UNITED NATIONS

Mechanism for International Criminal Tribunals

Case No.: MICT-13-55-A
Date: 23 May 2017
Original: English

THE PRESIDENT OF THE MECHANISM

Before: **Judge Theodor Meron, President**

Registrar: **Mr. Olufemi Elias**

Submission of: **23 May 2017**

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC
WITH CONFIDENTIAL AND *EX PARTE* ANNEX

REGISTRAR'S SUBMISSION PURSUANT TO THE ORDER OF 8 MAY 2017

Counsel for Mr. Karadžić:
Mr. Peter Robinson
Ms. Kate Gibson

I. INTRODUCTION

1. Pursuant to Rule 31(B) of the Rules of Procedure and Evidence of the Mechanism for International Criminal Tribunals ("Mechanism") and the 8 May 2017 "Order for Submissions" ("Order"),[1] I respectfully make this submission regarding the feasibility of the suggestions about the use of a laptop computer raised by Mr. Radovan Karadžić in his complaint dated 11 April 2017 ("Complaint"). As per the Order, I also file Mr. Karadžić's "Complaint Pursuant to Rule 83 ICTY Rules of Detention" dated 11 April 2017 ("Complaint"), and the annexes ("Annex").[2]

2. As a preliminary matter, I note that the Complaint, as well as Mr. Karadžić's complaints to the Registrar and the Commanding Officer and the subsequent decisions thereon were made under the complaints framework provided by the Rules of Detention[3] and the Complaints Procedure.[4] I respectfully submit, as also previously submitted by the then Mechanism Registrar Mr. John Hocking, that the complaints framework is the appropriate avenue for the complaints of detainees of the United Nations Detention Unit ("UNDU") regarding their conditions of detention. The Complaints Procedure allows for a thorough examination and expeditious resolution of issues that are non-case-related and need not be litigated publicly on the judicial record.[5] The Complaints Procedure also provides the opportunity for the relevant organs of the Mechanism to consider sensitive or confidential matters pertaining to security and safety as well as policy matters related to the management of the UNDU, as appropriate.

3. This submission as well as the Complaint is filed on the judicial record in accordance with the Order. However, the Registry would welcome guidance as to in which circumstances the Complaints Procedure will continue to govern such complaints or whether they should be filed on the judicial record.

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[1] *Prosecutor v. Radovan Karadžić*, Case No. MICT-13-55-A ("*Karadžić*"), Order for Submissions, public, 8 May 2017.
[2] As documents included in the Annex discuss the safety and security of the UNDU and Mr. Karadžić's medical issues, I file the Annex confidentially and *ex parte*.
[3] Rules Governing the Detention of Persons Awaiting Trial or Appeal Before the Tribunal or Otherwise Detained on the Authority of the Tribunal, IT/38/Rev.10, 15 November 2016 (Rules of Detention"), which apply *mutatis mutandis* to the Mechanism.
[4] United Nations Detention Unit Complaints Procedure for Detainees, IT/96/Rev.1, 14 December 2016 ("Complaints Procedure"), which applies *mutatis mutandis* to the Mechanism.
[5] See, *Karadžić*, Registrar's Further Submission in Relation to Matters Raised at the Status Conference Held on 15 November 2016, public, 5 December 2016, para. 4.

II. SUBMISSIONS

4. Before addressing the specific questions raised in the Order, I would like to note that the Registry fully appreciates the need to ensure that detainees have the best possible technical support to work on their cases. For this reason, since 2006, individual desktop computers, engineered to suit the detention environment and reduce the risks inherent in communication devices, were provided to each detainee in their own cells at the UNDU. In 2016, the detainees' desktop computers were upgraded. Putting this system in place required considerable resources from the Registry. The desktop computer in Mr. Karadžić's cell provides him with a secure means and relevant software that allows him to read and study case-related material,[6] as well as digitally transfer documentation.

5. Were Mr. Karadžić be provided with a laptop computer, it should be noted that none of the above functionalities would be available to him. For security reasons, such a laptop[7] would be a standalone device that would:

   a. have no network connectivity;

   b. not be able to print documents;

   c. not have storage facilities except locally within the laptop itself;

   d. not provide access to materials relevant to Mr. Karadžić's case; and

   e. not allow Mr. Karadžić to digitally transfer documentation.[8]

6. Any data produced on such a standalone laptop would be stored locally, with no back-up. Therefore, in the event of a hardware crash or failure, the Mechanism Information Technology Services Section ("ITSS") would not be in a position to guarantee the restoration of data.

7. Pursuant to the Order and in consultation with the UNDU and ITSS I have examined the feasibility of implementing the suggestions raised by Mr. Karadžić as identified in the Complaint and whether providing Mr. Karadžić with a laptop computer with no internet functionality would satisfy any concerns regarding the monitoring of his and other

[6] In his initial request to the Commanding officer, Mr. Karadžić only referred to the recreational purpose of a laptop, without mentioning his willingness to use it for reading and studying case-related material.

[7] The Mechanism Information Technology Services Section does not have the required means to verify if a laptop computer imported by Mr. Karadžić complies with any required specifications/restrictions or whether any unwanted devices have been installed on such a laptop computer. These submissions therefore address Mr. Karadžić's suggestions on the premise that a laptop computer for Mr. Karadžić, if so ordered by the President, would be provided by the Mechanism.

detainees' communication. While the Order limits my submission to a number of issues pertaining to security and safety of the UNDU, I recall that in my Decision of 4 April 2017 I also considered Mr. Karadžić's health and wellbeing, as well as whether a laptop is needed to assist Mr. Karadžić in his case preparations.

8. Mr. Karadžić made the following suggestions in his Complaint:

   a. A laptop can be physically secured in a laptop cage to prevent its unauthorized use;

   b. The risk of restoring a laptop's wireless internet capability can be cured by removing the wireless network card;

   c. There are custom security solutions that would properly secure a laptop for the purposes of Mr. Karadžić and the UNDU; and

   d. A laptop without internet connectivity can be provided.

9. The feasibility of each of these suggestions has been examined, as summarised below. I note that due to the type of questions posed in the Order, the below submissions are technical in nature.

(i) Use of a laptop security cage

10. Mr. Karadžić submits that a laptop security cage prevents the laptop case from being opened and that it can be configured physically to cover all of the laptop's external ports, such as USB ports, to prevent any external device from being plugged into the laptop.

11. A laptop security cage – or rather a combination of a security cage and other security devices – can physically cover all external ports. This would increase the weight of the laptop computer and potentially affect its portability. The cost of such a device would come to approximately EUR 200 for one laptop computer.

12. Such a mechanism would place additional responsibilities and workload on the UNDU. To ensure that the security cage has not been tampered with, the security cage would need to be checked on a daily basis by the UNDU technician on site. Further, every time that Mr. Karadžić would wish to import or export data from the laptop, the UNDU technician would need to assist him by removing the security cage, enabling a USB port, transferring the data to/from the laptop, disabling the USB port and securing the laptop

[8] The access to digital transfer was granted by the Trial Chamber in relation to Mr. Karadžić's decision to represent himself in the trial proceedings.

with the security cage. It would also mean that the UNDU technician would need to take responsibility for Mr. Karadžić's data.

13. As a practical matter, the UNDU currently does not employ an IT technician on a full time basis. It is, therefore, currently not possible to provide the daily security checks, maintenance or support required for importing/exporting data to and from a laptop encased in a security cage.

(ii) Removing the wireless network card

14. Mr. Karadžić suggests that there is no risk of restoring a laptop's wireless internet capability if the respective piece of hardware (the wireless network card) is removed from a laptop.

15. Although certain older models of computers – such as in the example given by Mr. Karadžić[9] – may have allowed the wireless network card to be removed, most modern laptop computers currently available on the market have wireless network cards integrated into their so-called motherboard: they are computer chips soldered onto the motherboard. The chip cannot be removed without physically breaking or affecting the motherboard. The motherboard is a crucial piece of hardware, without which no laptop can function. It is, therefore, not possible to physically remove wireless networking capabilities from a laptop without rendering it inoperable.

16. Even if a modern laptop computer with a non-integrated network card could be found, removing such a card would mean tampering with the device, losing the warranty and making the laptop computer more susceptible to potential defects.

(iii) "Custom security solutions"

17. In his Complaint, Mr. Karadžić refers to "custom security solutions" which a number of companies provide for various government agencies, and argues that if laptops can be adequately secured for these agencies, "then a laptop can be properly secured for a 71 year old man." However, the websites referred to by Mr. Karadžić offer a service to protect the data and systems of organisations from unauthorised access and disclosure. There is no information that would suggest that these companies can provide the type of custom-made laptop computer that would address the security concerns associated with

[9] An old model, such as the one referred to in the Complaint, would not be able to support modern operating systems.

laptop usage at the UNDU. Consequently, there is no substantial suggestion which the Registry might be able to consider.

(iv) A laptop computer without internet connectivity

18. With regard to the market availability of laptops without internet connectivity, it would appear from the specifications provided by the producer that the current model of the One-Laptop-Per-Child ("OLPC") laptop referred to in the Complaint does have a built-in wireless capability and could therefore be used to connect to the internet. The Complaint provides a link to a much older model of the OLPC laptop, which is only available second-hand. Although it is unclear whether this particular model had a built-in wireless capacity or not, it is unlikely that it would support a modern operating system such as Microsoft Office. It seems that this laptop only provides children's educational software and might therefore not satisfy Mr. Karadžić's requirements.

19. ITSS has enquired with one of the Mechanism's contractors whether a custom-built laptop, made in accordance with ITSS' specifications, including no internet connectivity, could be custom-made for the Mechanism. Based on initial inquiries, the cost of such a laptop could amount to approximately EUR 1,800, excluding the cost of any security devices (such as USB port locks etc.). Such security devices would still be required to cover external ports of a laptop computer (used for importing or exporting data), to ensure that internet connectivity is not established. A laptop of this kind could be built in about three weeks from the date of the order.[10]

20. In order to comply with their monitoring obligations, UNDU management must be confident that access to any communication device or facility can be controlled. While a certain risk is inherent in any communication device, computers make for a greater challenge in monitoring for illicit communication.

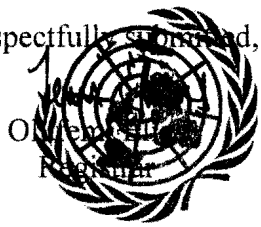
21. The UNDU currently monitors for wireless signals, but as wireless technology develops, monitoring is becoming an increasingly difficult matter and certain security issues may only come to light through the use of a particular device.

22. It will be recalled that the introduction of desktop computers with access to digital case material took many weeks of discussions, evaluations, technical work, testing and drafting of regulations, to make sure that safety, security, as well as technical and functionality requirements would be met.

23. The Registry would need to invest comparable time and resources to ensure that all of the Mechanism's requirements are complied with. Apart from internet security issues, laptop computers raise a number of other safety concerns that have not been addressed here, including safety risks associated with charging cables.

24. The Registry remains available should the President require further information.

Respectfully submitted,



Done this 23rd day of May 2017
At The Hague,
The Netherlands.

[10] This does not take into consideration the time required for the procurement process, setting the specifications, testing and checking the device, etc.