

**UNITED
NATIONS**



International Residual Mechanism
for Criminal Tribunals

Case No.: MICT-13-56-A

Date: 16 June 2020

Original: English

THE PRESIDENT OF THE MECHANISM

Before: Judge Carmel Agius, President

Registrar: Mr. Olufemi Elias

Decision of: 16 June 2020

PROSECUTOR

v.

RATKO MLADIĆ

PUBLIC REDACTED VERSION

DECISION ON DETENTION COMPLAINT

The Office of the Prosecutor:

Mr. Serge Brammertz
Ms. Laurel Baig
Ms. Barbara Goy

Counsel for Mr. Ratko Mladić:

Mr. Branko Lukić
Mr. Dragan Ivetić

1. I, Carmel Agius, President of the International Residual Mechanism for Criminal Tribunals (“President” and “Mechanism”, respectively), am seized of a motion filed by Mr. Ratko Mladić (“Mladić”) on 5 June 2020.¹ Mladić requests that I issue a decision on his health-related complaint concerning his detention at the United Nations Detention Unit submitted to the Registrar of the Mechanism on 13 May 2020 (“UNDU” and “Registrar”, respectively),² and that I also rule on the Registrar’s alleged failure to comply with the Complaints Procedure.³

I. BACKGROUND

2. On 13 May 2020, Mladić submitted his Complaint to the Registrar,⁴ in which he complained about: (i) an alleged lack of information and vagueness in the medical reports prepared by the Registry, as well as a failure to disclose medical documentation sought by Mladić;⁵ and (ii) alleged problems in diagnosis, post-operative recovery, and planned treatment for his “extremely low and unsafe haemoglobin levels, resulting in a severe anaemia”.⁶ In support of this second allegation, Mladić provided reports respectively dated 10, 11, and 13 May 2020 from three persons he identifies as medical professionals (“Three Medical Professionals”).⁷

3. On 15 May 2020, the Registrar acknowledged receipt of the Complaint to the Registrar and informed Mladić that he would receive a written decision at the latest within 14 calendar days of its receipt.⁸ The Registrar also conveyed to me the Complaint to the Registrar on 15 May 2020.⁹

4. On 27 May 2020, the Registrar sent a letter to Mladić indicating that more time was required to provide a fully considered decision on the Complaint to the Registrar.¹⁰ The Registrar explained that he needed to clarify a few issues with external doctors, and hoped to receive the

¹ Urgent Motion to Adjudicate Complaint Filed Under the IRMCT Complaints Procedure for Detainees, 5 June 2020 (public with confidential annexes) (“Complaint”). In light of the discussion of confidential and *ex parte* medical information, I render the present Decision in both confidential and *ex parte*, and public redacted, versions.

² Defence Notice, 13 May 2020 (public with confidential annex), Annex (“Defence Notice of 13 May 2020” and “Complaint to the Registrar”, respectively). *See also* Complaint, Annex A (including the Complaint to the Registrar).

³ Regulations on the Complaints Procedure for Detainees, MICT/25, 5 December 2018 (“Complaints Procedure”). *See* Complaint, pp. 2, 7-8.

⁴ *See* Defence Notice of 13 May 2020, para. 4.

⁵ Complaint to the Registrar, pp. 2-3.

⁶ Complaint, para. 5; Reply in Support of Urgent Motion to Adjudicate Complaint Filed Under the IRMCT Complaints Procedure for Detainees, 9 June 2020 (“Reply”), para. 1. *See* Complaint to the Registrar, pp. 2-5.

⁷ Complaint to the Registrar, pp. 3-4, Annexes 1-6. *See* Defence Notice of 13 May 2020, paras. 5-6.

⁸ *See* Complaint, Annex B (containing a letter from the Registrar to Mladić, dated 15 May 2020).

⁹ *See* Order for Submissions, 5 June 2020 (“Order for Submissions”), p. 1, *referring to* Internal Memorandum from the Registrar to the President, dated 15 May 2020 (confidential).

¹⁰ *See* Complaint, Annex C (containing a confidential letter from the Registrar to Mladić, dated 27 May 2020).

necessary information and render his decision within seven working days, otherwise he would provide a further update in writing.¹¹ The Registrar informed me of this on 29 May 2020.¹²

5. On 5 June 2020, Mladić filed the Complaint. He asks that I: (i) find that the Registrar failed to address the Complaint to the Registrar in accordance with the Complaints Procedure, and reprimand the Registrar accordingly;¹³ and (ii) rule on the allegations raised in the Complaint to the Registrar, and consequently order that medical documentation be disclosed and that Mladić be hospitalised immediately to receive further treatment as recommended by the Three Medical Professionals.¹⁴

6. On 5 June 2020, after Mladić filed the Complaint, the Registrar transmitted to Mladić his decision on the Complaint to the Registrar,¹⁵ which the Registrar determined to be unfounded.¹⁶

7. Within hours of Mladić filing his Complaint, I acknowledged receipt and ordered submissions on an extremely urgent basis from the Registrar and from Mladić in reply.¹⁷ In doing so, I ordered the Registrar to include his decision on the Complaint to the Registrar as part of his submissions, and considered that I would benefit from receiving any reply that Mladić may wish to make in relation to these submissions.¹⁸

8. The following day, Saturday, 6 June 2020, the Registrar filed his submissions, which included his decision on the Complaint to the Registrar.¹⁹ Mladić replied on Tuesday, 9 June 2020.²⁰

II. STANDARD OF REVIEW

9. An administrative decision of the Registrar is subject to review by the President for procedural or substantive unfairness.²¹ However, a judicial review of an administrative decision is not a rehearing.²² Nor is it an appeal, or in any way similar to the review which a Chamber may

¹¹ See Complaint, Annex C.

¹² See Order for Submissions, p. 1 and fn. 5, referring to Internal Memorandum from the Registrar to the President, dated 29 May 2020 (confidential).

¹³ Complaint, paras. 17, 19(B).

¹⁴ Complaint, p. 1, paras. 17, 19(A).

¹⁵ See Order for Submissions, p. 1.

¹⁶ Registrar's Submission in Compliance with the Order for Submissions of 5 June 2020, 6 June 2020 (public with confidential and *ex parte* annex) ("Registrar's Submission"), para. 11.

¹⁷ See Order for Submissions, pp. 2-3. The Complaint was circulated at 16:07 on Friday, 5 June 2020. My Order for Submissions was submitted to the Registry for filing at 20:57 and distributed at 21:40. All times indicated in the present Decision refer to the corresponding time in The Hague.

¹⁸ See Order for Submissions, p. 2.

¹⁹ The Registrar's Submission was submitted for filing at 21:48 and circulated at 22:34, ahead of the deadline of 12:00 the following day.

undertake of its own judgement.²³ Rather, a judicial review of an administrative decision made by the Registrar is concerned initially with the propriety of the procedure by which the Registrar reached the particular decision and the manner in which he or she reached it.²⁴

10. Accordingly, the President may quash an administrative decision if the Registrar: (i) failed to comply with legal requirements; (ii) failed to observe any basic rules of natural justice or to act with procedural fairness towards the person affected by the decision; (iii) took into account irrelevant material or failed to take into account relevant material; or (iv) reached a conclusion which no sensible person who has properly applied his or her mind to the issue could have reached (the “unreasonableness” test).²⁵

11. Unless unreasonableness has been established, there can be no interference with the margin of appreciation of the facts or merits of that case to which the maker of such an administrative decision is entitled.²⁶ The party challenging the administrative decision bears the burden of demonstrating that an error of the nature enumerated above has occurred and that this error significantly affected the administrative decision to his or her detriment.²⁷

III. APPLICABLE LAW

12. Rule 46(1) of the Rules of Detention²⁸ states in relevant part:

1. The Medical Officer shall be responsible for managing the care of the physical and mental health of Detainees.

2. Medical decisions may only be taken by the Medical Officer or other medical official designated by him or her. Non-medical personnel may not take decisions or implement measures on medical grounds, unless acting on the advice of the Medical Officer or his or her designate.

²⁰ The Reply was submitted for filing at 10:26, ahead of the deadline of 12:00.

²¹ *Prosecutor v. Radovan Karadžić*, Case No. MICT-13-55-ES, Decision on Request for Review of Registrar’s Decision on Video Communications, 16 April 2020 (confidential; made public on 4 May 2020) (“*Karadžić* Decision”), para. 20; *Prosecutor v. Maximilien Turinabo et al.*, Case No. MICT-18-116-PT, Decision on Complaint Filed by Dick Prudence Munyeshuli Pursuant to Rule 94 of the Rules of Detention, 9 August 2019 (“*Turinabo et al.* Decision of 9 August 2019”), para. 13; *Prosecutor v. Augustin Ngirabatware*, Case No. MICT-12-29-R, Decision on Complaint Pursuant to Rule 94 of the Rules of Detention, 1 July 2019 (confidential; made public on 5 August 2019) (“*Ngirabatware* Decision”), para. 16.

²² *Karadžić* Decision, para. 20; *Turinabo et al.* Decision of 9 August 2019, para. 13; *Ngirabatware* Decision, para. 16.

²³ *Karadžić* Decision, para. 20; *Turinabo et al.* Decision of 9 August 2019, para. 13; *Ngirabatware* Decision, para. 16.

²⁴ *Karadžić* Decision, para. 20; *Turinabo et al.* Decision of 9 August 2019, para. 13; *Ngirabatware* Decision, para. 16.

²⁵ *Karadžić* Decision, para. 21; *Turinabo et al.* Decision of 9 August 2019, para. 14; *Ngirabatware* Decision, para. 17.

²⁶ *Karadžić* Decision, para. 22; *Turinabo et al.* Decision of 9 August 2019, para. 15; *Ngirabatware* Decision, para. 18.

²⁷ *Karadžić* Decision, para. 22; *Turinabo et al.* Decision of 9 August 2019, para. 15; *Ngirabatware* Decision, para. 18.

²⁸ Rules Governing the Detention of Persons Awaiting Trial or Appeal before the Mechanism or Otherwise Detained on the Authority of the Mechanism, 5 November 2018 (“Rules of Detention”).

13. Rule 54(1) of the Rules of Detention states:

A Detainee shall have the right to access all information contained in his or her medical file upon request, except in the exceptional circumstances where the Medical Officer decides that:

- (a) There is good reason to believe that the disclosure of certain information to the Detainee could cause serious physical or mental harm to the Detainee; or
- (b) There is information contained in the file concerning a third party and that third party has not consented to the release of his or her information.

14. Rule 94 of the Rules of Detention states:

1. A Detainee has the right to make a complaint, without censorship, to the President against:

- (a) The response from the Registrar to a complaint pursuant to Rule 93; or
- (b) A decision by the Registrar.

2. Complaints made to the President shall be acknowledged within 72 hours. Each complaint shall be dealt with promptly and replied to without undue delay.

15. Regulation 8 of the Complaints Procedure states:

(A) With the exception of complaints dismissed by the Registrar under Regulation 7(C), the Registrar shall acknowledge receipt of all complaints within seventy-two (72) hours of receipt of the complaint. The Registrar shall forward a copy of each and every complaint to the President.

(B) A complaint submitted to the Registrar shall be investigated promptly and efficiently, seeking the views of all relevant persons or bodies, including the Commanding Officer. The Detainee shall be permitted to communicate freely and without censorship on the matter with the Registrar during this period. The Registrar shall, where appropriate, pass all such communications to the President without delay.

(C) The Registrar shall issue a reasoned written decision on the complaint as soon as practicable, or, at the latest, within fourteen (14) calendar days of receipt of the complaint. The Registrar shall inform the President of his or her decision.

16. Regulation 10(B) of the Complaints Procedure states:

If no decision is taken by the Registrar on a complaint submitted by a Detainee within fourteen (14) calendar days as provided by Regulation 8(C), the Detainee may make a complaint to the President within the next fourteen (14) calendar days.

17. Regulation 11 of the Complaints Procedure states:

(A) The President shall acknowledge receipt of all complaints within seventy-two (72) hours of receipt of the complaint.

(B) Prior to issuing his or her decision on the complaint to the Registrar, the President may conduct any investigations he or she considers warranted and may seek the views of relevant persons or bodies, as appropriate. The Detainee shall be permitted to communicate freely and without censorship on the matter with the President during this period.

(C) The President shall issue a reasoned written decision on the complaint as soon as practicable, or at the latest, within fourteen (14) calendar days of receipt of the complaint, unless the interests of justice require otherwise.

18. Regulation 12 of the Complaints Procedure states:

(A) If the President finds the complaint to be justified, he or she shall take action to address the complaint as soon as possible and shall inform the Detainee of both the action to be taken and the timeline for implementation.

(B) If the President finds the complaint to be unfounded, the President shall notify the Detainee in writing, giving reasons for rejection of the complaint. The President shall also advise the Detainee that he or she has the right to make a complaint to the Independent Monitoring Body, in accordance with Regulation 14.

IV. DISCUSSION

A. Alleged Failure to Comply with the Complaints Procedure

19. Mladić submits that the Registrar failed to: (i) forward to me the Complaint to the Registrar in accordance with Regulation 8(A) of the Complaints Procedure,²⁹ and (ii) issue a decision on the Complaint to the Registrar within 14 days in line with Regulation 8(C) of the Complaints Procedure.³⁰ Mladić requests that I find that the Registrar breached these duties and thereby violated his right to a fair and humane detention, and reprimand the Registrar accordingly.³¹ He also contends that the Registrar's failure to decide the Complaint to the Registrar "renders facts pleaded in the complaint admitted".³²

20. The Registrar submits, with respect to the first allegation, that he forwarded me a copy of the Complaint to the Registrar and thereby complied with Regulation 8(A) of the Complaints Procedure.³³ With regard to the second allegation concerning the failure to issue a decision within 14 days, the Registrar explains that he needed further information from the external doctors involved in Mladić's treatment, and that additional time was therefore required to issue a reasoned decision in line with Regulation 8(C) of the Complaints Procedure.³⁴ The Registrar states that medical complaints are often complex and time-consuming, and that because it was clear that Mladić was being actively treated and did not require urgent hospitalisation, the need to obtain additional information outweighed the need to urgently decide the Complaint to the Registrar.³⁵ The Registrar adds that he issued his decision before the expiration of seven additional working days

²⁹ Complaint, paras. 1, 10, 17. Mladić notes that the Registrar acknowledged receipt within the timeframe required by Regulation 8(A) of the Complaints Procedure. *See* Complaint, para. 10.

³⁰ Complaint, paras. 1, 11, 17; Reply, paras. 5, 7.

³¹ Complaint, paras. 18, 19(B).

³² Complaint, paras. 11-12; Reply, para. 5.

³³ Registrar's Submission, para. 3.

³⁴ Registrar's Submission, paras. 4, 6.

³⁵ Registrar's Submission, paras. 7-8.

indicated in his letter to Mladić on 27 May 2020, and that Mladić should have awaited this decision before submitting the Complaint.³⁶

21. Turning first to Mladić's allegation that the Registrar failed to forward to me the Complaint to the Registrar, I recall that Regulation 8(A) of the Complaints Procedure provides that the Registrar shall acknowledge receipt of all complaints within 72 hours and forward a copy of every complaint to the President. After Mladić submitted his Complaint to the Registrar on 13 May 2020,³⁷ the Registrar acknowledged its receipt³⁸ and conveyed it to me on 15 May 2020.³⁹ I therefore find that the Registrar complied with Regulation 8(A) of the Complaints Procedure and accordingly dismiss this aspect of the Complaint.

22. Regarding Mladić's allegation that the Registrar failed to issue a timely decision, I recall that Regulation 8(C) of the Complaints Procedure provides that the Registrar shall issue a reasoned written decision with 14 calendar days of its receipt at the latest. As the Complaint to the Registrar was received on 13 May 2020, the Registrar was required to issue his decision by 27 May 2020. Although the Registrar informed Mladić on 27 May 2020 that he hoped to receive additional information and render his decision within seven additional working days, it nevertheless remains a fact that the Registrar only issued his decision on 5 June 2020. The Registrar therefore failed to comply with the procedural requirement of Regulation 8(C) of the Complaints Procedure to issue a reasoned written decision within 14 calendar days of receiving the Complaint to the Registrar.

23. I observe that the Registrar submits that, upon assessing the Complaint to the Registrar, he considered it imperative to obtain further information from the relevant external doctors involved in Mladić's current treatment, particularly in view of the gravity of the medical issues raised, so that he could make a reasoned decision.⁴⁰ He further highlights that he informed Mladić, as well as me, of this further consideration and the associated delay of the decision.⁴¹ The Registrar also explains that upon examining the merits and the medical information provided, it became clear that Mladić

³⁶ Registrar's Submission, paras. 5, 9, 12. I note that the Registrar considers that his proposed extension of seven working days was to expire on 8 June 2020, based in part on the claim that 1 and 2 June 2020 were not official working days for the Mechanism. See Registrar's Submission, para. 5 and fn. 10. In this respect, I observe that although 1 June 2020 was an official holiday for the Hague branch, the Mechanism was working that day in all other duty stations. Further, 2 June 2020 was a working day for all branches and duty stations of the Mechanism.

³⁷ See Defence Notice of 13 May 2020, para. 4.

³⁸ See Complaint, para. 10, Annex B (containing a letter from the Registrar to Mladić, dated 15 May 2020).

³⁹ See Order for Submissions, 5 June 2020, p. 1 and fn. 4, referring to Internal Memorandum from the Registrar to the President, dated 15 May 2020 (confidential). I note that this information appears to have been unknown to Mladić at the time that he filed his Complaint containing this allegation.

⁴⁰ Registrar's Submission, paras. 4, 6.

⁴¹ Registrar's Submission, para. 5. I recall in this regard that the Registrar informed Mladić by letter dated 27 May 2020 and subsequently informed me on 29 May 2020. See *supra*, para. 4.

did not require urgent hospitalisation, and the Registrar also noted that Mladić's medical condition was being actively treated and monitored.⁴²

24. In my view, these submissions reflect that even though the Registrar wrongly believed that he was permitted to delay his decision if demanded by the circumstances, he acted in good faith in granting to himself more time to obtain relevant information and issue a reasoned written decision. Moreover, the Registrar assessed whether there was indeed any special urgency in taking a decision on the Complaint to the Registrar. Mladić, who was fully informed on 27 May 2020 about the reasons for the delay and the expected timeline, thereafter retained the opportunity to immediately file a complaint directly before me in accordance with Regulation 10(B) of the Complaints Procedure. Furthermore, the Registrar issued his decision on the Complaint to the Registrar within the seven additional working days, as previously announced.

25. Under these specific circumstances, I do not consider that any formal reprimand is warranted. Nor do I consider that Mladić has established that his rights were violated by the Registrar's failure to respect this procedural requirement, especially given that Mladić could have seized me immediately with a complaint if he wished to do so.

26. Nevertheless, I observe that this is now the third instance in the past year in which the Registrar has failed to issue a reasoned written decision on a complaint within 14 calendar days at the latest, thereby constituting a breach of the procedural requirements of Regulation 8(C) of the Complaints Procedure.⁴³ I therefore consider it necessary to emphasise to the Registrar the binding nature of the 14-day timeline set forth in Regulation 8(C) of the Complaints Procedure. The Registrar enjoys no discretion to alter this timeline, and any further breaches of this provision could attract sanction in the future.

27. Finally, I find no merit in Mladić's contention that the Registrar's failure to take a timely decision means that the allegations in the Complaint to the Registrar have been admitted as true.⁴⁴ Mladić offers no support for this argument, and in the absence of any further explanation, I dismiss it accordingly.⁴⁵

⁴² Registrar's Submission, para. 7.

⁴³ See *Turinabo et al.* Decision of 9 August 2019, paras. 20, 28; *Prosecutor v. Maximilien Turinabo et al.*, Case No. MICT-18-116-PT, Decision on Complaint Filed by Marie Rose Fatuma Pursuant to Rule 94 of the Rules of Detention, 20 June 2019 (public with confidential annex), p. 2.

⁴⁴ See Complaint, paras. 11-12; Reply, para. 5.

⁴⁵ See *Turinabo et al.* Decision of 9 August 2019, para. 23.

B. Alleged Deficiencies in Medical Care

28. Mladić claims that the Registry has provided inadequate medical care with respect to his diagnosis, post-operative recovery, and planned treatment for “extremely low and unsafe haemoglobin levels, resulting in a severe anaemia”.⁴⁶ He submits that urgent steps are required to save his life in line with those recommended by the Three Medical Professionals,⁴⁷ who: (i) express serious concern in the reported drop in Mladić’s haemoglobin levels;⁴⁸ (ii) call for a transfusion of packed red blood cells;⁴⁹ and (iii) recommend immediate hospitalisation to determine the cause of the anaemia, instead of undergoing the treatment proposed by the Registry.⁵⁰ Mladić emphasises that he has raised his alarmingly low haemoglobin level since at least 28 February 2020, and that only recently has he received a transfusion as part of his medical treatment.⁵¹ He further claims that the Registrar has allowed his health condition to worsen “in contravention to the medical advice given by the defence”, which constitutes medical neglect.⁵²

29. The Registrar submits that the Complaint is unfounded and that Mladić is receiving adequate medical care aimed at promptly assessing any health concerns.⁵³ In particular, the Registrar submits that: (i) [REDACTED];⁵⁴ (ii) [REDACTED];⁵⁵ (iii) [REDACTED];⁵⁶ (iv) [REDACTED];⁵⁷ (v) [REDACTED];⁵⁸ (vi) [REDACTED];⁵⁹ (vii) [REDACTED];⁶⁰ (viii) [REDACTED];⁶¹ (ix) [REDACTED];⁶² and (x) [REDACTED].⁶³

⁴⁶ Complaint, para. 5; Reply, para. 1.

⁴⁷ Complaint, paras. 6-8, 19(A); Reply, para. 9. *See* Complaint, Annex A (Complaint to the Registrar), Annexes 1, 3, 5 (containing the reports of the Three Medical Professionals).

⁴⁸ Complaint, paras. 8(C)-8(D). *See* Complaint, Annex A (Complaint to the Registrar), Annex 1 paras. 2, 5, Annex 3 paras. 1, 5-6, Annex 5 p. 1.

⁴⁹ Complaint, para. 8(B). *See* Complaint, Annex A (Complaint to the Registrar), Annex 1 paras. 4-5, Annex 3 para. 1. I observe that one of the Three Medical Professionals did not mention a transfusion in the annexed report.

⁵⁰ Complaint, para. 8(A), (B), (E). *See* Complaint, Annex A (Complaint to the Registrar), Annex 1 paras. 3-4, Annex 3 paras. 1, 3-4, Annex 5 pp. 1-2.

⁵¹ Complaint, paras. 14-15.

⁵² Complaint, para. 16. *See* Reply, para. 8.

⁵³ Registrar’s Submission, paras. 11, 13.

⁵⁴ Registrar’s Submission, Annex, p. 6.

⁵⁵ Registrar’s Submission, Annex, p. 6.

⁵⁶ Registrar’s Submission, Annex, p. 6.

⁵⁷ Registrar’s Submission, Annex, p. 6.

⁵⁸ Registrar’s Submission, Annex, pp. 6-7.

⁵⁹ Registrar’s Submission, Annex, p. 7.

⁶⁰ Registrar’s Submission, Annex, p. 7.

⁶¹ Registrar’s Submission, Annex, p. 7.

⁶² Registrar’s Submission, Annex, p. 7.

⁶³ Registrar’s Submission, Annex, p. 7 and fns. 17-18.

30. Mladić replies that the Registrar’s Submission “cannot be considered an answer[] to” the Complaint to the Registrar and that in any event, a patient’s “consent” to treatment cannot justify medical neglect.⁶⁴

31. At the outset, I observe that Mladić has opted not to engage in any meaningful way with the content of the Registrar’s Submission, but that his Reply instead primarily repeats verbatim the allegations in his Complaint.⁶⁵ This is regrettable, particularly because the Registrar’s Submission includes his comprehensive assessment and decision addressing the Complaint to the Registrar, with multiple pages dedicated to Mladić’s allegations concerning his medical treatment. In this regard, I recall that I ordered the Registrar to include his decision on the Complaint to the Registrar as part of the Registrar’s Submission, and considered that I would benefit from receiving any reply that Mladić would wish to make in relation to these submissions.⁶⁶ Mladić received the content of that decision on 5 June 2020,⁶⁷ and the Registrar filed the Registrar’s Submission the next day.⁶⁸ Mladić therefore had adequate opportunity to formulate any comments on the Registrar’s Submission, or to at least request additional time if he considered it warranted, notwithstanding his request to be hospitalised immediately.

32. Turning now to Mladić’s submissions, I recall that pursuant to Rule 46 of the Rules of Detention, it is the Medical Officer who shall be responsible for managing the care of the physical and mental health of detainees. In his Complaint and Reply, however, Mladić relies on the reports of the Three Medical Professionals in order to substantiate his claim that he is receiving inadequate medical treatment.⁶⁹ In this regard, I observe that while they express concern at the drop in Mladić’s haemoglobin levels, the Registrar has explained that the Registry responded appropriately in light of the potential seriousness of the situation.⁷⁰ Moreover, while Mladić submits that the Three Medical Professionals call for a transfusion of packed red blood cells, he recognises that “a transfusion [is] being implemented as part of his treatment”.⁷¹ Furthermore, although Mladić refers to the Three Medical Professionals in requesting immediate hospitalisation, the Registrar relies on the opinion of the Medical Officer that [REDACTED].⁷² While I take due note of the seriousness of Mladić’s allegations, I nevertheless consider that he has not challenged – convincingly or

⁶⁴ Reply, para. 7.

⁶⁵ Compare Reply, paras. 1-5, 8, 10, with Complaint, paras. 5-7, 9, 11, 16, 18.

⁶⁶ See Order for Submissions, p. 2.

⁶⁷ See Order for Submissions, p. 2.

⁶⁸ See *supra*, para. 8 and fn. 19.

⁶⁹ See Complaint, paras. 6-8, 15-17, 19(A), Annex; Reply, paras. 2-3, 8-9.

⁷⁰ See *supra*, para. 29.

⁷¹ Complaint, para. 14.

⁷² Registrar’s Submission, Annex, pp. 6-7.

otherwise – the Registrar’s reasoned explanations for the medical care that has been provided to Mladić at each stage.

33. In light of the information before me, I can only conclude that Mladić has not demonstrated any error with respect to the medical care provided to him by the Registry, and that this aspect of his Complaint must be dismissed.

C. Alleged Deficiencies in Disclosure of Medical Information and Reporting

34. Mladić alleges that the Registrar’s medical reports to the Appeals Chamber have been vague, scant, and contradictory, thereby breaching the Rules of Detention as well as the requirements imposed by the Appeals Chamber.⁷³ He contends that these violations are due to the Registrar’s purposeful neglect or carelessness in order to cover up issues concerning Mladić’s medical care.⁷⁴ He requests “full disclosure” of his medical documentation.⁷⁵

35. The Registrar submits that the UNDU has complied fully with Rule 54 of the Rules of Detention, and moreover that significant efforts were made to ensure that Mladić was provided with medical documentation notwithstanding the COVID-19 pandemic and corresponding restrictions.⁷⁶ The Registrar also states that the reporting obligations stipulated by the Appeals Chamber have been complied with in full.⁷⁷

36. I recall that Rule 54 of the Rules of Detention provides that a detainee shall have the right to access all information in his or her medical file upon request, except in two limited circumstances. Mladić, however, identifies no instance of when his right to access such information was allegedly violated.⁷⁸ Accordingly, I dismiss Mladić’s claim that the Rules of Detention were breached in this respect.

37. With regard to the sufficiency of the reports submitted to the Appeals Chamber in the context of the appellate proceedings, I observe that the Appeals Chamber has been actively seised of that matter and has repeatedly rejected Mladić’s claims challenging the sufficiency of the

⁷³ Complaint, paras. 4-6, 13, 15.

⁷⁴ Complaint, para. 13.

⁷⁵ Complaint, para. 17; Reply, para. 9.

⁷⁶ See Registrar’s Submission, Annex, pp. 3-5.

⁷⁷ See Registrar’s Submission, Annex, pp. 8-9.

⁷⁸ See Complaint; Complaint to the Registrar.

Registrar's reporting.⁷⁹ Mladić fails to demonstrate any error by the Registrar warranting my intervention.

38. Finally, considering the contents of the Registrar's Submission, which outlines in detail the medical care provided to Mladić, I consider that Mladić's accusations of purposeful neglect or carelessness are devoid of any factual basis.

V. DISPOSITION

39. For the foregoing reasons, I hereby:

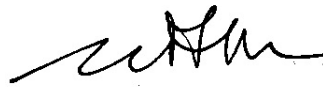
FIND the Complaint to be justified to the extent that there was a failure to issue a reasoned written decision on the Complaint to the Registrar within 14 calendar days at the latest, thereby constituting a breach of the procedural requirements of Regulation 8(C) of the Complaints Procedure;

REJECT the Complaint in all other respects; and

ADVISE Mladić, pursuant to Regulation 12(B) of the Complaints Procedure, that he has the right to make a complaint to the Independent Monitoring Body in accordance with Regulation 14 of the Complaints Procedure.

Done in English and French, the English version being authoritative.

Done this 16th day of June 2020,
At The Hague,
The Netherlands.



Judge Carmel Agius
President

[Seal of the Mechanism]

⁷⁹ See Order on Defence Submissions of 30 March 2020, 3 April 2020, pp. 1-6; Order on Defence Submissions of 25 and 27 March 2020, 31 March 2020 (public with confidential annex), pp. 1-4.



I - FILING INFORMATION / INFORMATIONS GÉNÉRALES

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Case Name/ Affaire :	Prosecutor v. Ratko Mladić	Case Number/ Affaire n° :	MICT-13-56-A
Date Created/ Daté du :	16 June 2020	Date transmitted/ Transmis le :	16 June 2020
			No. of Pages/ Nombre de pages : 12
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