

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: 8 January 2014

THE PROSECUTOR

v.

RADOVAN KARADZIC

Public

SUBMISSION OF EVIDENCE
RELATED TO SENTENCING:
HOLBROOKE AGREEMENT

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

The Accused:
Radovan Karadzic

1. On 17 December 2013, the Trial Chamber directed that any sentencing-related evidence should be presented before the end of defence case.¹

2. Rule 85(A)(vi) provides that the Trial Chamber may receive “any relevant information that may assist the Trial Chamber in determining an appropriate sentence if the accused is found guilty on one or more of the charges in the indictment.”

3. In the *Krajisnik* case, the Trial Chamber held that written evidence could be submitted to the Trial Chamber relevant to sentencing and that such evidence need not meet the formal requirements of the Rules of Evidence and Procedure, including Rule 92 *bis*.²

4. Dr. Karadzic had included 12 persons on his Rule 65 *ter* witness list whom he wished to call during the sentencing phase of the case. These witnesses were proposed to offer testimony concerning the alleged “Holbrooke Agreement” and Dr. Karadzic’s subsequent resignation and withdrawal from public life. The Appeals Chamber has already stated that this may be considered as a mitigating factor for sentencing.³

5. Given that “relevant information” for sentencing need not include live testimony, and the limited time that Dr. Karadzic has to present his defence case, Dr. Karadzic hereby requests that the following material be admitted into evidence as relevant information for sentencing:

1D05935	Declaration of Victor Ben-Cnaan	Victor BEN-CNAAN, an Israeli businessman, was in the office of Dr. Karadzic in July 1996 when Dr. Karadžić consummated his agreement with Richard Holbrooke. Dr. Karadžić told him that Richard Holbrooke had agreed that he would not be prosecuted in The Hague if he had resigned and withdrew from public life.
1D05931	Declaration of David	David BINDER was the

¹ T45215

² *Prosecutor v Krajisnik*, No. IT-00-39-T, *Decision on Defence Motion Pursuant to Rule 85(a)(iv)*(24 August 2006) at para. 9

³ *Decision on Karadzic Appeal of Trial Chamber Decision on Alleged Holbrooke Agreement* (12 October 2009) at para. 55

	Binder	Balkans correspondent for the New York Times. When he met Dr. Karadžić in Pale in September 1996, Dr. Karadžić told him that Richard Holbrooke had agreed that he would not be prosecuted in The Hague.
1D05929	Declaration of Dragan Draskovic	Dragan DRAŠKOVIC is a family friend of the Karadžić family. In July 1996, Dr. Karadžić told his family that Richard Holbrooke had agreed that he would not be prosecuted in The Hague and that his family no longer had to fear that he would be arrested.
1D05935	Declaration of Walter Hein	Walter HEIN, an American businessman, was in the office of Dr. Karadzic in July 1996 when Dr. Karadžić consummated his agreement with Richard Holbrooke. Dr. Karadžić told him that Richard Holbrooke had agreed that he would not be prosecuted in The Hague if he had resigned and withdrew from public life.
1D05922	Excerpt from book authored by Professor Charles Ingraio	Charles INGRAO, a Professor at Purdue University in the United States, investigated the allegation that Richard Holbrooke had agreed that Dr. Karadžić would not be prosecuted in The Hague. Three separate sources of information within the United States Department of State confirmed the existence of an agreement to him.
1D05928	Declaration of Branislav	Branislav JOVIČEVIĆ is

	Jovicevic	the son-in-law of Radovan Karadžić. In July 1996, Dr. Karadžić told his family that Richard Holbrooke had agreed that he would not be prosecuted in The Hague and that his family no longer had to fear that he would be arrested.
1D05927	Declaration of Sonja Karadzic-Jovicevic	Sonja JOVIČEVIĆ - KARADŽIĆ is the daughter of Radovan Karadžić. In July 1996, Dr. Karadžić told his family that Richard Holbrooke had agreed that he would not be prosecuted in The Hague and that his family no longer had to fear that he would be arrested.
1D05926	Declaration of Ljiljana Karadzic	Ljiljana KARADŽIĆ is the wife of Radovan Karadžić. In July 1996, Dr. Karadžić told his family that Richard Holbrooke had agreed that he would not be prosecuted in The Hague and that his family no longer had to fear that he would be arrested.
1D05932	Declaration of Obrad Kesic	Obrad KESIĆ is a Washington, DC-based consultant. When he met Dr. Karadžić in Pale in September 1996, Dr. Karadžić told him that Richard Holbrooke had agreed that he would not be prosecuted in The Hague.
1D05936	Declaration of Punisa Lukic	Puniša LUKIĆ, a businessman in Pale, was in the office of Dr. Karadžić in July 1996 when Dr. Karadžić consummated his agreement with Richard Holbrooke. Dr. Karadžić told him that Richard Holbrooke had agreed that

		he would not be prosecuted in The Hague if he had resigned and withdrew from public life.
1D05915	Declaration of John Petrie	John PETRIE was a British Major working with the Office of High Representative in Sarajevo in July 1996. Richard Holbrooke stated at a meeting in July 1996 that as a result of the negotiations with him, Dr. Karadžić would no longer be pursued for prosecution in The Hague.
1D05930	Report of interview and articles written by Ambassador Muhamed Sacirbey	Muhamed ŠACIRBEY was Bosnia's Ambassador to the United Nations. In July 1996, he was informed by Robert Frowick, an American diplomat in charge of the upcoming elections for OSCE that Richard Holbrooke had agreed Dr. Karadžić would not be prosecuted in The Hague.

6. Dr. Karadzic also listed two witnesses as fact witnesses who have information relevant to the Holbrooke Agreement issue. He requests that the following information be admitted as relevant to sentencing:

1D20079	Declaration of Aleksa Buha	ALEKSA BUHA was Foreign Minister of Republika Srpska. He was present at the 18-19 July 1996 meeting in Belgrade at which Richard Holbrooke represented that Dr. Karadzic would not face prosecution in The Hague and was an eyewitness to the agreement.
1D05921	Declaration of Radomir Lukic	RADOMIR LUKIC was Prime Minister of

		Republika Srpska in July 1996. He was present in Belgrade on 18 July 1996 and was informed immediately after the meeting with Holbrooke by Krajisnik and Buha that Holbrooke had agreed that Dr. Karadzic would not be prosecuted in The Hague.
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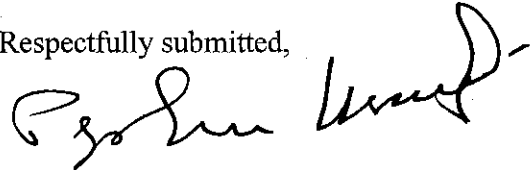
7. In addition, Dr. Karadzic wishes the text of that portion of the Holbrooke Agreement that contained his undertakings to be admitted as an exhibit. That document is #1D05916.

8. Virtually all of this material has previously been submitted to the Tribunal as part of the litigation over Dr. Karadzic's *Holbrooke Agreement Motion*.⁴

9. Should the Trial Chamber believe that compliance with the certification requirements of Rule 92 *bis* is required for any of the above material, it is respectfully requested to admit the documents pending completion of the certification requirement by the Registrar.

Word count: 1219

Respectfully submitted,



Radovan Karadzic

⁴ See Annexes A (agreement), E (Buha), G (Radomir Lukic), K (Ingrao), O (Ljiljana Karadzic), P (Sonja Karadzic-Jovicevic), Q (Branislav Jovicevic), R (Draskovic), S (Sacirbey), T (Binder), U (Kestic) to *Holbrooke Agreement Motion* (25 May 2009); and Annexes AD (Ben-Cnaan) and AE (Punisa Lukic) to *First Supplement to Holbrooke Agreement Motion* (19 June 2009)