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CASE/AFFAIRE NO. IT-95-5/18-T (R. KARADŽIĆ) **DATE** 01 February 2010

FROM/DE RAM DORAISWAMY, COURT OFFICER

TO/A

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0 Appeals Chamber/ Chambre d'appel	<input checked="" type="checkbox"/> Case Manager/ Commis aux affaires	<input checked="" type="checkbox"/> Self-representing Accused MR. R. KARADŽIĆ (1)
0 Trial Chamber I/ Chambre de 1ère instance I	0 Chief of Investigations/ Chef des enquêtes	<input checked="" type="checkbox"/> Legal Advisers MR. G. PETRONIJEVIĆ MR. P. ROBINSON MR. M. SLADOJEVIĆ
0 Trial Chamber II/ Chambre de 1ère instance II		
<input checked="" type="checkbox"/> Trial Chamber III/ Chambre de 1ère instance III		<input checked="" type="checkbox"/> Court Appointed Counsel MR. R. HARVEY
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0 Other/Autre		
<input checked="" type="checkbox"/> Registrar/Deputy Registrar/Greffier/Greffier adjoint MS. T. MAIKOWSKI / MS. S. FOFANA	0 VWS Coordinator/Coordinateur de la SVT	
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0 Order/Decision issued by the President on/Ordonnance/Décision émise par le Président le ___/___/___
<input checked="" type="checkbox"/> Motion/Request/Application submitted by Prosecution/Defence Counsel/Accused on/ Motion/Requête/Demande présentée par l'Accusation/le Conseil de la défense le 01 / 02 / 2010
0 Response/reply/brief submitted by Prosecution/Defence Counsel/Accused on/ Réponse/Réplique/Mémoire présent(e) par l'Accusation/le Conseil de la défense le ___/___/___
0 Decision of the Registrar on/Décision du Greffier le ___/___/___
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Churchillplein 1, 2517 JW The Hague. P.O. Box 13888, 2501 EW The Hague. Netherlands
Churchillplein 1, 2517 JW La Haye. B.P. 13888, 2501 La Haye. Pays-Bas
Tel.: 31-70-512 5738 Or 512 8751 Fax: 31-70-512 8558

THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA

CASE No. IT-95-05/18-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: 1 February 2010

THE PROSECUTOR

v.

RADOVAN KARADZIC

Public

MOTION FOR POSTPONEMENT OF TRIAL

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

The Accused:
Radovan Karadzic

1. Dr. Radovan Karadzic respectfully moves for postponement of the 1 March 2010 date for resumption of the trial on the grounds that his rights to adequate facilities and to choose his standby counsel have been violated by the Registrar, making it impossible for him to prepare for and participate in the trial.

Background

2. On 5 November 2009, the Trial Chamber issued its *Decision on Appointment of Counsel and Order on Further Proceedings*. In that decision, it ordered the Registrar to appoint counsel to prepare to represent the accused at trial and adjourned the trial until 1 March 2010. The Trial Chamber held that during this period, “the Accused will continue to represent himself, including dealing with the day-to-day matters that arise, such as the filing of motions and responses to motions filed by the Prosecution, and further preparing himself for the trial.”¹

6. On that same day, OLAD suspended all funding to Dr. Karadzic’s defence team, determining that it would only remunerate his associates for 4500 hours in the pre-trial phase, which had already been exhausted.² The President later overturned this decision, finding it to be unreasonable.³

7. On 10 November 2009, after failing to convince OLAD that the trial had commenced and that it was required to fund the defence team during this period, Dr. Karadzic’s defence team suspended its work on his case.

8. On 26 November 2009, OLAD decided to authorize only 250 hours per month for Dr. Karadzic’s defence team during the period until 1 March 2010, when the amount would revert to 150 hours per month, plus hearing hours.⁴

9. This allowed Dr. Karadzic’s Legal Advisor to return to work on 27 November 2010. A second legal associate returned to work on 11 January 2010 after the judicial recess. The remaining six members of Dr. Karadzic’s defence team, including his case managers and investigators, are not compensated under OLAD’s decision, and have not returned to full-time work on the case.

¹ *Decision on Appointment of Counsel and Order on Further Proceedings* (5 November 2009)

² See Annex C to *Appeal of OLAD Decision in Relation to Additional Pre-Trial Funds* (10 November 2009)

³ *Decision on Appeal of OLAD Decision in Relation to Additional Pre-Trial Funds* (17 December 2009)

⁴ See Annex A to *Request for Review of OLAD Decision on Trial Phase Remuneration* (14 January 2010)

10. On 14 January 2010, Dr. Karadzic appealed OLAD's decision to the President.⁵

11. As a result, Dr. Karadzic had no one other than himself working on trial preparation from 10 November until 11 January, when one legal associate returned to work. Since 10 November, he has had no investigators or case managers to assist him with trial preparation.

12. Dr. Karadzic believed that if given the right to choose standby counsel, his trial preparation might benefit from collaboration with the standby counsel and his team. However, the Registrar violated his right to choose his standby counsel and imposed a counsel who Dr. Karadzic cannot trust.⁶ Therefore, Dr. Karadzic has not benefitted whatsoever by the work of the standby counsel during this period.

Argument

13. The Trial Chamber envisioned that during the period from 5 November 2009, Dr. Karadzic would be able to "further prepare himself for the trial." The Registrar sabotaged that by first cutting off all funds for his defence team, and then, reducing the team from 8 full time members to 1 full time member, with a Legal Advisor working part time. He also refused to provide the list of counsel to Dr. Karadzic to allow him to choose a standby counsel with whom he could collaborate.

14. Meanwhile, the prosecution furnished an additional 300,000 pages of disclosure and filed motions for admission of almost 2000 documents and adjudicated facts. Dr. Karadzic has fallen even further behind in his trial preparation, having no case managers to review, process, and organize these documents and no investigators to help him refute the prosecution's case.

15. The legitimacy of the Registrar's actions is the subject of appeals before the President and Appeals Chamber. Dr. Karadzic had intended to wait until decisions were reached on those appeals before making a motion to postpone the trial. However, because the Trial Chamber requested that this motion be filed as soon as possible,⁷ he is filing the motion at this time.

⁵ *Request for Review of OLAD Decision on Trial Phase Remuneration* (14 January 2010)

⁶ This is the subject of a pending appeal.

⁷ Transcript of 28 January 2010 at 738

16. Dr. Karadzic suggests that the Chamber retain this motion under submission until decisions are reached on his appeals.

17. If the President rules, as he did for the pre-trial phase, that the Registrar's allocation of funds is unreasonable, it seems clear that the trial should be postponed so that Dr. Karadzic can be restored to the position he would be in but for the Registrar's error.

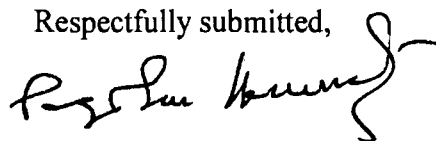
18. If the President upholds the Registrar's decision, there may well be no reason to postpone the trial. Dr. Karadzic is simply unlikely to participate in a trial in which he must face the prosecution and all of its resources with one team member and no case managers and investigators. Such a trial would be a farce.

19. Should the Appeals Chamber vacate the appointment of standby counsel, the trial would likewise need to be postponed to give the new standby counsel at least 3 ½ months to prepare.

20. Therefore, Dr. Karadzic believes that the best course is to await decisions on his appeals and assess the situation after those decisions have been rendered. He requests the opportunity to supplement this motion with further submissions in light of decisions on those appeals.

Word count: 1018

Respectfully submitted,



Radovan Karadzic