



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-08-91-T
Date: 30 June 2010
Original: English

IN TRIAL CHAMBER II

Before: Judge Burton Hall, Presiding
Judge Guy Delvoie
Judge Frederik Harhoff

Registrar: Mr. John Hocking

Decision of: 30 June 2010

PROSECUTOR

v.

MIĆO STANIŠIĆ AND STOJAN ŽUPLJANIN

PUBLIC

**DECISION PARTIALLY GRANTING
RADOVAN KARADŽIĆ'S REQUEST
FOR ACCESS TO CONFIDENTIAL MATERIAL**

The Prosecutor v. M. Stanišić and S. Župljanin

The Prosecutor v. R. Karadžić

The Office of the Prosecutor

The Office of the Prosecutor

Ms. Joanna Korner
Mr. Thomas Hannis

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

Counsel for the Accused

The Accused

Mr. Slobodan Zečević and Mr. Slobodan Cvijetić for M. Stanišić
Mr. Igor Pantelić and Mr. Dragan Krgović for S. Župljanin

Mr. Radovan Karadžić *pro se*

I. INTRODUCTION AND SUBMISSIONS

1. Trial Chamber II (“Trial Chamber”) of the International Criminal 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 “Motion by Radovan Karadžić for access to confidential materials in the Stanišić & Župljanin case”, filed on 14 April 2009 by Radovan Karadžić, the self-represented accused in the *Karadžić* case (“Motion” and “Karadžić” respectively). The Prosecution responded on 28 April 2009 (“Response”).¹ Neither the Defence of Mićo Stanišić nor the Defence of Stojan Župljanin responded.

A. Applicant

2. Karadžić seeks access to the following confidential material in the present case:

- (a) all confidential closed and private session testimony transcripts,
- (b) all closed session hearing transcripts,
- (c) all confidential exhibits,
- (d) all confidential *inter partes* filings and submissions, and
- (e) all confidential Trial Chamber decisions.²

3. Karadžić submits that “there is a significant geographical and temporal overlap between his case and the Stanišić & Župljanin case, as well as an interrelation between the factual bases for the allegations against himself and Mr. Stanišić and Mr. Župljanin.”³ He argues that he should be given access to the requested materials because of “the possible significance of such material to the effective investigation and preparation of his defence.”⁴ Karadžić asserts that the confidential information sought “is relevant to the allegations against [him] as charged in the indictment” because the requested information “directly impacts [...] the Prosecution’s assertion of [his] involvement in a joint criminal enterprise.”⁵ Karadžić states that “it is expected that there will be a significant overlap in the witnesses who testify in both cases.”⁶ Karadžić also submits that the

¹ *Prosecutor v. Stanišić and Župljanin*, Case No. IT-08-91-PT, Prosecution response to motion by Radovan Karadžić for access to all confidential material, 28 April 2009.

² Motion, para. 1. In the Motion, Karadžić groups “all confidential *inter partes* filings and submissions” and “all confidential Trial Chamber decisions” into one category. The Chamber here divides this category into categories (d) and (e), respectively.

³ Motion, para. 6. See also, paras 7-9.

⁴ Motion, para. 6. See also, para. 10.

⁵ Motion, para. 10.

⁶ Motion, para. 10.

principle of equality of arms “requires that he be granted access to the [requested] materials [...] as all such materials ‘stand a good chance’ to be useful to him in preparing his defence.”⁷

B. Prosecution

4. The Prosecution accepts that the factual allegations in the *Karadžić* case and the present case “substantially overlap.”⁸ Twelve municipalities are common to both cases and the cases overlap temporally.⁹ Furthermore, the Prosecution states that it charges the same joint criminal enterprise in both cases, the purpose of which was “the permanent removal by force or other means of Bosnian Muslims and Bosnian Croats from large portions of Bosnia and Herzegovina through the commission of crimes.”¹⁰

5. The Prosecution nevertheless opposes the Motion as premature and argues that the Motion should be denied “for this reason alone.”¹¹ It submits that, at the time *Karadžić* filed the Motion, “no evidentiary materials [had] been entered into the record” of the present case and that “no confidential evidentiary record to which the Applicant should have access” had yet developed.¹² The Prosecution asserts that *Karadžić* “has no legitimate interest in procedural matters or matters which relate solely to the accused in this case” and “has made no effort to explain how these materials would assist him in the preparation of his defence.”¹³

6. Should the Trial Chamber be disinclined to deny the Motion on that basis alone, the Prosecution makes the following submissions: first, that the Motion is “overbroad” and that *Karadžić* “offers no justification for access to either confidential non-evidentiary materials or confidential *ex parte* materials”;¹⁴ second, that *Karadžić* has not demonstrated a legitimate forensic purpose for access to non-evidentiary material.¹⁵ The Prosecution therefore requests that the Trial Chamber deny access to material in category (b), all closed session hearing transcripts, in category (d), all confidential *inter partes* filings and submissions, and in category (e), all confidential Trial Chamber decisions.

⁷ Motion, para. 11.

⁸ Response, para. 2. See further the *Prosecutor v. Karadžić*, Case No. IT-95-5/18-I, Third amended indictment, paras 3-14; *Prosecutor v. Stanisic and Župljanin*, Case No. IT-08-91-PT, Corrigendum to Prosecution’s submission of second amended consolidated indictment, 23 November 2009, paras 4-13.

⁹ Response, para. 8.

¹⁰ Response, para. 8.

¹¹ Response, para. 2.

¹² Response, paras 2, 9.

¹³ Response, para. 9.

¹⁴ Response, paras 3, 14.

¹⁵ Response, para. 14.

7. In addressing category (e), the Prosecution argues that “[a]lthough the Motion does not expressly [include] *ex parte* material, it is susceptible to such a reading” because paragraph 1(d) of the Motion “omits to qualify ‘confidential Trial Chambers decisions’ with the word ‘*inter partes*.’”¹⁶ This contrasts with the immediately preceding phrase, “confidential *inter partes* filings and submissions.”¹⁷ Referring to Appeals Chamber jurisprudence stating that *ex parte* material enjoys “a higher degree of confidentiality,” the Prosecution submits that Karadžić “offers no particular reason why the heightened showing required for *ex parte* confidential material is met.”¹⁸ On this basis, the Prosecution “opposes granting the Applicant access to *ex parte* material.”¹⁹

8. The Prosecution also requests that the Trial Chamber deny access to certain confidential *inter partes* evidentiary material, specifically in relation to “Rule 70 material for which provider consent is needed” and material relating to “any protected witnesses in this case who may be called in the Applicant’s case for whom delayed disclosure may be justified.”²⁰ In this context, the Prosecution states that it “cannot definitively identify witnesses in common to the two cases before filing its witness list in *Karadžić*, which is not due until 18 May 2009” and submits that “it will seek the consent of Rule 70 providers to allow the Applicant access.”²¹

II. APPLICABLE LAW

9. A party is entitled to apply for material from any source, including from another case before the Tribunal, to assist in the preparation of its case if the applicant has identified or described the material sought by its general nature and if the applicant has shown a legitimate forensic purpose for such access.²²

10. The applicant must demonstrate a legitimate forensic purpose by establishing that the requested material “is likely to assist the [party’s] case materially, or at least [that] there is a good

¹⁶ Response, para. 11.

¹⁷ Response, para. 11.

¹⁸ Response, paras 12, 13.

¹⁹ Response, paras 11-13.

²⁰ Response, para. 10, referring to *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”, filed on 1 June 2006, para. 35 and p. 12; *Prosecutor v. Blaškić*, Case No. IT-95-14-A, Order on protective measures and Prosecution’s submissions on disclosure of Rule 70 material and *ex parte* filings from the trial in *Prosecutor v. Blaškić* to Paško Ljubičić, 20 Apr 2004, p. 4; *Prosecutor v. Slobodan Milošević*, Case No. IT-02-54-AR108bis & AR73.3, Public version of the confidential decision on the interpretation and application of Rule 70, 23 Oct 2002, paras 19, 23.

²¹ Response, para. 10.

²² *Prosecutor v. Dragomir Milošević*, Case No. IT-98-29/1-A, Decision on Momčilo Perišić’s request for access to confidential material in the Dragomir Milošević Case, 27 Apr 2009 (“*Dragomir Milošević* decision of 27 Apr 2009”), para. 4, referring to *Prosecutor v. Martić*, Case No. IT-95-11-A, Decision on motion by Jovica Stanišić for access to confidential testimony and exhibits in the Martić case pursuant to Rule 75(G)(i), 22 Feb 2008, para. 9. See also, *Prosecutor v. Krajišnik*, Case No. IT-00-39-A, Decision on “Motion by Mićo Stanišić for access to all confidential testimony and exhibits in the Krajišnik case”, 21 Feb 2007 (“*Krajišnik* decision”), p. 4.

chance that it would.”²³ To establish a “good chance,” the applicant may show a factual nexus between his case and the case from which he seeks material, such as a “geographical, temporal or otherwise material overlap”²⁴ although a mere overlap may be neither sufficient nor necessary.²⁵ The applicant may not engage in a “fishing expedition,”²⁶ but need not “establish a specific reason that each individual item is likely to be useful.”²⁷

11. Should a chamber grant an accused access “to confidential exhibits and confidential or closed session testimonies of another case before the Tribunal, he should not be prevented from accessing filings, submissions, decisions and hearing transcripts which may relate to such confidential evidence.”²⁸ The Trial Chamber must, however, “strike a reasonable balance between the rights of the accused [...] and the protection of witnesses and victims.”²⁹

12. Lastly, it is settled jurisprudence of the Tribunal that “material provided under Rule 70 shall not be released to the Accused in another case unless the provider consents to such disclosure.”³⁰ This limitation applies to all material provided under Rule 70 to either the Prosecution or Defence in a case and does not depend on whether or not such material was used as evidence in a previous case.³¹

III. DISCUSSION

13. Addressing first the Prosecution’s objection to the Motion as premature, the Trial Chamber considers that the absence of evidence in the trial record at the time the Motion was filed does not constitute sufficient reason to deny the Motion.³² Provided the applicant for confidential materials

²³ *Prosecutor v. Naletilić and Martinović*, Case No. IT-98-34-A, Decision on Slobodan Praljak's motion for access to confidential testimony and documents in *Prosecutor v. Naletilić and Martinović* and Jadranko Prlić's notice of joinder to Slobodan Praljak's Motion for Access, 13 June 2005, p. 6.

²⁴ *Dragomir Milošević* decision of 27 Apr 2009, para. 5; *Prosecutor v. Dario Kordić and Mario 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 Jan 2003, p. 4.

²⁵ *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 confidential materials in the Limaj case, 31 Oct 2006, para. 7.

²⁶ *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 Apr 2002, p. 3.

²⁷ *Prosecutor v. Blagojević and Jokić*, Case No. IT-02-60-A, Decision on motion by Radivoje Miletić for access to confidential information, 9 Sep 2005, p. 4; *Prosecutor v. Dragomir Milošević*, IT-29-98/1-A, Decision on Radovan Karadžić's motion for access to confidential material in the Dragomir Milošević case (“*Dragomir Milošević* decision of 19 May 2009”), 19 May 2009, para. 11.

²⁸ *Dragomir Milošević* decision of 19 May 2009, para. 11.

²⁹ *Prosecutor v. Blaškić*, Case No. IT-95-14-A, Decision on “Prosecution’s preliminary response and motion for clarification regarding decision on joint motion of Hadžihasanović, Alagić and Kubura of 24 January 2003” (“*Blaškić* decision”), 26 May 2003, para. 26.

³⁰ *Krajišnik* decision, p. 5, quoting *Prosecutor v. Tihomir 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. 8; *Martić* decision, para. 12.

³¹ *Krajišnik* decision, p. 6.

³² *Prosecutor v. Slobodan Milošević*, Case No. IT-02-54-T, Decision on motion filed by the Defence of Milan Martić for access to confidential transcripts and documents, 25 Feb 2004.

has demonstrated a legitimate, forensic purpose, the Trial Chamber may grant the applicant access, regardless the status of the evidentiary record.³³

14. Secondly, the Trial Chamber addresses the Prosecution's understanding that the Motion's introduction – where Karadžić requests “all confidential Trial Chamber decisions” – could logically include a request for *ex parte* Trial Chamber decisions.³⁴ The Trial Chamber agrees that it could, noting that the language of the introduction does not mirror the language of the “relief requested” section of the Motion wherein Karadžić more specifically requests access solely to confidential *inter partes* materials.³⁵ While noting this discrepancy, this Chamber interprets the Motion on the basis of the relief requested in paragraph 13 thereof and will therefore address only the issue of access to confidential *inter partes* materials.

15. The Trial Chamber accepts the submissions of Karadžić and the Prosecution that the two cases substantially overlap, geographically, temporally and materially. Karadžić, Mićo Stanišić and Stojan Župljanin are all charged with participation in a joint criminal enterprise to permanently remove the non-Serb population from the Bosnian Serb republic of Bosnia and Herzegovina during the early to mid-1990s.³⁶ The indictment against Mićo Stanišić and Stojan Župljanin alleges that they acted in concert with other members of the joint criminal enterprise including Karadžić.³⁷ Stanišić, a former minister of the Bosnian Serb government, is also charged with criminal liability for “[c]ommunicating and co-ordinating” with Bosnian Serb political leaders at the republic level, particularly with Karadžić, to implement the joint criminal enterprise.³⁸ The Trial Chamber is therefore satisfied that the significant nexus between the cases justifies granting Karadžić access to the *inter partes* material listed in category (a), all confidential closed and private session testimony transcripts, and in category (c), all confidential trial exhibits, on the basis that there is a “good chance” that all such material will be of assistance to his case, subject to the specific provisions set out in the disposition below.³⁹

³³ Dragomir Milošević decision of 27 Apr 2009, para. 4.

³⁴ Response, paras 11-13; Motion, para. 1.

³⁵ Motion, para. 13.

³⁶ *Prosecutor v. Radovan Karadžić*, Case No. IT-95-5/18-PT, Third amended indictment, 27 Feb 2009 (“*Karadžić* indictment”), para. 6; *Prosecutor v. Mićo Stanišić and Stojan Župljanin*, Case No. IT-08-91-T, Second amended consolidated indictment, 23 Nov 2009 (“*Stanišić & Župljanin* indictment”), para. 7.

³⁷ *Stanišić & Župljanin* indictment, para. 8.

³⁸ *Stanišić & Župljanin* indictment, para. 11.

³⁹ The Trial Chamber does not address Radovan Karadžić's argument that the equality of arms principle compels the Trial Chamber to grant him access. The Appeals Chamber has recalled that the equality of arms principle supports (not “requires”) “giving the applicant a similar chance to understand the proceedings and evidence and evaluate their relevance to his own case.” See Dragomir Milošević decision of 19 May 2009, para. 11; Motion, para. 11. The equality of arms principle at trial, however, requires that “the Prosecution and the Defence must be equal before the Trial Chamber” and guarantees each accused procedural equality. See *Prosecutor v. Tadić*, IT-94-1-A, Appeal judgement, 15 July 1999, paras 50, 52. Because this Trial Chamber is not seized of the *Karadžić* case, it is in no position to assess any matter involving the parties in the *Karadžić* case or any procedural inequality in the *Karadžić* trial.

16. The Trial Chamber is not, however, satisfied that the material in category (b), transcripts of closed session hearings, other than closed session testimony transcripts identified as such by the parties to this case, the material in category (d), confidential *inter partes* filings and submissions, and the material in category (e), confidential Trial Chamber decisions, generally stand a “good chance” of assisting Karadžić with his defence.

17. Category (b), closed session hearings, includes, for example, Rule 65 *ter* conferences and concerns mostly procedure and trial management, not confidential evidence. Similarly, category (d), confidential *inter partes* filings, and category (e), confidential decisions, often contain information wholly unrelated to the evidentiary basis of the case, including personal information relating to victims and witnesses in these proceedings, such as medical conditions and the ability to travel.⁴⁰ The Trial Chamber nonetheless remains mindful that because this Chamber grants Karadžić access “to confidential exhibits and confidential or closed session testimonies [...], he should not be prevented from accessing filings, submissions, decisions and hearing transcripts which may relate to such confidential evidence.”⁴¹

18. Consequently, this Chamber will not order disclosure of material in categories (b), (d) or (e) without an additional reasoned application. Karadžić may only have access to any confidential *inter partes* material within category (b), closed session hearing transcripts, within category (d), confidential *inter partes* filings and submissions and within category (e), confidential Trial Chamber decisions, which aid Karadžić to “better understand and make use of [the] confidential evidentiary material,”⁴² from categories (a) and (c).⁴³ Any subsequent application for access must with reasonable scope and clarity identify items or categories of items which may relate to specific evidentiary matters and must establish a legitimate forensic purpose for access. The Trial Chamber, considering its duty to “strike a reasonable balance between the rights of the accused [...] and the protection of witnesses and victims,”⁴⁴ will not grant Karadžić access to any material in categories (d) or (e) which contains sensitive personal or private information on any victim or witness.

19. Furthermore, the Trial Chamber notes that some of the confidential *inter partes* material to be disclosed by this Decision may have been provided pursuant to Rule 70 and remain subject to its

⁴⁰ *Blaskić* decision, para. 26.

⁴¹ *Dragomir Milošević* decision of 19 May 2009, para. 11.

⁴² *Dragomir Milošević* decision of 19 May 2009, para. 11.

⁴³ The Trial Chamber acknowledges that category (b) would also include parts of hearings, apart from witness testimony, held in private session.

⁴⁴ *Blaskić* decision, para. 26.

conditions. In accordance with the jurisprudence of the Tribunal, such material shall not be released to Karadžić unless and until the provider consents to disclosure.⁴⁵

20. Pursuant to Rule 75(F), any protective measure granted in one case continues to apply *mutatis mutandis* in any other proceedings before the Tribunal. All material subject to disclosure pursuant to this Decision shall remain subject to any protective measures previously imposed in the “first proceedings,” including orders for delayed disclosure of identity. As is the practice of the Tribunal,⁴⁶ the Trial Chamber will also grant the Prosecution, the Defence of Mićo Stanišić and the Defence of Stojan Župljanin the opportunity to file a request with the Trial Chamber to withhold specifically identified material or for additional protective measures or redactions, should they deem it necessary.

21. The Trial Chamber notes that Karadžić filed similar motions for access in other cases. Several past decisions granting access to confidential material have placed the duty on the parties to determine to which materials the applicant should have access.⁴⁷ In the *Tolimir* case, the Registry filed a submission with the Chamber pursuant to Rule 33(B) wherein it expressed reservations about implementing a decision of the *Tolimir* Trial Chamber granting Karadžić access to confidential material in other cases whereby the Registry was directed to identify personal information not subject to disclosure.⁴⁸ The Registry, recalling its neutral role and the potentially overwhelming volume of material that it would have to assess, stated that the obligation to determine which materials to which an applicant should have access ought to rest with the parties.⁴⁹

22. This Trial Chamber, following established practice, will direct the Prosecution and Defence teams in the current case to identify the relevant evidentiary material. Karadžić specifically requests access to confidential material “for the duration of the pre-trial and trial proceedings.”⁵⁰ The stated preferred approach of chambers has been to limit access to materials to the date of the request or of the decision upon that request.⁵¹ However, in cases where one or both trials are still at the pre-trial

⁴⁵ See, e.g., *Krajišnik* decision, p. 5; *Dragomir Milošević* decision of 27 Apr 2009, para. 13; *Dragomir Milošević* decision of 19 May 2009, para. 15.

⁴⁶ *Dragomir Milošević* decision of 19 May 2009, paras 15, 19; *Prosecutor v. Vidoje Blagojević and Dragan Jokić*, Case No. IT-02-60-A, Decision on motions for access to confidential materials, 16 Nov 2005, paras 16, 19.

⁴⁷ *Prosecutor v. Lukić and Lukić*, Case No. IT-98-32/1-PT, Order on Sredoje Lukić’s motion for access to confidential information in the Vasiljević case, 9 May 2006; *Prosecutor v. Gotovina et al.*, Case No. IT-06-90-T, Decision on Ivan Čermak’s motion for access to confidential materials in the Milan Martić case, 13 Jul 2009.

⁴⁸ *Prosecutor v. Tolimir*, Case No. IT-05-88/2-PT, Decision on Tolimir’s motions for access to confidential material in the *Krstić* case and the *Blagojević* and *Jokić* case with partially dissenting opinion of Judge Kwon, 8 Jul 2009, para. 16.2.

⁴⁹ *Prosecutor v. Tolimir*, Case No. IT-05-88/2-PT, Registry submission regarding Trial Chamber’s decision of 8 July 2009, 21 Jul 2009, pp. 2-8.

⁵⁰ Motion, paras 1, 14.

⁵¹ *Prosecutor v. Karadžić*, Case Nos. IT-95-5/18-PT & IT-04-81-T, Decision on Momčilo Perišić’s motion for access to confidential materials in the *Radovan Karadžić* Case, 14 Oct 2008 (“*Karadžić* decision of 14 Oct 2008”), para. 18; *Prosecutor v. Karadžić*, Case No. IT-95-5/18-PT, Decision on Jovica Stanišić’s motion for access to confidential

stage or where trial has just begun, the chambers have more recently granted access on an ongoing basis.⁵² As a matter of judicial economy, and based upon the particular circumstances of both the proceedings involved, including the fact that both cases commenced towards the end of last year and are expected to continue for some time, the Chamber will grant Karadžić access to confidential material on an ongoing basis.

IV. DISPOSITION

For the foregoing reasons and pursuant to Rules 54, 70 and 75, the Trial Chamber **GRANTS** the Motion **IN PART** as follows:

- 1) **ORDERS** the parties to this case (“Parties”), on an ongoing basis, to identify for the Registry the following *inter partes* material in the case of *Prosecutor v. Stanišić and Župljanin*, Case No. IT-08-91, for disclosure to Radovan Karadžić:
 - a) all closed and private session testimony transcripts which are not subject to Rule 70 or for which consent to disclosure has been obtained;
 - b) all confidential trial exhibits, which are not subject to Rule 70 or for which consent to disclosure has been obtained;
- 2) **ORDERS** the Registrar to provide the material identified in paragraph 1) to Radovan Karadžić, in accordance with the provisions below;
- 3) **ORDERS** the Parties to identify, without delay, which of the evidentiary material presented in their case and described in 1) a) and b) above is subject to the provisions of Rule 70, and to immediately thereafter contact the providers of such material to seek their consent for its confidential disclosure to Radovan Karadžić and, where Rule 70 providers consent to such disclosure, to notify the Registry on a periodic basis of such consent;
- 4) **ORDERS** the Registrar:
 - a) to withhold any material under 3) a) or b) which pertains to any witness protected by an order for delayed disclosure of identity until the requirement for delayed disclosure has ceased to apply; and

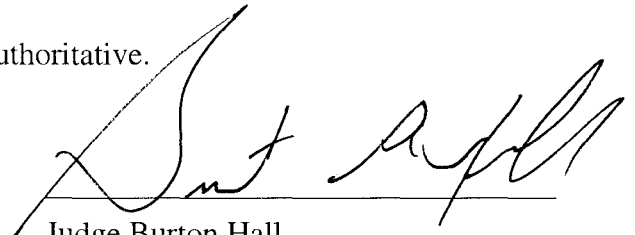
materials in the *Karadžić* case, 20 May 2009 (“*Karadžić* decision of 20 May 2009”), para. 11; *Prosecutor v. Popović*, Case No. IT-05-88-T, Decision on Tolimir’s motion for access to confidential material in the *Popović et al.* case (“*Popović* decision”), para. 15.

⁵² *Karadžić* decision of 14 Oct 2008, para. 18; *Karadžić* decision of 20 May 2009, para. 11; *Popović* decision, para. 15.

- b) to withhold any material under 1) a) or b) which is or may be protected by Rule 70 until the party which tendered the material in question has informed the Registry that it has obtained consent to disclose from the relevant Rule 70 provider, even if those providers have consented to the use of the relevant material in a prior case. Where consent cannot be obtained from the provider(s) of any material subject to Rule 70, the material is not to be disclosed;
- 5) **INSTRUCTS** the Registry to disclose to Radovan Karadžić on an ongoing basis:
- a) all confidential *inter partes* material not subject to Rule 70, after this material has been identified by the relevant party as such in accordance with paragraph 3); and
 - b) the Rule 70 material once the Parties have identified such material and informed the Registry that the consent of the Rule 70 provider(s) has been obtained in accordance with paragraphs 2) and 3);
- 6) **RECALLS** that, pursuant to Rule 75(F)(i), any protective measures that have been ordered in respect of a witness in the *Stanišić and Župljanin* case shall continue to have effect in the case against Radovan Karadžić, except insofar as they have been varied in accordance with this Decision;
- 7) **DENIES** Radovan Karadžić access to all other materials not disclosed by this decision unless and until he submits a subsequent application for such confidential materials which may relate to specific evidentiary matters, provided that any such application must identify items or categories of items with reasonable scope and clarity and must establish a legitimate forensic purpose for access;
- 8) **ORDERS** that Radovan Karadžić, his Defence team, and any employees who have been instructed or authorised by Radovan Karadžić or any of his legal advisors, shall not disclose to the public, or to any third party, any confidential or non-public material disclosed from the *Stanišić and Župljanin* case, including witness identities, whereabouts, statements, or transcripts, except solely to the limited extent that such disclosure is directly and specifically necessary for the preparation and presentation of Radovan Karadžić's case;

- 9) **ORDERS** that any person to whom confidential or non-public material is provided 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 other person or to any third party, and that he or she must return the material to Radovan Karadžić as soon as it is no longer needed for the preparation of the his case.

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



Judge Burton Hall
Presiding

Dated this thirtieth day of June 2010

At The Hague

The Netherlands

[Seal of the Tribunal]