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D 38420

CASE/AFFAIRE NO. IT-95-5/18-T (R. KARADŽIĆ)		DATE 10 August 2010
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THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA

CASE No. IT-95-5/18-T

IN TRIAL CHAMBER No. 3

Before: Judge O-Gon Kwon, Presiding
Judge Howard Morrison
Judge Melville Baird
Judge Flavia Lattanzi, Reserve Judge

Registrar: Mr. John Hocking

Date: 10 August 2010

THE PROSECUTOR

v.

RADOVAN KARADZIC

Public

MOTION FOR SUSPENSION OF PROCEEDINGS

The Office of the Prosecutor:
Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

The Accused:
Radovan Karadzic

1. Dr. Radovan Karadzic respectfully moves for a suspension of his trial until he and his defence team have had an adequate opportunity to review the “Mladic tapes”—audio and video cassettes and CDs which were seized during a search of the residence of General Mladic’s wife in Belgrade in March 2010 and first disclosed to Dr. Karadzic on 4 August 2010.

2. The Trial Chamber has earlier denied Dr. Karadzic’s request for a suspension of the trial so that he could review the “Mladic notebooks”.¹ Dr. Karadzic and his Legal Advisor have been spending the summer judicial recess reviewing the Mladic notebooks, which span some 4800 typed pages in the English translation. They are likely to be able to complete the review of the notebooks by the end of the recess.

3. The notebooks contain several notations indicating that notes were not taken because the meeting was recorded. And indeed, the prosecution has reported that during searches in which the notebooks were recovered, 93 audio cassettes, 10 video cassettes, 2 CD Roms, and 8 DVDs were also recovered.²

4. The contents of this audio/video material are not known in detail, but the labels of several of them seem to indicate that they may contain verbatim recordings of meetings described in the notebooks.

5. Dr. Karadzic’s review of the Mladic notebooks so far indicates that many of the entries are favorable to his defence and corroborate his own statements and positions. He expects that a review of the “Mladic tapes” will likewise produce significant exculpatory evidence.

6. However, that review is impossible to undertake while the trial is ongoing. Applying a general estimate of 60 minutes per recording, it would take Dr. Karadzic and his team approximately 113 hours to review the material, much of which is unindexed and none of which is transcribed. Absent suspension of the proceedings, Dr. Karadzic will simply not have time to review this material until next summer’s recess, given the pace of the trial.³

¹ *Motion for Adjournment and Extension of Time to Respond: Mladic Notebooks* (26 May 2010)

² *Annex A to Prosecution’s Supplemental Submission Regarding the Second Prosecution Motion for Leave to Amend its Rule 65 ter Exhibit List (Mladic Notebooks)* (9 July 2010)

³ Dr. Karadzic will need to rest and have a visit from his family during the winter recess.

7. From the review of the Mladic notebooks conducted to date, it appears that prosecution witnesses Herbert Okun, David Harland, Colm Doyle, John Wilson, KDZ185, and Hussein Ali Abdel-Razek participated in meetings which are described in the Mladic notebooks. To allow the trial to continue without providing Dr. Karadzic or his defence team the time to review the Mladic tapes may result in motions to recall witnesses or other disruption of the trial and inconvenience to witnesses which will be greater than the time lost while the trial is suspended.

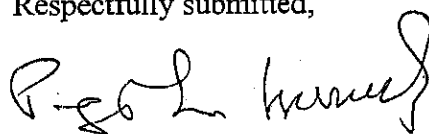
8. In addition, Dr. Karadzic's defence is prejudiced by his having to conduct his cross examination of witnesses without the benefit of reviewing material which is relevant to their testimony and having the full information necessary to plan his cross examination and defence strategy.

9. Dr. Karadzic believes that his trial commenced before he had adequate time to prepare and that it has continued at a pace which has not allowed for adequate preparation for cross examination. While the mid-trial discovery of the Mladic materials and their disclosure to the defence is not the fault of the prosecution, the Chamber's insistence on proceeding "full steam ahead" without taking account of such unforeseen developments serves to deprive Dr. Karadzic of a fair trial.

10. Therefore, it is respectfully requested that the trial be suspended for an additional three weeks in order for Dr. Karadzic and his defence team to have adequate time to review the "Mladic tapes".

Word count: 706

Respectfully submitted,



Radovan Karadzic