



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: 23 January 2015

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:** 23 January 2015

**PROSECUTOR**

v.

**RADOVAN KARADŽIĆ**

***CONFIDENTIAL***

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**INTERIM ORDER REGARDING ACCUSED'S MOTION FOR RECLASSIFICATION OF  
FILINGS RELATING TO DAVID HARLAND**

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**Office of the Prosecutor**

Mr. Alan Tieger  
Ms. Hildegard Uertz-Retzlaff

**The Accused**

Mr. Radovan Karadžić

**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 “Motion for Reclassification of Filings Relating to David Harland”, filed confidentially by the Accused on 4 December 2014 (“Motion”) whereby the Accused requests that the Chamber reclassify as public eight filings—including this Chamber’s decision issued on 24 November 2009<sup>1</sup>—related to the testimony of the United Nations (“UN”) staff member, David Harland (“Filings”);<sup>2</sup>

**NOTING** that the Office of the Prosecutor (“Prosecution”) filed confidentially the “Prosecution Response to Motion for Reclassification of Filings Related to David Harland” on 18 December 2014 (“Response”) in which it argues that the Motion should be denied as the Filings discuss “sensitive communications between the Prosecution and a Rule 70 provider” or, in the alternative, that only the Chamber’s 24 November 2009 decision should be reclassified as public, but in a redacted form;<sup>3</sup>

**RECALLING** that the Filings concern the request the UN made back in 2009 that David Harland testify in closed session in this case, which then prompted the Prosecution to file a motion asking for closed session testimony under both Rules 70 and 75 of the Tribunal’s Rules of Procedure and Evidence (“Rules”);<sup>4</sup>

**RECALLING** further that the Prosecution’s motion for closed session was denied, which in turn resulted in the UN eventually agreeing to Harland testifying in public session;

**CONSIDERING** that Harland gave evidence in public session in the period between 6 to 11 May 2010 and that, therefore, the UN’s concerns expressed back in 2009 may no longer exist;

**CONSIDERING** however that it is unclear from the Response whether the Prosecution contacted the UN to verify if it had any objections to the relief sought in the Motion and, if so, what the exact scope of those objections is;

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<sup>1</sup> Decision on Prosecution’s Motion for Protective Measures for Witness KDZ487, 24 November 2009, confidential.

<sup>2</sup> Motion, paras. 1–2, Confidential Annex A.

<sup>3</sup> Response, paras. 1–2.

<sup>4</sup> Motion, Confidential Annex A.

**PURSUANT TO** Rule 54 of the Rules,

**HEREBY:**

- a. **ORDERS** the Prosecution to liaise with the UN (if it has not done so already) in order to verify whether the UN would be willing to consent to the relief sought in the Motion;
- b. **ORDERS** the Prosecution to file, by 13 February 2015, a supplemental submission in which it shall
  - (i) inform the Chamber of the outcome of its consultations with the UN and
  - (ii) in case the UN is not willing to consent to the relief sought in the Motion, outline clearly the exact scope of the information in the Filings that should remain confidential due to the operation of Rule 70 of the Rules; and
- c. **DEFERS** its decision on the Motion until it hears back from the Prosecution in accordance with (a) and (b) above.

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



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Judge O-Gon Kwon, Presiding

Dated this twenty-third day of January 2015  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**