



International Criminal Tribunal for the former Yugoslavia
The Hague
Att.: Judge O-Gon Kwon

Enclosure: 3
Our ref.: MSK
Our no.: 2009/003102

15 September 2010

Pursuant to the Invitation of 3 September 2010 issued by the 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 (the Tribunal), the Danish Ministry of Defence would like to file the following response to the Invitation.

With reference to the letter of 16 October 2009 from the Danish Ministry of Foreign Affairs to the Tribunal and Dr. Radovan Karadzic the Danish Ministry of Defence would like to provide the following account:

On 2 June 2009, Dr. Radovan Karadzic sent a request to Denmark via the Danish Embassy in The Hague for copies of documents concerning the following categories:

1. "All reports of intelligence or security services or UNPROFOR members from Denmark concerning the killings at the Markale market in Sarajevo, Bosnia on 5 February 1994 and 28 August 1995.
2. All reports, transcripts, or notes of statements made by Radovan Karadzic between 9 July and 4 August 1995 about the Srebrenica events including information from signals and human intelligence.
3. All reports, memoranda, or correspondence concerning the use of UNPROFOR, UN military observers, UNCHR, or nongovernmental organization personnel in Bosnia during April 1992 - August 1995 to provide arms, ammunition, or military equipment to the Bosnian Muslims.
4. All reports, memoranda, or correspondence concerning the use of UNPROFOR, UN military observers, UNCHR, or nongovernmental organization personnel in Bosnia during April 1992 - August 1995 to perform acts of military or intelligence nature for their own governments or for NATO."

A similar request was apparently sent to a wide range of other countries and international organisations.

On 10 July 2009 the Danish Ministry of Foreign Affairs in its reply to the request informed Dr. Radovan Karadzic that it was not possible to identify documents that were covered by the request. However, the Danish Ministry of Foreign Affairs decided to grant Dr. Radovan Karadzic access to documents that might be of interest to Dr. Radovan Karadzic, although the documents were not covered by the wording of his request.

In a subsequent letter dated 20 July 2009, Dr. Radovan Karadzic asked that his request of 2 June 2009 be referred to additional agencies, such as the military, in order to provide him with full disclosure to Danish records relevant to his request.

On 4 September 2009 the Tribunal invited Denmark to provide Dr. Radovan Karadzic and the Tribunal with documents concerning the above-mentioned categories.

As stated in the Danish reply to the Tribunal dated 16 October 2009, the Danish Ministry of Defence initiated a full investigation into documents in its possession in accordance with the Rules of the Procedure and Evidence, adopted pursuant to Article 15 of the Statute of the Tribunal. However, the efforts of the Danish Ministry of Defence did not result in the identification of any documents covered by Dr. Radovan Karadzic's request and the Trial Chamber's Invitation.

On 31 March 2010, the Danish newspaper "Kristeligt Dagblad" (the newspaper) sent a request to the Danish Ministry of Defence in which the newspaper applied for right of access to a number of documents, which inter alia included documents concerning the request for information by Dr. Radovan Karadzic. At the request of the Danish Ministry of Defence the application was rendered more specific by the newspaper on 4 May 2010 whereby the newspaper requested access to the following categories:

1. Documents concerning the interpretation of the Statute and Rules of Procedure of the Tribunal, which the Ministry of Defence has presented and discussed with the Ministry of Foreign Affairs representatives at a meeting on 15 September 2009, and summaries or notes concerning the meeting on 15 September 2009.
2. a. Records concerning documents destroyed years earlier as referred to in a letter from the Danish Ministry of Defence to the Danish Ministry of Foreign Affairs dated 12 October 2009.

- b. Correspondence between the Danish Ministry of Defence and relevant associated agencies as referred to in a letter from the Danish Ministry of Defence to the Danish Ministry of Foreign Affairs dated 12 October 2009.
3. Documents concerning the decision to send the Danish Defence Intelligence Service to the headquarters of SFOR in Bosnia in 1995. Documents concerning briefings to the Minister of Defence, different Standing Committees of the Danish Parliament, and the Government's Committee for Coordination, concerning intelligence from the Danish Defence Intelligence Service from Bosnia in 1995.
 4. Documents concerning Danish and/or foreign intelligence related to the two bombings of the market in Sarajevo. Documents concerning signals that the Danish military intelligence service may have had intercepted concerning Ratko Mladic.

On 6 August 2010, the Danish Ministry of Defence replied to the newspaper's request.

Re Category no. 1:

The Danish Ministry of Defence identified four documents. The newspaper was granted access to two documents. The two other documents were exempted according to the Danish Law on Access to Public Records, since they were internal documents.

Re Category no. 2:

- a. The newspaper was granted access to records over documents destroyed years earlier in accordance with Danish regulation on the handling of classified materials.
- b. The Danish Ministry of Defence identified six documents, which the newspaper was granted access to.

Re Category no. 3:

The newspaper was granted access to four documents, except for the annex to one of the documents, a note from the Danish Defence Intelligence Service from 1995, which had been destroyed years earlier in accordance with the above-mentioned regulation.

Re Category no. 4:

The Danish Ministry of Defence identified three documents:

- The first document (93-3415-1 (239)) of 1 July 1996 concerns the Danish Defence Intelligence Service's assessment of the developments in the former Yugoslavia. The newspaper was granted access to the document pursuant to its request for information concerning signals that the Danish military intelligence service may have had intercepted concerning Mr. Ratko Mladic. The document describes the expected political development in the former Yugoslavia from the summer of 1996 and onwards. The document does not cover the killings at the Markale market in Sarajevo, Bosnia on 5 February 1994

and 28 August 1995 or any incidences that occurred in Bosnia before 1996, and were for that reason not considered covered by the request by Dr. Radovan Karadzic.

- The second document (93-3415-1 (239)) is a fax from the Danish Representation at the UN in New York with an attached background summary of UNPROFOR's Investigative Report concerning the Sarajevo market explosion of 5 February 1995 which was received from the United Nations Headquarters in New York. The newspaper was granted access only to the cover letter. Since it appeared that the document had not been made publicly available by the UN, the newspaper was not granted access to the background summary due to the protection of Danish interests vis-à-vis international institutions in accordance with the Danish Law on Access to Public Records (article 13). Since the document neither contained information from intelligence or security services or UNPROFOR members from Denmark, it was for that reason not considered covered by the request from Dr. Radovan Karadzic and the Tribunal, and therefore not enclosed in the response from the Danish Ministry of Defence to Dr. Radovan Karadzic and the Tribunal.
- The third document (93-0132-1 (324)) is a telex sent from the Danish Embassy in London. The telex refers to a conversation that the Danish Embassy in London had with British authorities concerning the bombing in Sarajevo in 1995 and the expected official British reaction to the bombing. In accordance with the Danish Law on Access to Public Records (article 13) the newspaper was not granted access to the telex due to the protection of Danish interests vis-à-vis a foreign state. Since the document neither contained information from intelligence or security services or UNPROFOR members from Denmark, it was for that reason not considered covered by the request from Dr. Radovan Karadzic and the Tribunal, and therefore not enclosed in the response from the Danish Ministry of Defence to Dr. Radovan Karadzic and the Tribunal.

The newspaper recently published several articles in which the newspaper questions whether the Danish Ministry of Defence should have sent the documents mentioned above under category no. 4 to Dr. Radovan Karadzic and to the Tribunal. As stated above, the Danish Ministry of Defence is of the view that the three documents were not covered by the wording of the request from Dr. Radovan Karadzic and the Tribunal. The Danish Ministry of Defence is therefore of the opinion that it has complied with the request for documents made by Dr. Radovan Karadzic and the Tribunal.

Nevertheless, in order to assure the Tribunal of its full cooperation the Danish Ministry of Defence hereby forwards the above-mentioned three documents (in full) to Dr. Radovan Karadzic via the Tribunal. Please note that the newspaper has only been granted partial access to the three documents according to the Danish Law on Access to Public records. The Danish authorities would be grateful if the Tribunal – to the extent possible – would secure that documents not previously disclosed are not disclosed to the public without the consent of relevant parties.

The Danish authorities reiterate its assurances that it stands ready to assist the Tribunal by providing any additional documentation that might be requested pursuant to the Tribunal's Rules of Procedure and Evidence.

Yours respectfully


Kenn Bille Iversen
Head of Department