

**UNITED
NATIONS**



International Residual Mechanism
for Criminal Tribunals

Case: MICT-13-56-A
Nos: MICT-15-96-T

Date: 18 June 2018

Original: English

IN THE APPEALS CHAMBER

Before: Judge Theodor Meron, Presiding
Judge Carmel Agius
Judge Liu Daqun
Judge Prisca Matimba Nyambe
Judge Seymour Panton

Registrar: Mr. Olufemi Elias

THE PROSECUTOR

v.

RATKO MLADIĆ

PUBLIC

**PROSECUTION RESPONSE TO REQUEST OF FRANKO
SIMATOVIĆ FOR ACCESS TO CONFIDENTIAL MATERIAL IN
THE *PROSECUTOR V. RATKO MLADIĆ***

The Office of the Prosecutor:

Laurel Baig
Barbara Goy
Katrina Gustafson
Douglas Stringer

Counsel for Ratko Mladić:

Branko Lukić
Dragan Ivetić

Counsel for Jovica Stanišić:

Wayne Jordash
Iain Edwards

Counsel for Franko Simatović:

Mihajlo Bakrač
Vladimir Petrović

1. Franko Simatović's Request for Access to confidential *inter partes* material in *Prosecutor v. Ratko Mladić*¹ should be granted in part based on the recognised nexus between certain aspects of the two cases. In these circumstances, Simatović should be granted access to the same pre-trial and trial materials, upon the same conditions, as his co-Accused Jovica Stanišić.² Simatović should also be granted access to confidential *inter partes* materials in *Mladić* appeal proceedings related to the same subjects, and with the same conditions, as those to which Stanišić has been granted access in *Mladić* pre-trial and trial proceedings.³
2. However, Simatović has failed to demonstrate a legitimate forensic purpose justifying access to materials related to the Sarajevo component of the *Mladić* case. The *Mladić* Trial Chamber denied Stanišić access to such documents because it found "no temporal, geographical, or otherwise material overlap" between the two cases' Indictments with regard to these events.⁴
3. The Prosecution notes that Simatović has also made no showing that he should be granted access to non-evidentiary material, that is, confidential filings, submissions or Chamber decisions.⁵ However, the *Mladić* Trial Chamber determined that Simatović's co-Accused should have access to such materials, subject to certain restrictions.⁶ For this reason, the Prosecution does not oppose this aspect of Simatović's Request, subject to the same restrictions as his co-Accused.
4. For the foregoing reasons, the Prosecution requests that the Chamber grant Simatović access to (1) confidential material from the pre-trial and trial proceedings upon the same conditions as his co-Accused and (2) confidential material from the appeal proceedings on the same subjects and with the same conditions as applicable to the pre-trial and trial proceedings.

¹ Request of Franko Simatović for Access to Confidential Material in the *Prosecutor v. Ratko Mladić*, 7 June 2018 ("Request for Access").

² See *Prosecutor v. Mladić*, Case No.IT-09-92-T, Decision on Jovica Stanišić Request for Access to Confidential Material in the *Mladić* Case, 1 November 2016 ("Stanišić Access Decision"). This includes confidential *inter partes* material "related to crimes alleged to have been committed as a part of the Overarching, Srebrenica, and Hostages JCEs between 12 May 1992 and 30 November 1995." Stanišić Access Decision, Disposition, p.4.

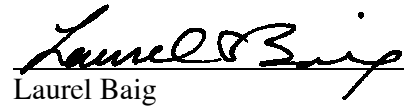
³ See Stanišić Access Decision, Disposition, p.4.

⁴ Stanišić Access Decision, para.7.

⁵ *Contra* Request for Access, para.2.

⁶ Stanišić Access Decision, Disposition, pp.4-5.

Word Count: 379



Laurel Baig
Senior Appeals Counsel

Dated this 18th day of June 2018
At The Hague, The Netherlands



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