



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: 23 January 2015

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: 23 January 2015

PROSECUTOR

v.

RADOVAN KARADŽIĆ

CONFIDENTIAL

**INTERIM ORDER REGARDING ACCUSED'S MOTION FOR RECLASSIFICATION OF
FILINGS RELATING TO DAVID HARLAND**

Office of the Prosecutor

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

The Accused

Mr. Radovan Karadžić

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 “Motion for Reclassification of Filings Relating to David Harland”, filed confidentially by the Accused on 4 December 2014 (“Motion”) whereby the Accused requests that the Chamber reclassify as public eight filings—including this Chamber’s decision issued on 24 November 2009¹—related to the testimony of the United Nations (“UN”) staff member, David Harland (“Filings”);²

NOTING that the Office of the Prosecutor (“Prosecution”) filed confidentially the “Prosecution Response to Motion for Reclassification of Filings Related to David Harland” on 18 December 2014 (“Response”) in which it argues that the Motion should be denied as the Filings discuss “sensitive communications between the Prosecution and a Rule 70 provider” or, in the alternative, that only the Chamber’s 24 November 2009 decision should be reclassified as public, but in a redacted form;³

RECALLING that the Filings concern the request the UN made back in 2009 that David Harland testify in closed session in this case, which then prompted the Prosecution to file a motion asking for closed session testimony under both Rules 70 and 75 of the Tribunal’s Rules of Procedure and Evidence (“Rules”);⁴

RECALLING further that the Prosecution’s motion for closed session was denied, which in turn resulted in the UN eventually agreeing to Harland testifying in public session;

CONSIDERING that Harland gave evidence in public session in the period between 6 to 11 May 2010 and that, therefore, the UN’s concerns expressed back in 2009 may no longer exist;

CONSIDERING however that it is unclear from the Response whether the Prosecution contacted the UN to verify if it had any objections to the relief sought in the Motion and, if so, what the exact scope of those objections is;

¹ Decision on Prosecution’s Motion for Protective Measures for Witness KDZ487, 24 November 2009, confidential.

² Motion, paras. 1–2, Confidential Annex A.

³ Response, paras. 1–2.

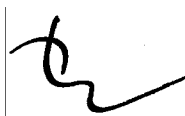
⁴ Motion, Confidential Annex A.

PURSUANT TO Rule 54 of the Rules,

HEREBY:

- a. **ORDERS** the Prosecution to liaise with the UN (if it has not done so already) in order to verify whether the UN would be willing to consent to the relief sought in the Motion;
- b. **ORDERS** the Prosecution to file, by 13 February 2015, a supplemental submission in which it shall
 - (i) inform the Chamber of the outcome of its consultations with the UN and
 - (ii) in case the UN is not willing to consent to the relief sought in the Motion, outline clearly the exact scope of the information in the Filings that should remain confidential due to the operation of Rule 70 of the Rules; and
- c. **DEFERS** its decision on the Motion until it hears back from the Prosecution in accordance with (a) and (b) above.

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



Judge O-Gon Kwon, Presiding

Dated this twenty-third day of January 2015
At The Hague
The Netherlands

[Seal of the Tribunal]