

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: 8 January 2014

THE PROSECUTOR

v.

RADOVAN KARADZIC

*Public*

---

MOTION TO ADMIT TESTIMONY  
OF PERO RENDIC  
PURSUANT TO RULE 92*bis*

---

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

The Accused:  
Radovan Karadzic

1. Dr. Radovan Karadzic respectfully moves, pursuant to Rule 92 *bis* for admission of the testimony of Pero Rendic given in the *Kvočka et al* trial on 5 February 2001.

2. While Dr. Karadzic has tried hard to present his defence case through oral testimony which can be fully tested, and had planned to call Mr. Rendic to testify on 16 January 2014, Mr. Rendic has now indicated that he is unable and unwilling to testify due to a heart condition.

3. The Trial Chamber set a deadline of 27 August 2012 for the submission of Rule 92 *bis* motions. However, Dr. Karadzic has good cause for not having made such a motion as to Mr. Rendic as he was only added to the witness list after Count One was reinstated in 2013.

4. The Trial Chamber has set forth the requirements for admission of evidence pursuant to Rule 92 *bis*. The proposed evidence must be (1) relevant; (2) its probative value must not be substantially outweighed by the need to ensure a fair trial; (3) it must not relate to the acts and conduct of the accused; and (4) it must be capable of meeting the certification requirements.<sup>1</sup>

5. Even where evidence is admissible under Rule 92 *bis*, the Trial Chamber has discretion not to admit it. The main factors in the exercise of this discretion seem to be whether the evidence is of a cumulative nature, whether it involves conduct close to the accused, and whether it touches a live and important issue in the case.<sup>2</sup>

6. The Trial Chamber, upon deciding to admit evidence pursuant to Rule 92 *bis*, may require that the witness appear for cross examination. Many of the same factors used to decide whether to exercise discretion to admit the testimony also apply to the issue of whether a witness should appear for cross examination.<sup>3</sup>

7. Finally, the Trial Chamber has indicated that those documents that form an indispensable and inseparable part of the evidence being offered should be tendered as associated exhibits.<sup>4</sup>

8. An analysis of the evidence of Mr. Rendic demonstrates that the criteria for admission pursuant to that Rule are met and that the Trial Chamber should exercise its discretion to admit the evidence.

---

<sup>1</sup>*Decision on Prosecution's Third Motion for Admission of Statements or Transcripts of Evidence in lieu of Viva Voce Testimony Pursuant to Rule 92 bis (Witnesses for Sarajevo Municipality)* (15 October 2009) at paras. 4-6,9

<sup>2</sup>*Id.*, paras. 7-8

<sup>3</sup>*Id.* at para. 10

<sup>4</sup>*Decision on Accused's Motion for Admission of Prior Testimony of Thomas Hansen and Andrew Knowles Pursuant to Rule 92 bis* (22 August 2012) at para. 11

9. The prior testimony of Pero Rendic is available in e-court as Rule 65 *ter* #1D09537. Mr. Rendic was employed in the kitchen of Omarska Camp in 1992. He testified that the detainees were provided with the same food as the employees and that there was no deliberate effort to mistreat the prisoners through inadequate or unsuitable food.

10. This testimony is relevant to establish that there was no intent to destroy the Bosnian Muslims, as charged in Count One, by starving them or providing them inadequate food. It is cumulative to other witness testimony about Omarska Camp, including that of Zeljko Meakic, Dusan Jankovic, and Miroslav Kvočka, all of whom worked at the camp. The evidence does not go to the acts and conduct of the accused. It does not touch upon a live and important issue in the case.

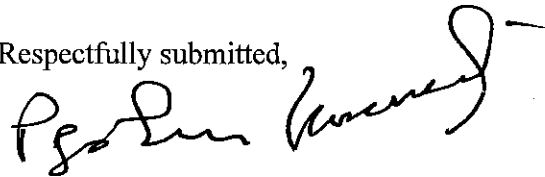
11. The prosecution had a full and fair opportunity to cross examine Mr. Rendic at the *Kvočka* trial.

12. There are no exhibits associated to Mr. Rendic's testimony.

13. Therefore, it is respectfully requested that the Trial Chamber admit the testimony of Mr. Rendic pursuant to Rule 92 *bis*.

Word count: 642

Respectfully submitted,



Radovan Karadzic