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Mécanisme pour les
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Internationaux

STATUS	Public	D/ A	40
CASE/AFFAIRE NO.	MICT-13-55-R86F.6 KARADZIC (R86F)	DATE	07/02/2018
FROM/DE	CARLINE AMEERALI, HEAD COURT OPERATIONS UNIT		
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TO/A	<p>MICT Chambers/ Chambres MTPI: Judge Meron, Judge Sekule, Judge Joensen, Judge J. R. De Prada Solaesa, Judge G. Gatti Santana</p> <p>Prosecutor MICT/ Procureur du MTPI:</p> <p>Prosecutor Team MICT/ Équipe du Procureur du MTPI:</p> <p>Registrar/ Greffier:</p> <p>OLAD/ Bureau de l'aide juridictionnelle et de la défense:</p> <p>Communication Services/ Service Communication:</p> <p>Courtroom Operations/ Opérations en salle d'audience: Ms. Carline Ameerali</p> <p>Judicial Records Unit/ Service des dossiers judiciaires: Ms. L. Hellman</p> <p>MICT Arusha Registry/ Greffe de la Division du MTPI à Arusha:</p> <p>President MICT/ Président du MTPI:</p> <p>Witness Support and Protection Unit/ Service d'appui et de protection des témoins:</p>		
PLEASE FIND ATTACHED/VEUILLEZ TROUVER CI-JOINT			
Motion for Reclassification, submitted by Defence counsel on 6 February 2018			
COMMENTS			
Counsel for Radovan Karadzic: Mr. Peter Robinson and Ms. Kate Gibson			

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MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS

CASE No. MICT-13-55-R86F.6

THE APPEALS CHAMBER

Before: Judge Theodor Meron
Judge William Hussein Sekule
Judge Vagn Prusse Joensen
Judge Jose Ricardo de Prada Solaesa
Judge Graciela Susana Gatti Santana

Registrar: Mr. Olufemi Elias

Date: 6 February 2018

THE PROSECUTOR

v.

RADOVAN KARADZIC

Public

MOTION FOR RECLASSIFICATION

Defence Counsel for [REDACTED]
[REDACTED]

The Office of the Prosecutor:
Laurel Baig
Barbara Goy
Katrina Gustafson

Counsel for Radovan Karadzic:
Peter Robinson
Kate Gibson

1. Radovan Karadzic respectfully moves for reclassification of the *Application Pursuant to Rule 86(F)(i) Rules of Procedure and Evidence MICT* filed in case no. MICT-13-55-R86F.6 on 26 April 2017 from *ex parte* to confidential. A public redacted version of the decision on that Application was issued on 24 January 2018.¹

2. The *Practice Direction on Procedure for Variation of Protective Measures pursuant to Rule 86(H) of the Mechanism's Rules of Procedure and Evidence for Access to Confidential ICTY, ICTR, and Mechanism Material* (23 April 2013) provides that:

All applications will be provided to the parties in the proceedings in which the protective measures were ordered. If there is a reason why an application should not be provided to one or more of the parties in the proceedings, the application should be submitted on an *ex parte* basis and the applicant must provide an explanation of the good cause for such specification.

3. As an initial matter, President Karadzic requests that the Applicant, after being served with this motion, voluntarily agree to the reclassification of the application. Prior to filing the motion, counsel for President Karadzic attempted to contact counsel for the Applicant to discuss this request, but the Registrar refused to forward his letter to counsel for the Applicant absent judicial instructions.²

4. There appears to be no good cause for specifying the application as *ex parte*. The public redacted version of the decision indicates that the applicant is an accused in ongoing judicial proceedings before a national court. The purpose of the application is to be able to call the protected Prosecution witness as a defence witness at the trial of the Applicant and to apply for identical protective measures.³

5. While an application under Rule 86(F) or (H) might be classified as *ex parte* where disclosure to the MICT defendant might jeopardize an ongoing investigation, such does not appear to be the case here, where the applicant is an accused and the purpose of the application is to call a witness in an ongoing judicial proceeding. President Karadzic cannot think of a reason why the Practice Direction should not be complied with in this situation.

¹ *Decision on a Motion for Redacted Versions of Latest Rule 86(F) Decisions* (24 January 2018)

² A copy of Defence Counsel's letter is attached as Annex A. Defence Counsel could not send the letter himself because the identity of counsel for the Applicant was redacted from the public redacted version of the decision. Defence counsel did contact the Defence Office of the Court of Bosnia and Herzegovina, but they were not aware of who had made the application.

³ *Prosecutor v Karadzic*, No. MICT-13-55-R86F.6, *Decision on an Application pursuant to Rule 86(F)*(17 May 2017)

6. President Karadzic has an interest in receiving an unredacted version of the Application so that he may obtain a transcript of the testimony and/or statements of Prosecution witnesses who testify in national proceedings to determine if their testimony differs from the testimony they gave in his trial. He also has an interest in seeing that the Defence in national proceedings has the same access to material from MICT and ICTY proceedings as national prosecuting authorities.⁴

7. Therefore, it is respectfully requested that, after seeking the observations of counsel for the Applicant, the Appeals Chamber order that the Application be reclassified to confidential and served upon President Karadzic.

Word count: 652

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter Robinson". The signature is written in a cursive, flowing style with large, connected letters.

PETER ROBINSON
Counsel for Radovan Karadzic

⁴ *Motion for Disclosure of Exculpatory Material to National Authorities* (14 November 2017)

ANNEX "A"

PETER ROBINSON
Defence Counsel
Residual Mechanism for
International Criminal Tribunals
Churchillplein 1
2517JW The Hague
Netherlands
E-mail: peter@peterrobinson.com

30 January 2018

Defence Counsel for Applicant in Case No. MICT-13-55-R86F.6

Re: *Prosecutor v Radovan Karadzic*

Dear Sir or Madam,

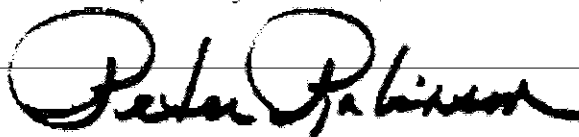
I am Peter Robinson, an American lawyer defending Radovan Karadzic at the Mechanism for International Criminal Tribunals ("MICT"). On 24 January 2018, the MICT issued a public redacted version of its Decision on your "*Application Pursuant to Rule 86(F)(i) Rules of Procedure and Evidence MICT*" filed on 26 April 2017 (attached)

Unfortunately, because your application was filed *ex parte*, your identity was redacted as well as the name of your client and the pseudonym of the witness who was the subject of the application.

I would appreciate it if you could contact me at the above e-mail address so that we can possibly cooperate concerning that witness. I am interesting in obtaining copies of any subsequent statements or testimony given by witnesses who testified in the *Karadzic* case to see if those statements or testimony differ in material respects from what the witness testified to in the *Karadzic* trial. I would also be happy to assist you by sharing any non-confidential material about the witness that we have or, with respect to confidential material, assisting you in obtaining further orders from the MICT to get access to exculpatory evidence for your client.

I hope that you can contact me at your earliest convenience.

Respectfully submitted,



PETER ROBINSON
Counsel for Radovan Karadzic



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From/ De :	<input type="checkbox"/> Chambers/ Chambre	<input checked="" type="checkbox"/> Defence/ Défense Peter Robinson	<input type="checkbox"/> Prosecution/ Bureau du Procureur
Case Name/ Affaire :	Prosecutor v Radovan Karadzic	Case Number/	MICT-13-55-R86F.6
Date Created/ Daté du :	6 February 2018	Date transmitted/ 6 February 2018	No. of Pages/ Nombre de pages : 5
Original Language / Langue de	<input checked="" type="checkbox"/> English/ Anglais	<input type="checkbox"/> French/ Français	<input type="checkbox"/> Kinyarwanda <input type="checkbox"/> B/C/S <input type="checkbox"/> Other/Autre (specify/préciser) :
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