

IT-95-5/18-T  
D 79572-D 79570  
18 OCTOBER 2013

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**UNITED  
NATIONS**



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 Nos. IT-95-5/18-T  
IT-02-54-T  
Date: 18 October 2013  
Original: English

**IN A SPECIALLY APPOINTED CHAMBER**

**Before:** Judge Christoph Flügge, Presiding  
Judge Bakone Justice Moloto  
Judge Burton Hall

**Registrar:** Mr John Hocking

**Decision of:** 18 October 2013

**PROSECUTOR**

v.

**RADOVAN KARADŽIĆ**

***PUBLIC***

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**DECISION ON JURISDICTION FOLLOWING THE  
ASSIGNMENT OF A SPECIALLY APPOINTED CHAMBER**

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**Office of the Prosecutor**

Mr Alan Tieger  
Ms Hildegard Uertz-Retzlaff

**The Accused in Case No. IT-95-5/18-T**

Mr Radovan Karadžić

**Standby Counsel in Case No. IT-95-5/18-T**

Mr Richard Harvey

**THIS 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”);

**NOTING** the “Request for Appointment of Special Chamber” (“Request”) filed by Mr Radovan Karadžić on 27 September 2013, which requested the President of the Tribunal (“President”) to appoint a Special Chamber to consider whether to appoint an *amicus curiae* prosecutor to investigate possible contempt of the Tribunal by former Prosecutor Carla Del Ponte;<sup>1</sup>

**NOTING** that on 1 October 2013, the President ordered that this Chamber be assigned to the Request (“Order”);<sup>2</sup>

**NOTING** that on 4 October 2013, the Prosecution responded to the Request, submitting, *inter alia*, that it is unclear whether this Chamber has jurisdiction to consider this matter, or that the President had jurisdiction to issue the Order;<sup>3</sup>

**RECALLING** that Article 1 (4) (a) of the Statute for the International Residual Mechanism for Criminal Tribunals (“Mechanism Statute” and “Mechanism”, respectively) provides that the Mechanism has the power to prosecute “any person who knowingly and wilfully interferes or has interfered with the administration of Justice by the Mechanism or the Tribunals, and to hold such person in contempt”;<sup>4</sup>

**RECALLING** that Article 4 (2) of the Transitional Arrangements for the Mechanism stipulates that the Mechanism is the appropriate forum for contempt proceedings for which the indictment is confirmed on or after the commencement date of the respective branch of the Mechanism;<sup>5</sup>

**CONSIDERING** that the commencement date of The Hague branch of the Mechanism was 1 July 2013;

**FINDING** that in these circumstances the Chamber does not have jurisdiction to consider the Request;

<sup>1</sup> Request, paras 1, 11.

<sup>2</sup> Order Assigning a Specially Appointed Chamber, 1 October 2013.

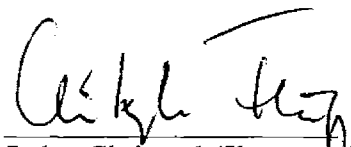
<sup>3</sup> Prosecution Response to Karadžić’s Contempt Allegations, 4 October 2013.

<sup>4</sup> Article 1 (4) (a) Mechanism Statute; *See also* Rule 90 of Mechanism’s Rules of Procedure and Evidence; *See further Re Deogratias Sebureze and Maximilien Turinabo*, Case Nos. MICT-13-40-R90 & MICT-13-41-R90, Decision on Deogratias Sebureze and Maximilien Turinabo’s Motions on the Legal Effect of the Contempt Decision and Order Issued by the ICTR Trial Chamber, 20 March 2013 (“*Sebureze and Turinabo Decision*”, para. 9 and *In the Matter of Deogratias Sebureze and Maximilien Turinabo*, Case Nos. MICT-13-40-AR90 & MICT-13-41-AR90, Decision on Appeals of Deogratias Sebureze and Maximilien Turinabo against ICTR Trial Chamber’s Decision on Allegations of Contempt of 21 February 2013 and on ICTR Prosecutor’s Application for Stay and Directions, 5 September 2013.

<sup>5</sup> Article 4 (1) Mechanism Transitional Arrangements. *See also Sebureze and Turinabo Decision*, para. 13.

**FOR THE FOREGOING REASONS**, refers the Request to the President.

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



Judge Christoph Flügge  
Presiding Judge

Dated this eighteenth day of October 2013  
At The Hague, The Netherlands

**[Seal of the Tribunal]**