



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: 10 February 2011
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: 10 February 2011

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

INVITATION TO BOSNIA AND HERZEGOVINA

Office of the Prosecutor

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

**The Government of Bosnia
and Herzegovina**

via the Embassy of Bosnia and
Herzegovina 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 “Request for 2nd Invitation to Government of Bosnia”, filed on 9 February 2011, whereby the Accused requests the Trial Chamber to issue a second invitation the Government of Bosnia and Herzegovina (“BiH”) requesting a response to both the “Motion for Subpoena to Interview: General Sead Delic and Brigadier Refik Brdjanovic”, filed on 6 January 2011 (“Motion”), and the “Motion for Binding Order: Government of Bosnia”, filed on 31 August 2009 (“Binding Order Motion”);

NOTING that the Chamber is currently seised of the Accused’s Binding Order Motion, whereby the Accused requests the Trial Chamber to issue a binding order to BiH to produce several categories of documents pertaining to the alleged smuggling of arms into Tuzla in 1995;¹

NOTING that the Chamber is currently also seised of the Accused’s Motion whereby the Accused requests the Trial Chamber to issue a subpoena pursuant to Rule 54 of the Rules of Procedure and Evidence of the Tribunal (“Rules”) requiring General Delić and Brigadier Brđanović to submit to an interview by the defence;²

NOTING that, on 29 November 2010, the Accused sent a letter to BiH (“Letter”) stating that the documents provided by BiH thus far do not satisfy the requests he made in his Binding Order Motion and, therefore, asking BiH to facilitate an interview by his legal advisor, Mr. Peter Robinson, with General Delić and Brigadier Brđanović;³

NOTING that, on 21 December 2010, BiH sent confidential correspondence (“Correspondence”) to the Chamber stating that all relevant institutions had searched for the documents requested by the Accused in the Letter but had stated that “they possess no other documents (other than those provided)”;⁴

NOTING that, in the Correspondence, BiH, having first referred to the Accused’s request to interview General Delić and Brigadier Brđanović, submits that the “authorities in Bosnia and Herzegovina may satisfy the defence of the accused after the Trial Chamber issues a decision on

¹ Binding Order Motion, para. 1.

² Motion, para. 1.

³ Letter, pp. 2-3.

⁴ Correspondence, p. 1.

the necessity of procuring the said documents or grants approval for the said activities to be conducted”;⁵

NOTING that, up until now, BiH has produced to the Accused a number of documents that pertain to this Motion as well as to a separate request submitted by the Accused on 7 January 2010 via letter to the BiH authorities;⁶

CONSIDERING that it is unclear from the Correspondence what documents BiH is referring to when it states that “the relevant institutions have stated that they possess no other documents (other than the ones already provided)”, yet “the authorities in Bosnia and Herzegovina may satisfy the defence of the accused after the Trial Chamber issues a decision on the necessity of procuring the said documents”;⁷

CONSIDERING also, that the Correspondence is unclear as to BiH’s position on the Accused’s request for interviews with General Delić and Brigadier Brdanović;

CONSIDERING that in order to determine the Motion, the Chamber would be assisted by hearing further from BiH;

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

PURSUANT TO Rule 54 of the Rules,

HEREBY:

(a) **INVITES** BiH to assist the Trial Chamber by providing, within 14 days of receipt of this Invitation, clarification as to:

- (i) whether it has produced to the Accused all documents in its possession relating to both the Motion and his request of 7 January 2010, and whether it intends to produce more such documents on a voluntary basis;

⁵ Correspondence, p. 2.

⁶ See Memorandum of Status of Requests to States and International Organisations, 8 January 2010, Annex E; see also Submission on Request to Government of Bosnia and Herzegovina, 30 August 2010, para. 4, where the Accused states he made additional requests in a 7 January 2011 letter to the Government of Bosnia and Herzegovina; see also Correspondence from the Government of Bosnia and Herzegovina, 19 November 2010, 7 December 2010, 16 December 2010, 17 December 2011, 7 January 2011, and 19 January 2011, stating that it had disclosed documents to the Accused.

⁷ Correspondence, pp. 1–2.

- (ii) whether it intends to co-operate with the Accused and his legal advisor, Mr. Peter Robinson, on a voluntary basis, in facilitating interviews with General Delić and Brigadier Brđanović; and

(b) **REQUESTS** the Registry to provide this Invitation to BiH.

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



Judge O-Gon Kwon
Presiding

Done this tenth day of February 2011
At The Hague
The Netherlands

[Seal of the Tribunal]