

⁶ Response to UN Motion, p. 5.

NOTING that the Accused filed, on 30 November 2010, his “Reply Brief: Motion for Binding Order: United Nations” (“Reply to UN Motion”), asking, *inter alia*, that the Chamber issue a second invitation to Venezuela, reminding it of its obligation to respond to the first invitation, and requesting it to inform the Chamber whether it consents to the disclosure of the documents requested from the UN;⁷

NOTING that in the Reply to UN Motion, the Accused notes that, on 23 November 2010, his legal advisor, Mr. Peter Robinson, met with the UN Senior Legal Officer, Mr. Huw Llewellyn, and asked that the UN Office of Legal Affairs seek Venezuela’s consent to the release of the documents to the Accused but that Mr. Llewellyn declined, stating that the UN’s practice was for the requestor to seek such consent;⁸

NOTING also that, following this meeting, the Accused sent a letter to Venezuela, on 25 November 2010, requesting such consent;⁹

CONSIDERING that over two weeks have now passed since the expiry of Venezuela’s deadline to respond to the Accused’s Motion;

CONSIDERING also that it is in the interests of all parties involved that requests for documents are, if possible, dealt with on a voluntary basis;

CONSIDERING further that, in order to determine the Motion, the Trial Chamber would be assisted by hearing from Venezuela, both in relation to the substance of the Motion as well as on issues raised in the Accused’s letter of 25 November 2010, namely whether it would be willing to consent to the UN disclosing the documents pertaining to Venezuela;¹⁰

PURSUANT TO Rule 54 of the Rules,

HEREBY:

- (a) **INVITES** Venezuela to assist the Trial Chamber by filing a response to the Motion, including a response to the Accused’s letter of 25 November 2010,

⁷ Reply to UN Motion, para. 4.

⁸ Reply to UN Motion, paras. 3 and 4.

⁹ Letter to Venezuela, 25 November 2010.

¹⁰ For the outline of those documents, *see* Response to UN Motion.

within 14 days of this Invitation, namely by close of business on **23 December 2010**; and

- (b) **REQUESTS** the Registry to provide the following filings to Venezuela: the UN Motion; the Response to UN Motion; the Reply to UN Motion; and this Invitation.

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



Judge O-Gon Kwon
Presiding

Dated this ninth day of December 2010
At The Hague
The Netherlands

[Seal of the Tribunal]