



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: 29 May 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

**Decision of:** 29 May 2012

**PROSECUTOR**

v.

**RADOVAN KARADŽIĆ**

***PUBLIC***

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**DECISION ON REQUEST FOR AUTHORISATION TO DISCLOSE  
COLONEL RUTTEN'S NOTES IN RELATED CASES**

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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”),

**BEING SEISED** of the “Prosecution Request for Authorization to Disclose Col. Rutten’s Notes in Related Cases”, filed confidentially on 3 May 2012 (“Request”), in which the Office of the Prosecutor (“Prosecution”) requests the Chamber’s authorisation to disclose the notes of Colonel Johannes Rutten (“Witness”) in other ongoing proceedings at the Tribunal;<sup>1</sup>

**RECALLING** that the Witness testified before the Chamber on 28 November 2011 about events he witnessed in the Srebrenica enclave during his service as a member of Dutch Battalion III between January and July 1995;<sup>2</sup>

**RECALLING** that, during the course of his testimony in these proceedings, the Witness indicated, *inter alia*, that he kept “a small book with [...] notes” regarding events in Srebrenica (“Notes”) and that he had reviewed the Notes prior to his testimony in each case before the Tribunal, including these proceedings, in order to prepare for his testimony and refresh his memory;<sup>3</sup>

**RECALLING** that, on 30 November 2011, the Accused filed a “Motion for Order for Production of Colonel Rutten’s Notes”, and, in response to two letters from the Chamber requesting that the Witness voluntarily provide a copy of the Notes, the Witness did so on 9 March 2012;

**NOTING** that, in acknowledging receipt of the Notes, the Chamber instructed the parties that the Notes not be distributed “any further than strictly required by the case”;<sup>4</sup>

**NOTING** further that, in the Request, the Prosecution notes that it has received the Witness’s consent, through the Ministry of Defence of the Netherlands, to the disclosure of the Notes in the *Mladić* case, the *Tolimir* case, and the *Popović et al.* case;<sup>5</sup>

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<sup>1</sup> Request, paras. 1, 4, 6, referring to the cases of *Prosecutor v. Mladić*, Case No. IT-9-92-PT (“*Mladić* case”), *Prosecutor v. Tolimir*, Case No. IT-05-88/2-T (“*Tolimir* Case”), *Prosecutor v. Popović et al.*, Case No. IT-05-88-A (“*Popović et al.* case”).

<sup>2</sup> T. 21979–22052 (28 November 2011).

<sup>3</sup> T. 22000–22002 (28 November 2011).

<sup>4</sup> T. 26096 (12 March 2012).

**NOTING** that the Accused does not oppose the Request but asks that the Request and Addendum be reclassified as public;<sup>6</sup>

**CONSIDERING** that the Notes are relevant to the indictments in the *Mladić* case, the *Tolimir* case, and the *Popović et al.* case;

**CONSIDERING** further that nothing in the Request or the Addendum warrants that they remain confidential;

**FOR THE FOREGOING REASONS,**

**PURSUANT TO** Rule 54 the Tribunal’s Rules of Procedure and Evidence,

**GRANTS** the Request and authorises the Prosecution’s disclosure of Colonel Rutten’s notes, as relevant and necessary to meet its obligations under the Rules in the *Mladić* case, the *Tolimir* case, and the *Popović et al.* case; and

**ORDERS** the Registry to reclassify the Request and the Addendum as public.

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



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Judge O-Gon Kwon  
Presiding

Dated this twenty-ninth day of May 2012  
At The Hague  
The Netherlands

[Seal of the Tribunal]

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<sup>5</sup> See also Addendum to Prosecution Request for Authorization to Disclose Col. Rutten’s Notes in Related Cases with Confidential Appendix, 7 May 2012 (“Addendum”), wherein the Prosecution provides the actual email correspondence from the Dutch Ministry of Defence.

<sup>6</sup> T. 28564 (4 May 2012).