



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: 20 May 2009

Original: English

IN THE TRIAL CHAMBER

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

Registrar: Mr. John Hocking

Order of: 20 May 2009

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

ORDER

Office of the Prosecutor:

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

The Government of Sweden

via the Embassy of Sweden
to The Netherlands, The Hague

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”) hereby issues this order, *ex proprio motu*, inviting the Accused to supplement his “Motion for Further Extension of Time and for Ancillary Orders: Holbrooke Agreement Motion,” filed on 4 May 2009 (“Motion”).

1. On a number of occasions since his arrest and transfer to The Hague, the Accused has indicated his intention to challenge the jurisdiction of the Tribunal to prosecute him due to the existence of an agreement he obtained in 1996 from representatives of the Government of the United States of America that he would be immune from such prosecution if he withdrew from public life (“immunity agreement”). On the same basis he has made the contention that the present proceedings amount to an abuse of process. He seeks material which he says will prove his point.

2. On 20 March 2009, the Accused sent a letter to the Ambassador at the Embassy of Sweden in The Hague, requesting that his legal associate, Mr. Peter Robinson, be permitted to interview the Swedish Foreign Minister, Mr. Carl Bildt, in relation to the alleged immunity agreement.¹ Having received no response to this letter, Mr. Robinson wrote again to the Swedish Ambassador on 6 April 2009, asking that a response be sent directly to him by e-mail.²

3. On 4 May 2009, the Accused filed the Motion, which sought the Trial Chamber’s assistance in his efforts to interview Mr. Bildt. He stated that he had still received no response from the Swedish Government to his original letter, or that of Mr. Robinson, and asked the Chamber to “request the co-operation of the government of Sweden pursuant to Rule 54 *bis* to make Mr. Bildt available for an interview with Dr. Karadžić’s legal advisor, and to set a deadline for doing so.”³

4. In advance of the status conference held on 6 May 2009, the Trial Chamber contacted the Swedish Embassy in The Hague asking for information about the status of the Government’s response to the Accused. The Chamber was informed that a letter in response could be anticipated, at the earliest, in the beginning of the following week. In light of this information, and further information concerning Mr. Karadžić’s efforts to get relevant information from the Government of the United States of America, the following was stated at the status conference:

¹ Motion, Annex B.

² Motion, Annex C.

³ Motion, para. 10.

JUDGE BONOMOY: That takes me now to the motion for further extension of time and ancillary orders in relation to the motion you want to make about immunity from prosecution. Now, this is a developing situation as I understand it, and you have been provided with material from one state in the last few days. There are ongoing discussion about that material, but it may be that that's as much as you are going to have immediately to hand from that source for the purpose of this motion at present. Maybe, that's all I can say. You also seek information from another state, and you have complained about their failure to respond. That has concerned us, and we have done our best to clarify the position, and you'll appreciate that I'm referring in this connection to the state of Sweden. And I'm now informed that the earliest at which a response to your request may be anticipated is the beginning of next week.

There will be a time fairly soon where this motion has to be tendered in its final form so that we can start the adjudication process. That does not stop you making changes to that motion if and when you obtain further information if that happens. But we're getting to the stage where the dead-line is going to have to be met. And I'm inclined at the moment to indicate to you that this motion should be submitted in 14 days' time.

...

THE ACCUSED: [Interpretation] Thank you for these 14 days that will start running from today or tomorrow, I suppose. But I would also kindly ask the Trial Chamber, provided these governments fail to provide these materials, that the Trial Chamber obligates them to do so.

JUDGE BONOMOY: Yeah, well at the moment I don't think it's appropriate to make an order to that effect. What I shall do is make an order that your motion in relation to immunity from prosecution must be submitted no later than the 25th of May. Now, that gives you more than two weeks, and it takes you over a weekend as well. So it's the maximum of time I think it's reasonable to give you. The Prosecution will have the normal 14 days to answer that. There's -- that's one that the time will not be cut down on because I think time could be valuable for both of you. The -- there was another dead-line I had in mind, and it's gone from my mind. Oh, yes. The motion that you have submitted for extension includes a request for orders for additional information. Now, I'm not suggesting that this is a very precise motion at the moment, but it does identify the -- two of the sources from which you seek information. And you rightly make the point that it may be appropriate to consider whether you need an order to get information. So this will be -- the consideration of this motion will be continued, and it will remain on the agenda of the Status Conference. And the next Status Conference will be probably on the 3rd of June. So on the afternoon of the 3rd of June, this should be on the agenda. And hopefully the information you have required will have been received. If in the interim there is other information that you consider is not being provided but should be provided, then obviously you should notify the Trial Chamber in advance of the 3rd of June, long enough in advance for us to be able to decide what measures are appropriate.

5. On 15 May 2009, the Accused's legal associate, Mr. Robinson, informed the Chamber by e-mail that neither he nor the Accused had yet heard anything from the Government of Sweden, which the Chamber then confirmed with the Swedish Embassy in The Hague. The Chamber was informed by the Embassy that the matter remained pending with the Foreign Minister himself.

6. In these circumstances, the Trial Chamber invites the Accused to supplement his Motion by making any further relevant submissions and application for an order pursuant to Rule 54 and/or Rule 54 *bis* of the Tribunal's Rules of Procedure and Evidence, by **Friday, 22 May 2009**. The Tribunal's Registry will intimate this application to the Government of Sweden, which is invited to respond no later than **Monday, 1 June 2009**. The Government of Sweden is further invited to send a representative to the status conference that will take place on Wednesday, 3 June 2009, at 2.15 p.m., where the matter will be further discussed.

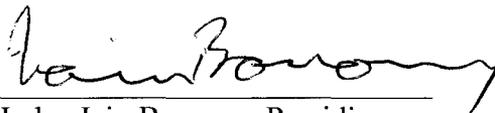
7. The deadline for the filing of the Accused's preliminary motion challenging jurisdiction on the basis of the alleged immunity agreement remains Monday, 25 May 2009. The Chamber may permit the Accused to further supplement that motion, if necessary, following the receipt of any relevant information from Mr. Bildt.

8. Accordingly, the Trial Chamber, pursuant to Rule 54 of the Rules, hereby

- a. **INVITES** the Accused to supplement his Motion and make any further relevant submissions and application for an order pursuant to Rule 54 and/or Rule 54 *bis* of the Rules, by **Friday, 22 May 2009**;
- b. **ORDERS** the Registry to immediately intimate this application to the Government of Sweden, along with the original Motion;
- c. **INVITES** the Government of Sweden to file a written response to the application no later than Monday, 1 June 2009;
- d. **INVITES** the Government of Sweden to send a representative to attend the status conference scheduled for Wednesday, 3 June 2009;
- e. **REQUESTS** the Registry to make all the necessary arrangements to facilitate the attendance of the designated representative of the Government of Sweden at the status conference;

- f. **CONFIRMS** that the deadline for the filing of the Accused's preliminary motion challenging jurisdiction based on the alleged immunity agreement is Monday, 25 May 2009.

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


Judge Iain Bonomy, Presiding

Dated this twentieth day of May 2009
At The Hague
The Netherlands

[Seal of the Tribunal]