

**UNITED
NATIONS**



Mechanism for International Criminal Tribunals

Case No.: MICT-13-55-A
MICT-15-96-T

Date: 27 July 2017

Original: English

IN THE APPEALS CHAMBER

Before:

**Judge Theodor Meron, Presiding
Judge William Hussein Sekule
Judge Vagn Prüsse Joensen
Judge José Ricardo de Prada Solaesa
Judge Graciela Susana Gatti Santana**

Registrar:

Mr. Olufemi Elias

Decision of:

27 July 2017

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

**DECISION ON A REQUEST TO PROVIDE
STANIŠIĆ AND SIMATOVIĆ ACCESS TO A
CONFIDENTIAL DECISION IN THE *KARADŽIĆ* CASE**

The Office of the Prosecutor

Mr. Serge Brammertz
Ms. Laurel Baig
Ms. Barbara Goy
Ms. Katrina Gustafson
Mr. Douglas Stringer

Counsel for Mr. Radovan Karadžić

Mr. Peter Robinson
Ms. Kate Gibson

Counsel for Mr. Jovica Stanišić

Mr. Wayne Jordash
Mr. Scott Martin

Counsel for Mr. Franko Simatović

Mr. Mihajlo Bakrač
Mr. Vladimir Petrović

THE APPEALS CHAMBER of the International Residual Mechanism for Criminal Tribunals (“Appeals Chamber” and “Mechanism”, respectively);¹

BEING SEISED OF the “Prosecution Request to Provide Stanišić and Simatović access to a confidential decision in the *Karadžić* case” filed by the Prosecution confidentially and *ex parte* with a confidential and *ex parte* annex on 23 June 2017 (“Motion”), in which the Prosecution requests that the Appeals Chamber grant access to a redacted version of a confidential decision in the *Karadžić* case to the defendants in the case of *Prosecutor v. Stanišić and Simatović*, Case No. MICT-15-96-T;²

NOTING Karadžić’s response filed on 28 June 2017, stating that he does not oppose the Motion but requests that, instead of providing access to the decision only to the parties, the Appeals Chamber make the Decision, and its unique jurisprudence, available to the public in a public redacted version;³

NOTING the Prosecution submission that there is a legitimate forensic purpose for Stanišić and Simatović to have access to the legal reasoning in the Decision, which is the only jurisprudence currently available on the interpretation of Rule 92 *quinquies* of the Rules of Procedure and Evidence of the International Criminal Tribunal for the former Yugoslavia (“ICTY” and “ICTY Rules”, respectively), since it is relevant to current litigation in the *Stanišić and Simatović* case and because it would be beneficial for the parties in that case to be able to refer to it;⁴

NOTING FURTHER the Prosecution submission that there is no legitimate purpose for Stanišić or Simatović to have access to confidential information regarding the security concerns of a protected witness discussed in the Decision;⁵

NOTING ALSO Karadžić’s submission that the scope of certain redactions proposed by the Prosecution should be reduced to enable a better understanding of the Decision without revealing confidential information;⁶

¹ Order Assigning Judges to a Case Before the Appeals Chamber, 20 April 2016.

² Prosecution Request to Provide Stanišić and Simatović Access to a Confidential Decision in the *Karadžić* case (confidential and *ex parte* with confidential and *ex parte* Annex A), 23 June 2017, paras. 1, 6, referring to Decision on Prosecution Motion to Admit Prior Evidence of Milan Tupajić Pursuant to Rule 92 *Quinquies*, 7 May 2012 (confidential)(“Decision”). The Annex to the Motion sets out redactions to the Decision as proposed by the Prosecution. See Annex A, Motion, paras. 8, 17, 18.

³ Response to Prosecution Request to Provide Access to Rule 92 *Quinquies* Decision, 28 June 2017 (“confidential”)(“Response”), paras. 1, 2.

⁴ Motion, paras. 1, 2, 4.

⁵ Motion, para. 5.

⁶ Response, para. 2. In particular, Karadžić submits that the second and last sentences of paragraph 18 of the Decision should not be redacted. See Response, para. 2.

RECALLING that all proceedings before the Mechanism and the ICTY shall be public unless exceptional reasons require keeping them confidential;⁷

RECALLING FURTHER that, with regard to confidential material, the Mechanism must find a balance between the right of a party to have access to material to prepare its case and the need to guarantee the protection of witnesses and the confidentiality of sensitive information;⁸

FINDING that issuing a public redacted version of the Decision will provide access to its legal reasoning to Stanišić and Simatović as well as to the public without inappropriately revealing any sensitive information;

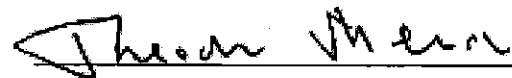
FINDING FURTHER that reducing the redactions proposed by the Prosecution as suggested by Karadžić would enable a better understanding of the legal reasoning in the Decision without revealing any confidential information;

HEREBY GRANTS the Motion; and

ISSUES, as an annex to the present decision, a public redacted version of the Decision.

Done in English and French, the English version being authoritative.

Done this 27th day of July 2017,
At The Hague,
The Netherlands


Judge Theodor Meron
Presiding Judge

[Seal of the Mechanism]

⁷ See *Prosecutor v. Naser Orić*, Case No. MICT-14-79, Decision on an Application for Leave to Appeal the Single Judge's Decision of 10 December 2015, 17 February 2016, para. 8, referring to Article 18 of the Statute of the Mechanism and Rules 92 and 131 of the Rules; *Prosecutor v. Ramush Haradinaj et al.*, Case No. IT-04-84-A, Decision on Lahi Brahimaj's Application for Provisional Release, 27 May 2009, para. 5, referring to Rules 69, 78, and 107 of the ICTY Rules; *Prosecutor v. Enver Hadžihasanović and Amir Kubura*, Case No. IT-01-47-A, Order Concerning Confidential Filings, 4 May 2007, p. 2, referring to Rules 78 and 107 of the ICTY Rules. See also Article 21(2) of the ICTY Statute.

⁸ See Decision on a Motion for Public Redacted Versions of Rule 86(F) Jurisprudence, 6 April 2017, p. 2; Decision on a Motion for Access to *Ex Parte* Filings in Completed Cases, 10 May 2016, p. 2 and references cited therein.

ANNEX

**UNITED
NATIONS**



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

Case No.: IT-95-5/18-T

Date: 7 May 2012

Original: English

IN THE TRIAL CHAMBER

Before: Judge O-Gon Kwon, Presiding Judge
Judge Howard Morrison
Judge Melville Baird
Judge Flavia Lattanzi, Reserve Judge

Registrar: Mr. John Hocking

Decision of: 7 May 2012

PROSECUTOR

v.

RADOVAN KARADŽIĆ

[REDACTED]

**DECISION ON PROSECUTION MOTION TO ADMIT PRIOR EVIDENCE OF MILAN
TUPAJIĆ PURSUANT TO RULE 92 *QUINQUIES***

Office of the Prosecutor

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

The Accused

Mr. Radovan Karadžić

Standby Counsel

Mr. Richard Harvey

THIS 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 (“Tribunal”) is seised of the “Prosecution Motion Pursuant to Rule 92 *quinqies* to Admit Transcripts of the Prior Testimony of Milan Tupajić and Associated Exhibits”, filed confidentially on 17 April 2012 (“Motion”), and hereby issues its decision thereon.

I. Background and Submissions

1. On 23 September 2011, the Chamber issued the “Decision on Prosecution’s Motion to Subpoena Milan Tupajić”, granting the request of the Office of the Prosecutor (“Prosecution”) to issue a subpoena ordering Milan Tupajić (“Witness”) to appear and testify before the Chamber in this case commencing on 3 October 2011. On the same day, the Chamber issued a confidential subpoena (“First Subpoena”)¹ ordering the Witness to testify before the Chamber or to show good cause why the subpoena could not be complied with.² In addition, the Chamber requested the government of Bosnia and Herzegovina (“BiH”) to serve the First Subpoena on the Witness, to take all necessary measures to ensure that he appears to testify before the Chamber as indicated in the First Subpoena, and to provide a written report on the execution of the First Subpoena.³

2. On 10 October 2011, BiH submitted the memorandum of service of the First Subpoena and accompanying documentation, which included correspondence from the Witness and some medical documentation (“First Memorandum of Service”). These were translated into English and filed confidentially on 26 October 2011. The First Memorandum of Service indicated that the Witness had read the First Subpoena and was unwilling to appear before the Chamber.⁴ In the accompanying correspondence, the Witness stated that although he had testified in the case of *Prosecutor v. Krajišnik* (“*Krajišnik* case”), he was unwilling to come to testify in these proceedings primarily due to his current medical problems but also because of “secondary reasons”.⁵ The Witness submitted lengthy medical documentation in support of his claim that he was unfit to travel and testify.⁶

3. On 27 October 2011, the Prosecution filed confidentially the “Prosecution Motion for Order in Lieu of an Indictment and for Warrant of Arrest”, requesting the Chamber to issue an order in

¹ Subpoena Ad Testificandum, confidential, 23 September 2011.

² First Subpoena, p. 2.

³ Order to the Government of Bosnia and Herzegovina Concerning Subpoena Ad Testificandum, confidential, 23 September 2011, p. 2.

⁴ First Memorandum of Service, pp. 3–4.

⁵ First Memorandum of Service, pp. 4–7.

⁶ First Memorandum of Service, Annex, pp. 1–13.

lieu of indictment charging the Witness with contempt of the Tribunal pursuant to Rule 77(A) and (G) of the Tribunal's Rules of Procedure and Evidence ("Rules") and an accompanying warrant of arrest and order for surrender.⁷

4. On 3 November 2011, the Chamber issued confidentially a second subpoena once again ordering the Witness to appear and testify in these proceedings ("Second Subpoena").⁸ The Chamber noted that the reasons provided by the Witness for his refusal to comply with the First Subpoena did not constitute a just excuse and therefore reiterated its order requiring him to appear and testify in this case on 28 November 2011 or to show good cause why he could not so comply.⁹ On the same day, the Chamber issued an order to BiH to serve the Second Subpoena on the Witness, to take all necessary measures to ensure that he appears to testify before the Chamber as indicated in the Second Subpoena, and to provide a written report on the execution of the Second Subpoena.¹⁰

5. On 8 November 2011, BiH submitted the memorandum of service of the Second Subpoena ("Second Memorandum of Service"). This was translated into English and filed confidentially on 11 November 2011. The Second Memorandum of Service indicated that the Witness continued to refuse to comply with the Second Subpoena, stating that his reasons were given to the Chamber previously.¹¹

6. On 30 November 2011, the Chamber issued an Order in Lieu of Indictment in which it ordered that the Witness be prosecuted for contempt of the Tribunal, punishable under Rule 77(A) and (G) of the Rules for

having been informed on 5 October 2011 and 8 November 2011, respectively, of the contents of the two subpoenas dated 23 September 2011 and 3 November 2011, and of his obligation to appear before the Chamber or to show good cause why he could not comply with the two subpoenas and therefore knowingly and wilfully interfering with the administration of justice by refusing to comply with the Chamber's First Subpoena of 23 September 2011 and Second Subpoena of 3 November 2011.¹²

⁷ Prosecution Motion for Order in lieu of Indictment and for Warrant of Arrest, p. 2.

⁸ Second Subpoena Ad Testificandum, confidential, 3 November 2011.

⁹ Second Subpoena, pp. 2-3.

¹⁰ Order to the Government of Bosnia and Herzegovina Concerning Second Subpoena Ad Testificandum, confidential, 3 November 2011.

¹¹ Second Memorandum of Service, pp. 2-3.

¹² Order in Lieu of Indictment, confidential, 30 November 2011, para. 9. The confidentiality was lifted on 14 December 2011.

On the same day, the Chamber issued confidentially a warrant for arrest and order for surrender to the authorities of BiH to arrest, detain, and promptly surrender the Witness to the Tribunal.¹³

7. The Witness was transferred to the seat of the Tribunal on 15 December 2011, and his trial was held on 3 February 2012. On 24 February 2012, the Chamber issued its “Judgement on Allegations of Contempt” (“*Tupajić* Judgement”), wherein it found that the Witness had not demonstrated any just excuse as to why he could not comply with the First Subpoena and the Second Subpoena.¹⁴ Consequently, the Chamber found the Witness guilty of contempt and sentenced him to a single sentence of two months of imprisonment.¹⁵

8. In the Motion, the Prosecution requests the admission, pursuant to Rule 92 *quinqüies*, of the transcripts of the Witness’s prior testimony in the *Krajišnik* case together with the associated exhibits listed in confidential Annex A to the Motion.¹⁶ The Prosecution argues that all the requirements of Rule 92 *quinqüies* are met. In particular, the Prosecution first submits that the Witness failed to attend as a witness in these proceedings despite reasonable efforts to secure his attendance.¹⁷ In that respect, the Prosecution indicates that the Witness recently confirmed that his refusal to so appear persists.¹⁸ [REDACTED].¹⁹ The Prosecution notes that the Witness’s willingness to be convicted and sentenced for not complying with the subpoenas issued by the Chamber illustrates the degree to which he has been influenced.²⁰ The Prosecution submits that under Rule 92 *quinqüies*, the ‘material interference’ need not be criminal or satisfy the objective requirements that would excuse a witness from not complying with a subpoena under Rule 77(A)(iii), and that it need not be the only factor bearing on the witness’s failure to attend.²¹ In particular, the Prosecution contends that the fact that the Chamber did not find that the Witness’s security concerns constituted a just excuse under Rule 77(A)(iii) is not determinative for the purpose of examining whether a witness has been “materially influenced” within the meaning of Rule 92 *quinqüies*.²² Finally, the Prosecution argues that admitting the Witness’s prior evidence best serves the interests of justice in that it is reliable, primarily relevant to the crime base

¹³ Warrant of Arrest and Order for Surrender, confidential, 30 November 2011. The confidentiality was lifted on 14 December 2011.

¹⁴ *In the Contempt case of Milan Tupajić*, Case No. IT-95-5/18-R77.2, Judgement on Allegations of Contempt, 24 February 2012 (“*Tupajić* Judgement”), paras. 26, 30.

¹⁵ *Tupajić* Judgement, para. 36.

¹⁶ Motion, para. 1, Confidential Annex A.

¹⁷ Motion, para. 5.

¹⁸ Motion, para. 5, Confidential Annex D.

¹⁹ [REDACTED]

²⁰ Motion, paras. 13–15.

²¹ Motion, paras. 7–9.

²² Motion, para. 16.

allegations in the Third Amended Indictment, and as far as it relates to the acts and conduct of the Accused, does not go to the “heart of his responsibility”.²³ The Prosecution thus submits that “[a]dmission would ensure that relevant evidence was not kept from the Trial Chamber and that those who pressure, intimidate, threaten or otherwise interfere with witnesses and prospective witnesses are not encouraged by the success of such efforts in frustrating the objectives of justice”.²⁴

9. The Accused filed his “Response to Motion to Admit Testimony of Milan Tupajić” confidentially on 1 May 2012 (“Response”), wherein he objects to the Motion. In short, the Accused contends that (i) Rule 92 *quinqüies* violates Article 21(4)(e) of the Tribunal’s Statute (“Statute”) which guarantees to the Accused the right to examine or have examined the witnesses against him;²⁵ (ii) Rule 6(D) of the Rules prevents the retroactive application of Rule 92 *quinqüies* to an ongoing case;²⁶ (iii) the requirements of Rule 92 *quinqüies* have not been met in that the Witness neither “failed to attend” as a witness, nor was “improperly interfered” with,²⁷ reasonable efforts were not made to secure his testimony,²⁸ and the admission of his testimony in the *Krajišnik* case is not in the interests of justice as it is unreliable, goes to the acts and conduct of the Accused, and the Accused is not involved in the alleged interference.²⁹

10. On 3 May 2012, the Prosecution filed confidentially the “Prosecution Reply to Karadžić Response to Motion to Admit Prior Testimony of Milan Tupajić Pursuant to Rule 92 *quinqüies*” (“Reply”).³⁰ The Prosecution first contends that Rule 92 *quinqüies* does not violate the Accused’s right to examine witnesses against him, which is not an absolute right under Article 21(4)(e) of the Statute.³¹ Consequently, the Prosecution submits that Rule 92 *quinqüies* may apply retroactively to this case.³² Third, the Prosecution reiterates that the Witness’s failure to attend as a witness was materially influenced by improper interference and that the Accused attempts to add requirements to the plain meaning of Rule 92 *quinqüies*.³³ Finally, the Prosecution claims that the Witness’s testimony is reliable.³⁴

II. Applicable Law

²³ Motion, paras. 17–23.

²⁴ Motion, para. 17.

²⁵ Response, paras. 3–4.

²⁶ Response, paras. 5–6.

²⁷ Response, paras. 7–15.

²⁸ Response, paras. 16–20.

²⁹ Response, paras. 21–31.

³⁰ See T. 28322 (2 May 2012).

³¹ Reply, paras. 2–3.

³² Reply, paras. 4–6.

³³ Reply, paras. 7–11.

³⁴ Reply, paras. 12–19.

11. Rule 92 *quinquies* was adopted on 10 December 2009. It is entitled “Admission of Statements and Transcripts of Persons Subjected to Interference” and provides as follows:

(A) A Trial Chamber may admit the evidence of a person in the form of a written statement or a transcript of evidence given by the person in proceedings before the Tribunal, where the Trial Chamber is satisfied that:

(i) the person has failed to attend as a witness or, having attended, has not given evidence at all or in a material respect;

(ii) the failure of the person to attend or to give evidence has been materially influenced by improper interference, including threats, intimidation, injury, bribery, or coercion;

(iii) where appropriate, reasonable efforts have been made pursuant to Rules 54 and 75 to secure the attendance of the person as a witness or, if in attendance, to secure from the witness all material facts known to the witness; and

(iv) the interests of justice are best served by doing so.

(B) For the purposes of paragraph (A):

(i) An improper interference may relate *inter alia* to the physical, economic, property, or other interests of the person or of another person;

(ii) the interests of justice include:

(a) the reliability of the statement or transcript, having regard to the circumstances in which it was made and recorded;

(b) the apparent role of a party or someone acting on behalf of a party to the proceedings in the improper interference; and

(c) whether the statement or transcript goes to proof of the acts and conduct of the accused as charged in the indictment.

(iii) Evidence admitted under paragraph (A) may include evidence that goes to proof of the acts and conduct of the accused as charged in the indictment.

(C) The Trial Chamber may have regard to any relevant evidence, including written evidence, for the purpose of applying this Rule.

12. Rule 6(D) provides that “[a]n amendment shall enter into force seven days after the date of issue of an official Tribunal document containing the amendment, but shall not operate to prejudice the rights of the accused or of a convicted or acquitted person in any pending case”.

III. Discussion

13. The Motion is the first application made pursuant to Rule 92 *quinquies* since its adoption. The Chamber will first examine the Accused’s challenge to the applicability of Rule 92 *quinquies* to these proceedings in light of Rule 6(D) which prohibits the retroactive application of a newly

adopted rule to an ongoing case if it “operates to prejudice the rights of the accused”. The Chamber notes the Appeals Chamber’s interpretation of the “rights of the accused” within the meaning of Rule 6(D) as the rights which “encompass only those prerogatives that an accused, acquitted or convicted person is legally entitled to”.³⁵

14. As mentioned above, the Chamber recalls that the wording of Rule 92 *quinquies* reflects the intention of the Tribunal’s Judges to adopt a rule which would cover situations where a person does not attend Tribunal’s proceedings as a witness for reasons beyond those already prescribed by Rule 92 *quater*,³⁶ and where it is in the interests of justice that the witness’s evidence be admitted without cross-examination. Contrary to Rule 92 *bis*,³⁷ and going beyond what is provided for in Rule 92 *quater*,³⁸ Rule 92 *quinquies* specifically allows for the admission of evidence that goes to the acts and conduct of the accused in a manner similar to what is allowed under Rule 92 *ter*, the application of which is subject to the witness’s availability for cross-examination. Rule 92 *quinquies* is therefore the only Rule which potentially favours the admission of evidence that goes to the acts and conduct of the accused without cross-examination in the interests of justice.

15. The Chamber notes that this case was pending at the time Rule 92 *quinquies* was adopted on 10 December 2009.³⁹ As discussed above, in the interests of justice, Rule 92 *quinquies* does “operate to prejudice the rights of the accused”, in particular the Accused’s right under Article 21(4)(e) to examine or have examined the witnesses against him. The Chamber therefore considers, pursuant to Rule 6(D), that Rule 92 *quinquies* may not apply retroactively to this case. However, for the sake of completeness, the Chamber will examine the other challenges raised by the Accused in relation to the requirements for the application of Rule 92 *quinquies*.

16. With regard to the requirements of Rule 92 *quinquies* (A)(i) and (iii), the Chamber recalls the *Tupajić* Judgement in which it found that the Witness failed to appear as a witness in these

³⁵ *Prosecutor v. Međakić et al.*, Case No. IT-02-65-AR11bis.1, Decision on Joint Defence Appeal Against Decision on Referral Under Rule 11 *bis*, 7 April 2006, para. 85; *see also Prosecutor v. Međakić et al.*, Case No. IT-02-65-PT, Decision on Prosecutor’s Motion for Referral of Case Pursuant to Rule 11 *bis*, 20 July 2005, para. 123, stating: “The context of the Rules indicates that the ‘rights’ contemplated are confined, at least, to those rights to which an accused, or a convicted or acquitted person, in a pending case has a legal entitlement, and do not extend to that wide variety of advantages or benefits which are frequently described as rights, particularly by those seeking to secure, but to which there is no legal entitlement”.

³⁶ These are death, inability to trace the witness, or reasons of bodily or mental condition.

³⁷ Rule 92 *bis*(A) provides: “A Trial Chamber may dispense with the attendance of a witness in person, and instead admit, in whole or in part, the evidence of a witness in the form of a written statement or a transcript of evidence, which was given by a witness in proceedings before the Tribunal, in lieu of oral testimony which goes to proof of a matter other than the acts and conduct of the accused as charged in the indictment”.

³⁸ Rule 92 *quater*(B) provides: “If the evidence goes to proof of acts and conduct of an accused as charged in the indictment, this may be a factor against the admission of such evidence, or that part of it”.

³⁹ Scheduling Order for the Commencement of Trial, 14 October 2009; T. 502 (26 October 2009), ordering the trial to commence on 26 October 2009.

proceedings.⁴⁰ In addition, the Prosecution has, since then, made further contact with the Witness who still maintains his refusal to appear before the Chamber.⁴¹ The Chamber is therefore of the view that the Witness has failed to attend as a witness and that reasonable efforts have been made by both the Prosecution and the Chamber to secure his attendance.

17. Turning to Rule 92 *quinqüies* (A)(ii), which requires the Witness to have been “*materially influenced by improper interference, including threats, intimidation, injury, bribery, or coercion*”,⁴² the Chamber considers that the Witness’s reluctance to give evidence *viva voce* must be genuine and that the extent of his fears must be such that it justifies admitting his prior testimony without cross-examination. The Chamber also recalls that the required interference must be “improper”. In presenting the newly adopted Rule to the Security Council, the President of the Tribunal stated that:

[T]he Judges, at the 38th plenary session held on 10 December 2009, adopted a new rule of procedure and evidence—Rule 92 *quinqüies*—in order to regulate the admission of evidence in a trial where witnesses have been made unavailable due to *intimidation and bribery*. This procedural innovation, which provides for the admission of the written statement of a witness who has been *intimidated or bribed*, will enable core proceedings to go forward even where there are attempts to interfere with the administration of justice.⁴³

18. [REDACTED].⁴⁴ The Chamber is not satisfied, however, that these fears are genuine or that they have materially influenced the Witness’s refusal to testify. [REDACTED].⁴⁵ [REDACTED] The Chamber does not consider, without further material in support, that these instances constitute “improper interference” which “materially influenced” the Witness’s failure to attend as a witness in these proceedings within the meaning of Rule 92 *quinqüies*.

19. Therefore, even if the Chamber had considered that Rule 92 *quinqüies* could apply to these proceedings, it is not satisfied that the elements of Rule 92 *quinqüies* have been met in this instance.

IV. Disposition

20. Accordingly, the Chamber, pursuant to Rules 6(D) and 92 *quinqüies* of the Rules, hereby **DENIES** the Motion.

⁴⁰ *Tupajić* Judgement, paras. 17–18.

⁴¹ Motion, Confidential Annex D.

⁴² Emphasis added.

⁴³ Letter dated 31 May 2010 from the President 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, addressed to the President of the Security Council, S/2010/270, 1 June 2010, para. 35 (emphasis added).

⁴⁴ [REDACTED]

⁴⁵ [REDACTED]

Done in English and French, the English text being authoritative.

Judge O-Gon Kwon
Presiding

Dated this seventh day of May 2012
At The Hague
The Netherlands

[Seal of the Tribunal]



**TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH THE
MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS/
FICHE DE TRANSMISSION POUR LE DÉPÔT DE DOCUMENTS DEVANT LE
MÉCANISME POUR LES TRIBUNAUX PÉNAUX INTERNATIONAUX**

I - FILING INFORMATION / INFORMATIONS GÉNÉRALES

To/ À :	MICT Registry/ <i>Greffe du MPTI</i>	<input type="checkbox"/> Arusha/ <i>Arusha</i>	<input checked="" type="checkbox"/> The Hague/ <i>La Haye</i>		
From/ De :	<input checked="" type="checkbox"/> Chambers/ <i>Chambre</i>	<input type="checkbox"/> Defence/ <i>Défense</i>	<input type="checkbox"/> Prosecution/ <i>Bureau du Procureur</i>	<input type="checkbox"/> Other/ <i>Autre :</i>	
Case Name/ Affaire :	Prosecutor v. Radovan Karadžić		Case Number/ Affaire n° :	MICT-13-55-A MICT-15-96-T	
Date Created/ Daté du :	27 July 2017	Date transmitted/ Transmis le :	27 July 2017	No. of Pages/ Nombre de pages :	13
Original Language / Langue de l'original :	<input checked="" type="checkbox"/> English/ <i>Anglais</i>	<input type="checkbox"/> French/ <i>Français</i>	<input type="checkbox"/> Kinyarwanda	<input type="checkbox"/> B/C/S	<input type="checkbox"/> Other/ <i>Autre</i> (specify/préciser) :
Title of Document/ Titre du document :	DECISION ON A REQUEST TO PROVIDE STANIŠIĆ & SIMATOVIĆ ACCESS TO A CONFIDENTIAL DECISION IN THE KARADŽIĆ CASE				
Classification Level/ Catégories de classification :	<input checked="" type="checkbox"/> Unclassified/ <i>Non classifié</i>	<input type="checkbox"/> Ex Parte Defence excluded/ <i>Défense exclue</i>	<input type="checkbox"/> Ex Parte Prosecution excluded/ <i>Bureau du Procureur exclu</i>		
	<input type="checkbox"/> Confidential/ <i>Confidentiel</i>	<input type="checkbox"/> Ex Parte R86(H) applicant excluded/ <i>Art. 86 H) requérant exclu</i>	<input type="checkbox"/> Ex Parte Amicus Curiae excluded/ <i>Amicus curiae exclu</i>		
	<input type="checkbox"/> Strictly Confidential/ <i>Strictement confidentiel</i>	<input type="checkbox"/> Ex Parte other exclusion/ <i>autre(s) partie(s) exclue(s)</i> (specify/préciser) :			
Document type/ Type de document :	<input type="checkbox"/> Motion/ <i>Requête</i>	<input type="checkbox"/> Submission from parties/ <i>Écritures déposées par des parties</i>	<input type="checkbox"/> Indictment/ <i>Acte d'accusation</i>		
	<input checked="" type="checkbox"/> Decision/ <i>Décision</i>	<input type="checkbox"/> Submission from non-parties/ <i>Écritures déposées par des tiers</i>	<input type="checkbox"/> Warrant/ <i>Mandat</i>		
	<input type="checkbox"/> Order/ <i>Ordonnance</i>	<input type="checkbox"/> Book of Authorities/ <i>Recueil de sources</i>	<input type="checkbox"/> Notice of Appeal/ <i>Acte d'appel</i>		
	<input type="checkbox"/> Judgement/ <i>Jugement/Arrêt</i>	<input type="checkbox"/> Affidavit/ <i>Déclaration sous serment</i>			

II - TRANSLATION STATUS ON THE FILING DATE/ ÉTAT DE LA TRADUCTION AU JOUR DU DÉPÔT

<input type="checkbox"/> Translation not required/ <i>La traduction n'est pas requise</i>					
<input checked="" type="checkbox"/> Filing Party hereby submits only the original, and requests the Registry to translate/ <i>La partie déposante ne soumet que l'original et sollicite que le Greffe prenne en charge la traduction :</i> (Word version of the document is attached/ <i>La version Word est jointe</i>)					
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