

**UNITED  
NATIONS**



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: 31 January 2011  
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:** 31 January 2011

**THE PROSECUTOR**

**v.**

**RADOVAN KARADŽIĆ**

***PUBLIC***

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**SECOND INVITATION TO EUROPEAN UNION**

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**Office of the Prosecutor**

Mr. Alan Tieger  
Ms. Hildegard Uertz-Retzlaff

**General Secretariat of the Council of the  
European Union**

Mr. Pierre de Boissieu

**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 Second Invitation to European Union”, filed on 24 January 2011 (“Motion”), whereby the Accused requests the Chamber to issue a second invitation to the European Union (“EU”) directing it to produce certain documents to him or “show cause why a binding order should not be issued”;<sup>1</sup>

**NOTING** that the Chamber is currently seized of the Accused’s “Motion for Binding Order: European Union”, filed publicly on 19 October 2010 (“Motion for Binding Order”), requesting the Chamber to issue a binding order pursuant to Rule 54 *bis* of the Rules of Procedure and Evidence of the Tribunal (“Rules”) requiring the EU to produce three categories of documents to him;<sup>2</sup>

**NOTING** that, on 27 October 2010, the Chamber issued an invitation to the EU to respond to the Motion for Binding Order by 10 November 2010;<sup>3</sup>

**NOTING** that, upon being granted an extension of time to do so,<sup>4</sup> the EU filed a confidential response on 26 November 2010 (“EU Response”) (i) stating that it was in the process of searching for some of the documents requested, (ii) informing the Chamber that it would “revert to the [Tribunal] shortly” with respect to those documents; and (iii) refusing to search for one category of documents requested on the basis that it lacks specificity;<sup>5</sup>

**NOTING** that, in the Motion, the Accused submits that “[s]ince [the response from the EU] almost two months have passed and the European Union has never reverted to the [Tribunal]”, resulting in the Accused’s request that the Chamber issue a binding order in relation to the documents for which the EU refused to conduct a search, and that the Chamber should reclassify the EU Response as a public document;<sup>6</sup>

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

**CONSIDERING** that, in order to determine the Motion, the Trial Chamber would be assisted by hearing from the EU before making any decisions in relation to the Motion for Binding Order;

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<sup>1</sup> Motion, para. 6.

<sup>2</sup> Motion for Binding Order, para. 1.

<sup>3</sup> Invitation to European Union, 27 October 2010.

<sup>4</sup> Decision on Request from the General Secretariat of the Council of the European Union, 12 November 2010.

<sup>5</sup> Confidential Correspondence from EU, 26 November 2010.

<sup>6</sup> Motion, para. 5-6.

**CONSIDERING** further that two months have now passed since the EU's last communication with the Accused and the Chamber would, as a result, benefit from having a report on the progress of its search for the requested material;

**CONSIDERING** also that there is no information of a confidential nature contained in the EU Response, and it is in the interests of transparency and justice for it to be made public;

**PURSUANT TO** Rule 54 of the Rules,

**HEREBY:**

- (a) **INVITES** the EU to assist the Trial Chamber by providing an update as to its progress in relation to its search for the documents mentioned in its response of 26 November 2010 within 14 days from receipt of this Invitation; and
- (b) **REQUESTS** the Registry to reclassify as a public document the EU Response, and to provide this Invitation to the EU.

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



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Judge O-Gon Kwon  
Presiding

Done this thirty-first day of January 2011  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**