

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 June 2013

THE PROSECUTOR

v.

RADOVAN KARADZIC

Public

MOTION FOR SUBPOENA
TO MICO STANISIC

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

Witness Mico Stanisic:
Mr. Slobodan Zecevic
Mr. Stephane Bourgon

The Accused:
Radovan Karadzic

1. Radovan Karadzic respectfully moves, pursuant to Rule 54, for the issuance of a subpoena to Mico Stanisic 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 ("legitimate forensic purpose" requirement); and (3) the witness' information may be necessary and appropriate for the conduct and fairness of the trial.¹

Efforts at Voluntary Cooperation

4. On 6 June 2013, Dr. Karadzic met with Mico Stanisic and his counsel and asked him to testify as a defence witness in his case. Mr. Stanisic indicated that he was not in favor of testifying but that he would give me a final answer within 10 days.²

5. On 21 June 2013, the lawyers for Mico Stanisic indicated that Mr. Stanisic declined to testify in the *Karadzic* trial without being subpoenaed.

6. Therefore, Dr. Karadzic has made efforts to obtain the voluntary cooperation of Mico Stanisic without success.

Relevance and Necessity

7. Mico Stanisic has relevant information for the defence of Dr. Karadzic. Mr. Stanisic was Minister of the Interior during 1992 and again during 1994. He is listed in the Indictment as one of the members of the alleged joint criminal enterprise to expel Muslims and Croats from Serb-controlled areas in Bosnia. Mico Stanisic is expected to testify that no such joint criminal enterprise existed and that there was never any plan to expel Muslims and Croats.

8. Mr. Stanisic is expected to testify that the Ministry of Interior never had the task to facilitate the expulsion of the Muslim or Croat population from areas under Serb

¹ *Prosecutor v Krstić*, IT-98-33-A, *Decision on Application for Subpoenas*, (1 July 2003) at para. 10; *Decision on Accused's Second Motion for Subpoena to Interview President Bill Clinton* (21 August 2012) at paras. 7-10

² A memorandum of this meeting is attached as Annex "A" to this motion

control. He can testify that in the numerous meetings and personal conversations that he had with Dr. Karadzic, they never agreed or planned to expel Muslims or Croats and that Dr. Karadzic was not in favor of such expulsions. He would testify that Dr. Karadzic regularly insisted that the rights of civilians under international law be fully respected. This testimony is directly relevant to Dr. Karadzic's *mens rea* for the crimes against humanity and war crimes as charged in Counts 3-10 of the indictment.

9. Mr. Stanasic would further testify that during their meetings, Dr. Karadzic never favored or condoned the mistreatment of prisoners and when he learned of the conditions at some prisons, took immediate steps to see that the situation was corrected.

10. Mr. Stanasic would further testify that during their meetings, Dr. Karadzic encouraged the investigation and prosecution of persons committing crimes against non-Serbs and never condoned such crimes or requested that they not be fully investigated and prosecuted.

11. Mr. Stanasic would further testify that during their meetings, Dr. Karadzic was concerned about the inability of the authorities to control paramilitaries. He would testify that Dr. Karadzic told him that he strongly supported efforts of the authorities to arrest and prosecute those paramilitaries and that Dr. Karadzic requested the assistance of authorities of the Federal Republic of Yugoslavia which resulted in the sending of a special unit from Serbia to arrest them.

12. Mr. Stanasic can also rebut specific evidence elicited during the prosecution case. For example, he would refute the testimony of Prosecution Milorad Davidovic that he had told Mico Stanasic that Arkan's men had taken over the Bijelina SUP and that Stanasic had replied that nothing could be done and that an agreement had been reached with Arkan to liberate territories in Eastern Bosnia.³ Mr. Stanasic would also refute evidence from Prosecution Witness Branko Djeric that he participated in crimes,⁴ and that he threatened to kill Prime Minister Djeric.⁵

13. Therefore, there are reasonable grounds to believe that Mr. Stanasic has information which can materially assist Dr. Karadzic's case.

³ Exhibit P2848; amalgamated statement, para. 66

⁴ Exhibit P4982, amalgamated statement, para. 26

⁵ Exhibit P4982, amalgamated statement, para. 21

14. The information from Mr. Stanisic is also necessary to the defence. Mr. Stanisic was Minister of Interior and the highest ranking law enforcement officer in Republika Srpska. His testimony is necessary to rebut the prosecution's claim there was an agreement and plan between Dr. Karadzic and Mr. Stanisic to commit the crimes alleged in the indictment, and to explain in detail their personal one-on-one conversations. He is also the only one who can rebut the accusations made against him, and derivatively against Dr. Karadzic, by prosecution witnesses Davidovic and Djeric. There is no one else who can give this testimony.

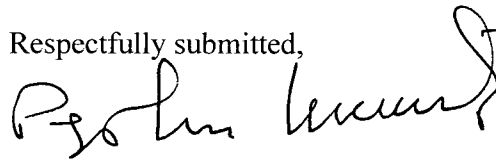
15. Therefore, Dr. Karadzic has demonstrated that the testimony of Mr. Stanisic is necessary for a fair determination of the issues being tried in his case.

16. Mr. Stanisic has been convicted and his case is currently before the Appeals Chamber. His appeal will not be completed before Dr. Karadzic's defence case is concluded. Therefore, to the extent that Mr. Stanisic may decline to answer a specific question on the basis of his privilege against self incrimination, Dr. Karadzic would request that the Trial Chamber compel Mr. Stanisic to answer those questions and provide him with the protections against self-incrimination contained in Rule 90(E).

17. Dr. Karadzic would have no objection to staying the execution of the subpoena until the resolution by the Appeals Chamber of the issue of whether a person whose appeal is pending may be compelled to testify.⁶

Word count: 1292

Respectfully submitted,



Radovan Karadzic

⁶ *Decision on Tolimir Request for Certification to Appeal Subpoena Decision* (4 June 2013)

ANNEX "A"

PETER ROBINSON
Defence Counsel
**International Criminal Tribunal
for the former Yugoslavia**
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MEMORANDUM

To: Radovan Karadzic

Re: Meeting with Mico Stanisic

Date: 7 June 2013

On 6 June 2013, a meeting at the UN Detention Unit was held among Radovan Karadzic, Mico Stanisic, Peter Robinson, Slobodan Zecevic and Stephane Bourgon.

I explained to Mr. Stanisic that we would like him to testify as a defence witness in your case and outlined to him the topics that we would like him to testify about. I informed him that we would like him to voluntarily testify, but that we would seek a subpoena to compel his testimony if he declined.

During the discussion, Mr. Stanisic indicated that he did not want to testify, citing primarily the fact of his pending appeal, that he believed other witnesses could testify to the same things, and that a large amount of time would be needed for preparation.

At the conclusion of the meeting, Mr. Zecevic and Mr. Bourgon indicated that they would provide us with Mr. Stanisic's final answer within ten days.