

THE INTERNATIONAL CRIMINAL TRIBUNAL  
FOR THE FORMER YUGOSLAVIA

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

Before: Judge Theodor Meron, President

Registrar: Mr. John Hocking

Date: 20 December 2011

THE PROSECUTOR

v.

RADOVAN KARADZIC

*Public*

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REQUEST FOR REVIEW OF  
DECISION ON OFFICE SPACE

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

The Accused:  
Radovan Karadzic

1. Dr. Radovan Karadzic, pursuant to Article 26 of the *Remuneration Scheme for Persons Assisting Indigent Self-Represented Accused* (“Remuneration Scheme”) and Article 31 (C) of the *Directive on the Assignment of Defence Counsel* (“Directive”), hereby requests that the Registrar of the Tribunal refer this request for review to the President of the Tribunal.

2. Paragraph 25 of the Remuneration Scheme provides that:

The Registrar shall provide office space for defence teams assisting self-represented accused during trial, as determined appropriate by the Registrar.

3. As set forth more fully below, the Registrar has failed to comply with this obligation since 1 October 2011. It is respectfully requested that the President require the Registrar to comply with his own remuneration scheme.

#### **Procedural History**

4. On 28 September 2011, Dr. Karadzic wrote to the Head of the Office of Legal Aid and Detention (“OLAD”) as follows:

Paragraph 25 of the *Remuneration Scheme for Persons Assisting Indigent Self-Represented Accused* provides that “the Registrar shall provide office space for defence teams assisting self-represented accused during trial, as deemed appropriate by the Registrar.”

You have previously advised me that this requirement was satisfied by allowing my team to use the common defence area of the Beach Building. I have now been advised that the Beach Building is closed and no longer available for the use of my team.

Therefore, I now request that you find a suitable office space for my defence team, or provide the funds for my team to rent an office. I currently need a working computer and desk for my Legal Advisor, Legal Associate, two case managers, and two case manager interns.<sup>1</sup>

5. No response was received.

6. On 31 October 2011, having received no response from OLAD, Dr. Karadzic sent another letter as follows:

In my letter to you of 28 September 2011, I requested that you find a suitable office space for my defence team, or provide the funds for my team to rent an office given the closure of the Beach Building at the end of September.

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<sup>1</sup> A copy of this letter is attached as Annex “A”.

During the month of October, my Legal Advisor, Legal Associate, and case managers had to work out of their apartments since no office space aside from the staging area in the defence room was provided by the Registrar to my defence team as required by the *Remuneration Scheme*.

Therefore, I am submitting invoices for payment to my defense team for the rent they paid for their apartments from which they worked during October. You will notice that the total cost is far less than you pay on a monthly basis to defence teams of represented accused and the stand-by team in my case.

Please advise me if you are unwilling to pay these costs so that I may pursue my remedies under the *Remuneration Scheme* as well as under the Trial Chamber's duty to ensure adequate facilities for my defence.

I also would appreciate it if you would solve this problem and bring the Registry into compliance with its own *Remuneration Scheme* by providing us with office space as soon as possible.<sup>2</sup>

7. On 30 November 2011, having still received no response, Dr. Karadzic again wrote to OLAD, enclosing invoices for his team member's use of their own apartments during the month of November, and again requesting that the Registry provide his team with office space.<sup>3</sup>

8. Finally, on 9 December 2011, Dr. Karadzic received a letter from OLAD refusing to pay for office costs for the months of October and November, and offering Dr. Karadzic's defence team access to four computers in the common defence staging area.<sup>4</sup>

9. Dr. Karadzic now respectfully requests review of this decision.

### **Jurisdiction and Standard of Review**

10. Article 31 of the *Directive of Assignment of Counsel* deals with "Settlement of Disputes over Payment". Article 31(C) provides in pertinent part that:

Where the dispute involves a sum greater than E4,999, an aggrieved party may file a request for review with the Registrar, who shall refer the matter to the President for his determination...

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<sup>2</sup> A copy of this letter is Annex "B".

<sup>3</sup> A copy of this letter is Annex "C".

<sup>4</sup> A copy of this letter is Annex "D".

11. The office cost component for an accused represented by counsel was 10,295 Euros per month as of May 2008,<sup>5</sup> and is greater now. The amount claimed by Dr. Karadzic's defence team and refused by the Registrar is 4,406 Euros for October and 3,456 Euros for November. Therefore, under any calculation, the amount in dispute is greater than E4,999. Therefore, the determination of this dispute rests with the President.

12. The decision of the Registrar will be quashed if (1) he failed to comply with the requirements of the relevant legal authorities; or (2) he failed to observe basic rules of natural justice and procedural fairness towards the person affected by the decision; or (3) he has taken into account irrelevant material or failed take into account relevant material; or (4) he reached a conclusion that is unreasonable, in the sense that it is a conclusion that no sensible person who has properly applied his mind to the issue could have reached.<sup>6</sup>

#### **Argument**

13. The Registrar has failed to comply with the requirement of his own directive. In addition, in refusing to either compensate defence team members or provide office space, he has reached a conclusion that is unreasonable. Therefore, his decision should be quashed.

14. At the Tribunal, each defence team for a represented accused is paid 10,295 Euros per month during trial to rent an office from which its team members are expected to work. The office serves not only as a work place, but a place to store confidential material and to hold meetings with the team and with witnesses.

15. In addition, the Tribunal makes a room available on the first floor of its building adjacent to Courtroom One as a common staging area for defence teams who are in trial. Computer work stations are available on a first-come, first-served basis. Space is frequently unavailable for those who wish to use it. There is no provision for confidentiality, and a small storage space is all that is available for confidential files. There are no facilities for team meetings or meeting witnesses.

16. Prior to the end of September, 2011, there were rooms available in the Beach Building from which defence teams could work. However, the Beach Building was closed at the end of September. Since that time, Dr. Karadzic's team members have had

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<sup>5</sup> *Trial Legal Aid Policy* (November 2009) at para. 30

<sup>6</sup> *Prosecutor v Kvočka et al*, No. IT-98-30/1-A, *Decision on Review of Registrar's Decision to Withdraw Legal Aid from Zoran Zigic* (7 February 2003) at para. 13

to work out of their apartments, as the Registry has ignored Dr. Karadzic's request for office space.

17. Article 25 of the Registrar's Remuneration Scheme is clear and mandatory: "The Registrar **shall** provide office space for defence teams assisting self-represented accused during trial, as determined appropriate by the Registrar." The Registrar has failed to comply with his own directive.

18. After two months of silence, the Registrar finally offered Dr. Karadzic's defence team something less than they already have. His proposal for four dedicated workstations in the common staging area is not "office space". If it were, there would be no reason to pay each represented defence team 10,295 Euros or more to rent their own offices. They could simply be told to use the staging area. Therefore, the Registrar's proposal fails to comply with the Remuneration Scheme and is unreasonable.

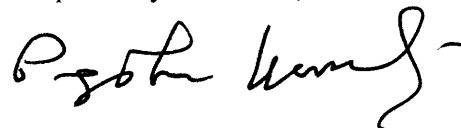
19. The problem will only be exacerbated when Dr. Karadzic's defence case starts and his team members have no place to meet witnesses.

20. It is absurd that the Registrar pays the standby team more than 10,295 Euros per month for an office and refuses to provide office space to the defence team of Dr. Karadzic, which is doing all the work.

21. Therefore, it is respectfully requested that the President reverse the decision of the Registrar and order that (1) the Registrar provide office space to the defence team of Dr. Karadzic forthwith or provide the team with funds to rent an office; and (2) the Registrar remunerate the defence team members for the months during which the Registrar failed to provide office space.

Word count:1448

Respectfully submitted,



Radovan Karadzic

# **ANNEX “A”**

Dr. Radovan Karadzic

28 September 2011

Ms. Jaimee Campbell  
Office of Legal Aid and Detention  
International Criminal Tribunal for the  
former Yugoslavia  
Churchillplein 1  
The Hague

Dear Ms. Campbell,

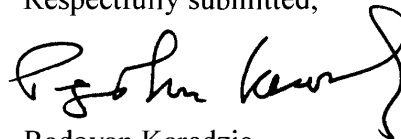
Paragraph 25 of the *Remuneration Scheme for Persons Assisting Indigent Self-Represented Accused* provides that “the Registrar shall provide office space for defence teams assisting self-represented accused during trial, as deemed appropriate by the Registrar.”

You have previously advised me that this requirement was satisfied by allowing my team to use the common defence area of the Beach Building. I have now been advised that the Beach Building is closed and no longer available for the use of my team.

Therefore, I now request that you find a suitable office space for my defence team, or provide the funds for my team to rent an office. I currently need a working computer and desk for my Legal Advisor, Legal Associate, two case managers, and two case manager interns.

Thank you for your consideration of this request.

Respectfully submitted,



Radovan Karadzic

# **ANNEX “B”**

Dr. Radovan Karadzic

31 October 2011

Ms. Jaimee Campbell  
Office of Legal Aid and Detention  
International Criminal Tribunal for the  
former Yugoslavia  
Churchillplein 1  
The Hague

Dear Ms. Campbell,

Paragraph 25 of the *Remuneration Scheme for Persons Assisting Indigent Self-Represented Accused* provides that “the Registrar shall provide office space for defence teams assisting self-represented accused during trial, as deemed appropriate by the Registrar.”

In my letter to you of 28 September 2011, I requested that you find a suitable office space for my defence team, or provide the funds for my team to rent an office given the closure of the Beach Building at the end of September.

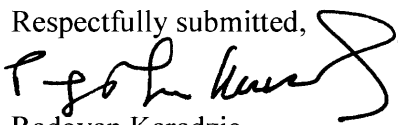
During the month of October, my Legal Advisor, Legal Associate, and case managers had to work out of their apartments since no office space aside from the staging area in the defence room was provided by the Registrar to my defence team as required by the *Remuneration Scheme*.

Therefore, I am submitting invoices for payment to my defense team for the rent they paid for their apartments from which they worked during October. You will notice that the total cost is far less than you pay on a monthly basis to defence teams of represented accused and the stand-by team in my case.

Please advise me if you are unwilling to pay these costs so that I may pursue my remedies under the *Remuneration Scheme* as well as under the Trial Chamber’s duty to ensure adequate facilities for my defence.

I also would appreciate it if you would solve this problem and bring the Registry into compliance with its own *Remuneration Scheme* by providing us with office space as soon as possible.

Thank you for your consideration of this request.

Respectfully submitted,  
  
Radovan Karadzic

# **ANNEX “C”**

Dr. Radovan Karadzic

30 November 2011

Ms. Jaimee Campbell  
Office of Legal Aid and Detention  
International Criminal Tribunal for the  
former Yugoslavia  
Churchillplein 1  
The Hague

Dear Ms. Campbell,

Paragraph 25 of the *Remuneration Scheme for Persons Assisting Indigent Self-Represented Accused* provides that “the Registrar shall provide office space for defence teams assisting self-represented accused during trial, as deemed appropriate by the Registrar.”

In my letter to you of 28 September 2011, I requested that you find a suitable office space for my defence team, or provide the funds for my team to rent an office given the closure of the Beach Building at the end of September.

During the month of October, my Legal Advisor, Legal Associate, and case managers had to work out of their apartments since no office space aside from the staging area in the defence room was provided by the Registrar to my defence team as required by the *Remuneration Scheme*.

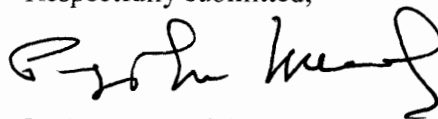
On 30 October 2011, I submitted invoices for payment to my defense team for the rent they paid for their apartments from which they worked during October. I asked you to advise me if you are unwilling to pay these costs so that I may pursue my remedies under the *Remuneration Scheme* as well as under the Trial Chamber’s duty to ensure adequate facilities for my defence. I never received any response from you indicating that OLAD would not pay these costs and therefore I assume that these invoices have been processed for payment.

I also asked you to solve this problem and bring the Registry into compliance with its own *Remuneration Scheme* by providing us with office space as soon as possible. So far this has not happened.

I am now submitting invoices for payment to my defence team for the rent they paid for their apartments from which they worked during November. Please pay these costs, and please provide us with office space so that these costs need not continue to be incurred by OLAD on a continuing basis.

Thank you for your consideration of this request.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Radovan Karadzic', with a horizontal line extending to the right.

Radovan Karadzic

# **ANNEX “D”**



United Nations  
Nations Unies



International  
Criminal Tribunal  
for the former  
Yugoslavia

**Registry**

Tribunal Pénal  
International pour  
l'ex-Yougoslavie

**Grefte**

9 December 2011

Dear Mr. Karadžić,

**Re: Your letters dated 31 October 2011 and 30 November 2011 regarding office costs**

I write with regard to your letters dated 31 October 2011 and 30 November 2011, in which you request that the Registry pay for office costs or provides office space for your Legal Associates and Case Managers. Your letters attach invoices covering the rent of the apartments of your defence team members, Messrs. Peter Robinson, Marko Sladojević, Aleksandar Stevanović, and Aleksandar Vujić for the months of October and November 2011.

Paragraph 25 of the Remuneration Scheme for Persons Assisting Indigent Self-Represented Accused (“Remuneration Scheme”) provides that the Registrar shall provide office space for defence teams of self-represented accused as appropriate. In this regard, I must remind you that there is space afforded defence team members located in the Main Building at rooms M104 through M109,<sup>1</sup> which space is currently being utilized by your defence team. Though we note that occupancy of the six rooms designated as Main Building defence space would increase following the closure of the Beach Building, we note further that with the ending of multi-accused cases in trial, usage dropped significantly.<sup>2</sup> On balance, the space designated by the Registry should be sufficient for the team members you indicate in your letter to continue to utilize on a regular basis.

Accordingly, I must inform you that there is no basis under which the Registry may pay the apartment rental costs of your defence team members.

However, taking into account the unique position of the defence team members of a self-represented accused, the Registrar has determined to dedicate a separate area within the space afforded the defence, equipped with work stations for up to four persons for use exclusively by your team members. Furthermore, your defence team members will continue to have access to a secure cabinet to store their files. This separate area will be dedicated to your defence team only, and so by the same token, the balance of the space afforded the defence as a whole will no longer be available for use.

You also have the option of continuing the existing arrangement, whereby the six defence rooms afforded the defence as a whole, each with multiple workstations, are available to your team members to use. I note that, considering the current trial schedule, the space available will be utilized less and less by teams in trial, and accordingly the current occupancy is expected to diminish. I would also note that the Registry is looking into the existing usage of the defence space to ensure it is being utilized properly by defence teams of represented accused.

<sup>1</sup> As well as in the lobby and the ICTY Library.

<sup>2</sup> As you may be aware, the space is to be utilized by defence teams of counsel-represented accused as a trial staging area only, as trial teams are provided specific remuneration to secure office space outside of the Tribunal.

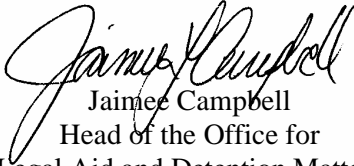
Churchillplein 1, 2517 JW The Hague. P.O. Box 13888, 2501 EW The Hague. Netherlands  
Churchillplein 1, 2517 JW La Haye. B.P. 13888, 2501 EW La Haye. Pays-Bas

Tel.: Fax:

Should you agree to the offer of separately designated space, we would be pleased to schedule a meeting with members of your defence team to explain the modalities.

I look forward to hearing from you on this matter. Should you have any questions, please do not hesitate to contact my office.

Yours sincerely,

  
Jaimee Campbell  
Head of the Office for  
Legal Aid and Detention Matters

TO: Mr. Radovan Karadžić  
UNDU

CC: Mr. Peter Robinson  
Mr. Marko Sladojević  
Mr. Goran Petronijević  
*Legal Associates*