

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: 24 July 2013

THE PROSECUTOR

v.

RADOVAN KARADZIC

Public

MOTION FOR SUSPENSION OF DEFENCE CASE

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

The Accused:
Radovan Karadzic

1. Dr. Radovan Karadzic respectfully moves for the suspension of the defence case so he can have adequate time and facilities to defend himself on Count One of the Indictment in accordance with Article 21(4)(b) of the ICTY Statute.

Procedural History

2. The defence case commenced in October 2012 on Counts 2-11 after the Trial Chamber granted Dr. Karadzic's Motion for Judgement of Acquittal on Count One.

3. On 11 July 2013, the Appeals Chamber issued its *Judgement* reversing the Trial Chamber's acquittal on Count One.

4. On 16 July 2013, Dr. Karadzic filed his *Motion to Sever Count One*, contending that it was in the interests of justice to conclude the trial on Counts 2-11 and to address Count One after the judgement on the other counts, if necessary.

5. On 22 July 2013, Dr. Karadzic filed a *Motion for Clarification* with the Appeals Chamber after the parties disagreed as to the effect of the Appeals Chamber judgement on future proceedings relating to Count One.

6. Therefore, the issue whether or not the current trial will proceed with or without Count One is not yet determined.

7. However, on 23 July 2013, the Trial Chamber said that:

At this stage, while making no comment on the merits of the accused's Motions that are still pending before the Appeals Chamber and before this Chamber, but simply bearing this mind that all efforts should be made to ensure that the expeditiousness of these proceedings is maintained, the Chamber is of the view that the Defence should also be prepared for the eventuality that in ruling on the motion for clarification, the Appeals Chamber may decide that its judgement was clear that Count 1 is reinstated and also for the possibility that this Chamber may dismiss his motion for severance hereinafter.

This means that for witnesses who are scheduled to testify and who may be relevant to Count 1, and the Chamber has noted a few in the working calendar provided, the Chamber expects the Defence to examine them on Count 1 if it so wishes, even if by that time the Appeals Chamber has not ruled on the motion for clarification.¹

8. While the Trial Chamber did not explicitly order Dr. Karadzic to begin his investigations on Count One, Dr. Karadzic has filed this motion at the present time to

¹ T41825-26

avoid any misunderstandings in the event the Trial Chamber later denies the Motion to Sever Count One.

Argument

9. Dr. Karadzic contends that the defence case should be suspended for two reasons.

10. First, his decision as to which defence witnesses to call during the remainder of the defence case necessarily depends on the number of hours allocated to him. If Count One is added to the current trial, Dr. Karadzic will have to readjust his defence strategy by calling a different group of witnesses in the remaining hours than he planned to call. He cannot afford to use up his hours on witnesses who might not be called if Count One is added.

11. To provide a concrete example, witness Dusko Jaksic had been scheduled to testify about the legitimate economic reasons which lead to the creation of the Autonomous Region of the Krajina (ARK). This is important to rebut the prosecution's contention that the ARK, and other regions, were created to put the conditions for ethnic cleansing in place.

12. Dr. Karadzic planned to call Mr. Jaksic in a trial of Counts 2-11 because his testimony relates to issues of persecution and forcible transfer. However, if Dr. Karadzic is now to be tried on Count One, he may not have enough hours left in his defence case to call Mr. Jaksic. The decision whether to call Mr. Jaksic, like that of many other witnesses, will necessarily depend on whether Count One is part of the ongoing trial and how many remaining hours the defence will have to present its case.

13. Therefore, in order to ensure that Dr. Karadzic has adequate time to defend himself on Count One, if necessary, the trial should be suspended pending a determination on the Motion for Clarification, Motion to Sever Count One, and an allocation of the number of hours for the defence to complete its case if the trial includes Count One.

14. Second, Dr. Karadzic doesn't have the resources to simultaneously present his defence case and prepare for Count One.

15. Dr. Karadzic expects that before deciding on how much time he should be given for his defence case on Count One, the Trial Chamber would require him to file a

list of witnesses and exhibits and summary of facts upon which each witness would testify in his defence to Count One pursuant to Rule 65 *ter* (G).

16. Dr. Karadzic has funding for only two full time investigators during this period. They are fully engaged in taking statements from upcoming witnesses now scheduled for September and October. If the trial is not suspended, they will have no time to identify or interview additional witnesses envisioned for the defence case on Count One.

17. If the trial were to include Count One, Dr. Karadzic envisions having to focus far greater attention on the prison camps than he had planned prior to the Appeals Chamber decision. He would expect his defence team to identify and interview camp commanders, investigators who worked in the camps, officials who inspected those camps, and perpetrators of crimes in the camps to provide testimony that the conditions of life in those camps were not designed to destroy the Bosnian Muslims or Croats as such.

18. There are currently very few such witnesses are on Dr. Karadzic's existing witness list.

19. Dr. Karadzic would also expect his defence team to identify and interview officials from the seven municipalities to elicit testimony related to the intention to destroy the Muslim and Croat groups in their communities. This will necessarily involve recalling some witnesses who have already testified from four of those municipalities, as well as identifying and interviewing additional witnesses.

20. Dr. Karadzic would also expect his defence team to identify and interview perpetrators of some of the larger scale crimes, such as those at Koricanske Stijena or Giro's slaughterhouse in Zvornik, to elicit evidence that those crimes were not committed with the intent to destroy the Muslims and Croats as such.

21. Dr. Karadzic would also expect his defence team to identify and interview additional witnesses to address the speeches or utterances which were relied upon in the appeal proceedings on Count One as evidence of genocidal intent. This will involve calling members of the Bosnian Serb Assembly, associates of President Milosevic, and persons with whom Dr. Karadzic was in contact, as evidenced by intercepted conversations, during the period in which this alleged genocidal intent was expressed.

22. In order to accomplish these tasks within a reasonable time, Dr. Karadzic would need to have the full time engagement of his two investigators for Count One witnesses, as well as deploy his Legal Associate Marko Sladojevic and Legal Advisor Peter Robinson to the field to assist in these interviews.

23. Therefore, suspension of the trial is necessary for Dr. Karadzic to have adequate time and resources to prepare for a trial that would include Count One.

24. Dr. Karadzic estimates that it would take his defence team four months to complete the process of identifying additional witnesses for Count One, obtaining sufficient information about those witnesses, compiling a witness list, and drafting legally sufficient summaries of the expected testimony of those witnesses.

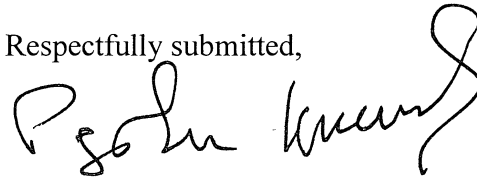
24. This estimate is based upon the availability of two full time investigators and the Legal Associate and Legal Advisor, who could successfully identify and interview approximately 4 witnesses each per month. (approximately 64 witnesses in total) .

25. The trial could resume once the Trial Chamber has reviewed the list of potential witnesses and determined how many hours Dr. Karadzic would have to complete his defence case.

26. For all of the above reasons, it is respectfully requested that the defence case be suspended to enable Dr. Karadzic to prepare for a trial that includes Count One.

Word count: 1427

Respectfully submitted,

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

Radovan Karadzic