

UNITED
NATIONS



International Residual Mechanism
for Criminal Tribunals

Case No.: MICT-13-56-A
Date: 9 June 2020
Original: English

BEFORE THE MECHANISM PRESIDENT

Before: The Honorable President Carmel Agius

Registrar: Mr. Olufemi Elias

Date: 9 June 2020

PROSECUTOR

v.

RATKO MLADIĆ

Public

**REPLY IN SUPPORT OF URGENT MOTION TO ADJUDICATE COMPLAINT
FILED UNDER THE IRMCT COMPLAINTS PROCEDURE FOR DETAINEES**

Office of the Prosecutor:

Ms. Laurel Baig
Ms. Barbara Goy

Counsel for Ratko Mladić:

Mr. Branko Lukić
Mr. Dragan Ivetić

Independent Monitoring Body

International Committee of the Red Cross

THE INTERNATIONAL RESIDUAL MECHANISM FOR CRIMINAL TRIBUNALS**PROSECUTOR****v.****RATKO MLADIĆ***Public*

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RATKO MLADIĆ by and through counsel, and submits the following REPLY, and in support thereof states as follows.

1. On 13 May 2020 Defence for Mr. Mladić, applying the Mechanism Regulations for the Complaints of Detainees, served the Registrar of the Mechanism “Complaint as to Medical Reporting and Medical Treatment at UNDU” [hereinafter “Complaint”] made on his client’s behalf as to the lack of information and vagueness that has arisen from the reports sent by the Registrar and the UNMO to the Chamber and Counsel, as well as the failure to fully disclose the medical documentation sought by Mr. Mladić, problems in diagnosis, problems in post-operative recovery and problems in the planned treatment for extremely low and unsafe haemoglobin levels, resulting in a severe anaemia which was life-threatening and posed a threat to the recovery of Mladić, both cognitively and physically. On that same date the Defence filed a Defence Notice, publicly, with a confidential Annex (containing the Complaint to the Registrar, to keep the Appeals Chamber apprised.

2. A copy of the Complaint to the Registrar is attached as *Confidential Annex A* to this filing. In sum, the Registrar Complaint was filed in order to undertake immediate, and urgent steps to save Mr. Mladić’s life and prevent a potential catastrophic and fatal event, by ordering his hospitalization and further treatment in accord with that as recommended by the opinions of the attached independent medical expert physicians/consultants, also requesting immediate access to all previously sought (undisclosed) medical records.

3. The Complaint to the Registrar is supported by no fewer than 3 reports of independent medical professionals who have separately reviewed the Registry reporting and what limited hospital documentation has been provided to the Mr. Mladić and his Defense and family. To be clear these complaints are as to inappropriate medical care, including potential medical malpractice, detrimental to the life and mental capacity of Mr. Mladić

4. Pursuant to the Mechanism Regulation, the Registrar had a time period of exactly twenty-four (24) hours in which to determine if not properly seized of the complaint, and to inform the Detainee (in this case counsel bringing the complaint on his client's behalf, as allowed under the Mechanism Regulation, under Regulation 3) of the dismissal of the complaint, so as to permit a re-filing before the appropriate authority.¹ That time expired without the Registrar taking any such action. Following the expiration of the 24-hour deadline, the Registrar failed to notify counsel of dismissal of the Complaint and thus remained seized of same per the Mechanism Regulations provisions cited above. Any objection to the Complaint being directly served on the Registrar (pursuant to the reasons therein) were thus waived or conceded by the Registrar at that point.

5. Upon such a complaint, the Mechanism Regulation foresees a maximum period of 14 days for the Registrar to issue a decision on the complaint. As to Mladić's Complaint. That period expired 27 May 2020. Accordingly, Registrar has materially breached the Mechanism Regulation, thereby violating the rights of Mr. Mladić. Finally, following the expiration of the 14-calendar day deadline, the Registry failed to notify Counsel of any decision on the Complaint. By operation of law, the failure to answer the complaints renders facts pleaded in the complaint admitted.

6. On 5 June 2020 the Defence filed Mladić's Complaint before the President as 14 calendar days had passed as provided by the Mechanism Regulation.

7. On 5 June 2020, outside of working hours, the President filed an Order for Submissions, requiring the Defence to file a "reply" by today's date at noon and allowing the Registrar until 6 June 2020 to file any submissions. The purported Registrar Submission is filed out of date and contrary to the Mechanism Regulations under which Mladić's Complaint was filed. As such the Registrar submission cannot be considered an answer to the Complaint. In any event,

¹ See, Regulation 7(c).

patient “consent” cannot be raised as a defence to medical care that is inappropriate, negligent, or potentially medical malpractice.

8. That the Registrar has allowed Mr. Mladić’s health and state of severe anaemia and low haemoglobin worsen to a state worse than before surgery, in contravention to the medical advice given by the defence, is a miscarriage of justice and constitutes medical neglect.

9. We continue to seek the **immediate hospitalization of Mr. Mladić, full disclosure of medical documentation and undertaking of all steps for appropriate medical diagnosis and medical treatment for the reasons set forth in the Complaint.**

10. At this point, the Registrar’s breach and violation of the Mechanism Regulation and other Regulations applicable to Detainees is a denial of Mr. Mladić’s fundamental rights to a fair and humane detention.

WHEREFORE we reiterate and stand by the relief sought from the President in our 5 June 2020 filing Complaint in accord with the mandated procedure of the Mechanism Regulation.

Word Count: 805

RESPECTFULLY SUBMITTED BY:



Branko Lukić

Lead Counsel for Ratko Mladić



Dragan Ivetic

Co-Counsel for Ratko Mladić

Dated this 9th of June 2020

Belgrade, Serbia &

The Hague, Netherlands



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