



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-PT
Date: 19 December 2008
Original: English

IN THE TRIAL CHAMBER

Before: Judge Iain Bonomy, Presiding
Judge Christoph Flügge
Judge Michèle Picard

Registrar: Mr. Hans Holthuis

Order of: 19 December 2008

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

ORDER ON PROPOSED DISCLOSURE REPORT

Office of the Prosecutor

Mr. Alan Tieger
Mr. Mark B. Harmon

The Accused

Mr. Radovan Karadžić

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 Accused’s “Motion for Disclosure of Rule 68 Material Obtained under Rule 70(B)”, filed on 4 December 2008 (“Motion”), the “Prosecution Response to Motion for Disclosure of Rule 68 Material Obtained under Rule 70”, filed on 10 December 2008 (“Response”), and the Accused’s “Motion for Leave to Reply: Rule 68/70 Disclosure”, filed on 16 December 2008 (“Reply”), and hereby issues an order in relation thereto.

1. In the Motion, the Accused raises a concern that the Prosecution is not effecting full disclosure of exculpatory material as required under Rule 68 of the Rules of Procedure and Evidence of the Tribunal (“Rules”) pursuant to restrictions under Rule 70(B).¹ The Accused requests, *inter alia*, that the Prosecution be required to notify the Accused and the Trial Chamber of measures being taken in fulfilment of the Prosecution’s disclosure obligations under the Rules.²

2. In the Response, the Prosecution opposes the Motion and moves for its dismissal,³ but takes the opportunity to provide the Trial Chamber with an update on its disclosure activities. The Prosecution notes the total number of documents and pages disclosed to date under each Rule,⁴ including the number of Rule 70(B) documents disclosed,⁵ and states that no Rule 68 material has thus far been withheld pursuant to Rule 70(B).⁶ The Prosecution suggests that it could continue to file regular reports on the status of disclosure should the Trial Chamber consider it useful.⁷

3. In the Reply, the Accused indicates that the Prosecution’s suggestion of filing regular reports on disclosure would address his concern that Rule 68 material not be withheld from him by the operation of Rule 70(B).⁸ He requests that such reports include “the number of Rule 68 documents, if any, that Rule 70(B) providers have not authorised [to] be disclosed to the [A]ccused”.⁹

¹ Motion, paras 1, 2.

² Motion, paras 3, 14.

³ Response, paras 1, 3, 14.

⁴ Response, paras 10–11.

⁵ Response, paras 8–11.

⁶ Response, paras 3, 8.

⁷ Response, paras 10–13.

⁸ Reply, para. 6.

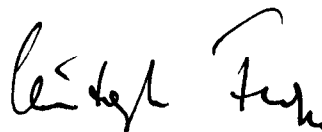
⁹ Reply, para. 5.

4. The Trial Chamber endorses the Prosecution's proposal to file a regular disclosure report, and considers that the report should be filed by the Prosecution on a monthly basis as an Annex to a Notice. The Trial Chamber considers it appropriate in the circumstances to seek a further submission from the Prosecution in which it should clearly set out its suggestions as to how each disclosure report should be structured, as well as the content it envisages as being included.

III. Disposition

5. Accordingly, the Trial Chamber, pursuant to Rule 54 of the Rules of Procedure and Evidence of the Tribunal, hereby ORDERS the Prosecution to file, no later than 5 January 2009, a further submission setting out its position on this matter.

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



Judge Christoph Flügge

Dated this nineteenth day of December 2008
At The Hague
The Netherlands

[Seal of the Tribunal]