

UNITED
NATIONS



International Residual Mechanism
for Criminal Tribunals

Case No.: MICT-13-56-A

Date: 10 June 2020

Original: English

BEFORE THE APPEALS CHAMBER

Before: Judge Prisca Matimba Nyambe (Presiding)
Judge Aminatta Lois Runeni N’gum
Judge Gberdao Gustave Kam
Judge Seymour Panton
Judge Elizabeth Ibanda-Nahamya

Registrar: Mr. Olufemi Elias

Date: 10 June 2020

PROSECUTOR

v.

RATKO MLADIĆ

Public with Public Annex A

THIRD DEFENCE NOTICE

Office of the Prosecutor:

Ms. Laurel Baig
Ms. Barbara Goy

Counsel for Ratko Mladić:

Mr. Branko Lukić
Mr. Dragan Ivetić

Office of the Registrar:

Mr. Olufemi Elias, Registrar

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

THIRD DEFENCE NOTICE

RATKO MLADIĆ by and through his counsel of record, (hereinafter "Mr. Mladić" or "Defence"), hereby submits the Instant THIRD DEFENCE NOTICE:

1. On 13 May 2020 we filed our initial Defence Notice, advising of the Appeals Chamber of a complaint being filed before the Registrar under the “Regulations on the Complaints Procedure for Detainees” and supported by 3 independent medical professionals. The Notice itself was public but the Complaint to the Registrar was Confidential, and both were annexed to the initial Defence Notice.

2. On 5 June we filed a Second Defence Notice before the Appeals Chamber informing that Mr. Mladić had, on that date, filed a complaint with the President of the Mechanism, and the Independent Monitoring Body.¹ The Appeals Chamber was apprised of same insofar as the issues raised relate to the health of Mr. Mladić, and the risk of a catastrophic event (ie. the fatality/death of Mr. Mladić) if measures are not taken to adequately address the worsened health of Mr. Mladić. The urgency of this matter and the rapidly deteriorating nature Mr. Mladić’s health meant we could not wait for the Status Conference to raise this. This is due to information at our disposal that the health of Mr. Mladić has further worsened under the care of the UNMO and Registry – with his haemoglobin dropping to a 4.4 value, and a transfusion now being considered.

¹ As foreseen under the Rules of Detention and the Regulations for the filing of complaints by Detainees.

3. By way of the instant Third Defence Notice we inform the Appeals Chamber of the filing of a Reply² before the President, a copy of which is attached hereto as Public Annex A.

4. The Defence remains available to keep the Appeals Chamber apprised of this matter, so that it may take into account the same when assessing the medical condition and recovery of Mr. Mladić based on a fuller, completer and more reliable picture of the pertinent facts.

Word Count: 338

RESPECTFULLY SUBMITTED BY:



Branko Lukić

Lead Counsel for Ratko Mladić



Dragan Ivetić

Co-Counsel for Ratko Mladić

Dated this 10th of June 2020

Belgrade, Serbia &

The Hague, Netherlands

² Requested by the President's Public Order for Submissions, dated 5 June 2020.

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Case No.: MICT-13-56-A

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PUBLIC

Annex A

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*

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

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



I - FILING INFORMATION / INFORMATIONS GÉNÉRALES

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Case Name/ Affaire :	Prosecutor v Mladić	Case Number/ Affaire n° :	MICT-13-56-A
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	<input type="checkbox"/> Kinyarwanda	<input type="checkbox"/> B/C/S	
Title of Document/ Titre du document :	DEFENCE THIRD NOTICE		
Classification Level/ Catégories de classification :	<input checked="" type="checkbox"/> Unclassified/ <i>Non classifié</i>	<input type="checkbox"/> Ex Parte Defence excluded/ <i>Défense exclue</i>	
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