

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: 21 April 2015

THE PROSECUTOR

v.

RADOVAN KARADZIC

Public

REQUEST FOR STATUS CONFERENCE

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

The Accused:
Radovan Karadzic

1. Dr. Radovan Karadzic hereby requests, pursuant to Rule 65 *bis* (A), that the Trial Chamber convene a status conference in his case sometime between 1 and 9 June 2015.¹

2. Rule 65 *bis* (A) provides that:

A Trial Chamber or a Trial Chamber Judge shall convene a status conference within one hundred and twenty days of the initial appearance of the accused and thereafter within one hundred and twenty days after the last status conference:

- (i) to organize exchanges between the parties so as to ensure expeditious preparation for trial;
- (ii) to review the status of his or her case and to allow the accused the opportunity to raise issues in relation thereto, including the mental and physical condition of the accused.

3. In its *Decision on the Accused's Request for Status Conference* (11 June 2014), the Trial Chamber held that Rule 65 *bis* (A) applied only to the pre-trial period. In denying certification to appeal that decision, the Trial Chamber reasoned that Dr. Karadzic did not need to appeal that decision because he could "seise the Chamber at any time of any specific issue he may wish to raise orally or in writing."²

4. On 8 January 2015, the Trial Chamber granted Dr. Karadzic's request for a status conference, holding such a conference was in the interests of justice "given the importance it places on the accused's well-being." The status conference was held on 28 January 2015.

5. Dr. Karadzic would like to discuss the following topics at a status conference:

Health

6. At the January 2015 status conference, Dr. Karadzic was surprised to learn that the Trial Chamber had not received any reports on his medical condition, since he had consented to that information being shared with the Trial Chamber.³

¹ These are the dates when his Legal Advisor Peter Robinson is otherwise scheduled to be in The Hague. Since the Registrar has terminated legal aid to Dr. Karadzic, it is respectfully requested that the Trial Chamber schedule any status conference at a time when defence team expenses can be reduced.

² *Decision on Accused's Application for Certification to Appeal Decision on Request for Status Conference* (24 June 2014) at para. 6

³ T48102-03

7. After the status conference and his most recent blood test, Dr. Karadzic wrote to the Registrar, requesting that the results of his most recent blood test be provided to the Trial Chamber.⁴ The Registrar declined, telling Dr. Karadzic to do it himself.⁵

8. Dr. Karadzic hereby attaches the report for the Trial Chamber's information.⁶ It reveals a blood sugar level of 8.7 when the normal range is 3.5 to 6.0.

9. The Mayo Clinic in the United States indicates that a "level of 6.5 percent or higher on two separate tests indicates that you have diabetes."⁷ The level in Dr. Karadzic's August 2014 test was also 8.7. When he arrived at the UNDU in 2008, his blood sugar level was 5.2.⁸

10. Dr. Karadzic appreciates the Trial Chamber's previously expressed concern for his health and would like to address the matter at a status conference given that the situation has not improved.

Conditions of Detention

11. At the last status conference, Dr. Karadzic raised the matter of his desire to record an audio dictionary of the Serbian language.⁹ The Registrar refused to allow him to use a microphone at the detention unit for this purpose and Dr. Karadzic appealed that decision to the President.

12. Unfortunately, the President upheld the decision of the Registrar.¹⁰ While Dr. Karadzic was disappointed in the result, he very much appreciated the President's timely and conscientious consideration of the issue.

13. Dr. Karadzic has witnessed with alarm the continued deterioration in the health of his fellow detainees.¹¹ On 17 March 2015, he addressed a letter to the Commander of the United Nations Detention Unit ("UNDU") on behalf of himself and his fellow detainees concerning medical care at the UNDU, and would like the

⁴ His letter of 23 March 2015 is attached as Annex "A".

⁵ The Registrar's letter of 25 March 2015 is attached as Annex "B".

⁶ See Annex C.

⁷ <http://www.mayoclinic.org/diseases-conditions/diabetes/basics/tests-diagnosis/con-20033091>

⁸ Dr. Karadzic is willing to share the results of his earlier tests if the Trial Chamber so requests.

⁹ T48104

¹⁰ A copy of the President's decision is attached as Annex D.

¹¹ See i.e., *Prosecutor v Haidic*, No. IT-04-75-AR65.1, *Decision on Urgent Interlocutory Appeal from Decision on Defence Urgent Request for Provisional Release* (13 April 2015); *Prosecutor v Seselj*, No. IT-03-67-T, *Order on the Provisional Release of the Accused Proprio Motu* (6 November 2014)

opportunity to address the Trial Chamber on issues related to the conditions of his detention at a status conference.

Continuing Disclosure Violations by the Prosecution

14. Dr. Karadzic continues to be concerned about the prosecution's continuing violation of its disclosure obligations even after his trial has ended.

15. He recognizes that the Trial Chamber declined to allow him to address the matter at the January 2015 status conference, finding at the time that "there is therefore no specific issue not addressed in writing which warrants the holding of a status conference."¹²

16. However, the proceedings are now more advanced and the danger of exculpatory evidence being withheld until after the Trial Chamber's judgement is more acute.

17. Dr. Karadzic will be filing his 98th *Motion for Finding of Disclosure Violation and for Remedial Measures* on 30 April 2015 as directed by the Trial Chamber.¹³ However, the prosecution is yet to complete its disclosure of Rule 70 exculpatory information, nor has it made any disclosures on the searches for exculpatory material it has agreed to undertake in the wake of the discovery of undisclosed material concerning scheduled incidents.¹⁴

18. Dr. Karadzic believes that the Trial Chamber should take a pro-active role in ensuring that all exculpatory material is disclosed to him prior to issuing its judgement. He would like to address at a status conference some of the steps that the Trial Chamber can take, and believes that the Trial Chamber should also make inquiries of the prosecution as to the anticipated dates for completion of its searches.

Other Issues

19. Dr. Karadzic notes that the Trial Chamber took advantage of the holding of the January 2015 status conference to provide directions to the prosecution concerning an issue that required further submissions.¹⁵ Likewise, the holding of a status conference in

¹² *Decision on the Accused's Request for Status Conference* (11 June 2014) at para. 6

¹³ *Decision on Accused's Ninety-Sixth Disclosure Violation Motion* (21 January 2015) at para. 10

¹⁴ *Report on Disclosure Issues Arising from 94th Disclosure Violation Motion* (17 November 2014) at para. 5; *Prosecution Response to Karadzic Request for Status Conference* (2 January 2015) at Annex A, point 3; *Request for Status Conference* (9 December 2014) at Annex A, page 2

¹⁵ T48108-10

early June would also provide the Trial Chamber to call to the parties' attention any matters in the record that require remedies.

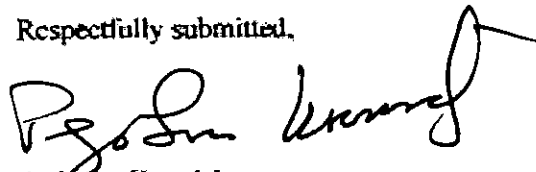
20. In addition, the Trial Chamber may wish to update the parties on the anticipated date for the delivery of its judgement in light of the information it will be expected to provide to the President and Prosecutor prior to their filing of the semi-annual completion strategy report to the United Nations Security Council in early June 2015. A status conference would provide a convenient forum for such information to be communicated to the defence and the public.

Conclusion

21. For any and all of the above reasons, Dr. Karadzic respectfully requests that a status conference be held in his case sometime between 1 and 9 June 2015.

Word count: 1526

Respectfully submitted,



Radovan Karadzic

ANNEX "A"

Radovan Karadzic
International Criminal Tribunal for
the former Yugoslavia

23 March 2015

Mr. John Hocking
ICTY Registrar

Dear Mr. Hocking,

On 19 March 2015, I had my blood drawn for testing at the United Nations Detention Unit and I expect that the results will soon be available.

I am writing to request that you forward the results to the Trial Chamber in my case. I had previously consented to my medical information being shared with the Trial Chamber, but when I appeared at the Status Conference on 28 January 2015, the Presiding Judge indicated that the Chamber had not received any of my medical information from the Registrar.

My lab results were excellent when I arrived at the UNDU in 2008. However, I have had elevated blood sugar levels in the most recent tests and I want to do everything possible to avoid diabetes. This includes keeping the Trial Chamber informed of these issues.

I expect to request another status conference before the Chamber and would like to ensure that the Chamber has this information at that time.

Thank you very much for your consideration of this request.

Yours truly,

Radovan Karadzic

ANNEX "B"



United Nations
Nations Unies



International
Criminal Tribunal
for the former
Yugoslavia

Tribunal Pénal
International pour
l'ex-Yougoslavie

24 March 2015

Dear Mr. Karadžić,

Re: Blood Test Results

I refer to your letter of yesterday addressed to the Registrar, in which you ask that the results of a recent blood test be forwarded to the Trial Chamber in your case.

Please be informed that, if you wish to provide your medical information to the Trial Chamber, you are free to do so.

Yours sincerely,

Kate Mackintosh
Deputy Registrar

TO: Mr. Radovan Karadžić
UNDU

ANNEX "C"



United Nations
Nations Unies



International Criminal Tribunal
for the former Yugoslavia

Tribunal Pénal International
pour l'ex-Yougoslavie

H.E. JUDGE THEODORE MERON
PRESIDENT

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S.E. JUDGE THEODORE MERON
PRESIDENT

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12 March 2015

Dear Mr. Karadžić,

I refer to your letter to the Registry, dated 16 February 2015 ("Letter of 16 February"), concerning the denial of your request to import a recording microphone in the United Nations Detention Unit ("UNDU") by the Deputy Registrar of the International Criminal Tribunal for the former Yugoslavia ("Deputy Registrar" and "ICTY", respectively).

On 19 February 2015 I received a memorandum from the Deputy Registrar containing her observations in response to the Letter of 16 February ("Memorandum"). I also note your letter of 23 February 2015 ("Letter of 23 February"), in which you reply to the Deputy Registrar's Memorandum.

On 2 March 2015 I requested the Registrar of the ICTY for further information with regard to the Host Prison's position on the import of recording devices into the UNDU. On 6 March 2015 the Deputy Registrar provided me with copies of the Dutch Penitentiary Principles Act, the Host Prison's House Rules, and the agreement between the Host Prison and the ICTY. On 10 March 2015 you informed me that you had received copies of the relevant material from the Deputy Registrar.

I note that in the Letter of 16 February, you request that this matter be referred to me pursuant to paragraph 7 of the UNDU Regulations for the Establishment of a Complaints Procedure for Detainees (IT/96) ("Complaints Procedure"). You further submit, *inter alia*, that: (i) the matter involves an alleged breach of your rights; (ii) the Deputy Registrar has erred in relying on irrelevant and speculative considerations and, in particular, exaggerated estimates of the resources required to ensure that the recorded material can be exported from the UNDU whereas you have not requested permission to export any recorded material; and (iii) the Deputy Registrar has erred in imposing a total ban on importing a recording microphone and failing to consider its intended use as well as the availability of less stringent measures that could address any security concerns.

In response to your submissions, the Deputy Registrar submits, *inter alia*, that: (i) you have not specified the basis of your claim that your rights are affected by the denial of your request; (ii) on a number of occasions you have expressed your intention

Mr. Radovan Karadžić, UNDU

Cc: Mr. John Hocking, Registrar
Ms. Kate Mackintosh, Deputy Registrar
Mr. Mikko Sarvela, Commanding Officer, UNDU
Ms. Anna Osure, Legal Coordinator for Detention Matters, UNDU

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law
Committed on the Territory of the Former Yugoslavia since 1991
Tribunal International pour la Prosecution des Personnes Responsables des Violations Graves du Droit International Humanitaire
sur le Territoire de l'ex-Yougoslavie depuis 1991

Chancellery, P.O. Box 3583, 2500 CH The Hague - Netherlands

to export or make available your recordings to others; and (iii) the proportionality principle on which you rely does not apply in the context of review of the Registry's administrative decisions and, in any event, the denial of your request is justified to ensure the good order and security of the UNDU and places no excessive burden on you.

Having considered your submissions as well as those by the Deputy Registrar, I am of the view that your request to produce an audio-dictionary of the Serbian language reflects your wish to exercise your right to freedom of expression. As such, it is a matter concerning an alleged breach of your rights and the Deputy Registrar has erred in her classification of the matter and her decision not to refer your request to me for consideration, as provided for in paragraph 7 of the Complaints Procedure.

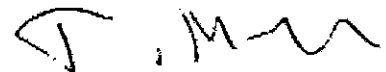
Given that the Complaints Procedure provides that complaints relating to an alleged breach of the rights of a detainee should be considered by the President of the ICTY, I have accordingly proceeded to examine the merits of your request.

In this respect, I note that in your submissions you have relied on your right to freedom of expression. I also note that the UNDU is a detention facility for persons detained on remand who, despite the length of their detention, continue to benefit from their right to be presumed innocent. In addition, I recall that, in general, under international human rights standards, prisoners and *a fortiori* detainees—continue to be entitled to protection of all their fundamental rights and freedoms, including their right to freedom of expression, save for their right to liberty, which is restricted on the basis of their lawfully imposed detention.¹ Any restrictions on these rights must be appropriately justified and proportionate to the legitimate aim pursued, although such justification may well be found in the considerations of security, in particular the prevention of crime and disorder, which inevitably flow from the circumstances of imprisonment.²

Having carefully considered the reasons and material provided by the Deputy Registrar in support of the denial of your request, I have concluded that the Host Prison's prohibition of the import of any recording devices into the UNDU is not a disproportionate measure given that it remains possible for you to contribute to the preservation of the Serbian language through other means.

In these circumstances, I therefore find that the denial of your request to import a recording microphone in the UNDU is justified.

Yours sincerely,



Theodor Meron
President

¹ See, e.g., *Veljo Velez v. Bulgaria* [2014] ECHR 527, para. 30; *Hirst v. The United Kingdom (No. 2)* [2005] ECHR 681, para. 69; *Yankov v Bulgaria* (2005) 53 EHRR 36, paras. 126-127.

² See, e.g., *Veljo Velez v. Bulgaria* [2014] ECHR 527, para. 30; *Hirst v. The United Kingdom (No. 2)* [2005] ECHR 681, paras. 69-70; *Yankov v Bulgaria* (2005) 53 EHRR 36, paras. 128-129. See also *The Prosecutor v. Radovan Karadžić*, Case No. IT-95-5/18-PT, Decision on Radovan Karadžić's Request for Reversal of Denial of Contact with Journalist, 12 February 2009, paras. 18, 23.

ANNEX "D"

Klinisch Chemisch en Hematologisch Laboratorium



Klinisch Chemisch - Telefoon: 016-312 4225



Naam: Drs. C.M. Drost, Postcode: Inzake

Busbus 0110
2500 BR DEN HAAG

Bloedgroep/risico (B):

Patiëntnaam:

BSN

Patiëntnummer

Geb. datum

Karadzic R

19-06-1945

Opzending	13/03/15	Ref. waarden	Bemerk
	08:00		
	ICTY		
	60102		

ALGEMENE CHIEF

Glucoze nuchter	114	3.3-6.0	mmol/l
HbA1c	59	30-62	mmol/mol

FERMENTEN

Vitamine B12	387	110-900	pmol/l
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Einde rapport