

CONTEMPT OF COURT PROCEEDINGS

United Nations
Nations UniesInternational Criminal Tribunal
for the former Yugoslavia
Tribunal Pénal International
pour l'ex-Yougoslavie

(IT-95-5/18-R77.3)

RADISLAV KRSTIĆ**RADISLAV KRSTIĆ***Fount not guilty*

Defence witness before Trial Chamber III of the Tribunal in the case of Radovan Karadžić

Order (in lieu of an indictment)	27 March 2013
Initial appearance	4 April 2013, pleaded not guilty
Trial Chamber judgement	18 July 2013, acquitted

STATISTICS

Trial days	1
Witnesses called by Chamber	0
Chamber exhibits	0
Witnesses called by Defence	1
Defence exhibits	6 (5 under seal)

TRIAL	
Commenced	28 May 2013
Closing arguments	28 May 2013
Trial Chamber III	Judge Melville Baird (presiding), Judge O-Gon Kwon, Judge Howard Morrison and Judge Flavia Lattanzi
Counsel for the Defence	Tomislav Višnjić
Judgement	18 July 2013

INDICTMENT AND CHARGES

In accordance with Rule 77 of its Rules of Procedure and Evidence, the Tribunal can conduct proceedings for contempt of court. The ICTY's jurisdiction in respect of contempt is not expressly outlined in the Statute. However, it is firmly established that the Tribunal possesses an inherent jurisdiction, deriving from its judicial function, to ensure that its exercise of the jurisdiction expressly given to it by the Statute is not frustrated and that its basic judicial functions are safeguarded.

As an international criminal court, the Tribunal possesses the inherent power to deal with conduct interfering with its administration of justice. Such interference may be by way of conduct which obstructs, prejudices or abuses the Tribunal's administration of justice. Those who knowingly and wilfully interfere with the Tribunal's administration of justice in such a way may, therefore, be held in contempt of the Tribunal.

The Chamber filed the order in lieu of an indictment against Krstić on 27 March 2013.

According to the order, on 23 October 2012, a subpoena was issued ordering Krstić to appear and testify before the Chamber in the Karadžić case. On 7 February 2013, Krstić refused to testify, due to his health. Subsequently, the Chamber ordered the Registry to provide a medical report outlining the witness's physical and mental health.

On 13 March 2013, having received the medical report, the Chamber found that there were no medical reasons which amounted to good cause for the witness not to comply with the subpoena. On 25 March 2013, Krstić appeared before the Chamber and persisted in his refusal to testify.

Krstić was charged with:

Contempt of the Tribunal (Rule 77(A) and (G) of the Rules of Procedure and Evidence)

TRIAL

The trial took place on 28 May 2013. The Defence called one witness, after which it presented its closing arguments.

TRIAL CHAMBER JUDGEMENT

After having considered testimony and medical reports, the Chamber was satisfied that the Krstić is suffering from post traumatic stress disorder. Moreover, the Chamber found that Krstić's mental state had deteriorated since he received the subpoena to testify in the Karadžić case. Therefore, considering the entirety of the evidence, the majority concluded, Judge Kwon dissenting, that the severity of the medical condition of the accused and the possible aggravation of that medical condition as a result of his testimony before the Karadžić Chamber, would amount to a reasonable excuse for the refusal of the accused to testify.

On 18 July 2013, the Chamber found by majority, Judge Kwon dissenting, Krstić not guilty of contempt of the Tribunal.