

MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS

CASE No. MICT-13-55-A

THE APPEALS CHAMBER

Before: Judge Theodor Meron, Pre-Appeal Judge

Registrar: John Hocking

Date: 2 December 2016

THE PROSECUTOR

v.

RADOVAN KARADZIC

Public

REPLY TO REGISTRAR'S SUBMISSION
ON LUMBAR SUPPORT CUSHION

The Office of the Prosecutor:

Laurel Baig
Barbara Goy
Katrina Gustafson

Counsel for Radovan Karadzic:

Peter Robinson
Kate Gibson

1. At the Status Conference of 16 November 2016, President Karadzic stated that:

First of all, that chair could be improved by inserting a cushion that gives support to the lumbar spine, but they say they can't do that because there is no medical indication. And yet, that medical indication will soon appear because the posture is wrong. And all of us prisoners, all you'll recall, are older than 60 and spent a lot of time at their computers. I, for instance, spent more than six hours a day at the computer, and that's a very difficult condition. It's very difficult to maintain the proper posture.¹

2. The Pre-Appeal Judge responded:

Regarding the cushion. The Registrar -- may I ask the Registrar to convey to the Registry my request to have a look at that. It's not obvious to me why Mr. Karadzic should not be allowed to use the cushion, which I understand he bought already and he has it... I would like to hear a good explanation why this would be a problem in terms of the general regulations which apply in the UNDU.²

3. On 24 November 2016, the Registrar reported that

The UNDU Commanding Officer did not allow Mr. Karadzic to import a lumbar support cushion for use in his cell based on the advice of the United Nations Detention Unit ("UNDU") Medical Officer. In the view of the Medical Officer, the cushion does not provide appropriate lumbar support and he therefore advises against its use. The Medical Officer recommends the use of the lumbar support built-in to the chair issued to Mr. Karadzic.³

4. President Karadzic delayed his response to the Registrar's submission while he waited for the results of an examination of his back by the prison hospital. On 1 December 2016, he received the report.⁴

5. The report indicates that President Karadzic's fears that "medical indication will soon appear" have been realised. He has serious back and neck problems. Further testing is scheduled to take place in the coming days.

6. The Registrar's submission is non-responsive to the President's request to "hear a good explanation" why it would be a problem to allow President Karadzic to have a lumbar support pillow. While the medical officer doesn't think it would benefit President Karadzic, what would be the harm?

¹ T4

² T7

³ Registrar's Submission in Relation to Matters Raised at the Status Conference held on 15 November 2016 (24 November 2016) at para. 5

⁴ The report is attached as Annex A—the name of the radiologist is redacted.

7. This same Medical Officer misdiagnosed President Karadzic's stomach pain as gastritis when he needed a gall bladder operation. It was only thanks to the intervention of the Trial Chamber that President Karadzic was given additional tests and was operated on the next day.⁵

8. In the absence of any showing that the importation and use of a lumbar support pillow would damage the good order of the UN Detention Unit, the Pre-Appeal Judge should direct that President Karadzic be allowed to receive the pillow.

Word count: 587

Respectfully submitted.

A handwritten signature in black ink, appearing to read "Peter Robinson". The signature is written in a cursive, flowing style with large, connected letters.

PETER ROBINSON

Counsel for Radovan Karadzic

⁵ *Order Regarding Health of the Accused* (27 August 2015); T48115-16

ANNEX "A"



Ministerie van Volksgezondheid en Justitie

Instituut voor Somatische Zorg, unit 5

Röntgenafdeling
Pompstationsweg 32
2597 JW Den Haag
Tel: 08807-14534

Naam: Karadzic-R
Geboortedatum: 19-06-1945
Patiëntnummer: 11732861
Adres/Arts: vn/ Fa I ka

Datum verrichting: 18-11-2016
Onderzoek: x-cwk en x-lwk
Medische gegevens: Chronische rugklachten.

Verslag:

X-cervical spine:

Normal structure and density of the bone. Normal lordosis, scoliosis to the left. Arthrotic changes in segment C4-C7. Fusion vertebrae C5 and C6. Misalignment with retro position C5 to C4 and C7 to C6. Narrowing of the dural canal. No collapse of the vertebrae. Disc narrowing C7-Th1. Normal relation between C1 and C2.

On the 24th of November additional flexion and extension view. Some instability visible in segment C6-C7. At the level C4-C5 no signs of instability.

X-lumbar spine:

Normal structure and density of the bone. 5 lumbar vertebrae. Scoliosis with left orientated torsion. Arthrosis of the intervertebral joints. No loss of body height. Normal disk spaces. Normal sacro-iliac joints.

Conclusion:

Severe arthrotic changes of the cervical spine with left sided scoliosis. Instability in segment C6-C7. Fusion vertebrae C5-C6. Operation in the past?
Arthrotic changes lumbar spine with left sided scoliosis. Normal vertebrae and disk spaces.