

THE INTERNATIONAL CRIMINAL TRIBUNAL  
FOR THE FORMER YUGOSLAVIA

CASE No. IT-95-5/18-T

IN TRIAL CHAMBER No. 3

Before: Judge O-Gon Kwon, Presiding  
Judge Howard Morrison  
Judge Melville Baird  
Judge Flavia Lattanzi, Reserve Judge

Registrar: Mr. John Hocking

Date: 14 January 2013

THE PROSECUTOR

v.

RADOVAN KARADZIC

*Public*

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76<sup>th</sup> MOTION FOR FINDING OF DISCLOSURE  
VIOLATION  
(DECEMBER 2012)

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The Office of the Prosecutor:  
Mr. Alan Tieger  
Ms. Hildegard Uertz-Retzlaff

The Accused:  
Radovan Karadzic

1. Dr. Radovan Karadzic respectfully moves for a finding that the prosecution has once again violated Rule 68 by failing to timely disclose an exculpatory documents. The document was in the possession of the prosecution since 25 June 1996, but was not disclosed until 19 December 2012.<sup>1</sup>

2. The document is an UNPROFOR report dated 8 April 1995. It states that:

“The rocket which impacted in Hrasnica was most likely retaliation for the mortar round fired from Hrasnica some minutes before.”<sup>2</sup>

3. The exculpatory nature of this document is that it contradicts the prosecution’s allegation in scheduled incident G10 that charges Dr. Karadzic with that very event as an unlawful attack on civilians. The fact that the shelling may have been in response to outgoing fire goes to the very foundation of that charge.

4. Dr. Karadzic has been prejudiced by the late disclosure of this document because it was only disclosed after all of the witnesses about the 7 April 1995 shelling have completed their testimony and the document cannot be used in cross-examination of any of those witnesses.<sup>3</sup>

5. Therefore, it is respectfully request that the Trial Chamber make a finding that the prosecution has violated Rule 68 by failing to timely disclose this document.

6. It is further requested that witness Thorbjorn Overgaard be recalled so that he can be questioned about the new information of outgoing fire contained in this document. It is further requested that the document be admitted from the bar table. It is relevant to directly rebut the allegation in scheduled incident G10 that the 7 April 1995 shelling in Hrasnica was an unlawful attack on civilians. It fits into the defence case because it supports the argument that the shelling may have been a legitimate military response to outgoing fire. And having been received from the prosecution, the authenticity of the document is not in dispute.

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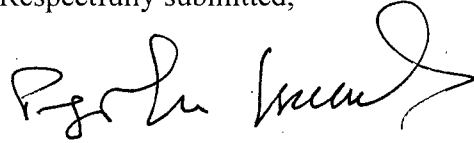
<sup>1</sup> A copy of the letter accompanying the disclosure is attached as Annex “A”

<sup>2</sup> A copy of the document is attached as Annex “B”. See para. E2a on page 2.

<sup>3</sup> Those witnesses include Witness KDZ166, who testified on 20 October 2010 and Thorbjorn Overgaard, who testified on 16 December 2010

Word count: 447

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Radovan Karadzic', with a large, stylized flourish at the end.

Radovan Karadzic

**ANNEX "A"**



United Nations  
Nations Unies



International  
Criminal Tribunal  
for the Former  
Yugoslavia

Tribunal Pénal  
International pour  
l'ex-Yougoslavie

Office of the  
Prosecutor

Bureau du  
Procureur

Case No. IT-95-5/18

19 December 2012

**Disclosure Batch 1200: Disclosure of Materials Pursuant to Rule 68**

Please find enclosed the item detailed below for delivery to the accused Mr. Radovan Karadžić. The item document is provided following clearance from the Rule 70 provider and may fall within the ambit of Rule 68 or may be of relevance for the Defence case.

We would appreciate acknowledgement of receipt of the material by signature and returning the signed receipt to our office.

The Prosecution also wishes to remind the Accused of the terms of non-disclosure detailed in the Trial Chamber "Decision on Prosecution Motion for Non-Disclosure" dated 02 September 2008 and the "Decision on Protective Measures for Witnesses" dated 30 October 2008.

Yours sincerely,

Alan Tieger  
Senior Trial Attorney

1 CD entitled "Disclosure Batch 1200 – Rule 68 Materials" containing the materials listed below:

Description	Date	ENG/ERN	BCS/ERN
Daily INFOSUM as of 07-Apr-95	08-Apr-1995	R008-4383- R008-4388	

Please acknowledge disclosure of the above mentioned material by signing this receipt below.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

# **ANNEX "B"**

R0084383

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UN RESTRICTED

G2/HQ UNPROFOR

08 APR 95

DAILY INFO SUMMARYFROM 070001B TO 072359B APR 95A. CROATIA:

1. SECTOR EAST: STABLE. 63 VEHs USED THE HIGHWAY.
2. SECTOR WEST: THE SITUATION CONTINUOUS STABLE. 1112 VEHICLES USED THE HIGHWAY AND 170 VEHICLES CROSSED THE SAVA BRIDGE.
3. SECTOR NORTH: THE SECTOR WAS STABLE BUT STILL RELATIVELY TENSE IN THE AREA CLOSE TO THE NORTHERN BORDER OF THE BIHAC POCKET.
4. SECTOR SOUTH: RELATIVELY QUIET. DURING THE MORNING A SA FIRE EXCHANGE OCCURRED BETWEEN THE ARSK AT VRANOVACA (XJ278615) AND THE HV/HVO AT BUDIM (XJ 291619). EACH PARTY FIRED 07 LONG BURSTS. ABOUT TWO HOURS LATER THE ARSK FIRED 40 MG ROUNDS TOWARD BUDIM.
5. DUBROVNIK: STABLE.

B. BOSNIA AND HERCEGOVINA:

1. SECTOR SARAJEVO:
  - (a) THE CITY OF SARAJEVO: THE SITUATION REMAINS TENSE BUT STABLE. THE LEVEL OF FIRE INCIDENTS REMAINS HIGH.
  - (b) MOUNT IGMAN: THE SITUATION WAS REPORTED AS RELATIVELY QUIET. FIRING INCIDENTS WERE REPORTED IN THE AREA OF BREZOVACA AND BARE GR (BP7457).
  - (c) ZEPA: TENSE. TWO MUSLIMS WERE KILLED BY A GROUP OF SERBS IN THE AREA BETWEEN CP1 (CP 483680) AND CP2 (CP 482668).
3. GORAZDE: THE ENCLAVE REPORTED A MOSTLY QUIET DAY.
4. SECTOR SOUTH WEST: THE SECTOR WAS GENERALLY QUIET,

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THOUGH THE BLIZNA FEATURE AND CERMERSKA PLANINA AREAS WERE ACTIVE. A FEW EXPLOSIONS WERE REPORTED IN THE GENERAL AREA OF TRAVNIK (YK 1201), BUGOJNO (XJ 9580), DONJI VAKUF (XJ 9190) AND KUPRES.

5. SECTOR NORTH EAST: THE SECTOR IS REPORTED TO BE VERY ACTIVE. THE NORTHERN AND NORTHWESTERN CONFRONTATION LINE, THE DOBOJ FINGER AND GRADACAC (BQ 9773) REPORT A SLIGHT INCREASE IN ACTIVITY. MOST OF THE ACTIVITY IN THE AREA STILL APPEARS TO BE FOCUSED IN THE STOLICE TOWER AREA (CQ 3232). IN THE CENTRAL AREA, THE SITUATION WAS REPORTED IN GENERAL STABLE AND QUIET.

6. BIHAC POCKET: THE SITUATION IN THE POCKET WAS STABLE. A LOWER LEVEL OF ACTIVITY WAS REPORTED IN MOST OF THE POCKET WITH THE EXCEPTION OF THE NORTHERN CONFRONTATION LINE, REPORTING A MODERATE LEVEL OF FIRING INCIDENTS.

C. FYROM: QUIET AND STABLE.

D. WEATHER ASSESSMENT: SEE ANNEX.

E. MILITARY INFORMATION ASSESSMENT:

1. CROATIA: NO SIGNIFICANT CHANGES ARE LIKELY TO OCCUR IN AND AROUND THE ZOS. NONETHELESS, THE ARSK AND ABDIC FORCES ATTACKS IN THE NORTHERN PART OF THE BIHAC POCKET WILL CONTINUE AND WILL RAISE LOCAL TENSION IN SECTOR NORTH. CURRENTLY THE BORDER AREA IS CALM. IT IS ASSESSED THAT DURING THE UPCOMING WEEK, THERE WILL BE CONTINUED RESTRICTIONS OF MOVEMENTS BY BOTH SIDES, UNTIL AGREEMENT ON THE TERMS OF THE NEW MANDATE ARE AGREED UPON AND KNOWN TO ALL PARTIES.

2. CENTRAL AND EASTERN BOSNIA AND HERCEGOVINA:

(a) SECTOR SARAJEVO: THE SITUATION IS ASSESSED TO REMAIN STABLE. THE LEVEL OF FIRING INCIDENTS WILL LIKELY CONTINUE TO RISE. THE ROCKET WHICH IMPACTED IN HRASNICA WAS MOST LIKELY RETALIATION FOR THE MORTAR ROUND FIRED FROM HRASNICA SOME MINUTES BEFORE.

(b) SECTOR SOUTH WEST: THE CONTINUED LOW LEVEL OF

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TROOP MOVEMENT IN/OUT OF TRAVNIK AND THE LACK OF ACTIVITY SUGGEST THAT DESPITE THE GOOD WEATHER FIGHTING ON THE VLASIK AREA HAS DIED DOWN. THE BIH ARE LIKELY TO CONSOLIDATE THEIR POSITIONS AND WAIT FOR THE BSA COUNTER ATTACK.

(d) SECTOR NORTH EAST: THE AREA WILL CONTINUE TO BE VERY ACTIVE PARTICULARLY IN THE AREAS OF MAJEVICI HILLS AND DOBOJ FINGER. THE BIH WILL PROBABLE CONTINUE THE ATTACK TO TAKE STOLICE TOWER.

3. WESTERN BOSNIA (BIHAC POCKET): ABDIC FORCES WILL PROBABLY CONTINUE TO ATTACK THE 5 CORPS ON THE NORTHERN CONFRONTATION LINE. THE REST OF THE POCKET IS ASSESSED TO BE FAIRLY STABLE.

4. GORAZDE: THE ENCLAVE IS ASSESSED TO REMAIN QUIET FOR THE NEXT 24 HOURS

5. TERRAIN WON OR LOST: NONE CONFIRMED.

6. OFFENSIVE OPERATIONS:

(a) BIH OFFENSIVE IN VICINITY OF KOMAR FEATURE, MAJEVICA HILLS AND KALESIJA.

(b) ABDIC/ARSK ATTACK IN THE NORTHERN PORTION OF BIHAC POCKET.

7. AIR ACTIVITY IN CROATIA:

(a) SECTOR NORTH:

(1) GR (WK4696),

- 0912B, S TO N, 30 M, 01 GAZELLE, OVERFLIGHT, ARSK.

- 1508B, N TO S, 50 M, 01 GAZELLE, OVERFLIGHT, ARSK.

(c) SECTOR SOUTH:

(1) BJELOPOLJE GR (WK 590515),

- 0903, TO N, 50 M, 01 GAZELLE, OVERFLIGHT.

(2) KLAPAVICA GR (WK 577215)

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- 0900, TO S, 100 M, 01 MI 8, OVERFLIGHT.

(3) UDBINA GR (WM 6131),

- 1020, 100 M, 01 UTVA, TURNED ABOUT AIRFIELD.

- 111, TO N, 100 M, 01 GAZELLE, TAKE OF.

- 1456, TO SE, 100 M, 01 MI 8, OVERFLIGHT.

(4) KORENICA GR (WK 545 580),

- 1423, TO S, 100 M, 01 GAZELLE, OVERFLIGHT.

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TO: FX 3831

FROM: BHC MAIN SARAJEVO COMMEN ON FX 5533

Page 3 of 7

MSG: HQ 4228 18 WEATHER REPORT FROM BHC MAIN - 0698 \* G2 ZAGREB

08-Apr-95 08:33

0084387

## 24 HOUR FORECAST AND BRIEFING STATEMENT FOR BOSNIA AND COASTAL CROATIA

VALID FOR 24 HOURS FROM 08/0600Z APRIL 1995

### GENERAL SITUATION

A COLD FRONT LYING EAST WEST ACROSS THE AREA AT FIRST WILL MOVE STEADILY SOUTH EAST DURING THE DAY WITH BRIGHTER SHOWERY CONDITIONS EXTENDING SOUTHWARDS DURING THE AFTERNOON REACHING THE SOUTH OF THE AREA DURING THE EVENING.

### COASTAL REGION

MAINLY CLOUDY OR OVERCAST WITH OUTBREAKS OF MAINLY LIGHT RAIN AT FIRST WITH HAZE, MIST PATCHES AND OCNL FOG PATCHES, BECOMING PARTLY CLOUDY FROM THE NORTH DURING THE DAY WITH ISOLATED LIGHT SHOWERS. THE WIND WILL BE LIGHT AT FIRST BECOMING NORTHERLY 10 TO 15 KT AT TIMES WITH GUSTS 25 KT ISOLATED 30 KT. THE TEMPERATURE WILL RISE TO PS 17.

OVERNIGHT: PARTLY CLOUDY OR FINE WITH ANY ISOLATED LIGHT SHOWERS DYING OUT DURING THE EVENING, HAZE, MIST AND ISOLATED FOG PATCHES FORMING. THE WIND WILL BE NORTHERLY 10 TO 15 KT. THE TEMPERATURE WILL FALL TO PS 03.

### DINARIC ALPS AND BOSNIA

OVERCAST ACROSS THE AREA AT FIRST WITH EXTENSIVE HILL FOG, OUTBREAKS OF RAIN LOCALLY HEAVY FALLING AS SNOW ABOVE 4000 FT AT FIRST LOWERING TO 3000 FT, WITH SIGNIFICANT SNOW FALL LIKELY ON HIGH GROUND, CLEARING SLOWLY DURING THE AFTERNOON FROM THE NORTH. ISOLATED SHOWERS DEVELOPING FALLING AS SNOW ABOVE 2000 FT. WITH HILL FOG PATCHES. THE WIND WILL BE NORTHERLY 10 KT BUT LOCALLY 25 KT ON HIGH GROUND. THE TEMPERATURE WILL RISE TO A MAXIMUM OF PS 14 BEFORE FALLING DURING THE AFTERNOON. WIND CHILL EQUIVALENT TEMPERATURE OVER HIGH GROUND ZERO BECOMING MS 08 SENSATION COLD.

OVERNIGHT THE WEATHER WILL BE PARTLY CLOUDY OR CLOUDY WITH OCNL SHOWERS DEVELOPING, MERGING AT TIMES TO GIVE LONGER PERIODS OF RAIN, FALLING AS SNOW ABOVE 2000 FT. CLOUD COVERING HIGH GROUND. THE WIND WILL BE NORTHERLY 05 TO 10 BUT LOCALLY 20 KT ON HIGH GROUND. THE TEMPERATURE WILL FALL TO BETWEEN ZERO AND MS 05. WIND CHILL EQUIVALENT TEMPERATURE OVER HIGH GROUND MS 15 SENSATION VERY COLD.

ISSUED AT: 08/0400 Z  
FLI LT IAIN SCOTT  
MMU  
HQBHC REAR

TO: FX 3031

FROM: BHC MAIN SARAJEVO COMMCEN ON FX 5533

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MSG: HQ 4228 18

WEATHER REPORT FROM BHC MAIN - 0690 \* G2 ZAGREB

08-Apr-95 08:33

00084388

## PLANNING FORECAST FOR BOSNIA AND COASTAL CROATIA

PERIOD OF FORECAST: 09 APR TO 11 APR 1995

### GENERAL SITUATION

A COLD NORTHERLY LOW WILL AFFECT THE AREA DURING SUNDAY AND MUCH OF MONDAY WITH HIGH PRESSURE BUILDING ACROSS THE AREA DURING TUESDAY

### TOMORROW: 09 APRIL 95

MAINLY DRY AND BRIGHT ALONG THE COASTAL STRIP WITH ISOLATED LIGHT SHOWERS, SHOWERS OVER BOSNIA AND THE EASTERN DINARIC ALPS FALLING AS SNOW ABOVE 2000 FT WITH SIGNIFICANT ACCUMULATIONS LIKELY.

### DAY 2 10 APRIL 95

LITTLE CHANGE, REMAINING COLD WITH SHOWERS AFFECTING THE EASTERN DINARIC ALPS AND MUCH OF BOSNIA, FALLING AS SNOW ABOVE 2000 FT. THE COASTAL STRIP SHOULD REMAIN DRY AND BRIGHT.

### DAY 3 11 APRIL 95

PARTLY CLOUDY INLAND WITH SHOWERS BECOMING ISOLATED, STILL MAY BE OF SNOW ON HIGH GROUND. REMAINING DRY AND BRIGHT ALONG THE COASTAL STRIP.

ISSUED AT: 08 / 0530 Z

FLT LT IAIN SCOTT

MMU  
HQBHC REAR