

IT-95-5/18-T
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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

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

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;¹

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

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;³

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”;⁴

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;⁵

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;

¹ Request, paras 1, 11.

² Order Assigning a Specially Appointed Chamber, 1 October 2013.

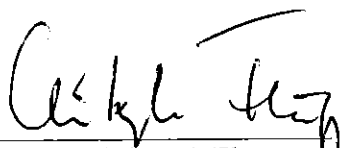
³ Prosecution Response to Karadžić’s Contempt Allegations, 4 October 2013.

⁴ 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.

⁵ 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]