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 No.: IT-95-5/18-T

Date: 5 May 2010

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: **5 May 2010**

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

DECISION ON ACCUSED'S REQUEST FOR AUTHORISATION FOR LEGAL INTERNS TO BE PRESENT IN THE COURTROOM

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") is seised of the Accused's "Request for Authorization for Legal Interns to be Present in the Courtroom", filed on 26 April 2010 ("Request"), and hereby issues its decision thereon.

1. On 8 October 2009, the Chamber issued the "Order on the Procedure for the Conduct of Trial" ("Order") in which it *inter alia* limited the total number of legal advisors and case managers that may be present in the courtroom to assist the Accused at any one time to two.[1]

2. On 22 April 2010, the Accused's legal advisor, Mr. Peter Robinson, made an oral application for permission for defence interns to be allowed in the courtroom for the reminder of the trial, in addition to the maximum number of two legal advisors and case managers.[2] Mr. Robinson explained that the interns do the background work for each witness. He stated, "[the intern] would assist us with the references, as well as be a wonderful thing for the intern, to allow them to just sit here so that we can make a smoother presentation [...], as well as benefit the interns, who are working for free and working very hard for our team."[3] The Chamber denied the application on 23 April 2010, but stated that if the Accused considered it necessary to have additional assistance in the courtroom, he should make such a request in writing, explaining why he believes that his legal advisor, Mr. Marko Sladojević, or case manager do not suffice.[4]

3. In the Request, the Accused asks the Chamber to modify the Order to allow one of his legal interns in the courtroom in addition to his two legal advisors.[5] The Accused makes two primary submissions in support of his request; first, the intern who had prepared for the witness would assist by providing him references to transcripts and other witness material during cross-examination of the Prosecution's witnesses, and, as the person who would prepare a summary of the witness's in-court testimony, it would be valuable for the intern to follow the proceedings.[6] Secondly, allowing interns to be present in the courtroom would be a "reward" for their work: "Dr. Karadzic has no funds to pay his Legal Interns and cannot offer them anything in the way

[1] Order, Appendix A, para. W.
[2] Hearing, T. 1460-1461 (22 April 2010).
[3] Hearing, T. 1460-1461 (22 April 2010), T. 1493-1494 (23 April 2010).
[4] Hearing, T. 1521 (23 April 2010).
[5] Request, para. 2.
[6] Request, paras. 3, 5-7, 11.

of compensation for their dedication and hard work on his case. The least he can do is enrich their experience by having them in the courtroom during the proceedings."[7]

4. On 28 April 2010, the Prosecution filed the "Prosecution's Response to Karadžić's Request for Legal Interns to be Present in the Courtroom" ("Response"), in which it did not oppose the Request, provided that all confidential information and material is protected.[8]

5. Also on 28 April 2010, the Accused filed the "Leave to Reply: Request for Authorization for Legal Interns to be Present in the Courtroom" ("Reply"), in which he requests leave to reply in order to inform the Chamber that defence interns are required to sign an undertaking of confidentiality and adhere to the Code of Professional Conduct for Defence Counsel. The Accused attaches an example of the confidentiality undertaking in Appendix A to the Reply. The Chamber will grant the Accused leave to file the Reply.

6. The Chamber notes that, in formulating the Order, it gave due consideration to the amount of assistance that the Accused, as a self-represented accused, would need in the courtroom during the proceedings. In so doing, the Chamber concluded that two people, either two legal advisors or a legal advisor and a case manager, in addition to the Accused himself, would be sufficient.

7. The Chamber remains convinced that two people in addition to the Accused suffice. It also considers that it is a matter for the Accused to decide how best to conduct his defence and how to ensure he gets the most effective assistance from his team, within the parameters established by the Chamber. In that regard, it appreciates that the Accused may find it useful to have an intern, who is familiar with the witness material for a particular Prosecution witness and able to provide references to the Accused during his cross-examination, to be in court during the testimony of that witness. However, the Request indicates that the role of the intern in the courtroom would be largely similar to, if not the same as, that of Mr. Sladojević or a case manager. In addition, the Chamber strongly disagrees with the Accused's submission, also made orally by Mr. Robinson, that interns should be allowed in the courtroom as a "reward" for their work. These are serious criminal proceedings. The Accused may find other means by which to acknowledge the work of the defence interns, but internal defence management issues are not the concern of the Chamber. Therefore, while the Chamber will permit an intern to be present in the courtroom during the proceedings, should the Accused consider it to be necessary, the Chamber is not satisfied that there is good cause to authorise the presence of an intern in the

[7] Request, paras. 3, 8, 11.
[8] Response, paras. 1-2.

courtroom in addition to Mr. Robinson and Mr. Sladojević or a case manager. Thus, the intern will replace either Mr. Sladojević or the case manager for the time that the Accused has determined the intern is required to be present.

8. The Chamber further notes that Mr. Robinson has expressed his willingness to be responsible for the conduct of the defence interns in the courtroom, as well as outside the courtroom, and that interns are required to sign a confidentiality undertaking and abide by the Code of Professional Conduct for Defence Counsel.[9] In this regard, the Chamber reiterates the necessity of ensuring the ongoing protection of all confidential information.

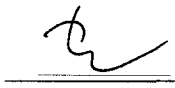
9. Although the Chamber is not satisfied that, in this instance, there is reason to vary the Order to allow more defence team members in the courtroom, this does not prevent, exceptionally and on a case-by-case basis where good cause is shown, the Accused making applications for the assistance of an additional person. This may be appropriate, for example, when hearing evidence from a particular Prosecution witness or during the presentation of the Accused's case.

10. Accordingly, the Trial Chamber, pursuant to Rule 54 of the Tribunal's Rules of Procedure and Evidence, hereby:

(a) **GRANTS** the Accused leave to reply; and

(b) **GRANTS** the Request, **IN PART**, and authorises a defence intern to be present in the courtroom, without any right of audience, to assist the Accused in the place of Mr. Marko Sladojević and/or either of the Accused's assigned case managers.

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



Judge O-Gon Kwon
Presiding

Dated this fifth day of May 2010
At The Hague
The Netherlands

[Seal of the Tribunal]

[9] Hearing, T. 1493 (23 April 2010). *See also* Request, para. 9.