



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-R-61  
Case No. IT-95-18-R61  
Date: 24 July 1996

English  
Original: French

**IN THE TRIAL CHAMBER**

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

**Registrar:** Mr. Dominique Marro, Deputy Registrar

**Decision of:** 24 July 1996

**THE PROSECUTOR**

v.

**RADOVAN KARADŽIĆ  
RATKO MLADIĆ**

**DECISION REJECTING THE APPLICATION PRESENTED BY  
MESSRS MEDVENE AND HANLEY SEEKING LEAVE TO FILE BRIEFS  
CHALLENGING THE FAIRNESS OF THE STATUTE AND  
THE RULES OF PROCEDURE AND EVIDENCE**

**The Office of the Prosecutor:**

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

**TRIAL CHAMBER I**

**PURSUANT** to Rule 61 of the Rules of Procedure and Evidence (the Rules),

**NOTING** the application filed with the Registrar on 5 July 1996 by Messrs Medvene and Hanley appointed by the accused Radovan KARADŽIĆ as "President of Republika Srpska" seeking leave to file briefs challenging the fairness of the Statute and the Rules of the International Criminal Tribunal for the former Yugoslavia (the Tribunal),

**NOTING** the decision of 5 July 1995;

**CONSIDERING** that, in their application, Messrs Medvene and Hanley requested leave first to appear before the Trial Chamber as part of the proceedings pursuant to Rule 61 relating to two indictments in which their client, Radovan KARADŽIĆ, is accused, and second, leave to file briefs challenging the fairness of the Statute and of the Rules of the Tribunal;

**CONSIDERING** that in its decision of 5 July 1996, the Trial Chamber rejected the application of Messrs Medvene and Hanley to remain present in the courtroom during the Rule 61 hearings and to be granted free access to the documents and case-files which the Prosecutor submitted;

**CONSIDERING** that a decision on the second part of the application must now be taken;

**CONSIDERING** that the Rule 61 hearing could not be interpreted as a trial;

**CONSIDERING** that pursuant to the Statute and the Rules, the accused is entitled to appear before the Tribunal accompanied by his counsel; that in such a case the nature of the proceedings changes and becomes *inter partes* with all the guarantees inherent in a fair trial, including the right, pursuant to Rules 72 and 73 of the Rules, to file preliminary motions;

**CONSIDERING** therefore that pursuant to Rule 61, the said application does not fall within the jurisdiction of the Trial Chamber; that the application could be filed by the accused only after his initial appearance before the Trial Chamber entitled to try him;

**FOR THE FOREGOING REASONS**

**REJECTS** the application of Messers Medvene and Hanley requesting leave to file briefs challenging the fairness of the Statute and the Rules of the Tribunal.

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

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Claude Jorda  
Presiding Judge of Trial Chamber I

Dated this Twenty-fourth day of July 1996  
At The Hague  
The Netherlands