



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: 17 July 2013

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: 17 July 2013

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC WITH CONFIDENTIAL AND EX PARTE ANNEX

**ORDER TO THE OFFICE OF THE PROSECUTOR REGARDING RULE 70 DOCUMENT
FROM THE *KRAJIŠNIK* CASE**

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”),

BEING SEISED of the Accused’s “Motion for Order Concerning Rule 70 Document from Krajišnik Case”, filed on 13 May 2013 (“Motion”), in which the Accused requests the Chamber to either: (i) order, pursuant to Rule 70 of the Tribunal’s Rules of Procedure and Evidence (“Rules”), the relevant Rule 70 provider to explain why it did not grant him access to the certain confidential material from the *Prosecutor v. Krajišnik* case, Case No. IT-00-39-T (“*Krajišnik* case”); or (ii) to issue an order, pursuant to Rule 70(G) of the Rules, excluding “any evidence related to the confidential material to which he has not been granted access”;¹

RECALLING the “Decision on Motion for Access to Confidential Materials in Completed Cases”, issued on 5 June 2009 (“Access Decision”), wherein the Chamber found that there was a good chance that access to the confidential materials in the *Krajišnik* case would materially assist the Accused in the preparation of his case and accordingly, granted him access to these materials;²

RECALLING that, in the Access Decision, with respect to confidential material provided to the Office of the Prosecutor (“Prosecution”) pursuant to Rule 70 of the Rules, the Chamber ordered the Prosecution to seek the consent of the Rule 70 providers prior to the disclosure of such material to the Accused;³

NOTING that, on 13 May 2013, the Rule 70 provider declined the Prosecution’s request that consent be given to grant the Accused access to certain confidential material from the *Krajišnik* case, which was then followed by the Accused filing the Motion;⁴

NOTING that in the “Prosecution Response to Motion for Order Concerning Rule 70 Document from Krajišnik Case” (“Response”), filed on 23 May 2013, the Prosecution describes the

¹ Motion, para. 3.

² Access Decision, paras. 28, 33. The Accused filed the “Motion for Access to Confidential Materials in Completed Cases” on 16 April 2009, before this Chamber, for access to material in 32 completed cases of which no Chamber was seised.

³ Access Decision, para. 33.

⁴ Prosecution’s Notification of Compliance with Decision Re Access by Karadžić to Confidential Materials in Completed Cases (*Prosecutor v. Krajišnik* – Case No. IT-00-39), confidential with confidential *ex parte* Annex A, 13 May 2013.

confidential material in question as “two subject matter filings”⁵ and provides some background to those filings in the confidential and *ex parte* Annex A to the Response;


CONSIDERING that, having reviewed the Response, it is unclear to the Chamber what the specific reasons of the Rule 70 provider are for refusing to consent to the disclosure of this material to the Accused and that, before disposing of the Motion, the Chamber would be assisted by further submissions from the Prosecution in relation thereto;

FOR THE FOREGOING REASONS,

PURSUANT TO Rules 54 and 70 of the Rules

ORDERS the Prosecution to liaise with the Rule 70 provider further, as per instructions in the confidential and *ex parte* Annex to this order, and to file a submission, by 31 July 2013 reporting back on its efforts and addressing the Chamber’s concerns outlined therein.

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



Judge O-Gon Kwon
Presiding

Dated this seventeenth day of July 2013
At The Hague
The Netherlands

[Seal of the Tribunal]

⁵ Response, para. 3.