

THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA

CASE No. IT-95-5/18-T

IN TRIAL CHAMBER No. 3

Before: Judge O-Gon Kwon, Presiding
Judge Howard Morrison
Judge Melville Baird
Judge Flavia Lattanzi, Reserve Judge

Registrar: Mr. John Hocking

Date: 6 February 2013

THE PROSECUTOR

v.

RADOVAN KARADZIC

Public

MOTION FOR SUBPOENA
TO FIKRET ABDIC

The Office of the Prosecutor:
Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

Government of Croatia

The Accused:
Radovan Karadzic

1. Dr. Radovan Karadzic respectfully moves, pursuant to Rule 54, for the issuance of a subpoena to Mr. Fikret Abdic compelling him to testify at his trial.

2. Rule 54 provides that:

At the request of either party or *proprio motu*, a Judge or a Trial Chamber may issue such orders, summonses, subpoenas, warrants and transfer orders as may be necessary for the purposes of an investigation or for the preparation or conduct of the trial.

3. A party seeking subpoena must demonstrate that (1) it has made reasonable attempts to obtain the voluntary cooperation of the witness; (2) the witness' information may materially assist its case; and (3) the witness' information may be necessary and appropriate for the conduct and fairness of the trial.¹

4. Dr. Karadzic has made reasonable efforts to obtain the voluntary cooperation of Fikret Abdic. He requested that Mr. Abdic be interviewed by his Legal Advisor Peter Robinson. Mr. Abdic declined. He then requested that Mr. Abdic agree to testify as a defence witness at his trial. Mr. Abdic also declined.²

5. Therefore, Dr. Karadzic has made reasonable efforts to obtain the voluntary cooperation of Prime Minister Panic.

6. Mr. Abdic has relevant information for the defence of Dr. Karadzic. Mr. Abdic was elected to the Presidency of Bosnia and Herzegovina in 1990 as a representative of the SDA party, receiving the largest number of votes. He can testify to numerous meetings of the SDA party and Presidency in which a faction led by Alija Izetbegovic advanced an agenda which led to the withdrawal of Bosnia from Yugoslavia and rejection of the Cutileiro Agreement, which would have avoided the war. He will testify about his efforts to keep the Assembly in session on 5 April 1992 to avoid the outbreak of

¹ *Prosecutor v. Krstić*, IT-98-33-A, *Decision on Application for Subpoenas*, (1 July 2003) at para. 10; *Prosecutor v Halilovic*, No. IT-01-48-AR73, *Decision on the Issuance of Subpoenas* (21 June 2004) at para. 5; *Prosecutor v Karemera et al*, No. ICTR-98-44-T, *Decision on Nzirorera's Ex Parte Motion for Order for Interview of Defence Witnesses NZ1, NZ2, and NZ3* (12 July 2006) at para. 9; *Prosecutor v Karemera et al*, No. ICTR-98-44-T, *Decision on Joseph Nzirorera's Motions for Subpoena to Leon Mugesera and President Paul Kagame* (19 February 2008) at para. 4; *Prosecutor v Bizimungu et al*, No. ICTR-99-50-T, *Decision on Prosper Mugiraneza's Motion to Subpoena Witness RWU* (19 May 2008) at para. 4; *Prosecutor v Bagosora et al*, No. ICTR-98-41-T, *Decision on Request for a Subpoena* (11 September 2006) at para. 5; *Prosecutor v Karemera et al*, No. ICTR-98-44-T, *Decision on Joseph Nzirorera's Motions to Subpoena Witnesses G and AWD for Interview* (10 February 2009) at para. 4

² A declaration of Legal Advisor Peter Robinson outlining the contacts with Mr. Abdic and his family is attached as Annex "A".

war, a proposal to which Dr. Karadzic had agreed, but was rejected by President Izetbegovic.

7. Mr. Abdic can also testify to events at the very beginning of the war in which he personally traveled to Bijeljina with Biljana Plavsic and others as part of a joint effort between the SDA and SDS to calm ethnic tensions in that area. He can also testify to his efforts to avoid the outbreak and escalation of the war in Sarajevo in April and May 1992, and his numerous intercepted telephone communications with General Mladic and Colonel Gagovic in which they made good faith efforts to solve problems and avoid civilian casualties in Sarajevo.

8. Mr. Abdic can also testify to an agreement he entered into on 22 October 1993 with Dr. Karadzic for mutual cooperation in the Bihac area. The agreement proclaimed peace between their sides and the start of good neighbourly relations, guaranteed freedom of movement to their citizens, called for prosecution of any persons who have violated international legislation for customs of war, appointed a Border Commission to demarcate the border between the two regions, and guaranteed free passage to convoys carrying international humanitarian aid.

9. Further meetings were held pursuant to this agreement in which Mr. Abdic participated along with high-level representatives from Republika Srpska on 6 November 1993, 1 April 1994, and 4 October 1994. Dr. Karadzic and the Bosnian Serbs cooperated with Mr. Abdic throughout the course of the war.

10. The above information is directly relevant to refute the charges of persecution and the alleged joint criminal enterprises to expel and kill Bosnian Muslims. Mr. Abdic's evidence will show that Dr. Karadzic and the Bosnian Serbs were willing to and did work with Muslims and their representatives who did not aspire to create an Islamic state in Europe and who were ready to respect the rights of all ethnic groups. His evidence will further refute the prosecution's allegations that Dr. Karadzic and the Bosnian Serbs wanted the war so they could expel Muslims from areas where Serbs were a majority.

11. The information is also necessary to the defence of Dr. Karadzic. He had direct contact with Mr. Abdic during the war and Mr. Abdic can testify to these contacts and the genuine desire on the part of Dr. Karadzic to work with persons of all ethnic groups and respect their rights, including the rights to freedom of residence and of

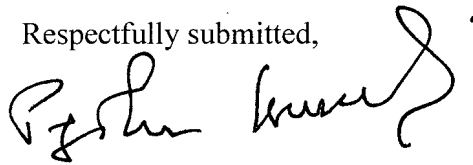
movement. The information is not available by other means because Mr. Abdic was personally in contact with Dr. Karadzic, General Mladic, and other leaders of Republika Srpska. Mr. Abdic's testimony of these contacts would have greater credibility than that of those on the side of Republika Srpska, who can be claimed to have an interest in defending themselves and Republika Srpska. Mr. Abdic is also the only SDA leader who can testify about the events within the party and Presidency as other leaders such as Ejub Ganic, Haris Siladzjic, and Bakir Izetbegovic have categorically refused to testify.

12. Therefore, Dr. Karadzic has demonstrated that the testimony of Mr. Abdic is relevant and necessary to his case.

13. For all of the above reasons, it is respectfully requested that the Trial Chamber issue a subpoena directing Fikret Abdic to testify in this case on 29 May 2013 or at another date thereafter to be fixed by the Trial Chamber.

Word count: 1378

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Radovan Karadzic', written in a cursive style.

Radovan Karadzic

ANNEX "A"

Declaration of Peter Robinson

I hereby declare that the following is true and correct:

1. I am Legal Advisor to Dr. Radovan Karadzic.
2. On 26 March 2012, Dr. Karadzic sent a letter to Fikret Abdic requesting that he meet with me to discuss the possibility of Mr. Abdic testifying as a defence witness in his trial. A copy of this letter is attached.
3. On 3 April 2012, I received a response from Mr. Abdic's daughter, Elvira Abdic Jelenovic, who requested that I meet her to discuss her father's possible testimony at Dr. Karadzic's trial.
4. On 14 April 2012, I met with Elvira Abdic-Jelenovic in Opatija, Croatia and explained to her the topics which Dr. Karadzic wanted Mr. Abdic to testify about. She indicated that she would relay this information to his father and let us know if he was willing to meet with me and testify at Dr. Karadzic's trial.
5. On 6 June 2012, I was told by Ms. Jelenovic that her father had been advised by his legal counsel that he should not meet with me or testify in Dr. Karadzic's trial and that he had decided to follow that advice.
6. On 12 June 2012, Dr. Karadzic sent a letter to Mr. Abdic indicating that he would recontact him in 2013 to see if there was any change in his position. A copy of the letter is attached.
7. On 14 December 2012 and again on 28 January 2013, I sent an e-mail to Ms. Jelenovic and asked if there had been any change in her father's position. I never received a response.

DATED: 6 February 2013


Peter Robinson

Dr. Radovan Karadzic

26 March 2012

Mr. Fikret Abdic
Velika Kladusa, Bosnia

Dear Mr. Abdic,

I was happy to learn that you are now free. I hope that you are in good health and spirit.

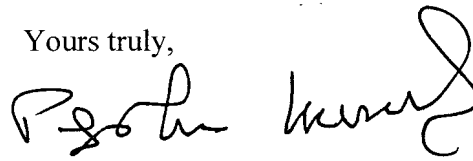
I would be most grateful if you would be willing to meet with my Legal Advisor Peter Robinson to discuss the possibility of your testifying as a witness in my trial.

Mr. Robinson can be in Velika Kladusa on 13-14 April to meet with you if you are available.

I would appreciate it if you could contact Mr. Robinson at peter@peterrobinson.com to respond to this letter.

Thank you very much for your cooperation and I wish you all the best.

Yours truly,

A handwritten signature in black ink, appearing to read 'Radovan Karadzic', written in a cursive style.

Radovan Karadzic

Dr. Radovan Karadzic

12 June 2012

Mr. Fikret Abdic
Velika Kladusa, Bosnia

Dear Mr. Abdic,

I hope that this letter finds you doing well and enjoying your freedom.

My Legal Advisor has told me that he had the pleasure of meeting two of your daughters in Optija in April and was very impressed with them and their dedication to you.

My daughter has also told me that she has been in touch with Elvira. We are both very lucky to have such devoted children.

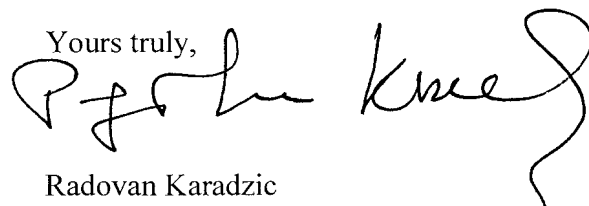
I have been informed that you have been advised that it would be detrimental to your case to be a witness for my defence at the ICTY. I understand that position, and I would not want to jeopardize your ability to clear your name. Nevertheless, I hope that there will be circumstances in the future that would allow you to be a witness without any damage to your own interests.

My defence case will last for at least one year, and I hope that in the meantime, your circumstances will improve. I will contact you in 2013 to see if there is any change. I will also have a better idea at that time how much your testimony is needed in my case.

Thank you very much for your cooperation, and best of luck to you.

Sincerely,

Radovan Karadzic

Yours truly,

Radovan Karadzic