

**UNITED
NATIONS**



Mechanism for International Criminal Tribunals

Case Nos.: MICT-14-65-ES
MICT-13-55-A

Date: 1 June 2018

Original: English

THE PRESIDENT OF THE MECHANISM

Before: Judge Theodor Meron, President

Registrar: Mr. Olufemi Elias

Decision of: 1 June 2018

PROSECUTOR

v.

MOMIR NIKOLIĆ

PUBLIC

**DECISION ON RADOVAN KARADŽIĆ'S MOTION FOR A
PUBLIC REDACTED VERSION OF A PRESIDENT'S DECISION**

The Office of the Prosecutor

Ms. Laurel Baig
Ms. Barbara Goy
Ms. Katrina Gustafson

Counsel for Mr. Radovan Karadžić

Mr. Peter Robinson
Ms. Kate Gibson

Mr. Momir Nikolić

I, THEODOR MERON, President of the International Residual Mechanism for Criminal Tribunals (“Mechanism”);

NOTING the “Decision on Ratko Mladić’s Requests for Leave to Reply and Reconsideration or, Alternatively, Certification or Disqualification”, rendered confidentially with a confidential annex on 27 January 2017 (“*Nikolić* Decision”);

BEING SEISED OF “Radovan Karadžić’s Motion for Public Redacted Version of President’s Decision” filed confidentially on 17 October 2017 (“Motion”), whereby Mr. Radovan Karadžić (“Karadžić”) seeks: (i) the issuance of a public redacted version of the *Nikolić* Decision;¹ and (ii) the reclassification of the Motion from confidential to public if granted;²

NOTING Karadžić’s submission that the *Nikolić* Decision should be available to the public, because it is precedential in nature and “the failure to issue public redacted versions of decisions on issues of first impression disadvantages the defence in cases before the Mechanism and deprives the public and scholars of access to the Mechanism’s jurisprudence”;³

NOTING “Prosecution’s Response to Karadžić’s Motion for Public Redacted Version of President’s Decision” filed confidentially by the Office of the Prosecutor of the Mechanism (“Prosecution”) on 27 October 2017 (“Response”), in which the Prosecution submits that it does not oppose Karadžić’s request for a public redacted version of the *Nikolić* Decision, provided that it is appropriately redacted;

NOTING the Prosecution’s assertion that a public redacted version of the decision on the early release of Mr. Momir Nikolić (“Nikolić”), a confidential version of which is annexed to the *Nikolić* Decision, has already been issued, and that there is therefore no need to issue a public redacted version of the annex to the *Nikolić* Decision;⁴

NOTING FURTHER the Prosecution’s submission that it does not oppose Karadžić’s request to reclassify the Motion as public in case it is granted;⁵

NOTING that Karadžić did not file a reply;

¹ Motion, paras. 1, 5.

² Motion, para. 5.

³ Motion, paras. 2-3, *referring to Prosecutor v. Radovan Karadžić*, Case No. IT-95-5/18-T, Decision on Motion for Access to Confidential Filings and Decisions in Enforcement Proceedings, 17 April 2012.

⁴ Response, paras. 1-2, *referring to Prosecutor v. Momir Nikolić*, Case No. MICT-14-65-ES, Public Redacted Version of the 14 March 2014 Decision on Early Release of Momir Nikolić, 12 October 2015 (“Early Release Decision”).

⁵ Response, para. 3.

NOTING that the current location of Nikolić is unknown, that it has therefore not been possible to serve him with a copy of the Motion;⁶

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

CONSIDERING that the interests of the parties in the protection of confidential information involved in the *Nikolić* Decision can be safeguarded through appropriate redactions;

FINDING, therefore, that issuing a public redacted version of the *Nikolić* Decision will safeguard the confidentiality of sensitive information and the interests of parties on whose behalf the confidential status was granted while maintaining the public character of the proceedings before the Mechanism;⁸

CONSIDERING that Nikolić's interests will be safeguarded through the inclusion of redactions in the *Nikolić* Decision and that Nikolić will accordingly not be prejudiced by the inability to locate him and to serve on him a copy of the Motion;

FINDING that a public redacted version of the decision on the early release of Nikolić annexed confidentially to the *Nikolić* Decision has already been issued and thus need not be issued once again;⁹

HEREBY GRANT the Motion, **INFORM** that I will separately issue a public redacted version of the *Nikolić* Decision, and **INSTRUCT** the Registry of the Mechanism to reclassify the Motion as public.

⁶ See *Note Verbale* from the Embassy of the Republic of Serbia to the Kingdom of The Netherlands, to the Registry of the Mechanism, dated 17 May 2018 and filed on 18 May 2018 (confidential), conveying the response of the Higher Court in Belgrade to the Mechanism's *note verbale*, dated 5 February 2018.

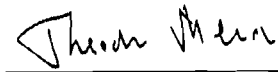
⁷ See *Prosecutor v. Radovan Karadžić*, Case No. MICT-13-55-A, Decision on Motion for Public Redacted Versions of Rule 86(F) Jurisprudence, 6 April 2017, p. 2; *Prosecutor v. Naser Orić*, Case No. MICT-14-79, Decision on an Application for Leave to Appeal the Single Judge's Decision of 10 December 2015, 17 February 2016, para. 8.

⁸ Cf. *Prosecutor v. Radovan Karadžić*, Case No. MICT-13-55-A, Decision on a Motion for Redacted Versions of Decisions Issued Under Rule 75(H) of the ICTY Rules, 18 July 2016, p. 5.

⁹ See Early Release Decision.

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

Done this 1st day of June 2018,
At The Hague,
The Netherlands.



Judge Theodor Meron
President

[Seal of the Mechanism]



**TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH THE
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Case Name/ Affaire :	Prosecutor v. Momir Nikolić		Case Number/ Affaire n° : MICT-14-65-ES MICT-13-55-A
Date Created/ Daté du :	01 June 2018	Date transmitted/ Transmis le :	01 June 2018
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