

**UNITED  
NATIONS**



Mechanism for International Criminal Tribunals

Case No.: MICT-15-96-PT

Date: 5 April 2016

Original: English

**IN THE TRIAL CHAMBER**

**Before: Judge Burton Hall, Pre-Trial Judge**

**Registrar: Mr. John Hocking**

**Decision of: 5 April 2016**

**PROSECUTOR**

**v.**

**JOVICA STANIŠIĆ  
FRANKO SIMATOVIĆ**

***PUBLIC***

**DECISION ON RADOVAN KARADŽIĆ'S MOTION FOR  
ACCESS TO CONFIDENTIAL MATERIALS**

**The Office of the Prosecutor:**

Mr. Serge Brammertz  
Mr. Mathias Marcussen

**Counsel for the Defence:**

Mr. Wayne Jordash and Mr. Scott Martin for Mr. Jovica Stanišić  
Mr. Mihajlo Bakrač and Mr. Vladimir Petrović for Mr. Franko Simatović

**Applicant:**

Mr. Radovan Karadžić



I, **BURTON HALL**, Judge of the Trial Chamber of the International Residual Mechanism for Criminal Tribunals (“Mechanism”) and Pre-Trial Judge in this case;<sup>1</sup>

**BEING SEISED OF** “Radovan Karadžić’s Motion for Access to Confidential Materials” filed on 2 February 2016 (“Motion”), in which Karadžić seeks, pursuant to Rules 86(F) and 86(G)(i) of the Rules of Procedure and Evidence of the Mechanism (“Rules”), an order granting him access to confidential material in the case of *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. MICT-15-96 (“*Stanišić and Simatović Retrial*”);<sup>2</sup>

**NOTING** that Karadžić requests access to confidential material under the same terms and conditions as was granted by the International Criminal Tribunal for the former Yugoslavia (“ICTY”) in the case of *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69 (“*Stanišić and Simatović Case*”);<sup>3</sup>

**NOTING** the “Prosecution Response to Radovan Karadžić’s Motion for Access to Confidential Materials” filed on 16 February 2016 (“Response”), in which the Prosecution submits that Karadžić has not established a legitimate forensic purpose for receiving access to confidential material in the *Stanišić and Simatović Retrial*;<sup>4</sup>

**RECALLING** that, on 17 July 2009, ICTY Trial Chamber I granted Karadžić access to certain confidential material in the *Stanišić and Simatović Case*,<sup>5</sup> and that the ICTY Appeals Chamber subsequently altered the terms of Karadžić’s access to confidential material in that case;<sup>6</sup>

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<sup>1</sup> Order Designating a Pre-Trial Judge, 17 December 2015, p. 1.

<sup>2</sup> Motion, para. 1. Noting the irregular numbering of some paragraphs in the Motion, the present Decision refers to the relevant submissions as if the paragraphs had sequential numbering.

<sup>3</sup> Motion, paras. 1, 6. See Motion, paras. 2-4, referring to *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-A, Decision on Motion by Radovan Karadžić for Reconsideration of Decision on Motion for Access to Confidential Materials in the *Stanišić and Simatović Case*, 16 February 2015 (“Decision of 16 February 2015”); *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-A, Decision on the Prosecution’s Motion Regarding the Terms of Access by Radovan Karadžić to Confidential Materials, 2 May 2014 (“Decision of 2 May 2014”); *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-T, Decision on Motion by Radovan Karadžić for Access to Confidential Materials in the *Stanišić and Simatović Case*, signed on 16 July 2009, filed on 17 July 2009 (“Decision of 17 July 2009”).

<sup>4</sup> Response, paras. 1-3.

<sup>5</sup> Decision of 17 July 2009, para. 16 (granting Karadžić access to all closed and private session transcripts, all confidential exhibits, and all confidential filings and submissions (including all confidential Chamber decisions), except for material related to alleged crimes committed in Croatia).

<sup>6</sup> Decision of 2 May 2014, p. 2 (ordering that Karadžić shall not have access to “confidential materials containing sensitive information, which have no legitimate forensic purpose and concern remuneration, provisional release, fitness to stand trial, weekly reports of the reporting medical officer, expert reports on health issues submitted by the Registry, notices of non-attendance in court, modalities of trial, protective measures, subpoenas, video-conference links, and orders to redact the public transcript and the public broadcast of a hearing.”); Decision of 16 February 2015, p. 4 (granting Karadžić access to *inter partes* confidential material in the trial record in the *Stanišić and Simatović Case* related to events in Croatia, with the exception of material provided under Rule 70 of the ICTY Rules of Procedure and Evidence); *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-A, Decision on Prosecution Request for Clarification of Decision on Motion for Access to Confidential Materials in the *Stanišić and Simatović*

**CONSIDERING** that, pursuant to Rule 86(F) of the Rules, protective measures ordered in proceedings before the ICTY continue to have effect *mutatis mutandis* in any other proceedings before the Mechanism unless and until they are rescinded, varied, or augmented;

**CONSIDERING THEREFORE** that, since there has been no rescission, variation, or augmentation of the protective measures applicable to the materials in question, Karadžić's access continues under the same terms and conditions as was granted by the ICTY;

**FOR THE FOREGOING REASONS,**

**HEREBY DISMISS** the Motion as moot.

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

Done this 5th of April 2016,  
At The Hague,  
The Netherlands.

  
Judge Burton Hall  
Pre-Trial Judge

[Seal of the Mechanism]

Case, 25 February 2015, p. 2 (ordering that the *inter partes* confidential material related to events in Croatia, to which Karadžić was granted access pursuant to the Decision of 16 February 2015, shall not include “confidential material containing sensitive information, which has no legitimate forensic purpose and concern remuneration, provisions for release, fitness to stand trial, weekly reports of the reporting medical officer, expert reports on health issues submitted by the Registry, notices of non-attendance in court, modalities of trial, protective measures, subpoenas, video conference links, and orders to redact the public transcript and the public broadcast of a hearing”).

