



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-PT

Date: 13 November 2008

Original: English

IN THE TRIAL CHAMBER

Before: Judge Patrick Robinson, Presiding
Judge Iain Bonomy, Pre-Trial Judge
Judge Michèle Picard

Registrar: Mr. Hans Holthuis

Decision of: 13 November 2008

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

**DECISION ON ACCUSED APPLICATION FOR CERTIFICATION TO APPEAL TRIAL
CHAMBER'S DECISION ON MOMČILO PERIŠIĆ'S MOTION FOR ACCESS TO
CONFIDENTIAL MATERIALS IN THE RADOVAN KARADŽIĆ CASE**

Office of the Prosecutor:

Mr. Alan Tieger
Mr. Mark B. Harmon

The Accused:

Mr. Radovan Karadžić

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 Accused’s “Application for Certification to Appeal”, filed publicly on 30 October 2008 (“Application”), and the “Prosecution’s Response to Karadzic’s Application for Certification to Appeal Perišić Access Decision”, filed publicly on 5 November 2008 (“Response”), and hereby renders its decision thereon.

1. In the Application, the Accused, pursuant to Rule 73(B) of the Rules, requests certification for interlocutory appeal of the “Decision on Momčilo Perišić’s Motion for Access to Confidential Materials in the *Radovan Karadžić* Case”.

2. In the Response, the Prosecution submits that the Application fails to satisfy the test under Rule 73(B).

3. Rule 73(B) requires that two criteria be satisfied before a Trial Chamber may certify a decision for interlocutory appeal: (a) the decision in question involves an issue which would significantly affect the fair and expeditious conduct of the proceedings or the outcome of the trial, and (b) an immediate resolution of the issue by the Appeals Chamber may, in the opinion of the Trial Chamber, materially advance the proceedings.¹

4. The Accused has not set out any basis upon which the Chamber could conclude that the legal standard for certification of an interlocutory appeal has been satisfied. Further, the Trial Chamber sees no other ground on which certification should be granted.

¹ *Prosecutor v. Milutinović et. al.*, Case No. IT-05-87-T, Decision on Lukić Motion for Reconsideration of Trial Chamber’s Decision on Motion for Admission of Documents from Bar Table and Decision on Defence Request for Extension of Time for Filing of Final Trial Briefs, 2 July 2008 (“*Lukić* Decision”), para. 42; *Prosecutor v. Milutinović et. al.*, Case No. IT-05-87-PT, Decision on Prosecution’s Request for Certification for Appeal of Decision on Vladimir Lazarević and Sreten Lukić’s Preliminary Motions on Form of the Indictment, 19 August 2005, p. 3; *Prosecutor v. Milošević*, Case No. IT-02-54-T, Decision on Prosecution Motion for Certification of Trial Chamber Decision on Prosecution Motion for *Voir Dire* Proceeding, 20 June 2005 (“*Milošević* Decision”), para. 2; *Prosecutor v. Halilović*, Case No. IT-01-48-PT, Decision on Prosecution Request for Certification for Interlocutory Appeal of “Decision on Prosecutor’s Motion Seeking Leave to Amend the Indictment”, 12 January 2005 (“*Halilović* Decision”), p. 1.

5. Accordingly, the Trial Chamber, pursuant to Rules 54 and 73 of the Rules, hereby DENIES the Application.

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



Judge Patrick Robinson
Presiding

Dated this thirteenth day of November 2008
At The Hague
The Netherlands

[Seal of the Tribunal]