



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: 4 May 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

Order of: 4 May 2012

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

ORDER TO FRANCE

Office of the Prosecutor

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

The Government of the French Republic

via the Embassy of France
to the Netherlands, The Hague

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”),

BEING SEISED OF the Accused’s “Request for Second Invitation to France”, filed publicly on 23 April 2012 (“Request”) and the Accused’s “Reply to Note Verbale of France”, filed confidentially on 2 May 2012 (“Reply”);

RECALLING that on 26 March 2012 the Accused filed his “Request for Invitation to Government of France”, in which he asked the Chamber to issue, *inter alia*, an invitation to the French Republic (“France”) to respond to his request for permission to interview Milomir Stakić, who is currently serving a prison sentence in France;

RECALLING that, on 29 March 2012, the Chamber invited France to assist the Chamber by either co-operating with the Accused and facilitating the interview of Milomir Stakić by the Accused’s legal adviser or by filing a response, within 14 days of receipt of the invitation, specifying why it cannot so co-operate;¹

NOTING that in the Request the Accused informs the Chamber that France did not contact him or his team, nor filed a response, within the deadline prescribed by the Chamber, and thus requests the Chamber to issue a second invitation to France;²

NOTING that, on 26 April 2012,³ France filed a confidential “Note Verbale, reference number 329” in response to the Chamber’s invitation of 29 March 2012 (“Response”), stating that the aforementioned invitation was “being executed”⁴ but noting at the same time that French domestic law obliges France to co-operate “only with the Tribunal and its organs”,⁵ which in turn does not include the Accused and his defence team;⁶

¹ Invitation to France, 29 March 2012.

² Request, paras. 2–3.

³ The English translation of this Note Verbale was filed on 2 May 2012.

⁴ Response, para. 1.

⁵ Response, paras. 2–4.

⁶ Response, para. 5.

NOTING that, on 2 May 2012, during court proceedings, the Accused's legal adviser requested, in private session, that the Response be reclassified as public on the basis that it contains nothing that merits its confidential status and that he was also granted leave to reply to the Response;⁷

NOTING that later that day the Accused filed the Reply in which he, in light of France's position on co-operation with him and his team, requests that the Chamber order France, pursuant to Article 29 of the Tribunal's Statute ("Statute") and Rules 54 and 54 *bis* of the Tribunal's Rules of Procedure and Evidence ("Rules"), to make Milomir Stakić available for interview by the Accused's legal adviser on 25 June 2012, at 10:00 a.m., at the facility where he is incarcerated;⁸

NOTING that in the Reply, the Accused also asks the Chamber to remind France that its obligation to co-operate with the Tribunal includes complying with the time limits set by the Chamber;⁹

CONSIDERING that, with the filing of the Response and the Reply, the Request is now moot and shall not be considered by the Chamber further;

REITERATING that it is in the interests of all parties involved that requests for interviews such as this should be, if possible, dealt with on a voluntary basis instead of initiating Rule 54 proceedings every time there is a request by the Accused, and reiterating that the Chamber should only be involved as a method of last resort;¹⁰

REITERATING also that the states' duty to co-operate with the Tribunal in its work *includes* co-operation with the defence and self-represented accused who are investigating issues relevant to their cases and that France should therefore co-operate with the Accused on this and other matters to the maximum extent possible without involving the Chamber and/or the Registry;¹¹

CONSIDERING nevertheless that, in order to resolve the current impasse between France and the Accused as quickly as possible, the Chamber has decided to issue an order to France instructing it to facilitate the interview of Milomir Stakić by the Accused's legal adviser;

⁷ T. 28323–28324 (2 May 2012) (private session).

⁸ Reply, para. 7.

⁹ Reply, para. 4.

¹⁰ See Invitation to France, 29 March 2012.

¹¹ See Invitation to France, 29 March 2012.

CONSIDERING further that there is nothing in the Response that merits its confidential status and that, therefore, it may be re-classified as a public filing, as is the case with the Reply and the portion of the transcript of 2 May 2012 where this issue is discussed;¹²

CONSIDERING finally that France's duty to co-operate also includes its duty to comply with time-limits set by the Chamber or, if that is not possible, to inform the Chamber accordingly and seek the appropriate extension of the deadline;

PURSUANT TO Article 29 of the Statute and Rule 54 of the Rules,

HEREBY

- a. **ORDERS** France to facilitate the interview of Milomir Stakić by the Accused's legal adviser on 25 June 2012, at 10:00 a.m., at the facility at which he is incarcerated or, if that time is not possible, at some other time as agreed on by the Accused and France;
- b. **REQUESTS** the Registry to re-classify the Response and the Reply, as well as the following portion of the transcript in the *Karadžić* case as public: T. 28323 (line 16) to T. 28324 (line 7); and
- c. **REQUESTS** the Registry to provide the Request, the Reply, and this Order to France.

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



Judge O-Gon Kwon, Presiding

Dated this fourth day of May 2012
At The Hague
The Netherlands

[Seal of the Tribunal]

¹² The relevant portion of the transcript is: T. 28323 (line 16) to T. 28324 (line 7).