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International
Criminal Tribunal
for the former
Yugoslavia

Tribunal Pénal
International pour
l'ex-Yougoslavie

JUDGEMENT SUMMARY

(Exclusively for the use of the media. Not an official document)

CHAMBERS

The Hague, 24 February 2012

Contempt Judgement Summary for Milan Tupajić

Please find below the summary of the Judgement read out today by Judge Kwon.

On 30 November 2011, the Chamber issued an Order in Lieu of Indictment against the Accused for contempt of the Tribunal punishable under Rule 77 of the Rules, for knowingly and wilfully interfering with the administration of justice by refusing to comply with the obligation to appear and testify in the Prosecutor v. Radovan Karadžić case, as indicated in two subpoenas dated 23 September 2011 and 3 November 2011, respectively, or to show good cause why he could not so comply.

On 16 December 2011, the Accused pleaded not guilty to the charge of contempt. The trial was held on 3 February 2012. At the trial, the Accused testified himself without calling any other witness and the Chamber admitted 20 Defence exhibits into evidence.

Rule 77 (A) of the Rules provides the Chamber with inherent power to hold in contempt those who knowingly and wilfully interfere with its administration of justice, including any person who, without a just excuse, fails to comply with an order to attend before a Chamber.

The Chamber shall now turn to the material element of the offence:

The Accused did not appear before the Chamber in the Karadžić case as ordered in two subpoenas, dated 23 September 2011 and 3 November 2011, respectively. Therefore, the Chamber finds the Accused failed to comply with its orders as set forth in the subpoenas.

In the First and Second Memorandum of Service, the Accused stated that he was unwilling to testify before the Chamber in the Karadžić case and that his primary reason for refusing to appear before the Chamber related to his health concerns.

The Chamber reviewed the documents the Accused submitted in support of his health concerns but considers that his health concerns do not constitute a just excuse for his failure to comply with the orders as contained in the subpoenas.

At trial, in private session, the Accused submitted evidence in relation to other reasons for refusing to appear before the Chamber. The Chamber examined these reasons and considers that they do not constitute a just excuse under Rule 77 (A)(iii) of the Rules.

Turning now to the mental element of the offence:

The Chamber considers that the First and Second Memorandum of Service establish that the Accused was aware of the contents of the subpoenas and the obligation contained therein to appear and testify before the Chamber. The Accused was also aware of the

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consequences of his failure to comply with the subpoenas. However, the Accused acted contrary to the instructions contained in the subpoenas. The Chamber thus finds that the Accused knowingly and willingly interfered with the administration of justice by refusing to comply with the subpoenas.

Accordingly, the Chamber is satisfied that the Accused is guilty of the offence of contempt pursuant to Rule 77(A)(iii) of the Rules.

In making a determination on sentencing, the Chamber first considered the gravity of the offence and the fact that by refusing to comply with the subpoenas and to testify before the Chamber, the Accused had deprived the Chamber in the Karadžić case of relevant evidence.

The Chamber took into account the Accused's health and his current financial and family situation as mitigating factors. The Chamber did not consider any aggravating circumstances.

Having considered all the evidence, pursuant to Rule 77 of the Rules, the Chamber decides as follows.

The Accused, Milan Tupajić, is GUILTY of one count of contempt of the Tribunal, punishable under Rule 77;

The Accused, Milan Tupajić, is hereby sentenced to a single sentence of two months of imprisonment;

The Accused, Milan Tupajić, pursuant to Rule 101(C) of the Rules is entitled to credit for time served in detention thus far.
