

**UNITED  
NATIONS**



International Residual Mechanism  
for Criminal Tribunals

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Case No.: MICT-13-56-A

Date: 10 March 2020

Original: English

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**BEFORE THE APPEALS CHAMBER**

**Before:** Judge Prisca Matimba Nyambe, Presiding  
Judge Aminatta Lois Runeni N’gum  
Judge Gberdao Gustave Kam  
Judge Seymour Panton  
Judge Elizabeth Ibanda-Nahamya

**Registrar:** Mr. Olufemi Elias

**Date:** 10 March 2020

**THE PROSECUTOR**

**v.**

**RATKO MLADIĆ**

**Public-Redacted**

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**PUBLIC REDACTED VERSION OF DEFENCE SUBMISSION PURSUANT TO  
“ORDER ON NOTICE BY THE DEFENCE AS TO REGISTRY ARBITRARY  
ACTIONS REFUSING TO FILE PUBLIC-REDACTED FILING”  
(ORIGINALLY FILED 6 MARCH 2020)**

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**The Office of the Prosecutor:**

Ms. Laurel Baig  
Ms. Barbara Goy

**Counsel for the Accused:**

Mr. Branko Lukić  
Mr. Dragan Ivetić

**THE MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS****PROSECUTOR****v.****RATKO MLADIĆ****Public-Redacted**

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**PUBLIC REDACTED VERSION OF DEFENCE SUBMISSION PURSUANT TO  
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The Appellant/Movant, Ratko Mladić, by and through his counsel of record, files this Submission and in support thereof states:

1. On 28 February 2020 the Defence of General Ratko Mladic, in full compliance with its professional and ethical obligations, filed both a confidential and public-redacted version of its *Urgent Defence Motion to Stay Appeal Oral Arguments Hearing in Order to Permit Competency Review of Appellant and Hearing on Same*.
2. The basis of the same was medical information about Mr. Mladic recently disclosed by the Registry as to his cognitive impairment, impending surgery, a potential new (previously not reported) stroke, and other issues relevant to General Mladic's fitness to participate in hearings.
3. After the public-redacted version of the above motion was removed by the Registry the Defence also filed on 2 March 2020 a Public *“Notice by the Defence as to Registry*

*Arbitrary Actions Refusing to File Public-Redacted Filing,*” objecting to the removal of a Public filing.

4. On 5 March 2020 the Chamber has issued its “*Order on Notice by The Defence as To Registry Arbitrary Actions Refusing to File Public-Redacted Filing.*” [hereinafter “Order”] This order tasked various organs and the defence. Specifically, as to the Defence it ordered “Mladic to provide a written confirmation that he has been fully consulted and knowingly consents to the release of his medical information contained in the Motion of 28 February 2020 to the public.”<sup>1</sup>
5. The Defence and Family of Mr. Mladic have long had consent to access all medical information and disclose the same in the interests of promoting Mr. Mladic’s health and his in furtherance of their legal obligations to bring before the Chamber concerns relating to his participation in proceedings. Any doubt as to the same should be erased by the countless prior authorizations unchanged long-term position and express authorizations made by Mr. Mladic which have led to routine modalities of Records being disclosed to the defence/Appellant by the UNDU/Registry for years now.<sup>2</sup>
6. The instant filing shall address the Order, as it pertains to the Defence aspect. A separate filing today will also further address both Registry and Prosecution responses and submissions as to the original motion.
7. To remove any remaining doubt about the afore-mentioned public-redacted filing, attached hereto as Confidential Annex A, is a copy of the consent signed by Mr. Mladic 5 March 2020, upon being asked yet one more time if he wished the information to be public in the form presented.<sup>3</sup> It should be noted he confirms all his prior consents given as still being in effect. Mr. Ratko Mladic desires this information to be public. The Defence has complied with redactions necessary as to Mechanism staff or contractor

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<sup>1</sup> Order, pg. 3.

<sup>2</sup> Albeit it appears the disclosures have been neither timely nor made in full.

<sup>3</sup> In addition to the original consent given orally before the filing in question, Mr. Mladic executed a more general consent on 4 March 2020, before the Defence had received the Order. The current consent is structured to more closely comply with the Order.

names. The Defence has complied with keeping the actual reports themselves confidential in the annexes not attached to the public-redacted version. The public-redacted motion utilizes the medical information provided yet preserves the confidentiality of the records. It is well understood globally that the medical information contained in records belongs to the patient who controls via oral or written consent its disclosure to 3<sup>rd</sup> parties<sup>4</sup>, including under the Royal Dutch Medical Association guidelines as to medical records.<sup>5</sup> The Defence also apprises the Chamber that in addition to seeking the consent of Mr. Mladic, we likewise sought review of the filing and received consent and authorization for the same from Mr. Mladic's family, through Mr. Mladic's son, Darko, before the filing of the same, and have again confirmed with Mr. Darko Mladic that this position on the public-redacted filing being made public remains in support of the same.

8. On a related matter, we have just received on 4 March 2020 the newest medical records made available to Mr. Mladic by the UNDU Medical staff, dating from January to 26 February 2020. We give notice that the Dutch language portions have been sent for translation to a professional translation agency. Thus, while we reserve the right to supplement upon receipt of the full translations, we can definitely observe (and have confirmed with a medical specialist) that these records demonstrate a drop in hemoglobin of Mr. Mladic from 7.8 (still low) to 6.2 from 16 January 2020 to 6 February 2020. That 6.2 value remains the same for the remainder of the provided February records (last reading 14 February 2020, although the document/report is dated 26 February 2020. Also, one of the January documents mentions "milde chronische anemia" in Dutch, which is understood to mean he had chronic anaemia before the sudden drop from 7.8 to 6.2. We note the acceptable or "safe" hemoglobin levels will vary among different sources, and that the World Health Organization defines the lower limit of normal blood haemoglobin concentration as 13.0 in white males; and the Mayo Clinic CCL defines it as 13.5.<sup>6</sup> The Dutch documents giving the 6.2 readings seem to

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<sup>4</sup> Or in the case of impaired patients their spouse or relative.

<sup>5</sup> <https://www.knmg.nl/web/file?uuid=c4b9c2e8-66ac-4583-9809-68d56d0e3f05&owner=5c945405-d6ca-4deb-aa16-7af2088aa173&contentid=537&elementid=1889348>

<sup>6</sup> [https://www.mayoclinicproceedings.org/article/S0025-6196\(11\)61338-4/fulltext](https://www.mayoclinicproceedings.org/article/S0025-6196(11)61338-4/fulltext)

indicate either 8.0 or 10.5 as the boundaries. Under either of the above, Mr. Mladic's reading is well below the same and with the recent drop in February 2020 without any documented improvement means that his condition has worsened and his risk of morbidity (ie. death) from surgery is significantly increased and the cognitive concerns expressed in the literature cited in the footnotes of the Motion as to the correlation of low haemoglobin with cognitive impairment remain a factor to be considered.

9. Should the Motion be made public, this instant filing should be re-classified as public.

Thus, the Defense of Ratko Mladić respectfully requests from Appeals Chamber to consider the filings of record in this matter, and thanks the Chamber for the opportunity to comment further on the consent of disclosure.

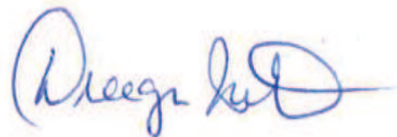
Word count: 1008

**RESPECTFULLY SUBMITTED BY:**



Branko Lukić

*Lead Counsel for Ratko Mladić*



Dragan Ivetić

*Co-Counsel for Ratko Mladić*

Dated This 6th of March 2020  
Belgrade, Serbia &  
The Hague, Netherlands



**I - FILING INFORMATION / INFORMATIONS GÉNÉRALES**

<b>To/ À :</b>	IRMCT Registry/ <i>Greffé du MIFRTP</i>	<input type="checkbox"/> Arusha/ <i>Arusha</i>	<input checked="" type="checkbox"/> The Hague/ <i>La Haye</i>
<b>From/ De :</b>	<input type="checkbox"/> President / <i>Président</i>	<input type="checkbox"/> Chambers / <i>Chambre</i>	<input type="checkbox"/> Prosecution/ <i>Bureau du Procureur</i>
	<input type="checkbox"/> Registrar / <i>Greffier</i>	<input type="checkbox"/> Other/ <i>Autre</i>	<input checked="" type="checkbox"/> Defence / <i>Défense</i>
<b>Case Name/ Affaire :</b>	Prosecutor v Mladić	<b>Case Number/ Affaire n° :</b>	MICT-13-56-A
<b>Date Created/ Daté du :</b>	10-Mar- 2020	<b>Date transmitted/ Transmis le :</b>	10-Mar-2020
		<b>No. of Pages/ Nombre de</b>	5
<b>Original Language / Langue de l'original :</b>	<input checked="" type="checkbox"/> English/ <i>Anglais</i>	<input type="checkbox"/> French/ <i>Français</i>	<input type="checkbox"/> Other/Autre (specify/préciser) :
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<b>Title of Document/ Titre du document :</b>	PUBLIC REDACTED VERSION OF DEFENCE SUBMISSION PURSUANT TO "ORDER ON NOTICE BY THE DEFENCE AS TO REGISTRY ARBITRARY ACTIONS REFUSING TO FILE PUBLIC-REDACTED FILING" (ORIGINALLY FILED 6 MARCH 2020)		
<b>Classification Level/ Catégories de classification :</b>	<input checked="" type="checkbox"/> Unclassified/ <i>Non classifié</i>	<input type="checkbox"/> Ex Parte Defence excluded/ <i>Défense exclue</i>	
	<input type="checkbox"/> Confidential/ <i>Confidentiel</i>	<input type="checkbox"/> Ex Parte Prosecution excluded/ <i>Bureau du Procureur exclu</i>	
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		<input type="checkbox"/> Ex Parte Amicus Curiae excluded/ <i>Amicus curiae exclu</i>	
		<input type="checkbox"/> Ex Parte other exclusion/ <i>autre(s) partie(s) exclue(s)</i>	
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<input type="checkbox"/> Motion/ <i>Requête</i>	<input type="checkbox"/> Judgement/ <i>Jugement/Arrêt</i>	<input type="checkbox"/> Book of Authorities/ <i>Recueil de sources</i>	<input type="checkbox"/> Warrant/ <i>Mandat</i>
<input type="checkbox"/> Decision/ <i>Décision</i>	<input checked="" type="checkbox"/> Submission from parties/ <i>Écritures déposées par des parties</i>	<input type="checkbox"/> Affidavit/ <i>Déclaration sous serment</i>	<input type="checkbox"/> Notice of Appeal/ <i>Acte d'appel</i>
<input type="checkbox"/> Order/ <i>Ordonnance</i>	<input type="checkbox"/> Submission from non-parties/ <i>Écritures déposées par des tiers</i>	<input type="checkbox"/> Indictment/ <i>Acte d'accusation</i>	

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	<input type="checkbox"/> B/C/S
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