



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: 25 September 2012  
Original: English

**IN THE TRIAL CHAMBER**

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

**Registrar:** Mr. John Hocking

**Order of:** 25 September 2012

**PROSECUTOR**

v.

**RADOVAN KARADŽIĆ**

***PUBLIC***

**INVITATION REGARDING MOTION TO SUBPOENA AMBASSADOR JOSE  
CUTILEIRO**

**Office of the Prosecutor**

Mr. Alan Tieger  
Ms. Hildegard Uertz-Retzlaff

**The Government of Portugal**

via the Embassy of Portugal to  
The Netherlands, The Hague

**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”),

**BEING SEISED OF** the Accused’s “Motion for Subpoena Ambassador Jose Cutileiro” filed on 19 September 2012 (“Motion”), in which the Accused requests, pursuant to Rule 54 of the Tribunal’s Rules of Procedure and Evidence (“Rules”), that the Chamber issue a subpoena compelling Ambassador Cutileiro to testify at his trial;<sup>1</sup>

**NOTING** that in the Motion the Accused submits that Ambassador Cutileiro chaired a series of talks on future constitutional arrangements in Bosnia and Herzegovina in which the Accused participated and, in that capacity, has relevant information to the defence of the Accused;<sup>2</sup>

**NOTING** that Ambassador Cutileiro was interviewed by the Accused’s legal adviser on 20 February 2012,<sup>3</sup> and signed a statement on 11 April 2012,<sup>4</sup> but refused to testify at trial for either party due to his belief that peace negotiators should not be witnesses in criminal proceedings as that would hinder their work;<sup>5</sup>

**NOTING** that the Accused has requested that the Office of the Prosecutor (“Prosecution”) agree to the admission of the witness statement in lieu of the testimony, but that the Prosecution expressed its desire to cross-examine Ambassador Cutileiro should his evidence be admitted;<sup>6</sup>

**NOTING** that the Accused has on two occasions attempted to persuade Ambassador Cutileiro to testify voluntarily, and that the latter has maintained his position not to testify;<sup>7</sup>

**NOTING** that the Chamber has previously heard testimony from three peace negotiators in this case;<sup>8</sup>

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<sup>1</sup> Motion, para. 1.

<sup>2</sup> Motion, paras. 8–9.

<sup>3</sup> Motion, para. 5.

<sup>4</sup> Motion, para. 6. *See also* Annex A.

<sup>5</sup> Motion, para. 5.

<sup>6</sup> Motion, para. 6. *See also* Annex B.

<sup>7</sup> Motion, para. 6. *See also* Annex B.

<sup>8</sup> Motion, paras. 19–20. The Chamber has heard testimony from witnesses Herbert Okun, David Harland, and Anthony Banbury, all of whom were involved in peace negotiations regarding the conflict in the former Yugoslavia.

**CONSIDERING** the Chamber's view that the Portuguese Republic ("Portugal") should be informed of the existence of the Motion and given an opportunity to comment on it, should it wish to do so;

**PURSUANT TO** Rule 54 of the Rules,

**HEREBY**

- a. **INVITES** Portugal to respond to the Motion within three weeks from receipt of this Invitation, should it wish to do so;
- b. **REQUESTS** Portugal to inform Ambassador Cutileiro of the existence of the Motion; and
- c. **REQUESTS** the Registry to provide the Motion and this Invitation to Portugal.

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



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Judge O-Gon Kwon, Presiding

Dated this twenty-fifth day of September 2012  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**