

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: 9 December 2014

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 pursuant to Rule 65 *bis* (A).

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.

2. Dr. Karadzic last appeared before the Trial Chamber on 7 October 2014.

3. In its *Decision on 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 the decision because he could "seise the Chamber at any time of any specific issue he may wish to raise orally or in writing."¹

4. Dr. Karadzic requests the opportunity to make oral submissions at a status conference concerning the prosecution's continuing failure to comply with its disclosure obligations. He has written a letter to the prosecution since it filed its explanation for its latest disclosure failures,² and has yet to receive a response.³

5. Dr. Karadzic believes that an oral hearing is necessary to discuss the further efforts needed to be undertaken by the prosecution to ensure that it complies with its disclosure obligations before the Trial Chamber issues its judgement. The prosecution's continuing excuses of human error⁴ were long ago labeled as "unsatisfactory" by the

¹ *Decision on Accused's Application for Certification to Appeal Decision on Request for Status Conference* (24 June 2014) at para. 6

² *Report on Disclosure Issues Arising from 94th Disclosure Violation Motion* (17 November 2014) and *Report on Disclosure Issues Arising from 93rd Disclosure Violation Motion* (17 November 2014)(confidential)

³ The letters are attached as Annex A.

⁴ See *Prosecution's Response to 95th Motion for Finding of Disclosure Violation and for Exclusion of the Testimony of Fadil Banjanovic* (2 December 2014) at para. 1

Trial Chamber,⁵ and Dr. Karadzic is convinced that further searches are necessary to remedy the continuing deficiencies in the prosecution's disclosure practices.

6. An oral hearing would also have a salutary effect on the prosecution and motivate it to comply with its disclosure obligations and to explain to the Trial Chamber why, at this stage of the case, there remains exculpatory material in the possession of the prosecution that has not been disclosed.

7. Dr. Karadzic also wishes to be heard on the status of his health and conditions of detention. When convincing the Trial Chamber that it did not to hold such conferences, the prosecution relied upon the Trial Chamber's decision in the *Seselj* case.⁶ The events in the *Seselj* case have shown that the Trial Chamber's failure to have concern for and monitor the health of the accused can have disastrous consequences.⁷ Dr. Karadzic believes that the Trial Chamber ought to be willing to take a few minutes of its time to inquire as to his health and the conditions of detention.

8. Dr. Karadzic requests that should the Trial Chamber hold a status conference, it do so on Monday, 2 February 2015 when his Legal Advisor will be in The Hague.

Word count: 822

Respectfully submitted,



Radovan Karadzic

⁵ See, for some early examples, *Decision on Accused's Second Motion for Finding Disclosure Violation and for Remedial Measures* (17 June 2010) at para. 15; *Decision on Accused's Third, Fourth, Fifth, and Sixth Motions for Finding of Disclosure Violations and for Remedial Measures* (20 July 2010) at para. 44; *Decision on Accused's Seventh and Eighth Motions for Finding of Disclosure Violations and for Remedial Measures* (18 August 2010) at para. 22; *Decision on Accused's Eleventh through Fifteenth Motions for Finding of Disclosure Violations and for Remedial Measures* (24 September 2010) at para. 47

⁶ See *Prosecutor's Response to Accused's Request for Status Conference* (6 June 2014) at fn. 13 citing *Prosecutor v. Vojislav Šešelj*, Case No. IT-03-67-T, T.Ch., *Decision on Continuation of Proceedings*, 13 December 2013, para.57

⁷ See *Prosecutor v. Šešelj*, No. IT-03-67-T, *Dissenting Opinion of Judge Mandiaye Niang to the Order on Provisional Release of the Accused Proprio Motu* (11 November 2014) at para. 8

ANNEX “A”

Radovan Karadzic
International Criminal Tribunal for
the former Yugoslavia

20 November 2014

Ms. Hildegard Uertz-Retzlaff
Office of the Prosecutor

Re: Reports on Disclosure Issues

Dear Ms. Uertz-Retzlaff,

I have read with interest the *Report on Disclosure Issues Arising from the 93rd Disclosure Violation Motion* (17 November 2014) and thank you for that explanation.

I have two questions:

Was the interview report and cable disclosed to the *Mladic* team in September 2011?

If not, when were each of them disclosed?

I also have two requests.

First, I would like the prosecution to search its Rule 70 clearance logs and identify any items relating to Srebrenica, Sarajevo, hostage-taking, the 20 municipalities, or the overarching JCE for which clearance for disclosure to me has not been sought. Upon such review, if the document appears to fall within Rules 66 or 68, clearance should now be sought to disclose it to me.

Second, I would like OTP to confirm that on no occasion has clearance to disclose a document to me been refused.

I have also read the *Report on Disclosure Issues Arising from the 94th Disclosure Violation Motion* (17 November 2014) and thank you for that explanation as well.

From the description of the searches undertaken by OTP, they appear to be too restrictive to assure that all Rule 66 and 68 material has been disclosed to me. More is needed to remedy the problem of documents, such as victim interviews, which may appear incriminatory, but contain elements which contradict the prosecution's case or call into question the credibility of prosecution evidence.

Ms. Hildegard Uertz-Retzlaff

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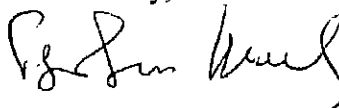
Therefore, I am requesting that the prosecution review not only documents related to scheduled incidents or victims, but all documents related to the 20 municipalities in my indictment. You can't, on the one hand, tell the Trial Chamber that I can be held responsible for acts such as dismissals from employment, movement of the population, and unlawful arrest not included in scheduled incidents, and, on the other hand, confine your disclosure searches for these mixed inculpatory-exculpatory documents to the scheduled incidents.

Similarly, I am requesting that the prosecution expand its review to all documents in its collection related to the overarching JCE, Sarajevo, Srebrenica, and hostages and review them to insure that the mixed inculpatory-exculpatory documents which may have not be flagged during previous reviews now be disclosed to me.

I am confident that there are many documents like the ones that are the subject of the 94th Disclosure Violation Motion which have not yet been disclosed to me. The prosecution owes it to the Trial Chamber to unearth these documents before it issues its judgement.

Thank you very much for your consideration of this request.

Yours truly,



Radovan Karadzic

cc: Trial Chamber