



International Tribunal for the Prosecution
of Persons Responsible for Serious
Violations of International Humanitarian
Law Committed in the Territory of
Former Yugoslavia since 1991

Case No. IT-95-5-R-61

Case No. IT-95-18-R61

Date: 24 July 1996

English

Original: French

IN THE TRIAL CHAMBER

Before: Judge Claude Jorda, Presiding
Judge Elizabeth Odio Benito
Judge Fouad Riad

Registrar: Mr. Dominique Marro, Deputy Registrar

Decision of: 24 July 1996

THE PROSECUTOR

v.

**RADOVAN KARADŽIĆ
RATKO MLADIĆ**

**DECISION REJECTING THE APPLICATION PRESENTED BY
MESSRS MEDVENE AND HANLEY SEEKING LEAVE TO FILE BRIEFS
CHALLENGING THE FAIRNESS OF THE STATUTE AND
THE RULES OF PROCEDURE AND EVIDENCE**

The Office of the Prosecutor:

**Mr. Eric Ostberg
Mr. Mark Harmon**

TRIAL CHAMBER I

PURSUANT to Rule 61 of the Rules of Procedure and Evidence (the Rules),

NOTING the application filed with the Registrar on 5 July 1996 by Messrs Medvene and Hanley appointed by the accused Radovan KARADŽIĆ as "President of Republika Srpska" seeking leave to file briefs challenging the fairness of the Statute and the Rules of the International Criminal Tribunal for the former Yugoslavia (the Tribunal),

NOTING the decision of 5 July 1995;

CONSIDERING that, in their application, Messrs Medvene and Hanley requested leave first to appear before the Trial Chamber as part of the proceedings pursuant to Rule 61 relating to two indictments in which their client, Radovan KARADŽIĆ, is accused, and second, leave to file briefs challenging the fairness of the Statute and of the Rules of the Tribunal;

CONSIDERING that in its decision of 5 July 1996, the Trial Chamber rejected the application of Messrs Medvene and Hanley to remain present in the courtroom during the Rule 61 hearings and to be granted free access to the documents and case-files which the Prosecutor submitted;

CONSIDERING that a decision on the second part of the application must now be taken;

CONSIDERING that the Rule 61 hearing could not be interpreted as a trial;

CONSIDERING that pursuant to the Statute and the Rules, the accused is entitled to appear before the Tribunal accompanied by his counsel; that in such a case the nature of the proceedings changes and becomes *inter partes* with all the guarantees inherent in a fair trial, including the right, pursuant to Rules 72 and 73 of the Rules, to file preliminary motions;

CONSIDERING therefore that pursuant to Rule 61, the said application does not fall within the jurisdiction of the Trial Chamber; that the application could be filed by the accused only after his initial appearance before the Trial Chamber entitled to try him;

FOR THE FOREGOING REASONS

REJECTS the application of Messers Medvene and Hanley requesting leave to file briefs challenging the fairness of the Statute and the Rules of the Tribunal.

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

Claude Jorda
Presiding Judge of Trial Chamber I

Dated this Twenty-fourth day of July 1996
At The Hague
The Netherlands