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Mechanism for
International
Criminal
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Mécanisme pour
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CASE/AFFAIRE NO. MICT-13-55-R90.2 (KARADZIC)		DATE 03 February 2014
FROM/DE CARLINE AMEERALI, DEPUTY CHIEF CMSS SUA		
TO/A		
<input checked="" type="checkbox"/> Office of the President/ <i>Le Bureau du Président</i>	<input checked="" type="checkbox"/> Office of the Prosecutor/ <i>Le Bureau du Procureur</i>	0 Defense Counsel/Conseil de la Défense
0 Appeals Chamber/ <i>Chambre d'appel</i>		<input checked="" type="checkbox"/> Self-representing Accused/ Accusé assurant lui-même sa défense MR. R. KARADŽIĆ (1)
0 Trial Chamber/ <i>Chambre de 1ère instance</i>		<input checked="" type="checkbox"/> Legal Advisers/ Conseillers juridiques MR. P. ROBINSON MR. M. SLADOJEVIĆ MR. A. STEVANOVIĆ MR. A. VUJIĆ
0 Specially Appointed Chamber/ <i>Chambre spécialement désignée</i>		<input checked="" type="checkbox"/> Standby Counsel MR. R. HARVEY
<input checked="" type="checkbox"/> Single Judge/ <i>Juge unique</i>		
0 Embassy/ <i>Ambassade</i>		
0 Other/ <i>Autre</i>		
<input checked="" type="checkbox"/> Pro-Se Legal Liaison Officer/ <i>Juriste chargé de la liaison avec l'accusé</i> MS. V. TASEVA		
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0 Order/Warrant/Decision issued by Appeals Chamber/Trial Chamber/Specially Appointed Chamber/Judge on <i>Ordonnance/Mandat/Décision émis(e) par la Chambre d'appel/la Chambre de 1ère instance/la Chambre spécialement désignée un Juge le ___/___/___</i>		
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<input checked="" type="checkbox"/> Motion/Request/Application submitted by Prosecution/Defence Counsel/Accused/ Third Party on <i>Motion/Requête/Demande présentée par l'Accusation/le Conseil de la défense/l'Accusé/le tiers le 03/02/2014</i> Submission		
0 Response/Reply/Brief submitted by Prosecution/Defence Counsel/Accused on <i>Réponse/Réplique/Mémoire présenté(e) par l'Accusation/le Conseil de la défense/Accusé le ___/___/___</i>		
0 Decision of the Registrar on/ <i>Décision du Greffier le ___/___/___</i>		
0 Other/ <i>Autre</i>		
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THE MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS

CASE No. MICT-13-55-R90.2

BEFORE THE SINGLE JUDGE

Before: Judge Bakone Justice Moloto

Registrar: Mr. John Hocking

Date Filed: 3 February 2014

THE PROSECUTOR

v.

RADOVAN KARADZIC

Public

SUPPLEMENTAL SUBMISSION IN SUPPORT OF
APPOINTMENT OF AMICUS CURIAE PROSECUTOR
TO INVESTIGATE OFFICIALS OF UNITED STATES OF AMERICA

Office of the Prosecutor:
Mr. Hassan Jallow

The Accused:
Dr. Radovan Karadzic

1. On 20 January 2014, Dr. Radovan Karadzic requested the President of the Mechanism to assign a Single Judge to consider the appointment of an *amicus curiae* prosecutor to investigate whether officials and employees of the United States government have willfully interfered with the administration of justice at this Tribunal in violation of Rule 90(A) by intercepting privileged communications.¹

2. On 21 January 2014, the President assigned Judge Bakone Justice Moloto as Single Judge to consider the request.²

3. Dr. Karadzic contends that there is reason to believe that officials and employees of the United States government have interfered with the administration of justice by intercepting privileged communications of participants in the Tribunal's work.

4. In his request, Dr. Karadzic supported the need for appointment of an *amicus curiae* prosecutor with evidence that he had sought information concerning the interception of his communications from the United States of America and that the United States had refused to disclose whether it had intercepted his communications.³

5. Dr. Karadzic now supplements his request by providing evidence that he had sought information from the United Kingdom concerning its assistance to the United States in intercepting communications of United Nations' organs and that the United Kingdom has also refused to disclose records which would indicate whether Dr. Karadzic's privileged communications had been intercepted.

6. On 7 January 2014, Dr. Karadzic wrote a letter to the government of the United Kingdom indicating the *New York Times* had reported that the British Government's Communication Headquarters (GCHQ) had participated in interception of communications of persons employed at United Nations and other international organisations and maintained lists and other records of those persons whose communications have been intercepted. He requested that the United Kingdom review the GCHQ lists referred to in the article and advise whether those lists for the period 2008-11 provide any indication of interceptions of his communications.⁴

¹ *Request for Designation of Single Judge to Consider Appointment of Amicus Curiae Prosecutor to Investigate Officials of United States of America* (20 January 2014)

² *Order Assigning a Single Judge* (21 January 2014)

³ *Request*, at Annexes A & B

⁴ A copy of Dr. Karadzic's letter is attached as Annex F to this submission.

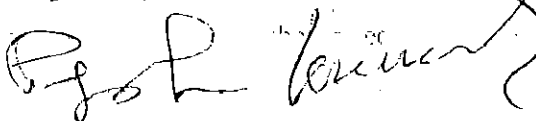
7. On 29 January 2014, the government of the United Kingdom responded by refusing to produce the requested information.⁵

8. The failure of the United Kingdom to provide information by which Dr. Karadzic could substantiate or discount the allegations that the United States of America has intercepted his privileged communications provides additional support for the need for a *amicus curiae* prosecutor who can get the answers that the United States and United Kingdom don't want to provide.

9. Therefore, it is respectfully requested that the Single Judge consider this information when determining whether the appointment of an *amicus curiae* prosecutor is warranted.

Word count: 553

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Radovan Karadzic', written in a cursive style.

Radovan Karadzic

⁵ A copy of the UK letter is attached to this submission as Annex "G".

ANNEX "F"

Dr. Radovan Karadzic
International Criminal Tribunal for the former Yugoslavia
The Hague, Netherlands

7 January 2014

The Honorable Sir Geoffrey Adams
Ambassador
Embassy of Government of United Kingdom
Lange Voorhout 10
2514 ED The Hague

Dear Ambassador Adams ,

I wish you and your team at the Embassy a very happy new year.

I am writing on this occasion to request that the government of the United Kingdom disclose to me any information in its possession that would indicate that telephone or electronic communications by persons at the International Criminal Tribunal for the former Yugoslavia (ICTY) had been intercepted by officers or employees of the government of the United States—or for that matter, the government of the United Kingdom.

I attach an article which appeared in the *New York Times* recently which indicated that the British Government's Communication Headquarters (GCHQ) had participated in interception of communications of persons employed at United Nations and other international organisations and maintained lists and other records of those persons whose communications have been intercepted.

I have filed a *Motion for Appointment of Amicus Curiae Prosecutor to Investigate Officials of United States of America* (6 December 2013) in which I am seeking a further investigation into suspicions that electronic and telephone communications of myself and my Legal Advisor Peter Robinson have been intercepted. I am therefore requesting that the United Kingdom cooperate with me and the ICTY by providing me with any information in its possession which would indicate that telephone or electronic communications by persons at the International Criminal Tribunal for the former Yugoslavia (ICTY) had been intercepted.

Perhaps you can start by reviewing the GHQC lists referred to in the article and advising me whether those lists for the period 2008-11 provide any indication of such interceptions. We can then seek a mutual agreement on how to proceed further to ensure your compliance with my request in a way that is not unduly burdensome on your government.

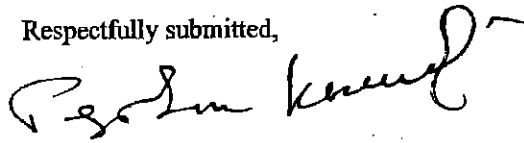
The Honorable Sir Geoffrey Adams

--page two--

Please feel free to contact my Legal Advisor Peter Robinson at peter@peterrobinson.com if you have any questions about this request and when responding to the request.

Thank you very much for your consideration of this request.

Respectfully submitted,



Dr. Radovan Karadzic

December 20, 2013

N.S.A. Spied on Allies, Aid Groups and Businesses

By **JAMES GLANZ** and **ANDREW W. LEHREN**

Secret documents reveal more than 1,000 targets of American and British surveillance in recent years, including the office of an Israeli prime minister, heads of international aid organizations, foreign energy companies and a European Union official involved in antitrust battles with American technology businesses.

While the names of some political and diplomatic leaders have previously emerged as targets, the newly disclosed intelligence documents provide a much fuller portrait of the spies' sweeping interests in more than 60 countries.

Britain's Government Communications Headquarters, working closely with the National Security Agency, monitored the communications of senior European Union officials, foreign leaders including African heads of state and sometimes their family members, directors of United Nations and other relief programs, and officials overseeing oil and finance ministries, according to the documents. In addition to Israel, some targets involved close allies like France and Germany, where tensions have already erupted over recent revelations about spying by the N.S.A.

Details of the surveillance are described in documents from the N.S.A. and Britain's eavesdropping agency, known as GCHQ, dating from 2008 to 2011. The target lists appear in a set of GCHQ reports that sometimes identify which agency requested the surveillance, but more often do not. The documents were leaked by the former N.S.A. contractor

Edward J. Snowden and shared by The New York Times, The Guardian and Der Spiegel.

The reports are spare, technical bulletins produced as the spies, typically working out of British intelligence sites, systematically tapped one international communications link after another, focusing especially on satellite transmissions. The value of each link is gauged, in part, by the number of surveillance targets found to be using it for emails, text messages or phone calls. More than 1,000 targets, which also include people suspected of being terrorists or militants, are in the reports.

It is unclear what the eavesdroppers gleaned. The documents include a few fragmentary transcripts of conversations and messages, but otherwise contain only hints that further information was available elsewhere, possibly in a larger database.

Some condemned the surveillance on Friday as unjustified and improper. "This is not the type of behavior that we expect from strategic partners," Pia Ahrenkilde Hansen, a spokeswoman for the European Commission, said on the latest revelations of American and British spying in Europe.

Some of the surveillance relates to issues that are being scrutinized by President Obama and a panel he appointed in Washington that on Wednesday recommended tighter limits on the N.S.A., particularly on spying of foreign leaders, especially allies.

The reports show that spies monitored the email traffic of several Israeli officials, including one target identified as "Israeli prime minister," followed by an email address. The prime minister at the time, in January 2009, was Ehud Olmert. The next month, spies intercepted the email traffic

of the Israeli defense minister, Ehud Barak, according to another report. Two Israeli embassies also appear on the target lists.

Mr. Olmert said in a telephone interview on Friday that the email address was used for correspondence with his office, which he said staff members often handled. He added that it was unlikely that any secrets could have been compromised.

"This was an unimpressive target," Mr. Olmert said. He noted, for example, that his most sensitive discussions with President George W. Bush took place in person. "I would be surprised if there was any attempt by American intelligence in Israel to listen to the prime minister's lines," he said.

Mr. Barak, who declined to comment, has said publicly that he used to take it for granted that he was under surveillance.

Despite the close ties between the United States and Israel, the record of mutual spying is long: Israeli spies, including Jonathan Jay Pollard, who was sentenced in 1987 to life in prison for passing intelligence information to Israel, have often operated in the United States, and the United States has often turned the abilities of the N.S.A. against Israel.

Mr. Olmert's office email was intercepted while he was dealing with fallout from Israel's military response to rocket attacks from Gaza, but also at a particularly tense time in relations with the United States. The two countries were simultaneously at odds on Israeli preparations to attack Iran's nuclear program and cooperating on a wave of cyberattacks on Iran's major nuclear enrichment facility.

A year before the interception of Mr. Olmert's office email, the documents listed another target, the Institute of Physics at the Hebrew University of Jerusalem, an internationally

recognized center for research in atomic and nuclear physics.

Also appearing on the surveillance lists is Joaquín Almunia, vice president of the European Commission, which, among other powers, has oversight of antitrust issues in Europe. The commission has broad authority over local and foreign companies, and it has punished a number of American companies, including Microsoft and Intel, with heavy fines for hampering fair competition. The reports say that spies intercepted Mr. Almunia's communications in 2008 and 2009.

Mr. Almunia, a Spaniard, assumed direct authority over the commission's antitrust office in 2010. He has been involved in a three-year standoff with Google over how the company runs its search engine. Competitors of the online giant had complained that it was prioritizing its own search results and using content like travel reviews and ratings from other websites without permission. While pushing for a settlement with Google, Mr. Almunia has warned that the company could face large fines if it does not cooperate.

The surveillance reports do not specify whether the interceptions of Mr. Almunia's communications were requested by the N.S.A. or British spies. Nor do the reports make clear whether he was a longstanding surveillance target or swept up as part of a fleeting operation. Contacted by The Times, Mr. Almunia said he was "strongly upset" about the spying.

Ms. Hansen, the spokeswoman for the European Commission, said that it was already engaged in talks with the United States that were "needed to restore trust and confidence in the trans-Atlantic relationship." She added that "the commission will raise these new allegations with U.S. and U.K. authorities."

In a statement, the N.S.A. denied that it had ever carried out espionage to benefit American businesses.

“We do not use our foreign intelligence capabilities to steal the trade secrets of foreign companies on behalf of — or give intelligence we collect to — U.S. companies to enhance their international competitiveness or increase their bottom line,” said Vanee Vines, an N.S.A. spokeswoman.

But she added that some economic spying was justified by national security needs. “The intelligence community’s efforts to understand economic systems and policies, and monitor anomalous economic activities, are critical to providing policy makers with the information they need to make informed decisions that are in the best interest of our national security,” Ms. Vines said.

Spies have a freer hand with economic targets in Britain, where the law permits intelligence gathering in the service of the “economic well-being” of the country. A GCHQ spokesman said that its policy was not to comment on intelligence matters, but that the agency “takes its obligations under the law very seriously.”

At the request of GCHQ, The Times agreed to withhold some details from the documents because of security concerns.

The surveillance reports show American and British spies’ deep appetite for information. The French companies Total, the oil and gas giant, and Thales, an electronics, logistics and transportation outfit, appear as targets, as do a French ambassador, an “Estonian Skype security team” and the German Embassy in Rwanda.

Germany is especially sensitive about American spying since reports emerged that the agency listened to Chancellor

Angela Merkel's cellphone calls. Negotiations for a proposed agreement between Germany and the United States on spying rules have recently stalled for several reasons, including the United States' guarantee only that it would never spy on the chancellor — a promise it has refused to extend to other German officials.

Multiple United Nations Missions in Geneva are listed as targets, including Unicef and the United Nations Institute for Disarmament Research. So is Médecins du Monde, a medical relief organization that goes into war-ravaged areas. Leigh Daynes, an executive director of the organization in Britain, responded to news about the surveillance by saying: "There is absolutely no reason for our operations to be secretly monitored."

More obvious intelligence targets are also listed, though in smaller numbers, including people identified as "Israeli grey arms dealer," "Taleban ministry of refugee affairs" and "various entities in Beijing." Some of those included are described as possible members of Al Qaeda, and as suspected extremists or jihadists.

While few if any American citizens appear to be named in the documents, they make clear that some of the intercepted communications either began or ended in the United States and that N.S.A. facilities carried out interceptions around the world in collaboration with their British partners. Some of the interceptions appear to have been made at the Sugar Grove, W.Va., listening post run by the N.S.A. and code-named Timberline, and some are explicitly tied to N.S.A. target lists in the reports.

Many of the reports, written by British teams specializing in Sigint, shorthand for "signals intelligence," are called "Bude Sigint Development Reports," referring to a British spy

campus on the Cornwall coast. The reports often reveal which countries were the endpoints for the intercepted communications, and information on which satellite was carrying the traffic.

Strengthening the likelihood that full transcripts were taken during the intercepts is the case of Mohamed Ibn Chambas, an official of the Economic Community of West African States, known as Ecowas, a regional initiative of 15 countries that promotes economic and industrial activity. Whether intentionally or through some oversight, when Mr. Chambas's communications were intercepted in August 2009, dozens of his complete text messages were copied into one of the reports.

Referred to in the transcripts as "Dr. Chambers," he seems to have been monitored during an especially humdrum day or two of travel. "Am glad yr day was satisfying," Mr. Chambas texted one acquaintance. "I spent my whole day travelling ... Had to go from Abidjan to Accra to catch a flt to Monrovia ... The usual saga of intra afr."

Later he recommended a book, "A Colonial History of Northern Ghana," to the same person. "Interesting and informative," Mr. Chambas texted. The high point of his day was receiving an award in Liberia, but soon he was busy working out logistics for future appointments.

"Where is the conference pl? Didnt get the invt," he texted another contact. He discussed further details before adding, perhaps wistfully, given his grinding travel schedule: "Have a restful Sunday."

Katrin Bennhold contributed reporting from London, David E. Sanger from Washington, and Ethan Bronner from New York.

ANNEX "G"



British Embassy
The Hague

Mr Peter Robinson
International Criminal Tribunal for the former Yugoslavia
Churchillplein 1
2517 JW The Hague
The Netherlands

British Embassy, The Hague
Lange Voorhout, 10
2514 ED, The Hague
The Netherlands

Tel: + 31 (0)70 4270 427
Fax: + 31 (0)70 4270 347

daniel.fieller@fco.gov.uk
www.gov.uk/world/netherlands

29 January 2014

Dear Mr Robinson,

I am writing to you in response to Mr Karadzic's letter of 7 January 2014 to Sir Geoffrey Adams, the British Ambassador. I have been asked to reply on his behalf.

Mr Karadzic has asked for the UK Government to disclose any information in its possession which would indicate that telephone or electronic communications by the ICTY have been intercepted by officers or employees of the United States Government.

intercepted

The UK Government is fully committed to co-operating with international disclosure requests to support open and fair trials. However, as I am sure you are aware; the ICTY has instructed Mr Karadzic to focus his investigations on information and material that is directly related to the charges against him.

The UK Government has considered Mr Karadzic's request and our assessment is that the request does not provide sufficient evidence or justification to show how the request is relevant to the charges against Mr Karadzic and the determination of Mr Karadzic's guilt or innocence. As a result, it is the UK's view that the question raised has no bearing on the determination of whether or not Mr Karadzic is innocent or guilty of the crimes he has been accused of.

relevant
intercepted

Furthermore, I note the ICTY's recent response to Mr Karadzic's motion for the appointment of *Amicus Curiae* Prosecutor to investigate officials of the United States of America. In the Tribunal's response, the Senior Trial Attorney (Ms Uertz Retzlaff) states that Mr Karadzic has failed to provide any "reason to believe" that the United States knowingly or wilfully interfered with the ICTY's administration of justice. We judge this assessment to be equally applicable to this request.

Yours sincerely,

Daniel Fieller

Second Secretary Political & Legal
British Embassy, The Hague