7. B8 e%a,- of 0 A#g#s' 2019% '.e A))-,7a&' ,&fo+%e$ "#$ge P. '.a' s.e .a$ &o ;o+E 'o $o% .a$ asEe$ *#' ;as &o' g,/e& a&8'.,&g a&$ '.a' s.e .a$ 7o&se<#e&'-8 $e7,$e$ 'o a))-8 'o o'.e+)os,',o&s. I& a f#+'.e+ e%a,- of 1 O7'o*e+ 2019 s.e +e,'e+a'e$ '.a' s.e ;as $e%o+a-,Fe$ *8 '.e fa7' '.a' s.e .a$ &o'.,&g 'o $o a&$ '.a' s'aff o& 'e%)o+a+8 7o&'+a7's ;e+e eD'e&e 'o $+af' '.e ,&'e+-o7#'o+8 a))ea-s ,& Mladic. ;.,-e s'aff ;,'. f,De$3'e+% 7o&'+a7's .a$ &o'.,&g 'o $o.

!. T.e A))-,7a&' ;as ,&fo+%e$ o& 15 No/e%*e+ 2019 '.a'

11. B8 -e''e+ 'o '.e C.,ef6 5R6 ICT26 $a'e$ 21 No/e%*e+ 2019 6 '.e EDe7#',/e D,+e7'o+6 "RR6 off,7,a--8 +e<#es'e$ '.e A))-,7a&'Bs +e-ease o& -oa&6 s'+ess,&g '.a' UN = o%e& ; o#-$ *e 7o/e+,&g '.e 7os's +e-a'e$ 'o .e+ $e)-o8%e&'. T.e C.,ef6 5R6 ICT26 +es)o&e o& '.e sa%e $a8 '.a' '.e O+ga&,Fa',o& ; o#-$ +e/,e ; '.e +e<#es' a&$ +e/e+' *a7E 'o "RR. T.e C.,ef6 5R6 ICT26 fo+ ; a+e '.e +e<#es' 'o '.e 5ea$ of C.a%*e+s o& 22 No/e%*e+ 2019.

12. T.e 5ea$ of C.a%*e+s fo+ ; a+e '.e +e<#es' 'o '.e Reg,s'+a+6 ICT26 o& '.e sa%e $a86 &o',&g '.a':

> GAHf'e+ 7o&s#-',&g ; ,'. '.e P+es,$e&'6 V,7e3P+es,$e&' a&$ Prlic 'ea% -ea$e+6 I 7a& ,&fo+% 8o# '.a' C.a%*e+s #&fo+'#&a'e-8 7a&&o' s#))o+' '.e +e<#es' of "RR. O'.e+ C.a%*e+s s'aff %e%*e+s .a/e s#*se<#e&'-8 *ee& 7o&'a7'e$ *8 "RR ; ,'. +es)e7' 'o a&o'.e+)os,',o&

19. B8 -e''e+ $a'e$ 2 No/e%*e+ 2019% '.e D,+e7'o+ of O)e+a',o&s% "RR%,&fo+%e$ '.e P+es,$e&' '.a' "RR ; o#-$ &o' +e<#es' '.e +e-ease of se/e+a- of s'aff %e%*e+s of ICT2 ,& '.e &ea+ f#'#+e% a&$ '.a' o&-8 '.e A))-,7a&' .a$ *ee& se-e7'e$ fo+ '.e)a+',7#-a+)os,',o& as Ge&$e+ A$/,so+/SGBV I&/es',ga'o+ fo+ '.e Co%%,ss,o& of I&<#,+8 o& 5#%a& R,g.'s ,& B#+#&$,. 5e s'+esse$ '.a' "RR f#--8 #&$e+s'oo$,f ,' ; as o&-8)oss,*-e 'o g+a&' '.e +e-ease of o&e of ICT2 s'aff %e%*e+s a' a g,/e& ',%e.

17.

,,,. T.a' s.e .a$ ag+ee$ 'o +es,g& f+o% ICT2 fo--o ; ,&g .e+ +e-ease '.e+e*8 f+ee,&g #) .e+)os' ,f $es,+a*-e a&$ f#+'.e+ e&s#+,&g '.a' &o)+e7e$e&' ; o#-$ *e se'L

,/. T.a' .e+ offe+ 'o ass,s' ,& '.e ; o+E +e-a',&g 'o '.e P+e)a+a'o+8 $o7#%e&' ; as 7o&s,s'e&'-8 +e(e7'e$L a&$

/. T.a' '.e Reg,s'+a+Bs e%a,- of 17 "a&#a+8 2017% af'e+ '.e A))-,7a&'Bs -a ; 8e+ .a$)o,&'e$ o#' se/e+a- ,--ega-,',es% s#$$e&-8 '+,e$ 'o $e'a,- '.e A))-,7a&'Bs +e-e/a&7e fo+ '.e Prlic et al. 7aseL

<.

-. T.e $e7,s,o& ,s -a ; f#- a&$ '.e A))-,7a&' ,s &o' e&','-e$ 'o a&8 7o%)e&sa',o&.

Consideration

Receivability

:. T.e Res)o&$e&' 7.a--e&ges '.e +e7e,/a*,-,'8 ratione materiae of '.e a))-,7a',o&6 a+g#,&g '.a' '.e f,&a- a$%,&,s'+a',/e $e7,s,o& ; as &o',f,e$ 'o '.e A))-,7a&' o& 2: No/e%*e+ 2019.

5. T.e T+,*#&a- &o'es '.a' a' '.e .ea+,&g6 '.e De)#'8 Reg,s'+a+ 7o&f,+%e$ '.a' s.e 'a-Ee$; ,'. '.e A))-,7a&' af'e+ '.e e%a,- of 2: No/e%*e+ 20196 a&$ '.a' &e ; ,%)o+'a&' e-e%e&'s ; e+e *+o#g.' 'o .e+ a''e&',o& ; .,7. s.e .a$ &o')+e/,o#s-8 *ee& a ; a+e of6 inter alia6 '.a' '.e A))-,7a&' .a$ '.e f#-- s#))o+' of "#$ge P. a&$ '.a' s.e .a$ *ee& g,/e& &o ; o+E 'o $o o/e+ '.e -as' %o&'.s. S.e a-so asEe$ '.e A))-,7a&' 'o se&$ .e+ '.e -e''e+ of "RR of 2 No/e%*e+ 2019 a&$ s'+esse$ '.a' s.e 7o&/e8e$ 'o '.e A))-,7a&' '.a' o& '.e *as,s of '.a' a$$,',o&a- ,&fo+%a',o&6 s.e ; o#-$ '+8 'o f,&$ a so-#',o& a&$ s.e ,& fa7' $,s7#sse$ '.e %a''e+ ; ,'. '.e P+es,$e&' a&$ /a+,o#s o'.e+

!. I& a& e%a,- of 1 De7e%*e+ 2019 'o '.e A))-,7a&'6 '.e De)#'8 Reg,s'+a+ 7o&f,+%e$ '.a' '.e Reg,s'+a+ a&$ .e+se-f .a$ 'a-Ee$ 'o '.e P+es,$e&' *#' '.a' a-'.o#g. '.e8 .a$)e+s,s'e$6 ,' ; as 'o &o a/a,-. A' '.e .ea+,&g6 '.e De)#'8 Reg,s'+a+ s'a'e$ '.a' '.a' e%a,- ; as so%e ; .a' ?%,s-ea$,&g@ a&$ '.a' ,& fa7'6 s.e .a$ *ee& 7o&/,&7e$ *8 '.e P+es,$e&' '.a' a +e-ease of '.e A))-,7a&' a' '.a')o,&' ; as &o')oss,*-e.

(. I& -,g.' of a-- '.e $o7#%e&'a+8 e/,$e&7e6 a&$ '.e e/,$e&7e .ea+$ a' '.e .ea+,&g6 '.e T+,*#&a- ,s sa',sf,e$ '.a' &o f,&a- $e7,s,o& .a$ *ee& 'aEe& o& 2: No/e%*e+ 2019 6 a&$ '.a' '.e %a''e+ ; as *e,&g f#+'.e+ +e/,e ; e$6 o& '.e *as,s of &e ; e-e%e&'s a&$ $,s7#ss,o&s6 inter alia6 ; ,'. '.e P+es,$e&'.

:0. I' fo--o ; s '.a' *8 f,-,&g .e+ +e<#es' fo+ %a&age%e&' e/a-#a',o& o& 21 "a&#a+8 2017 6 aga,&s' '.e 7o%%#&,7a',o& of 2(No/e%*e+ 2019 'o "RR a&$ 7o),e$ 'o '.e A))-,7a&' $e&8,&g .e+ +e-ease6 s.e +es)e7'e$ '.e s'a'#'o+8 ea-,&e of 90 $a8s. T.e a))-,7a',o& ,s '.e+efo+e +e7e,/a*-e ratione materiae.

Merits

:1. Af'e+ .a/,&g +e/,e ; e$ '.e e/,$e&7e)+o$#7e$ a' '.e .ea+,&g a&$ '.e $o7#%e&'s o& '.e 7ase f,-e6 '.e T+,*#&a- .as ,$e&',f,e$ '.e fo--o ; ,&g -ega- ,ss#es:

a. = .e'.e+ '.e 7o&'es'e$ $e7,s,o& ,s ultra viresL a&$

*. = .e'.e+ '.e A$%,&,s'+a',o&)+o)e+-8 eDe+7,se$,'s $,s7+e',o& ,& &o' +e-eas,&g '.e A))-,7a&'.

Is '.e 7o&'es'e$ $e7,s,o& ultra viresJ

:2. I' ,s #&7o&'es'e$ *8 '.e)a+',es '.a' #&$e+ '.e I&'e+3Off,7e %e%o+a&$#% of 2: 1 a8 1((: o& Delegation of authority for recruitment and administration of staff f+o% '.e '.e& D,+e7'o+ of Pe+so&&e- 'o '.e fo+%e+ A

of '.e S'aff Reg#-a',o&s a&$ S'aff R#-esA. 5o ; e/e+6 '.e A))-,7a&' a+g#es '.a' '.e $e7,s,o& ; as de facto %a$e *8 '.e P+es,$e&'6 ICT26 ; .o $,$ &o' .a/e a&8 $e7,s,o& %aE,&g a#'.o+,'86 a&$ '.a'6 .e&7e6 ,' ; as ultra vires.

: . T.e T+,*#&a- ,s a ; a+e of '.e $e-,7a'e eDe+7,se of $,s7+e',o& ; ,'. +es)e7' 'o s'aff,&g $e7,s,o&s ,& a& ,&s','#',o&a- f+a%e ; o+E ; .e+e s'aff %e%*e+s s#))o+' a&$ ass,s' "#$ges I ; .o a+e &o' s'aff %e%*e+s I ,& '.e a$C#$,7a',o& of 7ases6 ; .,-e +e)o+',&g 'o se&,o+ %a&age+s ; ,'.,& '.e o+ga&,Fa',o&a- s'+#7'#+e.

::. T.e T+,*#&a- &o'es '.a' ,& '.e ,&s','#',o&a- se'',&g of ICT26 $e7,s,o&s ; ,'.

:7. T.e T+,*#&a- &o'e$ '.a' '.e P+es,$e&'6 as ;e-- as '.e 5ea$ of C.a%*e+s a&$

51. As s'a'e$ a*o/e6 '.,s 7o&s#-'a',o& of '.e P+es,$e&' ; as +easo&a*-e a&$ $,$ &o' 7o&s','#'e a& a*+oga',o& of)o ; e+ o& *e.a-f of '.e De)#'8 Reg,s'+a+ ,& '.e $e7,s,o& %aE,&g)+o7ess.

52. T.e T+,*#&a- '.e+efo+e f,&$s '.a' '.e $e7,s,o& ; as &o' ultra vires.

D,$ '.e A$%,&,s'+a',o&)+o)e+-8 eDe+7,se ,'s $,s7+e',o& ,& &o' +e-eas,&g '.e A))-,7a&'J

5 . T.e I&'e+3O+ga&,Fa',o& Ag+ee%e&' 7o&7e+&,&g T+a&sfe+6 Se7o&$%e&' o+ Loa& of s'aff a%o&g '.e O+ga&,Fa',o&s a))-8,&g '.e U&,'e$ Na',o&s Co%%o& S8s'e% of Sa-a+,es a&$ A--o ; a&7es $ef,&es ?Loa&@ #&$e+ se7. 2>eA as ?'.e %o/e%e&' of a s'aff %e%*e+ f+o% o&e o+ga&,Fa',o& 'o a&o'.e+ fo+ a -,%,'e$)e+,o$6 &o+%a--8 &o' eD7ee$,&g o&e 8ea+6 $#+,&g ; .,7. '.e s'aff %e%*e+ ;,-- *e s#*Ce7' 'o '.e a$%,&,s'+a',/e s#)e+/,s,o& of '.e +e7e,/,&g o+ga&,Fa',o& *#' ;,-- 7o&',&#e 'o *e s#*Ce7' 'o '.e s'aff +eg#-a',o&s a&$ +#-es of '.e +e-eas,&g o+ga&,Fa',o&@.

5:. Se7',o& >*A of '.e I&'e+3age&78 ag+ee%e&')+o/,$es '.a' ?a& O+ga&,Fa',o& ;.,7. seeEs '.e K -oa& of a& off,7,a- of a&o'.e+ o+ga&,Fa',o& ;,-- %aEe a +e<#es'6 '.e+efo+e6 'o '.e .#%a& +eso#+7es off,7e of '.a' o+ga&,Fa',o&@. A77o+$,&g 'o se7. >7A6 &ego',a',o&s o& a -oa& a+e #&$e+'aEe& *e';ee& '.e .#%a& +eso#+7es off,7es of '.e +e-eas,&g a&$ '.e +e7e,/,&g O+ga&,Fa',o&.

55. T.e T+,*#&a- #&$e+s'a&$s '.a' ,&'e+ age&78 %o*,-,'8 ,s fa7,-,'a'e$;.e&e/e+)oss,*-e ,& o+$e+ 'o a--o ; 7a+ee+ a$/a&7e%e&' of s'aff %e%*e+s a&$ 'o e&s#+e '.a' '.e O+ga&,Fa',o&s *e&ef,'s f+o% a 7o%)e'e&' ; o+Efo+7e ;,'. *+oa$ eD)e+,e&7e. T.e fo+ego,&g &o';,'.s'a&$,&g64.992 18(.)-5.808 16((?)-3.666 53(L)3.453 1A)-0.960 2 2 1(a)-3.666 5e

57. T.e A))ea-s T+,*#&a- .e-$,& Sanwidi 20103UNAT30!: '.a':

GA#$%,&,s'+a',/e '+,*#&a-s ; o+-$; ,$e Eee) e/o-/,&g -ega-)+,&7,)-es 'o .e-) '.e% 7o&'+o- a*#se of $,s7+e',o&a+8)o ; e+s. T.e+e 7a& *e &o eD.a#s',/e -,s' of '.e a))-,7a*-e -ega-)+,&7,)-es

90. = .,-e '.e A))-,7a&'Bs ; o+E-oa$; as '.#s %,&,%a- $#+,&g '.e se7o&$ .a-f of 2019% '.e T+,*#&a- fo#&$ 7+e$,*-e '.e e/,$e&7e '.a' '.,s ; as)a+'-8 $#e 'o .e+ .a/,&g *ee& o& -oa& ,& '.e f,+s' .a-f of 2019 a&$ '.e fa7' '.a' ,' ; as '.#s %o+e $,ff,7#-' 'o ,&'eg+a'e .e+ ,&'o '.e $+af',&g 'ea%. T.a' *e,&g sa,$% '.e e/,$e&7e a-so 7o&f,+%e$ '.a' a' '.e ',%e of '.e 7o&'es'e$ $e7,s,o&% ,' ; as 'o *e eD)e7'e$ '.a' #)o& +e7e,)' of '.e P+e)a+a'o+8 $o7#%e&' of '.e Prlic et al. 7ase a' '.e e&$ of 2019% '.e A))-,7a&' ; o#-$ *e +a'.e+ *#s8 ,& ass,s',&g "#$ge P. 'o +e/,e ; '.,s /o-#%,&o#s $o7#%e&'. T.e A))-,7a&' .e+se-f a$%,''e$,& .e+ e/,$e&7e '.a' s.e .a$; o+E 'o $o f+o% De7e%*e+ 2019 'o 1 a+7. 2017% af'e+ '.e P+e)a+a'o+8 $o7#%e&' .a$ *ee& se&' fo+ +e/,e ; 'o "#$ge P.% a&$ fo+ a&o'.e+ %o&'. f+o% %,$3"#&e 'o %,$3"#-8 2017.

91. = .,-e% a+g#a*-8% $#+,&g '.e se7o&$ .a-f of 2019 '.e A))-,7a&'Bs)+ese&7e a' ICT2 ; as '.#s &o' esse&',a-% ,' ; as +easo&a*-e 'o 7o&7-#$e a' '.e ',%e of '.e 7o&'es'e$ $e7,s,o& '.a' ,' ; o#-$ *e esse&',a- as of +e7e,)' of '.e P+e)a+a'o+8 $o7#%e&' fo+ +e/,e ; *8 "#$ge P.% eD)e7'e$ a' '.e *eg,&&,&g of 2017.

92. T.e De)#'8 Reg,s'+a+ assesse$ a&$; as 7o&/,&7e$ *8 '.e P+es,$e&'Bs /,e ; '.a' ,' ; as aga,&s' '.e o)e+a',o&a- ,&'e+es's of ICT2 'o fa7,-,'a'e '.e $e)a+'#+e of a s'aff %e%*e+ of '.e A))-,7a&'Bs 7a-,*+e a&$ se&,o+,'8 C#s')+,o+ 'o '.e +e-ease of '.e P+e)a+a'o+8 $o7#%e&' ,& '.e Prlic et al. 7ase 'o '.e "#$ge s.e ; as ass,g&e$ 'o% ,& a s,'#a',o& ; .e+e ',%e-8 7o%)-e',o& of '.a' C#$g%e&' ; as 7+#7,a-% ,& -,g.' of '.e f,&,'e %a&$a'e of ICT2.

9 . As s'+esse$ a*o/e% '.e De)#'8 Reg,s'+a+ a-so 7-a+,f,e$ '.a' .e+ e%a,- of 1 De7e%*e+ 2019 ; as so%e.o ; %,s-ea$,&g s,&7e $#+,&g .e+ $,s7#ss,o& ;,'. '.e P+es,$e&'% .e .a$ 7o&/,&7e$ .e+ '.a' ,& -,g.' of '.e 7-os#+e of '.e T+,*#&a- a' '.e e&$ of 2017% ,' ; as '.e& &o')oss,*-e 'o +e-ease '.e A))-,7a&'. S.e a-so sa,$ '.a' s.e .a$ $e&,e$ s)e7,a- -ea/e ;,'.o#')a8 'o o'.e+ s'aff %e%*e+s a+o#&$ '.e sa%e ',%e% 8e' aga,& ,& -,g.' of '.e e&$ of '.e %a&$a'e of ICT2. S.e ,&fo+%e$ '.e T+,*#&a- '.a' ,& fa7'% '.e+e .a$ *ee& a +a$,7a- 7.a&ge of)o-,78 a' ICT2% f+o% a /e+8 f-eD,*-e)+a7',7e 'o -e' s'aff %e%*e+s go o& $,ffe+e&' fo+%s of -oa&/-ea/e/se7o&$%e&' ,& '.e)as'% 'o a +es'+,7',/e)o-,78 $#+,&g '.e -as' 8ea+ of eD,s'e&7e of ICT2. T.a' 7.a&ge ,&)o-,78 ; as *ase$ o& '.e e&$ of '.e %a&$a'e of ICT2 o& 1 De7e%*e+ 2017 a&$ '.e +e-a'e$ ',%e-,&es 'o f,&a-,Fe '.e +e%a,&,&g 7ases.

97. T.e T+,*#&a- ,s &o' 7o&/,&7e$ '.a' '.e fa7' '.a' '.e A))-,7a&'Bs +e-ease %a8 .a/e ?se' a)+e7e$e&'@ ,s a +e-e/a&' 7o&s,$e+a',o& ,& 'aE,&g '.e 7o&'es'e$ $e7,s,o&. T.e fa7's of ea7. 7ase a+e $,ffe+e&'6 a&$,' ,s '.e $#'8 of '.e A$%,&,s'+a',o&6 ,& ,'s eDe+7,se of $,s7+e',o&6 'o g,/e $#e ,&$,/,$#a- 7o&s,$e+a',o& 'o ea7. +e<#es'. I' ,s <#,'e)oss,*-e6 a&$ %a8 .a/e *ee& +easo&a*-e6 'o #-',%a'e-8 +ef#se a&8 s#7. +e<#es' #)o& ,&$,/,$#a- 7o&s,$e+a',o&6 o& '.e g+o#&$s of '.e fo+'.7o%,&g 7-os#+e of ICT2. T.a'6 .o;e/e+6 $,$ &o' $,s)e&se '.e O+ga&,Fa',o& f+o% ,'s $#'8 'o g,/e ,&$,/,$#a- 7o&s,$e+a',o& 'o ea7. +e<#es'6 ,&7-#$,&g 'o '.a' of '.e A))-,7a&'.

9!. T.e T+,*#&a- 7a+ef#--8 +ea$ '.e -e''e+ o& f,-e f+o% "RR6 a77o+$,&g 'o ;.,7. "RR 7o%%,''e$ &o' 'o +e<#es' '.e -oa& of a&o'.e+)e+so&6 s,%#-'a&eo#s-86 a' a&8 g,/e& ',%e. I' ,s '.e T+,*#&a-Bs #&$e+s'a&$,&g '.a' '.a' -e''e+ $oes &o' eD7-#$e '.a' o'.e+ ICT2 s'aff %e%*e+s ;o#-$ *e a))+oa7.e$ fo+ +e-ease fo+ a&o'.e+)os,',o&6 *efo+e '.e 7o%)-e',o& of '.e %a&$a'e of ICT2. A-so6 '.e T+,*#&a- .as &o +easo& 'o $o#*' '.e e/,$e&7e of '.e P+es,$e&'6 ;.o sa,$ '.a' o'.e+ s'aff %e%*e+s .a$ 'o-$.,% '.a' '.e8 .a$ a-so *ee& a))+oa7.e$ *8 "RR a+o#&$ '.e sa%e ',%e fo+ a)os,',o& ,& Ca%*o$,a. T.e P+es,$e&' a-so 7+e$,*-8 s'a'e$,& .,s e/,$e&7e '.a' .e .a$;+,''e& 'o "RR 'o 'e-- '.e% 'o +ef+a,& f+o% 7o&'a7',&g ICT2 s'aff $#+,&g '.e -as' 8ea+ of '.e

)-3.666533 1017(-)-9.92 1T+(,%#)&a-Bs0%a&$a'e1*#'4'1a'.9'.e8 7o&(,&)#$ 9o7o&'a7'(s'aff.%e%*e+s(&e.9953(2*0)-41.444(1)0.2357699(*o)s0.8639

70. =,'. +es)e7' 'o '.e -oa& ',e$ 'o '.e A))-,7a&'Bs +es,g&a',o& ;,'.o#' +e'#+& +,g.'6 '.e De)#'8 Reg,s'+a+ ,&fo+%e$ '.e T+,*#&a- '.a' ,' ;as ,& fa7' .e+ ;.o .a$

75.