



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: 24 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

Decision of: 24 February 2012

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

**DECISION ON MOTION FROM THE GOVERNMENT OF THE UNITED KINGDOM OF
GREAT BRITAIN AND NORTHERN IRELAND FOR EXTENSION OF TIME**

Office of the Prosecutor

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

The Accused

Mr. Radovan Karadžić

The Government of the United Kingdom

via the Embassy of the United Kingdom 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”) is seised of the “United Kingdom of Great Britain and Northern Ireland’s Urgent Motion for Extension of Time to Respond to the Trial Chamber’s Order Inviting Response to the Motion and the Prosecution Observations”, filed on 17 February 2012 (“Motion”), and hereby renders its decision thereon.

1. The background to this Motion relates to the Accused’s motion for a binding order to the Government of the United Kingdom of Great Britain and Northern Ireland (“UK”), filed on 11 September 2009, whereby he requested the production of 14 categories of documents which he claimed were relevant to his case.¹ The Accused withdrew the motion after the UK voluntarily provided him with some of those documents.²

2. On 9 November 2011, the Accused received a letter from the UK informing him that it had seven documents “potentially relevant to his request” in its possession but that it was unable to disclose them to him because they were classified documents originating from another state (“originator state”).³

3. The UK’s letter prompted the Accused’s request, filed on 10 November 2011, that the Chamber invite the UK to identify the originator state so that he could seek to acquire the documents directly from the originator state.⁴ Accordingly, on 17 November 2011, the Chamber issued such an invitation.⁵ On 23 November 2011, the UK filed a confidential motion seeking an extension of time to respond to the Accused’s request, which was eventually granted by the Chamber, allowing the UK until 6 January 2012 to submit that response.⁶

4. On 5 January 2012, the UK filed its confidential response, the public redacted version of which was filed on 8 February 2012, and submitted that it was unable to disclose the identity of the originator state, absent that state’s consent.⁷ As a result, on 24 January 2012, the Accused filed his

¹ Motion for Binding Order: Government of United Kingdom, 11 September 2009, para. 1.

² Withdrawal of Motion for Binding Order: Government of United Kingdom, 14 October 2009.

³ Motion for Invitation to United Kingdom, 10 November 2011, Annex A.

⁴ Motion for Invitation to United Kingdom, 10 November 2011, para. 5.

⁵ Invitation to the United Kingdom of Great Britain and Northern Ireland, 17 November 2011.

⁶ United Kingdom of Great Britain and Northern Ireland’s Motion for Extension of Time to Respond to the Trial Chamber’s Order Inviting Submissions, 23 November 2011; Response to Request for Extension of Time: United Kingdom, 24 November 2011; Decision on Request from the Government of the United Kingdom of Great Britain and Northern Ireland, 25 November 2011, para. 6.

⁷ Public Redacted Version of Confidential Corrigendum of 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. 10–11.

“Motion to Compel Production of Seven Documents” (“Accused’s Motion”), in which he requests, pursuant to Rule 54 of the Tribunal’s Rules of Procedure and Evidence (“Rules”), that the Chamber either: (1) order the UK to identify the originator state or (2) require the UK to assert any defences that the originator state may have with respect to the disclosure of the seven documents.⁸

5. Having been invited by the Chamber to respond to the Accused’s Motion,⁹ the Office of the Prosecutor (“Prosecution”) filed the “Prosecution Observations on Motion to Compel Production of Seven Documents” on 3 February 2012 (“Prosecution Observations”).

6. On 10 February 2012, the Chamber issued an invitation to the UK to file a response to the Accused’s Motion and the Prosecution Observations within 14 days of the receipt of the invitation, which in turn resulted in the UK filing the present Motion.¹⁰

7. In the Motion, the UK states that it is currently in discussions with the originator state with respect to the Accused’s Motion and the Prosecution Observations.¹¹ It then submits that an extension of time is necessary to ensure that it can provide the Chamber with fully considered submissions on the issues raised in the Accused’s Motion and the Prosecution Observations, and requests an extension of 28 days in which to do so.¹²

8. On 21 February 2012, the Accused filed a response to the Motion stating that he has no objection to the extension of time being granted.¹³

9. The Chamber recalls that to the extent possible, it is in the interests of the parties involved that co-operation with states be conducted on a voluntary basis. Given that it would benefit from a comprehensive response, the Chamber considers that it is in the interests of justice to grant the UK until 23 March 2012 to provide its response to the Accused’s Motion and the Prosecution’s Observations.

⁸ Accused’s Motion, para. 24.

⁹ T. 23643 (25 January 2012).

¹⁰ Invitation to the United Kingdom of Great Britain and Northern Ireland, 10 February 2012.

¹¹ Motion, para. 2.

¹² Motion, paras.2–3.

¹³ Response to Request for Extension of Time: United Kingdom, 21 February 2012.

10. For the reasons outlined above, pursuant to Rule 54 of the Rules, the Trial Chamber hereby **GRANTS** the Motion and: (i) **INVITES** the UK to assist the Trial Chamber by providing a response to the Accused's Motion and the Prosecution's Observations no later than close of business on 23 March 2012; and (ii) **REQUESTS** the Registry to provide this Decision to the UK.

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



Judge O-Gon Kwon
Presiding

Dated this twenty-fourth day of February 2012
At The Hague
The Netherlands

[Seal of the Tribunal]