



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: 21 June 2012

Original: English

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**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:** 21 June 2012

**PROSECUTOR**

v.

**RADOVAN KARADŽIĆ**

***PUBLIC***

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**DECISION ON CONTINUATION OF STANDBY COUNSEL ASSIGNMENT**

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**Office of the Prosecutor**

Mr. Alan Tieger  
Ms. Hildegard Uertz-Retzlaff

**The Accused**

Mr. Radovan Karadžić

**Standby 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”),

**NOTING** that on 18 April 2012, the Registrar of the Tribunal (“Registrar”) asked the Chamber via internal memorandum to clarify the role anticipated for Mr. Richard Harvey as standby counsel (“Standby Counsel”) during the Accused’s defence case;

**NOTING** that during the hearing of 4 May 2012 the Chamber asked the parties and Standby Counsel to file submissions as to whether the Chamber’s “Decision on Designation of Standby Counsel” issued on 15 April 2010 (“Designation Decision”) should continue to apply after the close of the Prosecution case and, if so, to what extent;<sup>1</sup>

**NOTING** that on 7 May 2012 the Accused filed a “Submission on Standby Counsel”, wherein he submits that the continuation of the mandate of Standby Counsel is unnecessary as he “intends to comply with all of the orders and directions of the Trial Chamber, as he has done throughout the prosecution’s case”;

**NOTING** that the Prosecution filed a “Prosecution Submission on the Continuation of Standby Counsel Arrangements” on 10 May 2012, in which it supports the continuation of Standby Counsel’s role until the end of the trial;

**NOTING** further that Standby Counsel filed a “Submission to Trial Chamber on the Continuing Need for Standby Counsel” on 10 May 2012 (“Standby Counsel Submission”), wherein he submits that “the continued role of Standby Counsel is essential to the smooth running of the trial and to the protection of the fair trial rights of all parties”;<sup>2</sup>

**RECALLING** that the Chamber designated Mr. Harvey as Standby Counsel on 13 April 2010,<sup>3</sup> and that on 15 April 2010, it issued the Designation Decision wherein it set forth the following functions for Standby Counsel, until further order, as follows:

- (a) to receive copies of all court documents, filings, and disclosed materials generated by or sent to the Accused;
- (b) to be present in the courtroom during the proceedings, assisted by one member of his team, should he consider it to be necessary;<sup>4</sup>

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<sup>1</sup> T. 28508 (15 April 2010).

<sup>2</sup> Standby Counsel Submission, para. 14.

<sup>3</sup> Oral decision, T. 998–999 (13 April 2010).

- (c) to engage actively in ongoing substantive preparation of the case, in order to be prepared to put questions to witnesses on behalf of the Accused, or to represent his interests, at any time, should the Trial Chamber find this to be necessary; and
- (d) to address the Chamber whenever so requested by the Chamber.<sup>5</sup>

**CONSIDERING** the Chamber's view that despite the recent close of the Prosecution case and the forthcoming start of the Defence case, the role of Standby Counsel remains unchanged;

**CONSIDERING** further that Standby Counsel must maintain a state of readiness to take over the conduct of the case at any time and that this will require him to develop a defence strategy and conduct some investigations of his own so that, if he should be ordered to represent the Accused's interests, the proceedings would not need to be adjourned;

### **FOR THE FOREGOING REASONS**

**PURSUANT TO** Article 20(1) of the Statute of the Tribunal and Rule 54 of the Tribunal's Rules of Procedure and Evidence

**ORDERS** that the role of Standby Counsel as defined in the Designation Decision shall remain unchanged during the Accused's Defence case and **REQUESTS** the Registry and the Prosecution to continue to take all necessary measures to ensure that Standby Counsel is able to fulfil his role.

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



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Judge O-Gon Kwon  
Presiding

Dated this twenty-first day of June 2012  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**

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<sup>4</sup> Should he be unable to attend any of the court proceedings, Mr. Harvey should inform the Chamber and may request that a member of his team attend in his absence.

<sup>5</sup> Designation Decision, para. 9.