

MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS

CASE No. MICT-13-55-A

THE PRESIDENT

Before: Judge Theodor Meron

Registrar: Olufemi Ellis

Date Filed: 25 May 2017

THE PROSECUTOR

v.

RADOVAN KARADZIC

Public

REPLY BRIEF: APPEAL OF REGISTRAR'S DECISION ON
USE OF LAPTOP AT UN DETENTION UNIT

Radovan Karadzic:
Peter Robinson
Kate Gibson

1. On 11 April 2017, Radovan Karadzic appealed, pursuant to Rule 83 of the Rules of Detention, from the Registrar's decision (the "Impugned Decision") denying his request to have access to a laptop computer at the United Nations Detention Unit ("UNDU").

2. On 8 May 2017, the President ordered the Registrar to make submissions on the appeal and to file the Complaint and the annexes on the record in the case. He also granted President Karadzic the right to file a reply.¹

3. President Karadzic requests that the underlying documents to this appeal, filed by the Registrar on 23 May 2017, be reclassified from *ex parte* confidential to public. All proceedings before the Mechanism shall be public unless there are exceptional reasons for keeping them confidential.² President Karadzic sees nothing in the material that would require it to be maintained under seal

4. The Registrar has sought guidance from the President as to whether underlying documents for an appeal under Rule 83 of the Rules of Detention should be filed on the judicial record.³ President Karadzic believes that when an appeal of a detention issue reaches the President, it should become part of the case record so that the jurisprudence, including the position of the detainee and the Registrar, is transparent and available to the public and other detainees. Public disclosure of the entire appeal, including positions taken by the UNDU Commanding Officer and Registrar, will promote accountability and encourage informal resolutions of complaints.

5. The *Order for Submissions* directed the Registrar to report on (i) the feasibility of implementing any of President Karadzic's suggestions; and (ii) whether providing President Karadzic with a laptop computer with no Internet functionality would satisfy any concerns regarding the monitoring of his and other detainees communication.

6. As to the first point, the Impugned Decision denied President Karadzic's request to import a laptop on the grounds that a detainee could open the laptop and tamper with its functions so that it could connect to the Internet.⁴ The Registrar now

¹ *Order for Submissions* (8 May 2017)

² *Decision on a Motion for Redacted Versions of Decisions Issued Under Rule 75(H) of the ICTY Rules* (18 July 2016) at p. 3; *Decision on a Motion for Redacted Versions of Rule 86(F) Filings* (24 January 2017) at p. 3; *Decision on a Motion to Compel Inspection of Pseudonyms of Witnesses* (22 May 2017) at p. 3

³ *Registrar's Submission pursuant to the Order of 8 May 2017* (23 May 2017) ("Submission") at para. 3

⁴ *Impugned Decision*, p. 2

admits that a laptop could be provided which has no possibility to access the Internet.⁵ Therefore, the Impugned Decision, based on an incorrect premise, should be reversed on that ground alone.⁶

7. The Registrar's submissions on the second point likewise indicates that monitoring communications on the laptop would be possible, but claims that the Registry would need to invest "many weeks of discussions, evaluations, technical work, testing and drafting of regulations".⁷ But since there would be no Internet connectivity on the laptop, there would be no communications from the laptop to be monitored. The Registry would be free to review the files on President Karadzic's laptop just as it is free to review papers in his cell.

8. Absent from the Registrar's submission is the fact that Mechanism detainees at the UNDF in Arusha, as well as those serving sentences in Benin and Mali, have been using laptops for years. While those prisoners do not have the alternative access to a desktop computer that President Karadzic has, the fact is that laptop use by detainees is not uncharted territory for the Registrar.

9. The technology to provide President Karadzic with a laptop at the UNDU, and to ensure that he is unable to use it for communication, exists. It is respectfully requested that the President reverse the Impugned Decision and order that the Registrar allow President Karadzic the use of a laptop at the UNDU.

Word count: 738

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter Robinson". The signature is fluid and cursive, with the first and last letters of the first and last names being notably large and stylized.

PETER ROBINSON

Counsel for Radovan Karadzic

⁵ *Submission*, para. 19

⁶ See *Decision for Review of Request for Review of Decision on Privileged Telephone Calls* (23 March 2012), paras. 14-15

⁷ *Submission*, paras. 22-23