

THE MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS

CASE No. MICT-13-55-A
CASE No. MICT-15-90

THE PRESIDENT

Before: Judge Theodor Meron

Registrar: Mr. John Hocking

Date: 5 May 2016

THE PROSECUTOR

THE PROSECUTOR

v.

v.

RADOVAN KARADZIC

PAULINE NYIRAMASUHUKO ET AL

Public

MOTION FOR REDACTED VERSION
OF DECISION

Received by the Registry
Mechanism for International Criminal Tribunals
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The Office of the Prosecutor:
Mr. Serge Brammertz

Counsel for the Applicant:
Mr. Peter Robinson for Radovan Karadzic

Counsel for Shalom Ntahobali:
Mr. Norman Marquis and Ms. Mylene Dimitri

1. Dr. Radovan Karadzic respectfully moves for the issuance of a redacted version of the *Decision on Ntahobali's Request for Review of Registrar's Decisions* (21 February 2014) issued by the ICTR Appeals Chamber in the *Nyiramasuhuko et al* case.

2. On 4 May 2016, the Appeals Chamber in the *Karadzic* case rendered its *Decision on the Registry's Request for Observations on the Preparation of the Notice of Appeal*. In doing so, it relied upon the *ex parte* and confidential decision from the ICTR's *Nyiramasuhuko* case.¹

3. The decision was cited for the proposition that “the Appeals Chamber has “jurisdiction to review matters affecting the right of the accused to have adequate time and facilities for the preparation of his defence, pursuant to its statutory obligation to ensure the fairness of the proceedings.”²

4. Dr. Karadzic has a legitimate forensic purpose to access the *Nyiramasuhuko* decision. As a party to the case in which the decision was relied upon, principles of transparency require that he be able to review the rationale and holding of the underlying decision. When a Chamber relies upon a decision not available to the parties, it must be prepared to make the rationale and holding of that decision available to the parties as part of its duty to provide a reasoned decision.³

5. It is well established that all proceedings before the Mechanism shall be public unless there are exceptional reasons for keeping them confidential.⁴

6. In addition, Dr. Karadzic expects to be faced with the prospect of seeking review of the Registrar's decision on his request for an increase in the allocation of funds for his appeal, and needs to examine the rationale and holding of the cited decision to

¹ Fn. 10

² p. 3

³ Article 21(2), as applied to interlocutory decisions: *Prosecutor v Karemera et al*, No. ICTR-98-44-AR73(C), *Decision on Prosecutor's Interlocutory Appeal of Decision on Judicial Notice* (16 June 2006) at para. 15, fn. 21; *Prosecutor v Milutinovic et al*, No. IT-99-37-AR65, *Decision on Provisional Release* (30 October 2002) at para. 6; *Prosecutor v Haradinaj et al*, No. IT-04-84-AR65.1, *Decision on Ramush Haradinaj's Modified Provisional Release* (10 March 2006) at para. 23; *Prosecutor v Popovic*, No. IT-05-88-AR65.3, *Decision on Interlocutory Appeal of Trial Chamber's Decision Denying Ljubomir Borovcanin Provisional Release* (7 March 2007) at para. 13

⁴ *Prosecutor v Lukic*, No. MICT-14-67-R.1, *Decision on Sreten Lukic's Application for Review* (8 July 2015) at para. 8; *Prosecutor v Kamuhanda*, No. MICT-12-33-R86.1, *Decision on a Motion to Reclassify a Submission by the Registry* (5 February 2016), p. 2; *Prosecutor v Oric*, No. MICT-14-79, *Decision on an Application for Leave to Appeal the Single Judge's Decision of 10 December 2015* (17 February 2016) at para. 8

determine whether to bring a request for review before the Appeals Chamber or the President.

6. However, because the *Nyiramasuhuko* decision was filed *ex parte* and confidential, only the Appeals Chamber and President have access to it.

7. Therefore, Dr. Karadzic respectfully requests that the President to appoint a Single Judge, or an Appeals Chamber, to consider ordering that a redacted version of the *Decision on Ntahobali's Request for Review of Registrar's Decisions* (21 February 2014), which can reveal the legal reasoning of the decision while protecting confidential information, be issued and disclosed to him.

Word Count: 628

Respectfully submitted,

A handwritten signature in black ink, reading "Peter Robinson". The signature is written in a cursive, flowing style with large, connected letters.

PETER ROBINSON
Counsel for Radovan Karadzic



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Date Created/ Daté du :	5 May 2016	Date transmitted/ Transmis le :	5 May 2016
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