



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: 15 March 2010

Original: English

**IN THE TRIAL CHAMBER**

**Before:** Judge O-Gon Kwon, Presiding  
Judge Howard Morrison  
Judge Melville Baird  
Judge Flavia Lattanzi, Reserve Judge

**Registrar:** Mr. John Hocking

**Decision of:** 15 March 2010

**PROSECUTOR**

v.

**RADOVAN KARADŽIĆ**

***PUBLIC***

**DECISION ON PROSECUTION REQUEST FOR LEAVE TO REPLY  
TO "SECOND SUPPLEMENTAL RESPONSE TO MOTION FOR JUDICIAL NOTICE OF  
DOCUMENTS"**

**Office of the Prosecutor**

Mr. Alan Tieger  
Ms. Hildegard Uertz-Retzlaff

**The Accused**

Mr. Radovan Karadžić

**Appointed 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 “Prosecution Request for Leave to Reply to ‘Second Supplemental Response to Motion for Judicial Notice of Documents’”, filed on 12 March 2010 (“Request”);

**CONSIDERING** that, in the Request, the Office of the Prosecutor (“Prosecution”) states that its proposed reply would address the following four issues raised by the Accused’s “Second Supplemental Response to Motion for Judicial Notice of Documents”, filed on 11 March 2010 (“Response”): “(i) ‘absent foundational testimony’, intercepts should not be admitted pursuant to Rule 94 (B)” of the Tribunal’s Rules of Procedure and Evidence (“Rules”); (ii) “an unlawful intercept must be excluded under Rule 95 of the Rules”; (iii) “documents about which a forthcoming Prosecution witness may speak to should not be admitted under Rule 94(b) of the Rules”; and (iv) “a document, the contents of which directly concern the acts, conduct, and mental state of an accused, without the possibility of questioning the author, or any person present at the meeting memorialised in the document, is a violation of the right to a fair trial”;<sup>1</sup>

**NOTING** that issues that have already been addressed by the Prosecution in its “First Motion for Judicial Notice of Documentary Evidence related to the Sarajevo Component With Confidential Appendix A”, filed on 19 October 2009 (“Motion for Judicial Notice”), need not be reiterated in the reply, and that only new issues that arise from the Accused’s Response should be addressed in the reply;

**CONSIDERING** that further submissions from the Prosecution on the four issues identified above may be of assistance to the Chamber in deciding the Motion for Judicial Notice;

**PURSUANT TO** Rules 54 and 126 *bis* of the Rules,

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<sup>1</sup> Request, para. 2.

**HEREBY GRANTS** the Prosecution leave to reply to the Response on the issues outlined under (i) through (iv) above, within the deadline prescribed by the Rules.

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



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Judge O-Gon Kwon  
Presiding

Dated this fifteenth day of March 2010  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**