



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: 15 April 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:** 15 April 2011

**PROSECUTOR**

v.

**RADOVAN KARADŽIĆ**

***PUBLIC***

**INVITATION TO UN REGARDING HEARING PURSUANT TO RULE 54 *BIS***

**Office of the Prosecutor**

Mr. Alan Tieger  
Ms. Hildegard Uertz-Retzlaff

**The Accused**

Mr. Radovan Karadžić

**United Nations**

Office of Legal Affairs

**The Government of Venezuela**

via Embassy of Venezuela to  
The Netherlands, The Hague

**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: United Nations”, filed on 1 November 2010 (“UN Motion”), whereby the Accused requests the Trial Chamber to issue a binding order pursuant to Article 29 of the Statute of the Tribunal (“Statute”) and Rule 54 *bis* of the Rules of Procedure and Evidence of the Tribunal (“Rules”), requiring the United Nations (“UN”) to provide him with certain documents which relate to the testimony of the scheduled witness Ambassador Diego Arria of Venezuela;<sup>1</sup>

**RECALLING** the Accused’s “Motion for Binding Order: Government of Venezuela”, filed on 1 November 2010 (“Venezuela Motion”), whereby the Accused requests the Trial Chamber to issue a binding order pursuant to Article 29 of the Statute and Rule 54 *bis* of the Rules, requiring the Government of the Bolivarian Republic of Venezuela (“Venezuela”) to provide him with certain documents also related to the testimony of Ambassador Arria;<sup>2</sup>

**NOTING** that, on 17 November 2010, the UN filed its response to the UN Motion, 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”);<sup>3</sup>

**NOTING** that UN filed another response on 16 March 2011 (“UN Response”) in which it informed the Chamber that, in line with its Response to UN Motion it had only searched for documents created during March 1992, the period when Venezuela held the Presidency of the Security Council, and that “[n]o documents were found [...] which would fall within the Accused’s request”<sup>4</sup>; the UN also reiterated its position that any requested documents created outside of March 1992 must be sought directly from Venezuela;<sup>5</sup>

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

<sup>2</sup> Motion, para. 1.

<sup>3</sup> Response to UN Motion, p. 5.

<sup>4</sup> UN Response, p.2.

<sup>5</sup> UN Response, pp.1-2.

**NOTING** that, on 22 March 2011, the Chamber issued its “Order Scheduling a Hearing Pursuant to Rule 54 *bis* (Bolivarian Republic Of Venezuela)” (“Order”) requesting “the authorised representatives of Venezuela to appear before the Trial Chamber” on Tuesday, 10 May 2011, at 10:00 a.m. in Courtroom 1 (“Hearing”);

**NOTING** that the Accused filed, on 11 April 2011, his “Reply to United Nations Response: Motion for a Binding Order: United Nations” (“Reply to UN Motion”), in which he accepts the representation of the UN that no relevant documents from March 1992 were found but notes his disagreement with the assertion that for documents from other time periods “the consent of Venezuela is required for the [UN] to provide the documents he has requested”;<sup>6</sup>

**NOTING** also that the Accused agrees that the best course of action is to first seek the consent of Venezuela but requests that the Chamber invite a representative of the UN to be present at the Hearing, in order to give the UN the opportunity to state its position in light of the position taken by Venezuela and for a full airing of matters relating to the Venezuela Motion and the UN Motion;<sup>7</sup>

**CONSIDERING** that the need to resolve this matter expeditiously and before Ambassador Arria gives evidence in this case means that it is necessary to proceed to a determination of the substance of both the Venezuela Motion and the UN Motion;

**CONSIDERING** that, in order to determine these Motions, the Trial Chamber would be assisted by the presence of a representative of the UN at the Hearing;

**CONSIDERING** that the Hearing should be rescheduled in order to allow the participation of a representative of the UN;

**PURSUANT TO** Rule 54 and Rule 54 *bis* of the Rules;

**HEREBY ORDERS** that the Hearing will be rescheduled to Tuesday, 10 May 2011, at 4:00 p.m. in Courtroom 1;

**REQUESTS** an authorised representative of the UN either to be present at the Hearing or to participate via audio or video-conference link, as arranged with the Registry;

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<sup>6</sup> The Accused accepts that Venezuela’s consent is necessary but only in relation to the documents which have originated with Venezuela. *See* Reply to UN Motion, para. 5.

<sup>7</sup> Reply, paras. 4, 5.

**INFORMS** the UN that it may, should it deem it necessary, file a notice of objection pursuant to Rule 54 *bis* (F) not less than five days before the Hearing;<sup>8</sup>

**INFORMS** the parties involved that, following such filings, if any, the Chamber shall issue a detailed schedule of the order of presentation of arguments; and

**REQUESTS** the Registry to provide both this Invitation and the Order to the United Nations, and to provide a copy of this Invitation to Venezuela and advise it of the rescheduled time for the Hearing.

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



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Judge O-Gon Kwon  
Presiding

Dated this fifteenth day of April 2011  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**

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<sup>8</sup> Order, pp. 3, 4.