



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: 16 January 2014

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: 16 January 2014

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

**DECISION ON ACCUSED'S MOTION FOR APPOINTMENT OF *AMICUS CURIAE*
PROSECUTOR TO INVESTIGATE OFFICIALS OF UNITED STATES OF AMERICA**

Office of the Prosecutor

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

**Embassy of the United States
of America**

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 Accused’s “Motion for Appointment of *Amicus Curiae* Prosecutor to Investigate Officials of United States of America”, filed on 9 December 2013 (“Motion”), in which the Accused requests that the Chamber appoint an *amicus curiae* prosecutor pursuant to Rule 77(C)(ii) of the Tribunal’s Rules of Procedure and Evidence (“Rules”) in order to investigate alleged interference with the administration of justice by “officials and employees” of the United States government;¹

NOTING the “Prosecution Response to Karadžić’s Motion for Appointment of *Amicus Curiae* Prosecutor to Investigate Officials of the United States of America”, filed on 18 December 2013 (“Response”), in which the Office of the Prosecutor (“Prosecution”) submits that the Motion should be dismissed because the Accused has failed to provide evidence sufficient to meet the relevant standard under Rule 77(C) of the Rules;²

RECALLING Article 1(4)(a) of the Statute for the International Residual Mechanism for Criminal Tribunals (“Mechanism Statute” and “Mechanism”, respectively), which 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”,³

RECALLING that Article 4(2) of the Transitional Arrangements of the Mechanism establishes that the Mechanism is the appropriate forum to conduct, and complete, all contempt proceedings

¹ Motion, paras. 1, 22.

² Response, paras. 1, 3.

³ Mechanism Statute, Article 1(4)(a); *see also* Rule 90 of the Mechanism’s Rules of Procedure and Evidence. These provisions have been interpreted to confer exclusive power on the Mechanism to decide whether to initiate contempt proceedings in matters where the indictment was not confirmed prior to the commencement date of the relevant branch of the Mechanism. *See In Re Deogratias Sebureze and Maximilien Turinabo*, Case Nos. MICT-13-40-R90 and 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, para. 9; *In the Matter of Deogratias Sebureze and Maximilien Turinabo*, Case Nos. MICT-13-40-AR90 and 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, pp. 1, 3. *See also* Decision on Request for Appointment of Special Chamber, 11 November 2013, p. 1 (citing Decision on Jurisdiction Following the Appointment of a Specially Appointed Chamber, 18 October 2013, p. 1).

for which the indictment is confirmed on or after the commencement date of the respective branch of the Mechanism;⁴

CONSIDERING that the commencement date of The Hague branch of the Mechanism was 1 July 2013;

FINDING therefore that this Chamber of the Tribunal lacks jurisdiction to consider the Motion;

FOR THE FOREGOING REASONS,

DISMISSES the Motion.

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



Judge O-Gon Kwon
Presiding

Dated this sixteenth day of January 2014
At The Hague
The Netherlands

[Seal of the Tribunal]

⁴ Mechanism Transitional Arrangements, Article 4(1).