



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-T

Date: 21 June 2012

Original: English

IN THE TRIAL CHAMBER

Before: Judge O-Gon Kwon, Presiding
Judge Howard Morrison
Judge Melville Baird
Judge Flavia Lattanzi, Reserve Judge

Registrar: Mr. John Hocking

Decision of: 21 June 2012

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

DECISION ON CONTINUATION OF STANDBY COUNSEL ASSIGNMENT

Office of the Prosecutor

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

The Accused

Mr. Radovan Karadžić

Standby Counsel

Mr. Richard Harvey

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”),

NOTING that on 18 April 2012, the Registrar of the Tribunal (“Registrar”) asked the Chamber via internal memorandum to clarify the role anticipated for Mr. Richard Harvey as standby counsel (“Standby Counsel”) during the Accused’s defence case;

NOTING that during the hearing of 4 May 2012 the Chamber asked the parties and Standby Counsel to file submissions as to whether the Chamber’s “Decision on Designation of Standby Counsel” issued on 15 April 2010 (“Designation Decision”) should continue to apply after the close of the Prosecution case and, if so, to what extent;¹

NOTING that on 7 May 2012 the Accused filed a “Submission on Standby Counsel”, wherein he submits that the continuation of the mandate of Standby Counsel is unnecessary as he “intends to comply with all of the orders and directions of the Trial Chamber, as he has done throughout the prosecution’s case”;

NOTING that the Prosecution filed a “Prosecution Submission on the Continuation of Standby Counsel Arrangements” on 10 May 2012, in which it supports the continuation of Standby Counsel’s role until the end of the trial;

NOTING further that Standby Counsel filed a “Submission to Trial Chamber on the Continuing Need for Standby Counsel” on 10 May 2012 (“Standby Counsel Submission”), wherein he submits that “the continued role of Standby Counsel is essential to the smooth running of the trial and to the protection of the fair trial rights of all parties”;²

RECALLING that the Chamber designated Mr. Harvey as Standby Counsel on 13 April 2010,³ and that on 15 April 2010, it issued the Designation Decision wherein it set forth the following functions for Standby Counsel, until further order, as follows:

- (a) to receive copies of all court documents, filings, and disclosed materials generated by or sent to the Accused;
- (b) to be present in the courtroom during the proceedings, assisted by one member of his team, should he consider it to be necessary;⁴

¹ T. 28508 (15 April 2010).

² Standby Counsel Submission, para. 14.

³ Oral decision, T. 998–999 (13 April 2010).

- (c) to engage actively in ongoing substantive preparation of the case, in order to be prepared to put questions to witnesses on behalf of the Accused, or to represent his interests, at any time, should the Trial Chamber find this to be necessary; and
- (d) to address the Chamber whenever so requested by the Chamber.⁵

CONSIDERING the Chamber's view that despite the recent close of the Prosecution case and the forthcoming start of the Defence case, the role of Standby Counsel remains unchanged;

CONSIDERING further that Standby Counsel must maintain a state of readiness to take over the conduct of the case at any time and that this will require him to develop a defence strategy and conduct some investigations of his own so that, if he should be ordered to represent the Accused's interests, the proceedings would not need to be adjourned;

FOR THE FOREGOING REASONS

PURSUANT TO Article 20(1) of the Statute of the Tribunal and Rule 54 of the Tribunal's Rules of Procedure and Evidence

ORDERS that the role of Standby Counsel as defined in the Designation Decision shall remain unchanged during the Accused's Defence case and **REQUESTS** the Registry and the Prosecution to continue to take all necessary measures to ensure that Standby Counsel is able to fulfil his role.

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



Judge O-Gon Kwon
Presiding

Dated this twenty-first day of June 2012
At The Hague
The Netherlands

[Seal of the Tribunal]

⁴ Should he be unable to attend any of the court proceedings, Mr. Harvey should inform the Chamber and may request that a member of his team attend in his absence.

⁵ Designation Decision, para. 9.