

THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA

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

THE VICE PRESIDENT

Before: Judge O-Gon Kwon, Vice President

Acting Registrar: Mr. John Hocking

Date Filed: 6 April 2009

THE PROSECUTOR

v.

RADOVAN KARADZIC

Public

MOTION FOR LEAVE TO REPLY AND REPLY BRIEF:
REQUEST FOR REVERSAL OF
LIMITATIONS OF CONTACT WITH JOURNALIST

The Accused:
Radovan Karadzic

1. Dr. Radovan Karadzic has requested that the Vice President reverse the decision of the Registrar to restrict contact between him and journalist Zvezdana Vukojevic of the Dutch publication *Revu* to written communication.

2. On 3 April 2009, there was filed the *Registry Submission Regarding the Request for Reversal of Limitations of Contact with Journalist*.

3. Now that the Registrar has provided some reasons for his decision, Dr. Karadzic respectfully requests leave to reply and to comment on those reasons. This will sharpen the focus of the issues before the Vice President.

4. The Registrar's submission is summarized in the last paragraph:

The Registry submits that allowing contact by written correspondence is the only measure which guarantees the Accused's freedom of expression whilst adequately protecting the good order of the UNDU and the administration of justice.¹

5. It justifies this conclusion with the fear that if telephone contact is allowed between Dr. Karadzic and a journalist, there is a risk that Dr. Karadzic will divulge confidential information.²

6. Dr. Karadzic submits that this conclusion is unreasonable on several grounds.

7. First, as the Vice President recognized in his original decision:

It seems quite apparent to me that it is possible for the Applicant to contact the media in such a way that does not compromise the security and safety of the UNDU...³

8. With respect to the fear of disclosure of confidential information, the Vice President also dealt with that issue in his original decision:

I consider that two precautions—monitoring the Applicant's communication with Ms. Vukojevic and warning Ms. Vukojevic of her obligations as a member of the press and her exposure to contempt proceedings before the Tribunal—constitute adequate safeguards to ensure that the administration of justice is not compromised.⁴

¹ *Submission* at para. 22

² *Submission* at para. 18

³ *Decision on Radovan Karadzic's Request for Reversal of Denial of Contact with Journalist* (12 February 2009) at para. 19

⁴ *Decision on Radovan Karadzic's Request for Reversal of Denial of Contact with Journalist* (12 February 2009) at para. 21

9. The Registrar does not dispute that both precautions are possible with telephone communication—monitoring and warning. In fact, the Registrar can place the additional condition upon the print-media journalist that he review her story before it is disseminated to ensure that no confidential information is disclosed.

10. The Vice President's decision specifically contemplated telephone calls as one of the means of communication that was possible.⁵ The Registrar now takes the position that such a means of communication is not possible.

11. Finally, the Vice President's original decision recognized that the individual circumstances of the Applicant, and of the journalist, were relevant to the Registrar's determination of the communication to be permitted.⁶ The Registrar has failed to point to any conduct on the part of Dr. Karadzic that would give rise to the belief that he would disclose confidential information, or any record or conduct of the journalist that would give rise to the belief that she would not obey the warnings and rules of the Tribunal. Indeed, the Registrar's blanket ban on telephone communication fails to take this into account at all.

12. The Registrar does not dispute the jurisprudence which requires a proportionality test on the restrictions of the rights of an Accused. Nor does he dispute that restricting communication with a journalist to writing is a more onerous burden on the freedom of expression and the freedom of the press than the give and take of a telephone interview. However, he simply failed to apply the proportionality test, choosing instead the most restrictive form of communication and justifying it with the same blanket illogic which flawed his initial decision.

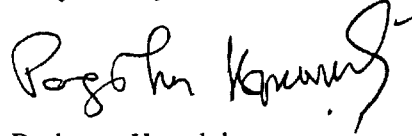
⁵ *Decision on Radovan Karadzic's Request for Reversal of Denial of Contact with Journalist* (12 February 2009) at para. 24(a)

⁶ *Decision on Radovan Karadzic's Request for Reversal of Denial of Contact with Journalist* (12 February 2009) at para. 22

13. The Vice President's original decision was clear enough. But the Registrar has failed to understand it, or abide by it. His decision limiting contact between Dr. Karadzic and the journalist to written communication should once again be reversed.

Word count: 751

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Radovan Karadzic', with a stylized flourish at the end.

Radovan Karadzic