



International Tribunal for the  
Prosecution of Persons  
Responsible for Serious Violations of  
International Humanitarian Law  
Committed in the Territory of the  
Former Yugoslavia since 1991

Case No. IT-09-92-T  
Date: 20 October 2017  
Original: English

**IN TRIAL CHAMBER I**

**Before:** Judge Alphons Orie, Presiding  
Judge Bakone Justice Moloto  
Judge Christoph Flügge

**Registrar:** Mr John Hocking

**Decision of:** 20 October 2017

**PROSECUTOR**

v.

**RATKO MLADIĆ**

***PUBLIC***

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**DECISION ON URGENT DEFENCE MOTION TO COMPEL  
REGISTRAR AND UNITED NATIONS DETENTION UNIT TO  
PROVIDE MEDICAL RECORDS**

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**Office of the Prosecutor**  
Mr Peter McCloskey

**Counsel for Ratko Mladić**  
Mr Branko Lukić  
Mr Dragan Ivetić

**TRIAL CHAMBER I** of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (“Chamber”);

**NOTING** the Defence’s urgent motion to compel the Registrar and United Nations Detention Unit (“UNDU”) staff to provide medical records of the Accused, filed on 27 September 2017 (“Motion”), wherein it requests issuance of (i) a binding order to compel UNDU staff to provide all medical records, or (ii) a decision to hold UNDU staff in contempt of court;<sup>1</sup>

**NOTING** the Registrar’s submission filed on 2 October 2017, that the Accused has been provided with all requested medical records;<sup>2</sup>

**NOTING** the Defence’s additional submission filed on 9 October 2017 challenging representations made by the Registrar (“Additional Submission”);<sup>3</sup>

**NOTING** that the Defence filed the Motion and the Additional Submission before the President, the Chamber, and the Registrar “given the various restructuring of the ICTY/MICT and the lack of transparency to the Defence of whom UNDU’s [Commanding Officer] or Medical Officer report to”;<sup>4</sup>

**NOTING** that the UNDU staff is part of the Tribunal’s Registry, headed by the Registrar;<sup>5</sup>

**NOTING** that it is settled Tribunal jurisprudence that administrative decisions by the Registrar may be judicially reviewed by the President of the Tribunal;<sup>6</sup>

**CONSIDERING** that the provision of an accused’s medical documents falls within the purview of administrative decisions to be taken by the Registrar;

**CONSIDERING** that the Defence’s claim that there is a lack of transparency in respect of whom UNDU staff report to is unsubstantiated;

**FOR THE FOREGOING REASONS**

<sup>1</sup> Urgent Motion to Compel Registrar and United Nations Detention Unit to Provide Medical Records, 27 September 2017 (Confidential), paras 12, 18, 20.

<sup>2</sup> Registrar’s Submission in Relation to Defence Motion on the Provision of Medical Records, 2 October 2017, paras 2, 6-20.

<sup>3</sup> Additional Submission in Support of Urgent Motion to Compel Registrar and United Nations Detention Unit to Provide Medical Records, paras 5-16.

<sup>4</sup> Motion, para. 11.

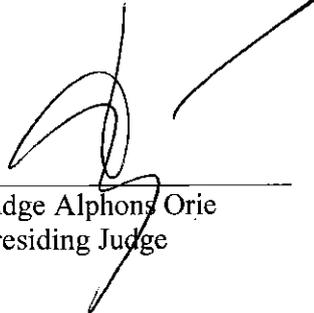
<sup>5</sup> Rules Governing the Detention of Persons Awaiting Trial or Appeal before the Tribunal or otherwise Detained on the Authority of the Tribunal, Rev. 10, 15 November 2016, Preamble, Rule 2.

<sup>6</sup> See *Prosecutor v. Karadžić*, Case No. IT-95-5/18-T, Decision on Request for Review of Decision on Defence Team Funding, 31 January 2012, paras 6-7 and references cited therein. To the extent that assuming jurisdiction *proprio motu* under the Chamber’s inherent power to ensure that proceedings are fair would be considered, the Chamber notes that such action is only permissible once all available remedies have been exhausted, see *Prosecutor v. Šešelj*, Case No. IT-03-67-T

**DECIDES** that it is not the competent authority to address the Defence's primary request for issuance of a binding order to UNDU staff and, as a result, that it is premature to consider the secondary request regarding initiating contempt proceedings; and

**DISMISSES** the Motion to the extent it is before the Chamber.

Done in English and French, the English version being authoritative.



Judge Alphons Orie  
Presiding Judge

Dated this twentieth day of October 2017  
At The Hague  
The Netherlands

[Seal of the Tribunal]

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(Appeals Chamber), Decision on the Registry Submission Pursuant to Rule 33(B) Following the President's Decision of 17 December 2008, 9 April 2009, paras 20-21.