

INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA

CASE No. IT-04-74-A
CASE No. MICT-13-55-A

THE APPEALS CHAMBER

Before: Judge Carmel Agius
Judge Liu Daqun
Judge Fausto Pocar
Judge Theodor Meron
Judge Bakone Justice Moloto

Registrar: Mr. John Hocking

Date: 14 April 2017

THE PROSECUTOR

THE PROSECUTOR

v.

v.

JADRANKO PRLIC et al

RADOVAN KARADZIC

Public

MOTION FOR PUBLIC REDACTED
VERSIONS OF RULE 75 DECISIONS

Office of the Prosecutor:

Douglas Stringer, Laurel Baig, Barbara Goy, Katrina Gustafson

Counsel for Appellants:

Michael Karnavas and Suzana Tomanovic for Jadranko Prlic
Senka Nozica and Karim Khan for Bruno Stojic
Nika Pinter and Natasha Fauveau-Ivanovic for Slobodan Praljak
Vesna Alaburic and Davor Lazic for Milivoj Petkovic
Dijana Tomasegovic-Tomic and Drazen Plavec for Valentin Coric
Fahrudin Ibrissimovic and Roger Sahota for Berislav Pusic

Counsel for Radovan Karadzic:

Peter Robinson and Kate Gibson

1. Radovan Karadzic respectfully moves for the issuance of public redacted versions of the following decisions:

No. IT-04-74-R75H.2, *Order on Application from Court of [REDACTED] of 25 February 2011 (Rule 75(J) of the Rules of Procedure and Evidence)* (2 March 2011)

No. IT-04-74-R75H.3, *Order on Application from the Court of [REDACTED] of 10 March 2011 (Rule 75(H) of the Rules of Procedure and Evidence)*(15 March 2011).

2. On 19 February 2017, in connection with on-going litigation concerning access to information about protected witnesses who have subsequently provided statements or testified in national proceedings,¹ President Karadzic moved in his own case for the issuance of public redacted versions of decisions cited by the Prosecution standing for the principle that the consent of a protected witness is not required when seeking modification of protective measures to disclose information to parties in national proceedings.²

3. On 6 April 2017, the Pre-Appeal Judge ordered the Prosecution to file a lesser-redacted version of its submissions so as to enable President Karadzic to move for redacted versions of such decisions before the appropriate authorities.³

4. On 13 April 2017, the Prosecution filed its lesser-redacted versions.⁴ A review of its submission reveals that among the decisions it relied upon in support of its position that the consent of a protected witness is not required when seeking modification of protective measures to disclose information to parties in national proceedings were the above two confidential and *ex parte* decisions from the *Prlic* case.

¹ *Prosecutor v Karadzic*, No. MICT-13-55-A, *Decision on a Motion for Redacted Versions of Decisions Issued Under Rule 75(H) of the ICTY Rules* (18 July 2016); *Prosecutor v Karadzic*, No. MICT-13-55-A, *Decision on a Motion for Redacted Versions of Rule 86(F) Filings* (24 January 2017); *Prosecutor v Karadzic*, No. MICT-13-55-A, *Decision on a Motion for Inter Partes Proceedings in Rule 86 Matters* (9 March 2017); *Prosecutor v Karadzic*, No. MICT-13-55-A, *Motion for Redacted Versions of Rule 86(H) Filings* (28 January 2017)(pending)

² *Prosecutor v Karadzic*, No. MICT-13-55-A, *Motion for Public Redacted Versions of Rule 86(F) Jurisprudence* (19 February 2017)

³ *Prosecutor v Karadzic*, No. MICT-13-55-A, *Decision on a Motion for Public Redacted Versions of Rule 86(F) Jurisprudence* (6 April 2017)

⁴ *Prosecutor v Karadzic*, No. MICT-13-55-A, *Notice of Filing of Revised Public Redacted Version of Prosecution Request of 29 September 2016 (MICT-13-55-R86F.2)*(13 April 2017); *Prosecutor v Karadzic*, No. MICT-13-55-A, *Notice of Filing of Revised Public Redacted Version of Prosecution Request of 29 September 2016 (MICT-13-55-R86F.3)*(13 April 2017)

5. Therefore, President Karadzic respectfully requests that the ICTY Appeals Chamber seized of the *Prlic* case order that public redacted versions of these decisions be filed so that this jurisprudence is available to the public and the defence, and not just the Prosecution. The Trial Chamber in this case has held that the Prosecution's citation to confidential decisions to which the accused does not have access violates the right to equality of arms.⁵

6. The issue of consent of protected witnesses for disclosure in national proceedings is of interest and relevance to President Karadzic's defence, and part of the on-going practice at the Mechanism.⁶ President Karadzic continues to litigate issues in relation to the Rule 75/86 proceedings in his case and has a legitimate forensic purpose for access to this jurisprudence so he can conduct this litigation on somewhat equal footing with the Prosecution.

7. For all of those reasons, he respectfully requests that the Appeals Chamber order that a public redacted version be issued of the two above-referenced decisions.

Word count: 777

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Peter Robinson', written in a cursive style.

PETER ROBINSON

Counsel for Radovan Karadzic

⁵ *Prosecutor v Prlic et al*, No. 04-74-T, *Decision on a Stojic Defence Request Regarding References to Confidential Decisions Rendered by Other Chambers* (23 March 2009)

⁶ See, i.e. *Prosecutor v Kamuhanda*, No. MICT 13-33, *Decision on Appeal of Decision Declining to Rescind Protective Measures for a Deceased Witness* (14 November 2016) at para. 11