

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: 5 April 2011

THE PROSECUTOR

v.

RADOVAN KARADZIC

Public

MOTION FOR SUBPOENA TO INTERVIEW:
CHRISTOPH VON BEZOLD

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

Government of Germany

The Accused:
Radovan Karadzic

1. Radovan Karadzic respectfully moves, pursuant to Rule 54, for the issuance of a subpoena to Christoph von Bezold, a German national who served in the European Community Monitoring Mission, compelling him to submit to an interview by the defence of Radovan Karadzic.

Background

The Arms Smuggling in Bihac

2. On 27 March 1994, 17,280 bullets, hidden in milk powder boxes, were delivered to the Bosnian Muslim Army in Bihac, hidden in a humanitarian shipment. It has been alleged that one of the persons who assisted in this arms smuggling episode was Christoph von Bezold, a German national working for the European Community Monitoring Mission in Zagreb.

3. According to a report published by the German television program *Monitor* on 19 September 1996, von Bezold falsely claimed to be an employee of the German Foreign Ministry, when he was in fact an intelligence agent for the German BND. The documents obtained by the television program indicated that von Bezold had participated in the smuggling of money and arms to the Bosnian Muslims while employed as an ECMM monitor—particularly the alleged “milk powder” shipment to Bihac on 27 March 1994.¹

4. On 27 February 1997, the *Monitor* program broadcast another report. In this report, a colleague of von Bezold, speaking anonymously, confirmed von Bezold’s involvement in the smuggling of money and arms to the Bosnian Muslims disguised as humanitarian aid.²

5. On 20 April 1997, Tim Judah reported in the London *Sunday Telegraph* that the German government’s parliamentary control commission (Parlamentarische Kontrollkommission) overseeing German intelligence services had initiated an investigation into the reports of arms smuggling by von Bezold.³

¹ A copy of an English translation of the *Monitor* program of 19 September 1996 is attached as Annex “A”.

² A copy of an English translation of the *Monitor* program of 27 February 1997 is attached as Annex “B”.

³ Tim Judah, “German Spies accused of arming Bosnian Muslims”, *Sunday Telegraph*, 20 April 1997, attached as Annex “C”.

The Efforts to Obtain the Documents

6. On 2 June 2009, Dr. Karadzic served a letter on the government of Germany in which he requested copies of the following items among others:

- (11) All reports, including reports of interviews and transcripts of depositions or testimony from the German parliamentary investigation in 1997 that uncovered that BND officers infiltrated UN and European Union programs and dispatched weapons to the Bosnian Muslim forces through Peacekeeping channels and that the head of Germany's team of EU peace monitors was actually a BND officer and the Germans shipped munitions in food packages, with shells hiding in boxes of powdered milk.

7. The government of Germany did not respond to Dr Karadzic's request.

8. On 30 June 2009, Dr Karadzic served a follow up letter on the government of Germany. The government of Germany responded on 10 August 2009 that it would not voluntarily provide any information to the defence without an order from a Chamber of the ICTY.

9. On 12 August 2009, Dr. Karadzic filed a *Motion for Binding Order: Government of Germany* in which he requested the above described documents.

10. After Germany opposed the motion, and an oral hearing was held, the Trial Chamber issued its *Decision on the Accused's Application for Binding Order Pursuant to Rule 54 bis (Federal Republic of Germany)* on 19 May 2010. In its decision, the Trial Chamber found that the alleged incident of arms smuggling in Bihac on 27 March 1994 was relevant to the defence of Dr. Karadzic and ordered the government of Germany to produce the requested documents pertaining to this incident.⁴

11. On 18 June 2010, the government of Germany responded that it did not have any of the requested material in its possession.⁵

12. Dr. Karadzic has continued to investigate the matter and has obtained information from the European Union and other sources which lead him to believe that the government of Germany may indeed have information concerning the Bihac arms smuggling and the involvement of its employee, Christoph von Bezold.

13. On 11 March 2011, Dr. Karadzic requested that the German government make Mr. von Bezold available for interview in light of the professed inability of the German

⁴ Para. 38

⁵ *Response of the Federal Republic of Germany*

government to locate documents relating to the Bihac shipments or its parliamentary investigation.⁶

14. On 25 March 2011, the government of Germany responded to the request as follows:

“Neither Article 29 of the ICTY Statute nor Rule 39 of its Rules of Procedure and Evidence provide any basis for the request, nor are we aware of any jurisdiction of the ICTY that would extend these regulations to apply to requests by the defence. Similarly, German law on international legal assistance does not contain any basis for such a request either. We are therefore not in a position to grant the request.”⁷

Argument

15. Rule 54 provides that:

At the request of either party or *proprio motu*, a Judge or a Trial Chamber may issue such orders, summonses, subpoenas, warrants and transfer orders as may be necessary for the purposes of an investigation or for the preparation or conduct of the trial.

16. The jurisprudence of the *ad hoc* Tribunals indicates that the proper method for obtaining the testimony of a person who was or is a government employee is by subpoena, rather than an order to the State pursuant to Rule 54 *bis*.⁸

17. The jurisprudence of the *ad hoc* Tribunals also indicates that the Trial Chamber has the power to require a prospective witness to attend at a nominated place and time in order to be interviewed when the requesting party shows that (1) it has made reasonable attempts to obtain the voluntary cooperation of the witness; (2) the witness' information may materially assist its case; and (3) the witness' information may be necessary and appropriate for the conduct and fairness of the trial.⁹

⁶ A copy of Dr. Karadzic's letter is attached as Annex "D".

⁷ A copy of this letter is attached as Annex "E".

⁸ *Prosecutor v Karadzic*, No. IT-95-5/18-T, *Decision on Motion for Subpoena for Douglas Lute and John Feeley* (8 July 2009) at para. 8

; *Prosecutor v Milosevic*, No. IT-02-54-T, *Decision on Assigned Counsel Application for Interview and Testimony of Tony Blair and Gerhard Schroeder* (9 December 2005) at para. 27; *Prosecutor v Bagosora et al*, No. ICTR-98-41-T, *Decision on Request for a Subpoena* (11 September 2006) at para. 4

⁹ *Prosecutor v Krstić*, IT-98-33-A, *Decision on Application for Subpoenas*, (1 July 2003) at para. 10; *Prosecutor v Halilovic*, No. IT-01-48-AR73, *Decision on the Issuance of Subpoenas* (21 June 2004) at para. 5; *Prosecutor v Karemera et al*, No. ICTR-98-44-T, *Decision on Nzirorera's Ex Parte Motion for Order for Interview of Defence Witnesses NZ1, NZ2, and NZ3* (12 July 2006) at para. 9; *Prosecutor v Karemera et al*, No. ICTR-98-44-T, *Decision on Joseph Nzirorera's Motions for Subpoena to Leon*

18. When the defence is not fully aware of the nature and relevance of the testimony of a prospective witness, it is in the interests of justice to allow the Defence to meet with the witness and assess his testimony.¹⁰

19. In this case, as detailed above, Dr. Karadzic has made reasonable efforts to obtain the voluntary cooperation of the German government to conduct the interview of Christoph van Bezold.

20. There are reasonable grounds to believe that Mr. von Bezold has information which can materially assist Dr. Karadzic's case. He would have firsthand knowledge of the smuggling of arms to the Bosnian Muslims in Bihac on 27 March 1994 and the involvement of the government of Germany or other UN member States in that incident.

21. The information from Mr. van Bezold can be used in two ways. First, to direct the German government to the precise documents concerning these events, which it seemingly has been unable to locate. And, second, to serve as the basis of a written statement from Mr. van Bezold which can be used pursuant to Rule 92 *ter* or Rule 92 *bis* so that Dr. Karadzic can provide the Trial Chamber with evidence of these events during the trial.

22. The Trial Chamber has already found that documents relating to arms smuggling at Bihac in March 1994 is relevant to a live and important issue in the case.¹¹ The information sought from Mr. von Bezold directly relates to that issue.

Mugesera and President Paul Kagame (19 February 2008) at para. 4; *Prosecutor v Bizimungu et al*, No. ICTR-99-50-T, *Decision on Prosper Mugiraneza's Motion to Subpoena Witness RWU* (19 May 2008) at para. 4; *Prosecutor v Bagosora et al*, No. ICTR-98-41-T, *Decision on Request for a Subpoena* (11 September 2006) at para. 5; *Prosecutor v Karemera et al*, No. ICTR-98-44-T, *Decision on Joseph Nzirorera's Motions to Subpoena Witnesses G and AWD for Interview* (10 February 2009) at para. 4

¹⁰ *Prosecutor v Ndindliyiimana et al*, No. ICTR-2000-56-T, *Decision on Nzuwonemeye's Motion Requesting Cooperation from the Government of Belgium Pursuant to Article 28 of the Statute* (7 June 2006) at para. 8; *Prosecutor v Bagosora et al*, No. ICTR-98-44-T, *Decision on Request for Subpoena of Major General Yaache and Cooperation of the Government of Ghana* (23 June 2004); *Prosecutor v Ndindliyiimana et al*, No. ICTR-00-56-T, *Decision on Nzuwonemeye's Motion Requesting the Cooperation of the Government of The Netherlands Pursuant to Article 28 of the Statute* (13 February 2006) at para. 8; *Prosecutor v Ndindliyiimana et al*, No. ICTR-00-56-T, *Decision on Nzuwonemeye's Motion Requesting the Cooperation of the Government of Ghana Pursuant to Article 28 of the Statute* (13 February 2006) at para. 8; *Prosecutor v Ndindliyiimana et al*, No. ICTR-00-56-T, *Decision on Nzuwonemeye's Motion Requesting the Cooperation of the Government of Togo Pursuant to Article 28 of the Statute* (13 February 2006) at para. 8;

¹¹ *Decision on Accused's Application for Binding Order Pursuant to Rule 54 bis (Federal Republic of Germany)* (19 May 2010) at para. 38

23. The Trial Chamber has also found that the issue of UN personnel's involvement in arms smuggling bears relevance to Dr. Karadzic's case.¹² The information sought from Mr. van Bezold, directly relates to that issue as well.

24. Therefore, Dr. Karadzic has demonstrated that the information from Christoph van Bezold may materially assist his case, and is necessary for a fair determination of the issues being tried.

Procedural Matters

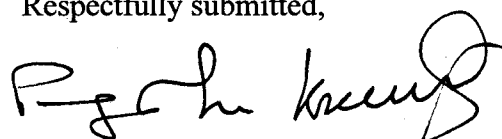
25. A subpoena should designate the place and time for the person to appear for an interview. To minimize any inconvenience to Mr. van Bezold and the German government, Dr. Karadzic suggests that the interview be held at the German Ministry of Foreign Affairs in Berlin on Friday, 13 May 2011 at 10 am. Dr. Karadzic will be represented by his Legal Advisor Peter Robinson.

26. Dr. Karadzic further suggests that the government of Germany be requested to serve the subpoena on Mr. van Bezold. States are obligated, when requested by the Tribunal, to effect service of a subpoena, and to provide any assistance that may be requested by the Registry to facilitate the attendance of witnesses.¹³

27. Dr. Karadzic requests that this motion be served upon the government of Germany and for further service on Mr. van Bezold, and that both the government of Germany and the witness be invited to respond to the motion if they wish to do so.

Word count: 2035

Respectfully submitted,



Radovan Karadzic¹⁴

¹² *Decision on Accused's Application for Binding Order Pursuant to Rule 54 bis (Federal Republic of Germany)* (19 May 2010) at para. 27

¹³ *Prosecutor v Bagosora et al*, No. ICTR-98-41-T, *Decision on Prosecutor's Request for a Subpoena Regarding Witness BT* (25 August 2004) at para. 8; *Prosecutor v Bagosora et al*, No. ICTR-98-41-T, *Decision on Request for Subpoena for Witness BW* (24 June 2004)

¹⁴ The assistance of Attorney Bernd Roemer of Cologne, Germany in the research for this motion is gratefully acknowledged.

ANNEX "A"

“Agents of the FIS in Bosnia”, MONITOR, 19 September 1996
 (starts at 02:24 Disc 1 : “Agenten des BND in Bosnien”)

00:01	<p>Mostar, the divided and destroyed city.</p> <p>Mostar, the symbol of the bloody civil war within the Former Republic of Yugoslavia. Up until today, people suffer the consequences of that war – in the whole of Bosnia. They are still dependent on transports of relief supplies from outside.</p>
00:17	<p>Often, these transports are escorted by monitors from the European Union, here in the line of relief duty during the fights in the former Yugoslavia.</p> <p>These monitors are supposed to be impartial, to bring about peace between the warring factions. The people in Bosnia trust them to do so.</p>
00:37	<p>Here, in the Croatian capital Zagreb, the EU monitors have been deployed since 1991. Their icon, EC-Monitor, promises help from Europe.</p>
00:50	<p>Their assignments have been stipulated in detail in several international treaties. Special emphasis is put on their role as:</p>
00:59	<p>[quote from treaty]</p> <p>“neutral third party between warring factions”.</p>
01:05	<p>The monitors, as they themselves call them, are headquartered at the Hotel I in the outskirts of Zagreb. Also 24 German EU monitors are supervised from here. The man on the left of the screen is Christoph von Bezold, in Zagreb since 1993. We interrogate him about his tasks:</p>
01:22	<p>[quote from interview]</p> <p>A: “Our monitors have been on site since 1991, since the war broke out, and have monitored the situation, have had talks accordingly, according to the array of our tasks, and have been reporting to the respective Presidency, or if you like, to the</p>

	<p>European Union.”</p> <p>Q: What are your tasks in Zagreb?</p> <p>A: “Well, at the moment I am acting head of the German delegation, i.e. I am supervising the German monitors who fulfill their assignments within the European Monitor Mission”.</p> <p>Q: And where are you normally employed?</p> <p>A: “I am a civil servant at the Federal Foreign Office.“</p>
02:02	<p>But this is wrong.</p> <p>More exactly: a legend/fake identity, spun by the Federal Intelligence Service in Pullach near Munich, the real employer of Christoph von Bezold.</p>
02:14	<p>MONITOR has at hand the alleged diplomat’s wage tax card from 1994.</p> <p>But the respective column of this document does not reveal the Foreign Office as employer, but the “Federal Agency for Finance, outpost south” – a department of the Federal Intelligence Service.</p>
02:33	<p>And this is located in ancient barracks a few kilometres away from the FIS headquarter, in Haar near Munich. A concealed FIS institution, internal name: Object weaving mill.</p> <p>The “Outpost South” of the Federal Agency for Finance is the secret pay office of the Federal Intelligence Service. From here, all full-time staff of the FIS is remunerated.</p>
03:00	<p>Von Bezold has been employed at the FIS since 1986, at first as councillor. Even as EU monitor, he continued his intelligence work.</p>
03:12	<p>From his notes that are available to MONITOR, it even transpires from whom he got his assignments. E.g., recurrent talks with the FIS civil servant Smidt are mentioned.</p> <p>Smidt, internal codename: Sandmann, is head of the entire</p>

	<p>espionnage – east section of the FIS. This department 12 D that is under his control supervises all FIS operatives in the Balkans. And the FIS civil servant von Bezold is so successful in the former Yugoslavia that he becomes highly promoted. On 31 March 1995 he idly documents the happy news,</p>
	<p>[quote and insert from diary]</p> <p>“...a 15 position will be created for me at 12 D. Everything is going quite well!”</p> <p>Shortly thereafter, he indeed is promoted.</p>
03:58	<p>Back in Zagreb, back at the Hotel I, the EU monitors’ headquarter.</p>
04:05	<p>In the EU mission’s map room the clandestine FIS civil servant von Bezold, internal code name: Ebenberg, is busy with planning the next reconnaissance tours throughout Bosnia.</p> <p>Again, we inquire about his employer.</p>
04:19	<p>[quote from interview]</p> <p>Q: Are you a secret service agent?</p> <p>A: Of course not.</p> <p>Q: So no secret service, no FIS nor anything?</p> <p>A: Why should one be?</p>
04:52	<p>How important deems Hans Koschnick, former EU administrator in Mostar, the EU monitors’ neutrality to be?</p>
04:57	<p>[quote from interview]</p> <p>A: It is very important, because one has to know that this was the first attempt of the CSCE, together with the EU, to see on site what is going on, so that we can react to a crisis, and one can only observe if one’s not married to neither side, one has to embrace this position neutrally in order to realize on both sides what is evolving there, that’s uncontested.</p>

	<p>Also, it would mean an abuse of the OSCE's mandate if, instead of neutral monitors of the OSCE, let's say, the staff of secret services from around the world would congregate.</p>
	<p>Q: What the repercussions if EU monitors act as secret FIS agents?</p> <p>A: Disgrace for the country that sent them. I don't know if the Serb or the Croat or the Muslim side or whoever already have the feeling that those guys were somehow phony. So, you can't really tell what's the impact. I mean, the only question is, it's a discrimination of the task, and it would be damaging for the reputation of German politics."</p>
05:55	<p>Zagreb, Hotel I, the EU monitors' headquarters. The bar is a trading floor for news. Also, secret operations are being planned here, such as, according to information of MONITOR, a campaign that involved smuggling of about 2 million Deutschmarks into embattled Tuzla in support of the Muslims – by a German EU monitor.</p>
06:15	<p>But that's far from being all.</p> <p>In Munich, we have an appointment with an informant from the FIS. She had already told us on the phone about illegal shipments of arms and ammunition. At our meeting, she hands over secret documents, and even reports shipments of arms into the Muslim enclaves, camouflaged as humanitarian relief aid – lead by German employees of the FIS. A clear breach of the United Nations' arms embargo.</p> <p>What she is telling us is reinforced by an affidavit that is handed over to us. Wrapped up in this operation is again the German Head of delegation, Christoph von Bezold.</p>

06:59	<p>[quote]</p> <p>“...von Bezold told me that he was heading a convoy with relief supplies for bosnian enclaves when he realized that, in the milk powder cardboard boxes designated for a childrens’ hospital, he was transporting arms and ammunition....according to his statements, he frequently managed such kind of shipments, together with a colleague.”</p>
07:20	<p>A neutral EU monitor would have had to stop the shipment at once, but not Christoph von Bezold who, according to the statements of informants, consciously brought the weapons to the Bosnian Muslims.</p> <p>And there was at least one more shipment of arms. The affidavit of a second witness substantiates the accusation; this time, the arms had been hidden in flour bags.</p>
07:40	<p>[quote]</p> <p>“..when he (CvB) opened one of the flour bags out of curiosity, he saw that he had a larger amount of handguns in his vehicle”. Again, the shipment ended up with the Muslims.</p>
07:51	<p>These illegal arm shipments were not only escorted, but also organized by the FIS. This has been corroborated to MONITOR by several FIS informants, independently from one another.</p>
08:00	<p>Shipments of arms, camouflaged as aid for the suffering civil population. This way, guns, machine guns and ammunition were smuggled through the war zone.</p> <p>Here, at a Bosnian Serb checkpoint near Ilige, ammunition is detected, hidden underneath containers of humanitarian relief supply. The 20.000 rounds of sniper ammunition were intended for the Bosnian Muslims.</p> <p>Not an isolated incident.</p> <p>And in a lot of arm shipments, camouflaged in this way, EU monitors were involved.</p>

08:30	Officially, the guys in white pretend not to know anything about these operations that sabotage international agreements, just as little as they like to be connected with the FIS.
	[quote] “Well, this about the secret service, I’d rather leave that out, I mean, I would not broadcast that, that isn’t good”.
	- end -

ANNEX “B”

“FIS as Arms smuggler”, MONITOR, 27 February 1997

(starts at 14:52 Disc 2 : “BND als Waffenschieber”)

Location/ Subject	
Zagreb	Zagreb, the capital of Croatia, as of these days.
Hotel I	In the outskirts, here at the Hotel I, the monitors of the EU have their headquarters. During the war, victims on all sides trusted in the neutral and unbiased help of the Men in White.
V Bezold	This man – Christoph von Bezold – betrayed the idea of neutral help. MONITOR unmasked the then head of the German delegation as an agent of the Federal Intelligence Service. A spy in white, a gross violation of the imperative of neutrality that had been incorporated in international treaties. After MONITOR’s blow up, the agent has been withdrawn.
Parliament (Bundestag)	Since then, the federal government has been exposed to embarrassing questions.
Crest	In German parliament, it is admitted that v Bezold is coming from the FIS, but he is said to have been dispensed from his former assignments.
Kinkel	And Secretary of State Klaus Kinkel let it be clarified on 20 September 1996:
Quote	“There are no more secret service men on the German delegation”.
Elevator	This is wrong. In the meantime, several former EU montitors have been reporting to MONITOR. After long preliminary talks, one of them is ready to meet us. What he is telling us undercover in front of the camera, he also confirms in an affidavit.

quote	<p>“V. Bezold has been and still is a full-time employee of the FIS. During his activity within the monitoring mission, he exclusively fulfilled tasks assigned by the FIS. A second full-time FIS employee is named Grapengeter. I know them both, as well as a Mr. Lieschke.”</p>
Notebook	<p>The notebook of the the covert FIS agent von Bezold is available to MONITOR. Indeed, in 1995, the name “Grapengeter” appears again and again.</p>
Photo	<p>Arnd Grapengeter, codename: “Hochdorn”, used to be Colonel in sub section 12, the Balkans section of the FIS; before his deployment in ex-Yugoslavia, he was “Resident” of the FIS in Rome.</p>
Quote	<p>“The FIS man Grapengeter was deputy head of the mission, i. e. deputy military head. Thus, the FIS man Grapengeter had contacts to the highest ranks of the Croatian and Bosnian military.</p>
“Residentur”	<p>We discover the secret control centre of the FIS in Croatia, the so-called “Residentur”, within this Zagreb neighbourhood populated by diplomats. It is here where the FIS agents, camouflaged as neutral EU monitors, got their assignments.</p>
Quote	<p>“Among other things, money was brought from Zagreb to Bihac, sometimes amounts of as much as 50.000 Deutschmark, and infantry ammunition was smuggled into Bihac as well.”</p>
Bihac	<p>Smuggling of arms and ammunition under the neutral flag of the European Union</p> <p>This shipment blew up at ?. Hidden under relief supply. A few thousand rounds of ammunition. FIS employees, disguised as neutral EU monitors, organized those kind of “relief supply”. Especially the Serb-beleaguered Muslim enclave of Bihac was covertly supported with ammunition. Hidden in relief supply shipments, the FIS agent v Bezold smuggled gun ammunition</p>

	<p>from Zagreb to Bihac, at least five times. This is illegal –a gross violation of the imperative of neutrality of EU monitors.</p> <p>The final destination the arms smugglers from Pullach had in mind: the hospital of Bihac. Whenever the German EU monitors brought in relief supplies, Muslim soldiers came at night to collect the packages, as it is confirmed by a doctor in personal conversation.</p> <p>Here, in the storage room of the hospital, the ammunition was put into interim storage. The staff remember the Germans well. Evidence of the German relief supply can be found in the files of the administrative director. As he tells us, he also observed that the packages delivered by the German EU monitors contained gun ammunition.</p>
Quote administrative director	<p>“I get an urgent phone call, the army monitors (sic) are coming with their jeep, they deliver 10 , 15 packets of milk powder. I take them to the storage room, I didn’t know, I take it to the children’s hospital, but then, there was only ammunition inside.”</p>
Screen-shot EU report	<p>Manifestations of illegal supplies of ammunition to Bihac, camouflaged as milk powder supplies, can also be found in the internal files of the EU monitoring mission.</p> <p>On 7 March 1994, one of these shipments blew up. Responsible for this transport: the FIS agent v Bezold. According to the internal report, this involved 17.280 rounds of gun ammunition.</p>
Quote	<p>“Christoph v Bezold brought ammunition to Bihac. As far as I know, also deliberately. I found that life-endangering, personally and also for my team, as the aggressive attitude of the Serbs towards us in the Krajina, where I was deployed at the time, increased tremendously after it became known that a German EU monitor tried to smuggle ammunition through the Krajina.”</p>

"Residentur"	<p>Arms smuggling by the FIS. Illegal – and life-endangering for the really neutral EU monitors.</p> <p>Back to the control center, back to the FIS- "Residentur" in Zagreb. Here, it was also talked about other shipments of arms. Again in on it: FIS agents, camouflaged as EU monitors.</p>
Quote	<p>A: "The aim of the talks was to find out how it was possible to enable the Croatian army to seize the Serb areas, i. e. the Kraijna, East- and West Slavonia. What do they need, and how could one possibly help them?"</p> <p>Q: "Can you perhaps remember some more details, maybe the wording?"</p> <p>A: "It's difficult to remember the wording. But it was about the possibility to deliver MiG 21 – unarmed, i. e. without the weapon system – to the Croatian army, and then Croatia could get the arms somewhere else, in other ways."</p>
Photos	<p>MIG-21 airplanes of the Croatian Air Force at the stronghold Zagreb-Pleso.</p> <p>They demonstrably came from Germany, were given a complete overhaul in the former Soviet Union and delivered to Croatia via Hungary.</p> <p>MIG-21 airplanes, not the only weaponry from Germany that ended up in Croatia.</p> <p>Combat helicopters, tanks, artillery – many of the weapons that decided the outcome of the war had been delivered with the help of the FIS, according to information of the American Defense Intelligence Service DIA. This is also confirmed by the internationally acknowledged military expert Paul Beaver.</p>
Quote	<p>"The allegations from western intelligence, especially the British and the American, were that the weapons from East-Germany could not have been smuggled to the Croatian army without someone from the top organizing and allowing it. One</p>

	cannot secretly smuggle arms without making sure that, for example, customs do not open suspicious freight, air traffic controllers don't ask silly questions, police won't stop the transport. This, that is the assessment of western intelligence, was the task of the FIS. Without the German intelligence service, the smuggling could not have been accomplished.”
Hotel	Zagreb, Hotel I, the German EU monitors' headquarters. At the tennis court next door, also the FIS agents relax from their duty.
Photo	By the way, the tennis partner of v Bezold is Heinz Dengler. He used to be test pilot of the German Air force. His specialty: MIG airplanes. Coincidence?
	-stop -

ANNEX "C"

Sunday Telegraph, 20 April 1997

German spies accused of arming Bosnian Muslims

By Tim Judah

GERMANY'S espionage service is in turmoil following revelations that spy chiefs ran covert and illegal operations sending arms to Bosnia's Muslims and Croatia during the war in the former Yugoslavia.

The German parliament's secretive Control Commission, which oversees the country's intelligence services, has demanded answers from the country's intelligence chiefs about details of a massive arms trafficking network which broke both German and international law.

For the first time in Britain The Telegraph can reveal details of the charges being laid at the door of the BND, the German spy service. One of the most damaging is that the BND infiltrated the European Union's monitoring missions in former Yugoslavia and used them as cover to run arms and cash to Bosnia's Muslim forces. They have been accused of smuggling munitions hidden in boxes of powdered milk across Serb-held territory to Muslim troops.

The EU monitors were officially supposed to help arrange ceasefires and assist in humanitarian aid work. In fact a large proportion of them, including the British contingent, were spies. The BND's agents, however, crossed the line from espionage into gun-running.

The allegations were first made on the German television programme Monitor, which is similar to the BBC's Panorama. According to Monitor, the key man in the gun-running operation was Christoph von Bezold, head of the 24 German EU monitors in the Croatian capital, Zagreb. In fact Mr von Bezold's employer was BND section 12D, responsible for Balkan affairs.

A former EU monitor said last week: "Money was transported from Zagreb to Bosnia-Herzegovina. There were amounts of up to DM50,000 [then worth \$22,000]. Infantry munitions were also shipped to [Muslim-held] Bihac." Another source said that a German EU monitor carried DM2 million to the beleaguered Bosnian town of Tuzla.

Other former EU monitors claimed that on the March 27, 1994, von Bezold was responsible for a major shipment of munitions to Bihac. Besim Handzic, Bihac's hospital director, said: "They called me during an emergency saying the EU monitors were coming in their Jeeps bringing 10-15 boxes of powdered milk. I put them in the store because I did not know there was ammunition inside." The BND's delivery, one of many smuggled across Serb lines, was then collected at night by Bosnian troops.

Monitor alleges that according to an internal EU report 17,280 bullets were transported on that occasion by von Bezold "but that this was not made public". Both von Bezold and the BND have denied charges but the BND noted that that it "did not comment on personnel matters".

While members of the Control Commission are not allowed to discuss what happens in their sessions, Manfred Zuch, a deputy for the Green Party and a member of the Commission, told The Telegraph that the peculiar wording of the BND's denials meant this "left often the possibility that while details may be wrong the overall picture may be right".

The German television programme was also told by a former monitor that his colleagues had discussed "how the Croatian Army could be put in a position of being able to conquer the Serb-occupied zones . . . what they needed and what we could do to help".

One significant German contribution was the delivery of former East German MiG-21 war planes. These had been based near Berlin and are believed to have been smuggled to Croatia via Hungary.

Virtually all experts on the Croatian military concur that a large part of its hardware built up between 1991 and 1995 came from the former East Germany.

The gun-running allegations are now a major issue in the German parliament. Under German law it is illegal not only for the BND to infiltrate the EU monitoring missions, but also to ship arms to a war zone. The consignments also broke the UN arms embargo on the former Yugoslavia. Jo Angerer, an investigative reporter on Monitor, says the Control Commission must determine whether "the BND was running operations with or without government approval. If it did have approval then this is an even more serious issue."

When the war broke out, Britain and the US did not want to get involved in arming Croatia, says Paul Beaver, an expert in Balkan security. After meetings "at a high European level" it was indicated to the Germans "OK, it's your bag of tricks, you sort it out". However, "German support seemed to go further than the British and Americans had expected".

By 1994 the Americans especially were alarmed that the Croats, far from being helped into military balance, would end up far better armed than the Serbs. This would provoke a major arms race in the region which would suck in the Russians.

For many German politicians, however, the nub of the problem may not be the BND's operations at all - rather that it appears to have been caught out.

ANNEX “D”

IT-95-5/18-T
11 March 2011D48693
TRPUBLIC 

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

11 March 2011

The Honorable Thomas Laufer
Ambassador, Embassy of Government of Germany
Groot Hertoginnelaan 18-20
The Hague, The Netherlands

Dear Mr. Ambassador,

Since your *Response of the Federal Republic of Germany* filed on 18 June 2010 in which you advised the Trial Chamber that your government did not possess any of the requested documents ordered to be produced, my defence team has continued to investigate allegations that German government employees were involved in the smuggling of arms to the Bosnian Muslims.

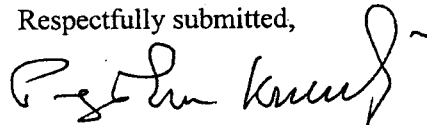
We have obtained additional information from the European Union and other sources and have now determined that it is necessary to interview Christoph van Berzold, who claimed to be employed by the Foreign Ministry of Germany and was seconded to the European Union Monitoring Mission in Zagreb in 1994 and 1995. The interview will concern Mr. van Berzold's knowledge of or participation in the smuggling of ammunition to the Bosnian Muslim Army in March 1994.

Therefore, I am respectfully requesting that your government authorize my Legal Advisor Peter Robinson to interview Mr. van Berzold. I would have no objection to a representative of the government of Germany being present during the interview.

I would appreciate it if you would contact my Legal Advisor Peter Robinson at peter@peterrobinson.com to arrange the interview. Absent the voluntary cooperation of the German government, we will ask the Trial Chamber to issue a subpoena for Mr. van Berzold.

Thank you very much for your consideration of this request

Respectfully submitted,



Dr. Radovan Karadzic

cc: Trial Chamber III
Office of the Prosecutor

ANNEX "E"



Botschaft
der Bundesrepublik Deutschland
Den Haag
Ambassade
van de Bondsrepubliek Duitsland

Den Haag, 25th March 2011

Gz.: Re-1 502.40 E Karadzic

(Bitte bei Antwort angeben)

Mr Peter Robinson
Legal Advisor to Dr. Radovan Karadzic

peter@peterrobinson.com

via e-mail

Subj.: Radovan Karadzic case - ICTY

Ref.: Letter by Dr. Karadzic dated 11th March 2011

Dear Mr Robinson,

With reference to the letter addressed by Dr Karadzic to the Ambassador of the Federal Republic of Germany to the Netherlands and dated 11th March 2011, I must inform you that neither Article 29 of the ICTY Statute nor Rule 39 of its Rules of Procedure and Evidence provide any basis for the request, nor are we aware of any jurisdiction of the ICTY that would extend these regulations to apply to requests by the defence. Similarly, German law on international legal assistance does not contain any basis for such a request either.

We are therefore not in a position to grant the request.

As requested by Dr Karadzic, this letter will be send by e-mail to peter@peterrobinson.com . Therefore, I would be grateful if you could confirm the receipt of this letter by e-mail to ambduits@euronet.nl .

Yours sincerely,

b.o.

Dr. Felix Neumann
Counsellor, Legal Affairs