

IT-02-54-R77.5
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**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-02-54-R77.5
Date: 1 December 2008
Original: English

IN A SPECIALLY APPOINTED CHAMBER

**Before: Judge Carmel Agius, Presiding
Judge Alphons Orié
Judge Christine Van den Wyngaert**

Registrar: Mr Hans Holthuis

Decision of: 1 December 2008

**IN THE CASE AGAINST
FLORENCE HARTMANN**

PUBLIC

**DECISION ON DEFENCE MOTION REQUESTING PROVISION OF ADDITIONAL
DOCUMENTS, AND IN THE FRENCH LANGUAGE**

Amicus Curiae Prosecutor

Mr Bruce MacFarlane

Counsel for the Accused

Mr William Bourdon

THE SPECIALLY APPOINTED CHAMBER (“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 SEIZED of the Defence Motion filed on 14 November 2008 to be provided with three documents in French,¹ namely 1) the Registrar’s Submission pursuant to Rule 33(B), (“Registrar’s Submission”) dated 14 January 2008, 2) the Registrar’s Submissions pursuant to Rule 33(B) (“Addendum”), dated 23 January 2008 3) the President’s Order Assigning Judges to a Contempt Matter (“Order Assigning Judges”), dated 23 January 2008;

NOTING that all three documents were filed confidentially and *ex parte*;

RECALLING that the Tribunal’s jurisprudence does not interpret the provisions of Rule 3(A) of the Rules of Procedure and Evidence (“Rules”) and Article 21(4) of the Statute of the Tribunal (“Statute”) to mean that an Accused is entitled to receive **all** documents in a language he understands, but that only certain documents, such as those that are subject to Rule 66(A)(i) and (ii) of the Rules, are to be provided to the accused in a language he understands;²

RECALLING that the Prosecution is under no obligation to disclose material other than that upon which the charges are based;³

NOTING that the documents referred to in the Motion are not part of the supporting material in this case; rather, they form part of the procedural history in the case against the Accused;

NOTING the Prosecution’s Response to the Motion, filed on 19 November 2008, in which it expressed that it did not object to the provision of the requested documents, recommending, in addition, that the Defence be provided with the complete filing history in this case;⁴

¹ Motion No. 3, filed 14 November 2008.

² *Prosecutor v. Radovan Karadžić*, Decision on the Accused’s Request that all Materials, including Transcripts, be Disclosed to him in Serbian and Cyrillic Script (“*Karadžić* Decision”), 25 September 2008, para. 7; *Prosecutor v. Popović et al.*, Decision on Joint Defence Motions Requesting the Translation of the Pre-Trial brief and Specific Motions, 24 May 2006, para. 9.

³ *Prosecutor v. Radovan Karadžić*, Decision on Accused Motion for Full Disclosure of Supporting Material, 25 November 2005, para. 21; *Prosecutor v. Ojdanić and Šainović*, Decision on Defence Motion to Require Full Compliance with Rule 66(A)(i) and for Unsealing of *Ex Parte* Materials, 18 October 2002; *Prosecutor v. Kordić and Čerkez*, Order on Motion to Compel Compliance by the Prosecutor with Rules 66 (A) and 68, 26 February 1999, p. 3.

⁴ Prosecutor’s Response to Defence Motion for Additional Disclosure (“Response”), filed 19 November 2008, paras 6, 7.

CONSIDERING that in the case against the Accused, all filings prior to the Order in Lieu of an Indictment filed on 27 August 2008, were *ex parte* and confidential, under Case number “IT-02-54-Misc.2”;

CONSIDERING that IT-02-54-Misc.2, as such, contains filings that reflect the procedural history of the case against the Accused, and that on this basis, the Chamber therefore deems it appropriate that the filings be provided to the Defence;

CONSIDERING further that it is the policy of this Tribunal that Orders and Decisions are translated into English and French;

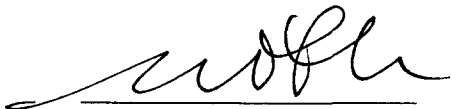
PURSUANT to Rules 3(A) and 54 of the Rules, as well as Article 21(4) of the Statute,

GRANTS the Motion, in part; and

ORDERS

- (a) The Registry to lift the *ex parte* status of all the filings in Case Number IT-02-54-Misc.2, to reclassify them as *inter partes* and confidential, and to provide the Defence with French translations of any Orders and Decisions in that case;
- (b) that, except where directly and specifically necessary for the preparation and presentation of the case, and only upon leave granted by this Chamber, the Accused shall not disclose to the public, to the media, or to the family members or associates of the Accused either of the confidential material described in subparagraphs (a) and (b) above.
- (c) for the purpose of this Order:
 - i. the “Accused” means Florence Hartmann, her Defence counsel and immediate legal assistants and staff;
 - ii. the “public” means all persons, governments, organisations, entities, clients, associations and groups, other than Judges of the Tribunal and the staff of the Registry, the Prosecution, or the Accused, and includes, without limitation, family, friends, and associates of the Accused, and those accused and their defence counsel in other cases or proceedings before the Tribunal;
 - iii. the “media” means all video, audio, and print media personnel including journalists, authors, television, and radio personnel and their agents and representatives; and

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



Judge Carmel Agius
Presiding Judge

Dated this 1st day of December 2008
At The Hague
The Netherlands

[Seal of the Tribunal]