



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 Nos.: IT-95-5/18-T  
IT-09-92-T

Date: 8 November 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:** 8 November 2012

**PROSECUTOR**

v.

**RADOVAN KARADŽIĆ**

***PUBLIC***

**DECISION ON DEFENCE REQUEST FOR ACCESS TO CONFIDENTIAL MATERIALS  
FROM *KARADŽIĆ* CASE**

**The Prosecutor v. Radovan Karadžić (Case No. IT-95-5/18-T)**

**Office of the Prosecutor**

Mr. Alan Tieger  
Ms. Hildegard Uertz-Retzlaff

**The Accused**

Mr. Radovan Karadžić

**Standby Counsel**

Mr. Richard Harvey

**The Prosecutor v. Ratko Mladić (Case No. IT-09-92-T)**

**Office of the Prosecutor**

Mr. Dermot Groome  
Mr. Peter McCloskey

**Counsel for Ratko Mladić**

Mr. Branko Lukić  
Mr. Miodrag Stojanović

**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 “Defence Request for Access to Confidential Materials from *Karadžić Case*”, filed on 18 October 2012 (“Motion”) by Ratko Mladić’s defence counsel (“Mladić”), and hereby issues its decision thereon.

### **I. Submissions**

1. In the Motion, Mladić seeks, pursuant to Rule 75 of the Tribunal’s Rules of Procedure and Evidence (“Rules”), access to all *inter partes* and confidential material “for the duration of the pre-trial and trial proceedings” in the case of *Prosecutor v. Karadžić* (Case No. IT-95-5/18) (“*Karadžić Case*”), including (i) all private and closed session trial transcripts; (ii) “all confidential exhibits”; (iii) “all confidential filings and submissions, including all confidential Trial Chamber decisions”; and (iv) “all documentary evidence submitted by the parties”.<sup>1</sup> In support, Mladić argues that there is a significant geographical and temporal overlap between his case, namely the *Prosecutor v. Mladić* (Case No. IT-09-92-T) (“*Mladić Case*”), and the *Karadžić Case*.<sup>2</sup>

2. On 19 October 2012, the Office of the Prosecutor (“Prosecution”) filed the “Prosecution Response to Ratko Mladić’s Defence Request for Access to Confidential Materials from *Karadžić Case*” (“Prosecution Response”). The Prosecution does not oppose the Motion but argues that the following *inter partes* and confidential material should be exempt from disclosure to Mladić: (i) confidential documents which have not been admitted into evidence; (ii) confidential material provided under Rule 70 of the Rules for which the consent of the Rule 70 provider must be obtained; (iii) confidential material subject to the protective measure of delayed disclosure; and (iv) confidential material related to other protective measures, enforcement of sentences, remuneration of counsel, the health of Radovan Karadžić (“Accused”) and his fitness to stand trial, subpoenas, applications for video-conference links, provisional release, orders to redact transcripts/broadcasts of hearing, notices of non-attendance in court, modalities of trial, and internal memoranda assessing state co-operation.<sup>3</sup> With respect to (iv), the Prosecution argues that those categories of material may contain sensitive information that is of little or no evidentiary value to Mladić and further that Mladić made no

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<sup>1</sup> Motion, paras. 1, 7.

<sup>2</sup> Motion, paras. 2, 5.

<sup>3</sup> Prosecution Response, paras. 1, 3–7.

showing as to why access to it is warranted.<sup>4</sup> The Prosecution also outlines the procedures and conditions by which the confidential and *inter partes* material should be disclosed to Mladić.<sup>5</sup>

3. On 22 October 2012, the Accused filed the “Response to Mladić Access Motion” (“Accused Response”), urging the Trial Chamber to grant the Motion.<sup>6</sup>

## II. Applicable Law

4. The Chamber notes the well-established principle that Tribunal proceedings should be conducted in a public manner to the extent possible.<sup>7</sup> Further, the Chamber observes that generally, “[a] party is always entitled to seek material from any source to assist in the preparation of his case.”<sup>8</sup> In exceptional circumstances, however, a Chamber may restrict the access of the public, as well as the access of a party, to certain material under the provisions of the Rules.<sup>9</sup> Such confidential material can be categorised into three types: *inter partes*, *ex parte*, and Rule 70.

5. In determining whether a party must be given access to confidential material, the Trial Chamber must “find a balance between the right of [that] party to have access to material to prepare its case and the need to guarantee the protection of witnesses.”<sup>10</sup> To that end, a party may obtain confidential material from another case to assist it in the preparation of its case, if (a) the material sought has been “identified or described by its general nature”; and (b) a “legitimate forensic purpose” exists for such access.<sup>11</sup>

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<sup>4</sup> Prosecution Response, para. 7.

<sup>5</sup> Prosecution Response, paras. 8–13.

<sup>6</sup> Accused Response, para. 1.

<sup>7</sup> Rule 78 provides: “All proceedings before a Trial Chamber, other than deliberations of the Chamber, shall be held in public, unless otherwise provided.”

<sup>8</sup> *Prosecutor v. Blaškić*, Case No. IT-95-14-A, Decision on Appellants Dario Kordić and Mario Čerkez’s Request for Assistance of the Appeals Chamber in Gaining Access to Appellate Briefs and Non-Public Post Appeal Pleadings and Hearing Transcripts Filed in the *Prosecutor v. Blaškić*, 16 May 2002 (“*Blaškić* Decision”), para. 14; *Prosecutor v. Brđanin*, Case No. IT-99-36-A, Decision on Mičo Stanišić’s Motion for Access to All Confidential Materials in the *Brđanin* Case, 24 January 2007 (“*Brđanin* Decision”), para. 10.

<sup>9</sup> *Prosecutor v. Đorđević*, Case No. IT-05-87/1-PT, Decision on Vladimir Đorđević’s Motion for Access to All Material in *Prosecutor v. Limaj et al.*, Case Not. IT-03-66, 6 February 2008 (“*Đorđević* Decision”), para. 6.

<sup>10</sup> *Prosecutor v. Hadžihasanović et al.*, Case No. IT-01-47-AR73, Decision on Appeal from Refusal to Grant Access to Confidential Material in Another Case, 23 April 2002, p. 2.

<sup>11</sup> *Blaškić* Decision, para. 14; *Prosecutor v. Blagojević and Jokić*, Case No. IT-02-60-A, Decision on Motions for Access to Confidential Material, 16 November 2005 (“*First Blagojević and Jokić* Decision”), para. 11; *See also Prosecutor v. Delić*, Case No. IT-04-83-PT, Order on Defence Motions for Access to All Confidential Material in *Prosecutor v. Blaškić* and *Prosecutor v. Kordić and Čerkez*, 7 December 2005 (“*Delić* Order”), p. 6.

6. The first requirement is not a particularly onerous one. The Appeals Chamber has held that requests for access to “all confidential material” can be sufficiently specific to meet the identification standard.<sup>12</sup>

7. With respect to the second requirement, the standards for access differ for each category of confidential material. With regards to confidential *inter partes* material, a “legitimate forensic purpose” for disclosure in subsequent proceedings will be shown if the applicant can demonstrate that the material is relevant and essential.<sup>13</sup> The relevance of such material may be determined “by showing the existence of a nexus between the applicant’s case and the original case from which the material is sought.”<sup>14</sup> To establish a nexus, the applicant is required to demonstrate a “geographical, temporal or otherwise material overlap” between the two proceedings.<sup>15</sup> The essential nature of the material, in turn, means that the party seeking it must demonstrate “a good chance that access to this evidence will materially assist the applicant in preparing his case.”<sup>16</sup> The standard does not require the applicant to go so far as to establish that the material sought would likely be admissible evidence.<sup>17</sup>

8. Material can be deemed confidential by virtue of the fact that it has been provided by a state or person subject to restrictions on its use pursuant to Rule 70 of the Rules.<sup>18</sup> In such cases, where an applicant has satisfied the legal standard for access to *inter partes* material, the entity that has provided the material must still be consulted before the material can be given to another accused before the Tribunal, and the material must remain confidential.<sup>19</sup> This is the

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<sup>12</sup> *Brđanin* Decision, para. 11; *Prosecutor v. Blagojević and Jokić*, Case No. IT-02-60-A, Decision on Momčilo Perišić’s Motion Seeking Access to Confidential Materials in the *Blagojević and Jokić* Case, 18 January 2006, para. 8; *Prosecutor v. Blaškić*, Case No. IT-95-14-R, Decision on Defence Motion on behalf of Rasim Delić Seeking Access to All Confidential Material in the *Blaškić* Case, 1 June 2006, p. 12.

<sup>13</sup> *See Blaškić* Decision, para. 14; First *Blagojević and Jokić* Decision, para. 11. *See also Delić* Order, p. 6; *Dorđević* Decision, para. 7.

<sup>14</sup> *Prosecutor v. Limaj et al.*, Case No. IT-03-66-A, Decision on Haradinaj Motion for Access, Balaj Motion for Joinder and Balaj Motion for Access to Materials in the *Limaj* Case, 31 October 2006, para. 7; *Dorđević* Decision, para. 7.

<sup>15</sup> *See Blaškić* Decision, para. 15; *Prosecutor v. Kordić and Čerkez*, Case No. IT-95-14/2-A, Decision on Motion by Hadžihasanović, Alagić and Kubura for Access to Confidential Supporting Material, Transcripts and Exhibits in the *Kordić and Čerkez* Case, 23 January 2003, p. 4; *Dorđević* Decision, para. 7.

<sup>16</sup> First *Blagojević and Jokić* Decision, para. 11; *Dorđević* Decision, para. 7; *Blaškić* Decision, para. 14.

<sup>17</sup> *Dorđević* Decision, para. 7.

<sup>18</sup> Material produced pursuant to an order under Rule 54 *bis* of the Rules may also require similar procedures before it can be disclosed to an accused in another case.

<sup>19</sup> *See Prosecutor v. Blaškić*, Case No. IT-95-14-A, Decision on Prosecution’s Preliminary Response and Motion for Clarification Regarding the Appeal Chamber’s Decision Dated 4 December 2002 on Paško Lubičić’s Motion for Access to Confidential Material, Transcripts and Exhibits in the *Blaškić* Case, 8 March 2004, paras. 11–12; *Dorđević* Decision, para. 15; *Delić* Order, p. 6.

case even where the Rule 70 provider(s) consented to the use of the material in one or more prior cases.<sup>20</sup>

9. Pursuant to Rule 75(F)(i) of the Rules, protective measures that have been ordered for a witness or victim in any proceedings before the Tribunal shall continue to have effect *mutatis mutandis* in any other proceedings, unless and until they are rescinded, varied, or augmented.

### III. Discussion

#### **A. *Ex parte* material**

10. The Chamber notes that Mladić requests access to “all *inter partes* and confidential materials” from the *Karadžić* Case.<sup>21</sup> Accordingly, the Chamber will not deal with *ex parte* material in this decision.

#### **B. Confidential *inter partes* material**

11. The Chamber first notes that Mladić requests access to all confidential and *inter partes* material from the *Karadžić* Case, including the categories of material listed in paragraph 1 above. Thus, the Chamber is satisfied that the material sought by Mladić has been sufficiently identified.

12. With respect to the second requirement, the Trial Chamber finds that there is a clear geographical and temporal overlap between the *Mladić* Case and the *Karadžić* Case, as well as a significant factual nexus between them. Indeed, the indictments in the two cases mirror each other to a large extent. The majority of the crimes charged in the *Karadžić* Case are also part of the indictment in the *Mladić* Case, including the charges relating to Sarajevo,<sup>22</sup> Srebrenica,<sup>23</sup> and the detention of United Nations personnel.<sup>24</sup> In addition, both cases relate to crimes alleged in certain municipalities in Bosnia and Herzegovina, namely Banja Luka, Bijeljina, Ilidža, Ključ, Novi Grad, Pale, Prijedor, Rogatica, Sanski Most, Sokolac, and Vlasenica.<sup>25</sup> Finally, both

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<sup>20</sup> *Prosecutor v. Delić*, Case No. IT-04-83-PT, Order on Jadranko Prlić’s Motion for Access to All Confidential Material in *Prosecutor v. Rasim Delić*, 2 December 2005, p. 4.

<sup>21</sup> Motion, para. 1.

<sup>22</sup> See Counts 5, 6, 9, and 10 in *Prosecutor v. Karadžić* (Case No. IT-95-5/18), Third Amended Indictment (“*Karadžić* Indictment”) and Counts 5, 6, 9, and 10 in *Prosecutor v. Mladić* (Case No. IT-09-92), Fourth Amended Indictment (“*Mladić* Indictment”).

<sup>23</sup> See Counts 2–8 in the *Karadžić* Indictment and Counts 2–8 in the *Mladić* Indictment.

<sup>24</sup> See Count 11 in the *Karadžić* Indictment and Count 11 in the *Mladić* Indictment.

<sup>25</sup> See Counts 3–8 in the *Karadžić* Indictment and Counts 1, 3–8 in the *Mladić* Indictment. The Chamber notes that it has acquitted the Accused in relation to Count 1 pursuant to Rule 98 *bis* of the Rules. An appeal by the Prosecution is currently pending before the Appeals Chamber. See Prosecution Rule 98 *bis* Appeal Brief (Public Redacted Version), 24 September 2012, Case No. IT-95-5/18-AR98bis.1.

Mladić and the Accused are alleged to have been members of the same four joint criminal enterprises.<sup>26</sup>

13. For all these reasons, the Chamber is satisfied that Mladić has shown a legitimate forensic purpose for disclosure of all *inter partes* and confidential transcripts (including closed and private sessions), exhibits, and filings from the *Karadžić* Case, from both the pre-trial and trial stage of the *Karadžić* Case.<sup>27</sup> This material is relevant and essential to Mladić's defence, and access to it is likely to materially assist him in preparing for his case.

14. With respect to the request that Mladić be given access to all "documentary evidence submitted by the parties", the Chamber considers that he should be given access only to documents that have been admitted into evidence in the *Karadžić* Case and are thus part of its official record. The Chamber sees no reason to burden the parties in the *Karadžić* Case and the Registry with providing Mladić with documentary material which is not in evidence or has been marked for identification pending admission.<sup>28</sup>

15. The Chamber notes that the Prosecution wishes to restrict Mladić's access to certain confidential and *inter partes* material, namely filings related to protective measures, enforcement of sentences, remuneration of counsel, the Accused's health and his fitness to stand trial, subpoenas, applications for video-conference links, provisional release, orders to redact transcripts/broadcasts of hearing, notices of non-attendance in court, and modalities of trial, as well as internal memoranda assessing state co-operation.<sup>29</sup> The Chamber considers that most of the material listed above is indeed of little or no evidentiary value to Mladić. The exception to that is the material dealing with protective measures, subpoenas, and video conference links related to witnesses and prospective witnesses in the *Karadžić* Case, as these may be necessary for Mladić's preparations in his own case. Accordingly, subject to the following paragraphs, Mladić shall be given access to all types of confidential *inter partes* material save for material relating to enforcement of sentences, remuneration of counsel, provisional release, the Accused's health and his fitness to stand trial, notices of non-attendance in court, modalities of

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<sup>26</sup> See *Karadžić* Indictment, paras. 11, 16, 21, 26; *Mladić* Indictment, paras. 10, 15, 20, 25.

<sup>27</sup> The Chamber acknowledges that, in addition to the charges relating to Sarajevo, Srebrenica, and hostage-taking, only some of the municipalities referred to in the *Karadžić* Indictment overlap with the municipalities covered by the *Mladić* Indictment, those being listed above, in paragraph 12. However, in light of the extensive overlap between the two Indictments, including the fact that both the Accused and Mladić are alleged to have been members of four identical joint criminal enterprises, the Chamber considers that the material relating to the remaining, non-overlapping municipalities referred to in the *Karadžić* Indictment should be disclosed to Mladić.

<sup>28</sup> See e.g. Decision on Zdravko Tolimir's Motion for Disclosure of Confidential Materials from the *Karadžić* Case, 12 January 2012 ("*Tolimir* Decision"), para. 17.

<sup>29</sup> See Prosecution Response, paras. 1, 7.

trial, orders to redact public transcripts and broadcast, and internal memoranda assessing state co-operation.

**C. Access to confidential Rule 70 material**

16. As noted by the Prosecution, some of the confidential *inter partes* material requested by Mladić might fall into the category of Rule 70 material. With respect to such material, if any, the Chamber will order that the Prosecution and/or the Accused seek the consent of the Rule 70 provider(s) before it can be provided to Mladić.

**D. Delayed disclosure material**

17. The Chamber recalls that for certain witnesses called by the Prosecution in this case it granted or continued the protective measure of delayed disclosure granted in previous proceedings. This protective measure essentially turned the material relating to those witnesses' identities and evidence into *ex parte* material, until such time as it was disclosed to the Accused in accordance with the time frames set out in the decisions granting or continuing delayed disclosure. Given the current stage of the *Karadžić* Case and particularly the fact that the Prosecution has closed its case, all the material relating to the delayed disclosure witnesses called by the Prosecution has already been disclosed to the Accused and thus is no longer *ex parte* in nature. In addition, at present there appear to be no delayed disclosure witnesses on the Accused's witness list. For those delayed disclosure witnesses from the *Karadžić* Case who may be called to give evidence in the *Mladić* Case, the protective measure of delayed disclosure will apply *mutatis mutandis* in the *Mladić* Case and thus the related material cannot be disclosed to Mladić other than in accordance with the timeframes set out in the decisions granting or continuing the delayed disclosure.<sup>30</sup> The Chamber shall therefore order that any material relating to these delayed disclosure witnesses be disclosed to Mladić in accordance with the timeframes set out in the applicable delayed disclosure decisions. As for the delayed disclosure witnesses who will not be giving evidence in the *Mladić* Case, as stated above, the related material has already been disclosed to the Accused and thus can be disclosed to Mladić pursuant to the Prosecution's disclosure obligations under the Rules. In the abundance of caution, as the trial is ongoing and new witnesses may still be added to the parties' witness lists, the Chamber shall order that any material relating to delayed disclosure witnesses who will not be giving

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<sup>30</sup> In instances where an applicant from one case seeks access to confidential information from another case, including access to materials related to delayed disclosure witnesses who were to give evidence in the applicant's case, the Appeals Chamber has held that such materials should continue to be subject to the same protective measure in the applicant's case. See *Prosecutor v. Momčilo Krajišnik*, Case No. IT-00-39-A, Decision on "Motion by Mićo Stanišić for Access to all Confidential Materials in the Krajišnik Case", 21 February 2007, p. 6; *Brđanin* Decision, para. 17.

evidence in the *Mladić* Case shall be disclosed to Mladić once it has become available to both parties in the *Karadžić* Case and thus is no longer *ex parte* in nature.

#### **E. Nature of access requested – prospective basis**

18. As noted above,<sup>31</sup> Mladić seeks access to *inter partes* confidential material “for the duration of the pre-trial and trial” phase of the *Karadžić* Case. This Trial Chamber has already dealt with a number of such “ongoing requests” for access to confidential materials in the Accused’s case.<sup>32</sup> As stated in those decisions, while it has been the preferred approach of Trial Chambers to limit access to materials to the date of the request (or decision upon that request),<sup>33</sup> as a matter of judicial economy, this Chamber considers that Mladić’s access to the material in the *Karadžić* Case should be provided in as streamlined a manner as possible and that access on an ongoing basis is warranted.<sup>34</sup>

19. The parties in the *Karadžić* Case should also bear in mind that confidential material from the case will be disclosed to Mladić on an ongoing basis and therefore should remain vigilant about protecting information they think should not be so disclosed. If they consider or know that specific materials should not be made available to Mladić they should raise an objection with the Chamber.

#### **IV. Disposition**

20. Accordingly, the Chamber, pursuant to Rules 54, 70, and 75 of the Rules, hereby **GRANTS** the Motion in part, and

- a. **ORDERS** the parties to identify for the Registry, on an ongoing basis, the following *inter partes* material in the *Karadžić* Case, for disclosure to Mladić:
  - (i) all closed and private session testimony transcripts which are not subject to Rule 70 or delayed disclosure and which are produced in the pre-trial and trial proceedings;

<sup>31</sup> See *supra* para. 1.

<sup>32</sup> See e.g. *Tolimir* Decision; Decision on Mićo Stanišić’s and Stojan Župljanin’s Requests for Access to Confidential Information in the *Karadžić* Case, 7 March 2011 (“*Stanišić and Župljanin* Decision”); Decision on Momčilo Perišić’s Motion for Access to Confidential Materials in the *Radovan Karadžić* Case (“*Perišić* Decision”), 14 October 2008; Decision on Jovica Stanišić’s Motion for Access to Confidential Materials in the *Karadžić* Case (“*Stanišić* Decision”), 20 May 2009; Decision on General Miletić’s Request for Access to Confidential Information in the *Karadžić* Case (“*Miletić* Decision”), 31 March 2010.

<sup>33</sup> *Tolimir* Decision, para. 22; *Stanišić and Župljanin* Decision, para. 13; *Perišić* Decision, para. 18; *Stanišić* Decision, para. 11; *Miletić* Decision, para. 12.

<sup>34</sup> *Tolimir* Decision, para. 22; *Stanišić and Župljanin* Decision, para. 13; *Perišić* Decision, para. 18; *Stanišić* Decision, para. 11; *Miletić* Decision, para. 12.

- (ii) all confidential trial exhibits which are not subject to Rule 70 or delayed disclosure; and
  - (iii) all confidential filings in the pre-trial and trial proceedings which are not subject to Rule 70 or delayed disclosure, excluding material related to enforcement of sentences, remuneration of counsel, provisional release, the Accused's health and his fitness to stand trial, notices of non-attendance in court, modalities of trial, orders to redact public transcripts and broadcast, and internal memoranda assessing state co-operation.
- b. **ORDERS** the parties to determine, without delay and before disclosure, which of the material outlined in paragraph (a) above is subject to the provisions of Rule 70, and immediately thereafter to contact the provider(s) of such material to seek consent for its disclosure to Mladić, and, where the Rule 70 provider(s) consent to such disclosure, to notify the Registry on a periodic basis of such consent.
- c. **ORDERS** the Prosecution and the Accused to determine, without delay and before disclosure, which of the material outlined in paragraph (a) above is subject to the protective measure of delayed disclosure and immediately thereafter to notify the Registry and Mladić on a periodic basis of when such material can be disclosed to the opposing party, and thus will be available for disclosure to Mladić.
- d. **REQUESTS** the Registry to withhold disclosure of any material subject to Rule 70 until such time as the parties in the *Karadžić* Case inform the Registry that consent for disclosure has been obtained, even in respect of those Rule 70 provider(s) who have consented to the use of the relevant material in a prior case. Where consent cannot be obtained from provider(s) of any material subject to Rule 70, the material shall not be disclosed.
- e. **REQUESTS** the Registry to withhold disclosure to Mladić of any material subject to delayed disclosure until such time as the parties in the *Karadžić* Case inform the Registry that the material has been disclosed to the opposing party and is therefore no longer *ex parte* in nature.
- f. **REQUESTS** the Registry to disclose to Mladić:
  - (i) the confidential and *inter partes* and non-Rule 70 material once it has been identified by the parties in accordance with paragraph (a);

- (ii) the Rule 70 material once the parties have identified such material and informed the Registry of the consent of the Rule 70 provider(s) in accordance with paragraphs (a) and (b); and
  - (iii) the material subject to delayed disclosure, once the parties have, in accordance with paragraph (c), informed the Registry that such material has been disclosed to the other side and has become *inter partes* in nature.
- g. **ORDERS** that no confidential and *ex parte* material from the *Karadžić* Case be disclosed to Mladić.
- h. **ORDERS** that Mladić, as well as his defence team, and any employees who have been instructed or authorised by him, shall not disclose to the public, or to any third party, any confidential or non-public material disclosed from the *Karadžić* Case, including witness identities, whereabouts, statements, or transcripts, except to the limited extent that such disclosure to members of the public is directly and specifically necessary for the preparation and presentation of Mladić's case. If any confidential or non-public material is disclosed to the public when directly and specifically necessary, any person to whom disclosure is made shall be informed that he or she is forbidden to copy, reproduce, or publicise confidential or non-public information or to disclose it to any person, and that he or she must return the material to Mladić as soon as it is no longer needed for the preparation of Mladić's case.<sup>35</sup>
- i. For the purpose of this Decision, "the public" means and includes all persons, governments, organisations, entities, clients, associations, and groups, other than the Judges of the Tribunal, the staff of the Registry, the Prosecutor and his representatives, Mladić, as well as his defence team, and any employees who have been instructed or authorised by him to have access to the confidential material. "The public" also includes, without limitation, members of Mladić's family, friends, and associates; accused and defence counsel in other cases or proceedings before the Tribunal; the media; and journalists.
- j. **ORDERS** that nothing in this Decision shall affect the disclosure obligations of the Prosecution under Rules 66 and 68; and **RECALLS** that it is the responsibility of the Prosecution to determine whether there is additional material related to the *Karadžić*

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<sup>35</sup> The Chamber does not consider that the additional measures sought by the Prosecution in paragraphs 9 and 11 of the Prosecution Response are warranted.

Case that should be disclosed to Mladić but which is not covered by the terms of this Decision.

- k. **RECALLS** that, pursuant to Rule 75(F)(i), any protective measures that have been ordered in respect of a witness in the *Karadžić* Case shall continue to have effect in the case against Mladić, except in so far as they have been varied in accordance with this Decision.
- l. **DENIES** the remainder of the Motion.

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



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Judge O-Gon Kwon  
Presiding

Dated this eighth day of November 2012  
At The Hague  
The Netherlands

[Seal of the Tribunal]