

THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA

CASE No. IT-95-05/18-PT

IN TRIAL CHAMBER No. 3

Before: Judge Iain Bonomy, Presiding
Judge Christoph Flügge
Judge Michèle Picard

Acting Registrar: Mr. John Hocking

Date Filed: 12 January 2009

THE PROSECUTOR

v.

RADOVAN KARADZIC

Public

MOTION FOR LEAVE TO REPLY TO
REGISTRY SUBMISSION ON
MOTION FOR INTERVIEW OF DEFENCE WITNESS

The Office of the Prosecutor:

Mr. Alan Tieger
Mr. Mark Harmon

The Accused:

Radovan Karadzic

1. On 12 December 2008, Dr. Radovan Karadzic filed a *Motion for Interview of Defence Witness*.

2. On 15 December 2008, there was filed the *Prosecution's Response to Karadzic's Motion to Interview of Defence Witness* in which the prosecution took no position on the motion.

3. On 24 December 2008, there was filed the *Registry Submission Pursuant to Rule 33(B) of the Rules Regarding the Accused's Motion for Interview of Defence Witness*. This document was served upon Dr. Karadzic in Serbian on 9 January 2009.

4. Dr. Karadzic now seeks leave to file a short reply so as to focus and narrow the issue for the Trial Chamber's consideration in light of the Registrar's submission.

5. The following facts are undisputed:

(A) Dr. Alexa Buha, the former Foreign Minister of Republika Srpska, has important information for the defence which is needed for the factual basis of a preliminary motion which must be filed before the trial, as well as for trial preparation. He is a key witness.

(B) In its *Defence Travel and DSA Policy*, the Registrar explicitly provides that during the Pre-Trial Stage, travel by counsel will occasionally take place "to interview key witnesses and witnesses that are scheduled to testify in the case."¹

(C) The accused is acting as his own counsel.

(D) The accused is detained and cannot travel to Belgrade to interview Dr. Buha.

(E) The accused has been declared indigent by the Registrar, subject to verification of his statement of means, and is unable to bear the cost of transporting Dr. Buha to The Hague for an interview.

(F) The Registrar has no objection to Dr. Buha meeting with Dr. Karadzic at the United Nations Detention Unit.

6. The only issue in dispute is whether, under these circumstances, the Registrar must bear the cost of transporting Mr. Buha to The Hague to meet with Dr. Karadzic.

7. The Registrar raises two arguments against bearing this cost:

¹ *Defence Travel and DSA Policy* at para. (A)(6)

8. First, it claims that a defence investigator can interview Mr. Buha in lieu of an interview by the accused.² However, it recognizes that it is sometimes necessary for counsel himself to interview a key witness. The Registry thus undertakes to bear the expense of counsel representing an accused traveling from The Hague to Belgrade, but refuses to bear the expense of a witness traveling from Belgrade to The Hague to meet with a detained accused acting as his own counsel. This makes no sense.

9. Second, it claims that witnesses are not transported to The Hague by the Victims and Witnesses Section unless they appear on the defence witness list.³ This too makes no sense since the defence witness list cannot be filed until after the prosecution has rested its case. The information needed from Mr. Buha relates in part to a preliminary motion challenging the indictment which, pursuant to Rule 72, must be filed within 30 days of receipt of the supporting material for the indictment, and therefore, well in advance of the trial.

10. It is respectfully requested that the Registry's refusal to fund the transportation of Mr. Buha to The Hague to meet with the accused creates an impermissible double standard between the facilities available to a represented accused and those available to a self-represented accused and would deny Dr. Karadzic his right to a fair trial.

11. The Motion for Interview of Defence Witness should be granted.

Word count: 660

Respectfully submitted,


RADOVAN KARADZIC

² *Submission* at para. 5

³ *Submission* at para. 12