

**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: 10 February 2012
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: 10 February 2012

THE PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

**INVITATION TO THE UNITED KINGDOM OF GREAT BRITAIN AND
NORTHERN IRELAND**

Office of the Prosecutor

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

The Government of the United Kingdom

via the Embassy of the United Kingdom 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 to Compel Production of Seven Documents”, filed on 24 January 2012 (“Motion”), whereby the Accused requests that the Chamber, pursuant to Rule 54 *bis* of the Tribunal’s Rules of Procedure and Evidence (“Rules”), issue an order requiring the Government of the United Kingdom of Great Britain and Northern Ireland (“UK”) to provide seven documents to him;¹

RECALLING that, on 11 September 2009, the Accused filed a motion for a binding order to the UK in which he requested the production of 14 categories of documents relevant to his case,² but that he withdrew this motion after receiving some documents from the UK on a voluntary basis;³

NOTING that, on 9 November 2011, the Accused received a letter from the UK indicating that “seven documents potentially relevant to his request” are in its possession, but that because they originate from a third state and are highly classified, the UK is unable to release them to him;⁴

NOTING that, following the Accused’s request,⁵ the Chamber issued an invitation to the UK on 17 November 2011, asking the UK to state its position on whether it could identify the state from which the seven documents originated from;⁶

NOTING that on 8 February 2012, the UK indicated that it had contacted the third state in question but that the third state was unwilling to consent to the disclosure of the seven documents or its identity to the Accused, resulting in the UK not being able to disclose the same to the Accused;⁷

NOTING that, the Accused now requests the UK to either: (i) identify the third state; or (ii) litigate this matter on behalf of the third state and, in addition, requests the Chamber to hold a hearing at which the Accused, the UK, and the third state may be heard on these issues;⁸

¹ Motion, paras. 1, 24.

² Motion, para. 2; *see also* Motion for Binding Order: Government of United Kingdom, 11 September 2009.

³ Motion, para 5; *see also* Withdrawal of Motion for Binding Order: Government of United Kingdom, 14 October 2009.

⁴ Motion, para. 6.

⁵ Motion for Invitation to United Kingdom, 10 November 2011.

⁶ Invitation to the United Kingdom of Great Britain and Northern Ireland, 17 November 2011.

⁷ Public Redacted Version of Confidential Corrigendum of the United Kingdom of Great Britain and Northern Ireland’s Response to the Trial Chamber’s Order of 17 November Inviting Submissions, 8 February 2012, paras. 10, 12.

⁸ Motion, para. 24.

NOTING that, having been invited to do so by the Chamber,⁹ the Office of the Prosecutor (“Prosecution”) filed on 3 February 2012 the “Prosecution Observations on Motion to Compel Production of Seven Documents” (“Prosecution Observations”), suggesting that the Chamber invite the UK to inquire with the originator state whether it would be willing to provide the documents or their content in a redacted or different format to the Accused under Rule 70, or to the Trial Chamber under Rule 54 *bis*;¹⁰

NOTING that the Prosecution also submits that the UK could be compelled to disclose the identity of the third state under Article 29 of the Tribunal’s Statute if the Trial Chamber concludes that the UK and the third state are not acting in good faith;¹¹

CONSIDERING that, in order to determine the Motion, the Chamber would be assisted by hearing from the UK in relation to both the Accused’s requests in the Motion and the Prosecution’s position in the Prosecution Observations;

PURSUANT TO Rule 54 of the Rules,

HEREBY

- (a) **INVITES** the UK to assist the Trial Chamber by providing a response to the Motion and the Prosecution Observations within 14 days of receipt of this Invitation; and
- (b) **REQUESTS** the Registry to provide the Motion, the Prosecution Observations, and this Invitation to the UK.

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



Judge O-Gon Kwon
Presiding

Done this tenth day of February 2012
At The Hague
The Netherlands

[Seal of the Tribunal]

⁹ See T. 23642 (25 January 2012).

¹⁰ Prosecution Observations, paras. 4–14

¹¹ Prosecution Observations, paras. 15–29.