



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-R61
Case No. IT-95-18-R61
Date: 27 June 1996

Original: French

IN THE TRIAL CHAMBER

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

Registrar: Mr. Dominique Marro, Deputy Registrar

Order of: 27 June 1996

THE PROSECUTOR

v.

**RADOVAN KARADŽIĆ
RATKO MLADIĆ**

**DECISION PARTIALLY REJECTING THE REQUEST SUBMITTED BY
MR. IGOR PANTELIĆ, COUNSEL FOR RADOVAN KARADŽIĆ**

The Office of the Prosecutor:

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

TRIAL CHAMBER I of the International Criminal Tribunal for the former Yugoslavia,

NOTING Article 21 of the Statute and Rule 61 of the Rules of Procedure and Evidence (“The Rules”),

NOTING the decision of the Trial Chamber requesting additional information dated 26 June 1996,

HAVING HEARD the Registrar who read the request of Mr. Pantelić, and the further explanations tendered by the latter;

HAVING HEARD the Prosecutor at the hearing;

CONSIDERING that the proceedings in case of failure to execute a warrant of arrest stipulated in Rule 61 of the Rules provide for a further review of an indictment in public by a full panel of Judges;

CONSIDERING that access to the relevant documents and case-files requested by Mr. Pantelić, and which the Prosecutor will submit during the Rule 61 hearing, could only be granted as part of a trial following an initial appearance of the accused in person, pursuant to Rule 66 of the Rules; that the accused will at that time also enjoy the other rights guaranteed to him by the provisions of Article 21 of the Statute;

CONSIDERING that Rule 61 proceedings cannot be considered to constitute a trial;

CONSIDERING that these proceedings fully guarantee the rights of the accused; that the accused has, in fact, been notified of the indictments prior to these proceedings and that, in addition, he has the right to appear, accompanied by his counsel, before the Tribunal; that if he were to do so, the nature of the proceedings would alter and would become a *inter partes* trial with all the guarantees which are an inherent part of a fair trial;

CONSIDERING, however, that the presence of Mr. Pantelić and his request to attend the proceedings pursuant to Rule 61 in the physical absence of the accused may be interpreted in this case as deriving from one of the general principles of the rights of the defence, in this case the right of his client to be given the fullest information possible as provided by Article 21, paragraph 4 (a) of the Statute of the Tribunal;

CONSIDERING that the confirming Judges in their orders of 18 June 1996 considered that the condition in respect of informing the accused Radovan Karadžić had been fully satisfied as demonstrated by the Prosecutor;

CONSIDERING, however, that the Trial Chamber considers that, unless Counsel waives that right, the information may be properly supplemented today by the reading of the two indictments in the presence of the Counsel whom the accused has chosen;

CONSIDERING further that the Trial Chamber, in its wish to permit the chosen Counsel to inform his client of the charges against him, considers that he must be granted the status of observer;

FOR THE FOREGOING REASONS

TAKES NOTE of the request submitted by Mr. Pantelić on behalf of Radovan Karadžić;

INVITES the Registrar to read the two indictments against Radovan Karadžić in the presence of Mr. Pantelić in the courtroom, unless Mr. Pantelić expressly waives that right;

REJECTS the request of Mr. Pantelić to be present continuously in the courtroom during the Rule 61 proceedings and to have free access to the documents and case-files which the Prosecutor will submit;

STATES that Mr. Pantelić will then be escorted to the public gallery where a seat will be reserved for him as an observer throughout the proceedings.

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

Claude Jorda
Presiding Judge of Trial Chamber I

Dated this twenty-seventh day of June 1996
At The Hague
The Netherlands