



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: 11 April 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: 11 April 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 “Third Motion for Binding Order: Government of Bosnia”, filed on 5 April 2011 (“Motion”), whereby the Accused requests the Chamber to issue an invitation to the Government of Bosnia and Herzegovina (“BiH”) requesting it to produce to him the transcripts or recordings of the testimony of witnesses Eset Muračević and Mehmed Musić (“Witnesses”) in certain cases before the BiH War Crimes Chamber and the Cantonal Court of Sarajevo (“Documents”), and to issue a binding order to BiH if it declines to produce the Documents in response to the invitation;¹

NOTING that the Accused submits that the Witnesses’ testimony in the cases before the BiH War Crimes Chamber and the Cantonal Court of Sarajevo concerned the events which were also the subject of their testimony in his trial;²

NOTING that the Witnesses testified in the present case on 1, 2, and 3 March 2011;

NOTING that on 8 March 2011, the Accused sent a letter to BiH requesting the Documents from BiH (“Letter”);³

NOTING that on 29 March 2011, BiH filed correspondence before the Chamber (“Correspondence”) in response to the Letter stating, on the cover page, that it would be able to fulfil the Accused’s request only after the “Trial Chamber of the ICTY would issue such invitation” but subsequently stating in the body of the letter that it “can comply with the request of the accused after the Trial Chamber issues an order or decision about the necessity to obtain the requested evidence”;⁴

RECALLING that, on 15 October 2010, the Chamber held a hearing pursuant to Rule 54 *bis* (“Hearing”)⁵ in relation to a previous binding order motion filed by the Accused;

¹ Motion, para. 1.

² Motion, para. 10.

³ Motion, para. 4.

⁴ Correspondence, p. 1.

⁵ Order Scheduling a Hearing Pursuant to Rule 54 *bis* (Bosnia and Herzegovina), 7 September 2010.

RECALLING that during the Hearing the BiH Ambassador to The Netherlands, H.E. Ms. Miranda Sidran Kamišalić informed the Chamber that BiH was fully committed to co-operating with the Tribunal;⁶

RECALLING further that during the Hearing the Chamber informed Ms. Sidran Kamišalić that it not only encourages BiH to co-operate with the Accused on a voluntary basis, but expects such voluntary co-operation and that it was the usual practice that the Chamber or the Tribunal should only be involved as a method of last resort;⁷

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

CONSIDERING that the completion of the work of the Tribunal within a reasonable time is a matter of great importance which requires that pursuant to Article 29 of the Statute of the Tribunal, BiH should take urgent steps to comply with their duty to co-operate with the Tribunal in its work, *including with the Accused and his defence team* in this case;

CONSIDERING that it is in the interests of all parties involved that requests for documents are, if possible, dealt with on a voluntary basis and reiterating again that the Chamber or the Tribunal should only be involved as a method of last resort;

⁶ Hearing, T. 7972- 7973 (15 October 2010).

⁷ Hearing, T. 7980 (15 October 2010).

PURSUANT TO Rule 54 of the Rules,

HEREBY:

- (a) **INVITES** BiH to assist the Trial Chamber by either co-operating with the Accused and providing him the Documents identified in the Motion, or by filing a response to the Motion, within 14 days of receipt of this Invitation, specifying the reasons why it is unable to so co-operate; 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 eleventh day of April 2011
At The Hague
The Netherlands

[Seal of the Tribunal]