

**UNITED
NATIONS**



International Residual Mechanism
for Criminal Tribunals

Case No.: MICT-13-56-R86H.12

Date: 25 April 2025

Original: English

BEFORE A SINGLE JUDGE

Before: Judge William H. Sekule
Registrar: Mr. Abubacarr M. Tambaou
Decision of: 25 April 2025

PROSECUTOR

v.

RATKO MLADIĆ

PUBLIC REDACTED

**PUBLIC REDACTED VERSION OF
“DECISION ON REGISTRAR’S SUBMISSION
IN RELATION TO A WITNESS REQUEST” DATED 21 MARCH 2025**

Office of the Prosecutor:

Mr. Serge Brammertz
Mr. Mathias Marcussen

I, WILLIAM H. SEKULE, Judge of the International Residual Mechanism for Criminal Tribunals (“Mechanism”) and Single Judge in this case;¹

NOTING that Mr. Ferid Muslić (“Witness”) was granted protective measures by the International Criminal Tribunal for the former Yugoslavia (“ICTY”);²

BEING SEISED OF a confidential and *ex parte* submission, filed on 10 February 2025 by the Registrar, wherein the WISP provided information regarding a request from the Witness to: (i) waive, pursuant to Rule 86(J) of the Rules of Procedure and Evidence (“Rules”), the protective measures granted to the Witness by the ICTY; and (ii) reclassify, as public, the Witness’s testimonies and any associated exhibits;³

NOTING that the WISP recommends that the protective measures granted to the Witness be waived, given the clear position expressed by the Witness, both in writing and orally, and after having been informed by the WISP of the consequences thereof;⁴

NOTING that, while the WISP recommends that the protective measures granted to the Witness be waived, it submits that the Witness’s testimonies and exhibits related thereto may contain sensitive information and are unique in that they concern activities undertaken while the Witness was employed by a state security service, as well as information that may disclose the identity of other protected witnesses;⁵

¹ Order Assigning a Single Judge to Consider an Application Pursuant to Rule 86, 13 February 2025 (confidential and *ex parte*), p. 1.

² See Registrar’s Submission in Relation to a Witness Request, 10 February 2025 (confidential and *ex parte*) (“Registrar’s Submission”), Annex, paras. 1, 4, nn. 3-8 (wherein the Witness Support and Protection Unit (“WISP”) indicated that the Witness was granted protective measures in the case of *Prosecutor v. Radislav Krstić*, Case No. IT-98-33-T, which were continued in the following cases before the ICTY: (i) *Prosecutor v. Vidoje Blagojević and Dragan Jokić*, Case No. IT-02-60-T; (ii) *Prosecutor v. Vujadin Popović et al.*, Case No. IT-05-88-T (“*Popović et al.* case”); (iii) *Prosecutor v. Zdravko Tolimir*, Case No. IT-05-88/2-T; (iv) *Prosecutor v. Radovan Karadžić*, Case No. IT-95-5/18-T; and (v) *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-T (collectively, “ICTY Cases”).

³ Registrar’s Submission, para. 2, Annex, paras. 5, 8, 12. See Registrar’s Submission, Annex, paras. 3, 6, 7.

⁴ Registrar’s Submission, Annex, paras. 5-9, 11. The Witness signed an affidavit before a representative of the WISP, which is annexed to the Registrar’s Submission (see Registrar’s Submission, Annex, Registry Pagination (“RP.”) 6-1), outlining the reasons why the Witness requested the waiver of the protective measures granted by the ICTY. See Registrar’s Submission, para. 2, Annex, paras. 8-10 (wherein the Witness indicated to the WISP that, while the Witness still has concerns as a protected witness, the request to waive the applicable protective measures is necessary to discuss the Witness’s involvement with the ICTY without concern, to refute untrue information, and to protect the Witness’s legacy).

⁵ Registrar’s Submission, para. 3, Annex, paras. 2, 7, 11, 12, n. 10. Considering that the Witness’s testimonies and exhibits may contain sensitive information, the WISP recommended that the views of the Prosecution be sought regarding what portions of the transcripts and exhibits should remain confidential. See Registrar’s Submission, para. 3, Annex, para. 12. On 19 February 2025, following an informal communication between the Prosecution and the Senior Legal Officer assisting me on this matter, the Prosecution was invited to file a submission in response to the Registrar’s Submission by 12 March 2025.

NOTING a confidential and *ex parte* submission, filed on 12 March 2025,⁶ wherein the Prosecution supports the recommendation from the WISP that the Witness's protective measures be waived, and states that the additional request to reclassify the Witness's confidential testimony and related exhibits to public should be accommodated to the extent possible;⁷

NOTING FURTHER that, since a large part of the Witness's testimony is public and most of the exhibits related thereto are either public or exist in a public redacted version in one of the ICTY Cases, the Prosecution submits that the objectives of the waiver provided by the Witness can be met by making the Witness's pseudonym sheets, as well as portions of the Witness's testimony given in private session or later redacted that contain the Witness's personal information, public;⁸

CONSIDERING that, pursuant to Rule 86(F)(i) of the Rules, protective measures ordered in any proceedings before the ICTY continue to have effect *mutatis mutandis* in any other proceedings before the Mechanism or another jurisdiction unless and until they are rescinded, varied, or augmented;

CONSIDERING that, pursuant to Rule 86(H) of the Rules, a witness for whom protective measures have been granted by the ICTY may seek to rescind, vary, or augment such measures;

CONSIDERING FURTHER that, pursuant to Rule 86(J) of the Rules, a witness may waive in whole or in part protective measures granted after being advised by the WISP of the consequences thereof, and that such waiver must be made in a written statement signed by the witness and an officer of the WISP;

FINDING that, based on the position expressed by the Witness, both in writing and orally, to waive the protective measures granted in the ICTY Cases, which is supported by the WISP and the Prosecution,⁹ and after having been informed by the WISP of the consequences of such a waiver,¹⁰ the Witness's request to waive the protective measures granted by the ICTY is valid and, therefore, it is appropriate that those protective measures be waived;

CONSIDERING that, with respect to the Witness's additional request that his confidential testimonies and related confidential exhibits be made public, a large part of the Witness's

⁶ Prosecution Submission in Relation to a Witness Request, 12 March 2025 (confidential and *ex parte*, with confidential and *ex parte* Annexes A and B) ("Prosecution's Submission").

⁷ Prosecution's Submission, paras. 1, 3.

⁸ Prosecution's Submission, para. 3.

⁹ Registrar's Submission, para. 3, Annex, para 11; Prosecution's Submission, paras. 1, 3.

¹⁰ Registrar's Submission, Annex, paras. 5-9, 11, RP. 6-1.

testimonies are public and most of the exhibits related thereto are either public or exist in a public redacted version in one of the ICTY Cases;¹¹

CONSIDERING FURTHER that any waiver of the protective measures granted to the Witness only applies to the Witness's personal identifying information and not to information that may reveal the identity of other protected witnesses or other protected information;

FINDING that, based on the Witness's request and the recommendation from the Prosecution, it is appropriate to reclassify the Witness's pseudonym sheets from the ICTY Cases,¹² as well as those portions of the Witness's testimony identified in the Prosecution's Submission, to public, and that the reclassified version of the Witness's testimony in the *Popović et al.* case be redacted in line with the redactions proposed by the Prosecution;¹³

PURSUANT TO Article 20 of the Statute and Rule 86 of the Rules,

HEREBY GRANT, in part, the request made by the Witness:

ORDER that the protective measures granted to the Witness in the ICTY Cases be waived;

ORDER the Registry to reclassify the Witness's pseudonym sheets from the ICTY Cases, as well as those portions of the Witness's testimony identified in the Prosecution's Submission, to public, and that the reclassified version of the Witness's testimony in the *Popović et al.* case be redacted in line with the redactions proposed by the Prosecution;

ORDER the Registry to liaise with the Prosecution, as necessary, to ensure the implementation of this Decision and to immediately inform me of any impediments to its implementation within 21 days of the issuance of this Decision, after which a public redacted version of this Decision will be issued;

INSTRUCT the Registry to inform the Witness of the present Decision;

DISMISS the remainder of the Witness's reclassification request as identified in the Registrar's Submission; and

¹¹ See Prosecution's Submission, para. 3, Annex B.

¹² See Prosecution's Submission, para. 3, n. 5.

¹³ See Prosecution's Submission, paras. 3, 4, Annex A. I note that the Prosecution proposed to redact references to the [REDACTED] that are contained within the Witness's testimony in the *Popović et al.* case. Considering that reference to this [REDACTED] has been redacted in other portions of the Witness's evidence in the case and in order to ensure consistency within each case, I find it prudent to order that these references be redacted in line with the Prosecution's proposal. See Prosecution's Submission, Annex A, p. 4.

REMAIN SEISED of the matter.

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

Done this 25th day of April 2025,
At The Hague,
The Netherlands



Judge William H. Sekule
Single Judge

[Seal of the Mechanism]



I - FILING INFORMATION / INFORMATIONS GÉNÉRALES

To/ À :	<input type="checkbox"/> IRMCT Registry/ Greffe du MIFRTP	<input type="checkbox"/> Arusha/ Arusha	<input checked="" type="checkbox"/> The Hague/ La Haye			
From/ De :	<input type="checkbox"/> President/ Président	<input checked="" type="checkbox"/> Chambers/ Chambre	<input type="checkbox"/> Prosecution/ Bureau du Procureur	<input type="checkbox"/> Defence/ Défense	<input type="checkbox"/> Registrar/ Greffier	<input type="checkbox"/> Other/ Autre
Case Name/ Affaire :	Prosecutor v. Ratko Mladić		Case Number/ Affaire n° :	MICT-13-56-R86H.12		
Date Created/ Daté du :	25 April 2025	Date transmitted/ Transmis le :	25 April 2025	Number of Pages/ Nombre de pages :	5	
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Title of Document/ Titre du document :	Public Redacted Version of "Decision on Registrar's Submission in Relation to a Witness Request" Dated 21 March 2025					
Classification Level/ Catégories de classification :	<input checked="" type="checkbox"/> Public/ Document public	<input type="checkbox"/> Confidential/ Confidentiel	<input type="checkbox"/> Ex Parte Defence excluded/ Défense exclue	<input type="checkbox"/> Ex Parte Prosecution excluded/ Bureau du Procureur exclu	<input type="checkbox"/> Ex Parte Rule 86 applicant excluded/ Article 86 requérant exclu	<input type="checkbox"/> Ex Parte Amicus Curiae excluded/ Amicus curiae exclu
Document type/ Type de document :	<input type="checkbox"/> Motion/ Requête	<input type="checkbox"/> Judgement/ Jugement/Arrêt	<input type="checkbox"/> Book of Authorities/ Recueil de sources	<input type="checkbox"/> Warrant/ Mandat		
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II - TRANSLATION STATUS ON THE FILING DATE/ ÉTAT DE LA TRADUCTION AU JOUR DU DÉPÔT

<input type="checkbox"/> Translation not required/ La traduction n'est pas requise
<input checked="" type="checkbox"/> Filing Party hereby submits only the original, and requests the Registry to translate/ La partie déposante ne soumet que l'original et sollicite que le Greffe prenne en charge la traduction : (Word version of the document is attached/ La version Word du document est jointe)
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