

**UNITED
NATIONS**



International Residual Mechanism
for Criminal Tribunals

Case No.: MICT-13-55-ES
Date: 30 April 2020
Original: English

BEFORE THE PRESIDENT

Before: Judge Carmel Agius, President

Registrar: Mr. Olufemi Elias

Date: 30 April 2020

PROSECUTOR

v.

RADOVAN KARADŽIĆ

***PUBLIC*
WITH PUBLIC REDACTED ANNEX**

**PUBLIC REDACTED VERSION OF “REGISTRAR’S SUBMISSION ON
THE VIDEO COMMUNICATION PILOT PROJECT AT THE UNITED
NATIONS DETENTION UNIT”**

Pro Bono Counsel for Mr. Radovan Karadžić:
Mr. Peter Robinson

1. Pursuant to Rule 31(B) of the Rules of Procedure and Evidence of the International Residual Mechanism for Criminal Tribunals and in accordance with the President's "Decision on Request for Review of Registrar's Decision on Video Communications" of 16 April 2020,¹ I respectfully file the Registrar's Submission on the Video Communication Pilot Project at the United Nations Detention Unit of 23 July 2019 ("Submission")² with a public redacted version of the confidential and *ex parte* annex containing the Commanding Officer's summary report on the video communication project at the United Nations Detention Unit.
2. The Registry remains available to provide any further information that may be required.

Respectfully submitted,



Olufemi Elias
Registrar

Done this 30th day of April 2020
At The Hague,
The Netherlands.

¹ *Prosecutor v. Radovan Karadžić*, Case No. MICT-13-55-ES ("Karadžić"), Decision on Request for Review of Registrar's Decision on Video Communications, Confidential, 16 April 2020. In his decision, the President instructed the Registrar to file a public redacted version of the 23 July 2019 Submission no later than 30 April 2020.

² *Karadžić*, Registrar's Submission on the Video Communication Pilot Project at the United Nations Detention Unit, public with confidential and *ex parte* annex, 23 July 2019.

PUBLIC REDACTED

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International Residual Mechanism
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**REGISTRAR'S SUBMISSION ON THE VIDEO COMMUNICATION
PILOT PROJECT AT THE UNITED NATIONS DETENTION UNIT**

Pro Bono Counsel for Mr. Radovan Karadžić:
Mr. Peter Robinson

1. Pursuant to Rule 31(B) of the Rules of Procedure and Evidence (“Rules”) of the International Residual Mechanism for Criminal Tribunals (“Mechanism”) and further to the President’s “Decision on Karadžić’s ‘Renewal of Appeal of Registrar’s Decision on Skype’” dated 4 February 2019,¹ my submission of a report on the status of the video communication (“VTC”) pilot project at the United Nations Detention Unit (“UNDU”) dated 14 February 2019,² and my further submission of 3 April 2019,³ I respectfully file a summary report prepared by the Commanding Officer of UNDU on the video communication pilot project at the UNDU.⁴
2. As detailed in a prior submission on this matter,⁵ the Registry commenced a pilot project into video communication for detainees at the UNDU in September 2017. The purpose of the pilot project is to determine how and whether video communication can be used by detainees in a safe and secure manner that does not pose a risk to the administration of justice, including the violation of any judicial orders, interfering with or intimidating witnesses, or endangering the safety of any person, or pose a risk to the safety and security of the UNDU or any persons in that building, in line with the Mechanism’s Rules of Detention.⁶ As the President has noted, “this tailor-made system is unique to the technical requirements and associated challenges of the UNDU” which means that “its implementation must be pursued with the utmost care, so that the security and good order of the UNDU are not compromised.”⁷
3. The annexed summary report of the Commanding Officer provides the results of the comprehensive testing phase of the pilot project (Phase 2) (“Report”), which has involved multiple technical and operational aspects. This testing aimed to check the resilience of the system such that all parties might have confidence in its ability to deliver

¹ *Prosecutor v. Radovan Karadžić*, Case No. MICT-13-55-A (“*Karadžić*”), Decision on Karadžić’s “Renewal of Appeal of Registrar’s Decision on Skype”, public, 4 February 2019 (“President’s Decision”).

² *Karadžić*, Registrar’s Submission of Report on Status of Video Communication Pilot Project at the United Nations Detention Unit, public, 14 February 2019 (“*Karadžić* Registrar’s Submission of 24 February 2019”).

³ *Karadžić*, Case No. MICT-13-55-ES, Registrar’s Submission on Karadžić’s “Motion for an Order Requiring Progress Reports on Skype”, public, 3 April 2019, para. 4 (wherein I confirmed that I would inform the President once there were meaningful results of the pilot project).

⁴ The report provided by the Commanding Officer to the Registrar comprised the summary report, annexed herein, as well as four annexes with the detailed results of testing, totally 22 pages. Given the sensitivity of the technical information contained therein, these annexes cannot be shared beyond the Registry.

⁵ *Karadžić*, Registrar’s Submission on “Renewal” of Karadžić’s Appeal on Video Communication, public, 28 November 2018.

⁶ Rules Governing the Detention of Persons Awaiting Trial or Appeal Before the Mechanism or Otherwise Detained on the Authority of the Mechanism, adopted on 5 November 2018, particularly Rule 71 and Rule 74 relating to the dissemination of information to the public.

⁷ President’s Decision, p. 2.

a reliable and secure service, which is both manageable for its operators and simultaneously user-friendly.⁸ As previously indicated, the Registry would decide to move the pilot project to the third phase, involving the testing of calls between detainees and approved family members if the test scenarios in Phase 2 resulted in a reliable, robust and secure system. As further indicated, my decision on video communications at the UNDU is contingent upon the recommendation of the Commanding Officer of the UNDU based on his assessment of the pilot program.⁹

4. As detailed in the Report, the results of the testing phase indicate that five technical issues with VTC calls remain. These issues relate principally to the technical inconsistency at the gatekeeper – the network management tool providing interoperability between different networks, controlling the interaction, overseeing authentication and authorization – or problems with call connections. ITSS considers that 80% of these issues could possibly be resolved by the ITSS while 20% of the issues depend on the internet service provider selected by the remote end user.
5. The Commanding Officer identified and analysed a high security risk of the present system, namely the fact that VTC calls of detainees could be easily recorded or live streamed to social media platforms on the internet, and the lack of mitigating measures to prevent such an occurrence. The Commanding Officer emphasized that such a risk was heightened since VTC calls cannot be live-monitored due to technical limitations and resource constraints at the UNDU. As recent experience shows, detainees have misused the communication facilities of the UNDU to participate in public events or television shows without prior authorization of the Commanding Officer, as required under Rule 74 of the Rules of Detention.¹⁰ Such type of activity with video visuals would present an even greater risk and harm to the Mechanism.
6. Based on this assessment, the Commanding Officer recommended that the pilot project should not proceed to Phase 3, and that a VTC system for Detainees at the UNDU should not be introduced. The Commanding Officer recommended that the Registry instead look into other options, such as e-mail, to enhance Detainees' communications at the UNDU.

⁸ *Karadžić*, Registrar's Submission of 24 February 2019, paras. 2-5.

⁹ *Ibid.*, para. 8.

¹⁰ See *Prosecutor v. Ratko Mladić*, Case No. MICT-13-56-A, Decision on Conditions of Detention: Listening and Monitoring of Telephone Calls, public, 16 November 2018; *Prosecutor v. Radovan Karadžić*, Case No. MICT-13-55-ES, Decision on Conditions of Detention: Listening and Monitoring of Telephone Calls, public, 6

7. The Commanding Officer's Report and his recommendations indicate that video communication cannot be used by detainees in a safe and secure manner that does not pose a risk to the administration of justice, including the violation of any judicial orders, interfering with or intimidating witnesses, or endangering the safety of any person, or pose a risk to the safety and security of the UNDU or any persons in that building, in line with the Mechanism's Rules of Detention. In view of this assessment, I have decided not to proceed with Phase 3 of the VTC pilot project at the UNDU and shall terminate the project.
8. However, the Registry shall continue to monitor the progress with respect to the implementation of the Dutch Custodial Institutions Agency's project to establish a nationwide secure platform for video communications by 2020.¹¹ Furthermore, I have instructed the Commanding Officer to explore other means of communication, such as e-mail, that may enhance the communications of detainees.
9. The Registry remains available to provide any further information that may be required.

Respectfully submitted,


Olufemi Elias
Registrar

Done this 23rd day of July 2019
At The Hague,
The Netherlands.

May 2019; *Prosecutor v. Radovan Karadžić*, Case No. MICT-13-55-ES, Further Decision on Conditions of Detention: Listening and Monitoring of Telephone Calls, public, 10 May 2019.

¹¹ *Karadžić*, Registrar's Submission in Relation to the Order of 12 June 2017, public with confidential Annex, 14 August 2017, p.2 of the confidential annex.



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ANNEX

UNITED NATIONS
International Residual Mechanism
for Criminal Tribunals



NATIONS UNIES
Mécanisme international appelé à exercer
les fonctions résiduelles des Tribunaux pénaux

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INTERNAL MEMORANDUM - MÉMORANDUM INTÉRIEUR

Date: 23 July 2019

Ref:

To: Olufemi Elias, Registrar

À:

Copy: [REDACTED], Chief, Registry, Hague branch

Copie: [REDACTED], Deputy Chief, Registry, Hague branch

[REDACTED], Deputy Commanding Officer, United Nations Detention Unit

[REDACTED]

From: [REDACTED], Commanding Officer, United Nations Detention Unit

De:

Subject: **Summary Report on the video communication pilot project at the United Nations Detention**

Objet: **Unit**

1. I would like to provide you with an update on the video communication pilot project at the United Nations Detention Unit (“UNDU”), which the management of the UNDU has been working on in conjunction with the Information Technology Support Services (“ITSS”).
2. I attach to this memorandum a Summary Report on the video communication pilot project. The Report provides an update on the results of the testing phase of the VTC equipment at the UNDU and the live testing of that equipment with remote end users and the issues that have arisen. In addition, the Report highlights security risks and concerns surrounding the provision of VTC access to Detainees, with particular regard to potential breaches of Rule 74 of IRMCT Rules of Detention and the Regulations on the Supervision of Visits to and Communications with Detainees, and makes recommendations on the way forward.
3. I look forward to receiving your views and guidance.

Summary Report on the video communication pilot project at the UNDU

Introduction

The purpose of this report is threefold:

1. To provide an update on the testing of the VTC equipment at the UNDU and the live testing of that equipment with remote end users and the issues that have arisen;
2. To highlight the security risks and concerns surrounding the provision of VTC access to Detainees, with particular regard to potential breaches of Rule 74 of IRMCT Rules of Detention and the Regulations on the Supervision of Visits to and Communications with Detainees; and
3. To provide recommendations on the way forward.

Background

1. In late 2017, following the President's Decision of 29 August 2017,¹ the Registry of the International Residual Mechanism for Criminal Tribunals ("Mechanism") commenced a pilot project to evaluate the possibility of providing detainees with a supplementary form of communication through implementing a video telecommunication ("VTC") platform at the United Nations Detention Unit ("UNDU") which would comply with the imperatives of security and good order in the UNDU.
2. The VTC pilot project is divided into the following three phases:
 - i. Phase 1: testing the connectivity between UNDU and the region;
 - ii. Phase 2 : designing, implementing and testing the recording of video conversations, and testing necessary safety and security measures; and
 - iii. Phase 3: testing the video communications with detainees and approved family members.
3. By the end of January 2018, Phase 1 of the pilot project was successfully completed and Phase 2 commenced. While Phase 2 was initially scheduled to be completed by the end of September 2018, a number of technical difficulties and staff resource challenges in both the Information Technology Support Services ("ITSS") and UNDU made it necessary to identify and design possible workable solutions for implementation. The most recent meeting between the UNDU management and representatives of ITSS took place at the end of June 2019 to discuss the outstanding technical and operational difficulties. The ITSS proposed possible avenues that could be explored to resolve or minimise the issues and risks identified during testing. Although some issues remain, as detailed below, Phase 2 has now effectively been completed and there are sufficiently meaningful results from the testing phase to take stock and report on the progress as well as to make some recommendations.

¹ *Prosecutor v. Radovan Karadžić*, Case No. MICT-13-55-A ("*Karadzic*"), Decision on Request for Review of Registrar's Decision, public, 29 August 2017. This decision followed an appeal filed by Mr. Karadzic against the Registrar's Decision of 8 May 2017 on 12 May 2017. See *Karadžić*, Appeal of Registrar's Decision on Skype, public, 12 May 2017. Following the President's decision, the Registrar took the decision to conduct a pilot study on video communication for all detainees at the UNDU.

VTC testing

Over several months, the UNDU has been engaged in a series of tests of the VTC system which was provided and installed by ITSS. Although it is not an integrated system (due to cost factors) what has been provided is capable of making VTC calls. The details of the testing methodology and regime are set out in **Annex A**. The UNDU conducted numerous tests with varying conditions to assess the resilience of the VTC system. Tests were conducted in conjunction with various UNDU staff members acting as remote end users using only their mobile phones. In practice, the “remote end users” would be the Detainees’ family members.

As part of the testing process the remote end users were asked to download the free [REDACTED] Application (“App”) to their mobile phones. ITSS provided a step by step manual on setting up the App (**Annex B**). The same App for desktop and laptop computers incurs a fee and, in consideration of the aim to make this facility cost neutral to Detainees’ family members, it was decided for testing purposes to only make use of the free mobile phone App.

While the technical settings were kept constant at the UNDU end of the VTC setup, in order to test the system thoroughly and realistically, the conditions were varied at the remote end. The following variables were tested at the remote end:

1. Type of data connection (mobile network (3G, 4G) or broadband (WiFi));
2. Type of handheld devices (various models of Apple iPhone, Android Huawei, HTC, Samsung) and various versions of both Apple and Android operating systems;
3. Geographical location of the remote end user (Netherlands, Denmark, Serbia and Ireland);
4. Various conference calls, endpoint users. Two conference calls were created as per the instructions and guidelines provided by ITSS. One endpoint user for each test user was created, as would be envisaged for each future potential remote end user; and
5. Time of the day. Calls were made at different times during the day.

At the conclusion of the testing, the following five key operational issues had become apparent which indicates that the system has reliability issues (**Annex C**):

1. On a number of occasions, a fully functioning conference call made on one day would not work the next day without any apparent reason. The assessment of the cause of this issue was determined to be due to the technical inconsistency at the gatekeeper (the device which is a network management tool to provide interoperability between different networks, controls the interaction, oversees authentication and authorization). The gatekeeper allows the UNDU end user to conduct the call with the remote end user.
2. On several occasions, all remote end users attempting to access the gatekeeper through the [REDACTED] App from their phone would be rejected by the gatekeeper – the ring tone would appear to cut out without any connection being accepted by the gatekeeper. Again, the assessment of the cause of this issue was determined to be due to the technical inconsistency at the gatekeeper.
3. The remote end users did not always receive the incoming call from the gatekeeper to join the call. The system is supposed to send a call to the remote end user when a call is initiated

from the UNDU end of the VTC. However, most of the time the remote end user would not receive the incoming call from the gatekeeper. The assessment of the cause of this issue was determined to be due to the technical inconsistency in the call connection.

4. On some occasions, the remote end users could only join the call when they altered the [REDACTED] App's server settings against the advice given to them in the manual. A call successfully connected using a broadband network connection on one occasion would fail to connect on another occasion without any settings being changed on the device. The assessment of the cause of this issue was also determined to be due to the technical inconsistency in the call connection.
5. The audio/video quality lost synchronisation with each other after a period of time into a call. The same would be experienced by both users. This phenomenon does occur with other VoIP (Voice Over Internet Protocol) services such as Skype and Whatsapp. However, with [REDACTED] it was more pronounced and the synchronisation gap would increase the longer the call continued. It has not as yet been determined how and why this occurred.

Analysis of issues 1-4

Following the identification of these five issues, a meeting was held on 28 June 2019 with ITSS and UNDU management to see if a solution could be found. The assessment of ITSS was that at least 80% of the issues at 1-4 above are being experienced due to a DOS (Denial of Service) at the gatekeeper of the VTC system, and can be resolved by restarting the gatekeeper when this happens. However, this will require someone at the ITSS or UNDU end to force a restart of the gatekeeper. ITSS expressed their willingness to give limited control to the UNDU for this purpose. It was suggested to make it a standard practice to restart the gatekeeper before any planned VTC session in order to reduce the likelihood of any of these four issues happening during a call. Notably, a restart would need to be coordinated with all other VTCs taking place in the IRMCT as the restart would cause any ongoing VTC connections to be broken. ITSS and UNDU would need to do further comprehensive testing of this aspect to see the four issues could be resolved.

ITSS assessed that the other 20% of the 1- 4 issues that the UNDU faced during the testing was being caused by some ISPs (Internet Service Providers) interpreting network addresses differently and thus not being accepted by the gatekeeper of the VTC system. It was suggested that with time and experience, the UNDU could find out which ISPs are compatible with the gatekeeper, and that the remote party should be advised to avoid those which are incompatible in future by use of a different one. The ISP can be both broadband (WiFi) or mobile internet (3G, 4G etc). However, the UNDU management views this residual risk of 20% as sizable and beyond the control of the UNDU, and ultimately rests with the remote end user.

Analysis of issue 5 - Audio/Video quality

ITSS indicated that the synchronization aspect was an issue with many platforms. ITSS believed the VTC quality could be improved further and raised the possibility of supplying additional audio equipment which may help to alleviate some of the issues. However this proposal is yet to be addressed as it would be labour intensive and it remains uncertain if it will provide the required results.

Identification of security risks

For reasons of security, and pursuant to Rule 71 of the Mechanism's Rules of Detention and Regulation 11 of the Regulations on the Supervision of Visits to and Communications with Detainees, all VTC calls must be recorded and monitored by the UNDU along similar lines to how Detainees' telephone calls are presently managed. In line with the current regime for monitoring telephone calls, it would not be envisaged that all VTC calls would be live monitored. As the calls are conducted in Bosnian/Croatian/Serbian ("BCS"), and cannot be done remotely, live monitoring would entail a BCS translator being physically beside the Detainee making the call. This would be resource intensive for the UNDU. Although recorded calls are only monitored after the call has taken place, such recordings allow the content of calls to be reviewed for information that may constitute a breach by a Detainee. Similar to telephone monitoring, up to 10% of calls could be monitored.² However, given the specific visual characteristics of a video call, any breach risks a potentially high impact in the media and on the public, which in turn could have significant consequences for the Mechanism. For example, although it occurred during a public court hearing, the recording and live broadcast of the fatal incident involving Mr Praljak at the ICTY in November 2017, which was broadcast on major news channels and went viral on social media, demonstrates the impact that video recordings can have when they are in the public domain.

In the course of research conducted by ITSS and UNDU it has become evident that even though the UNDU system of using the [REDACTED] App is encrypted at both ends, which affords some degree of intrusion protection, it still remains extremely vulnerable to either being recorded or live streamed by the remote user end. As detailed in **Annex D**, there are various "recording apps" readily available online which could both record and live stream a VTC call. In essence, this means that calls could be recorded by someone at the remote user end and UNDU management at the VTC end would not know that a recording was taking place or had taken place. Every Detainee (and/or family member) who was so minded could have all their VTCs live streamed and/or recorded and then retained for future release. The UNDU could potentially only discover this via the 10% random monitoring in place if the content of the VTC call was out of the ordinary, e.g. a speech. A VTC could also be live streamed to websites like YouTube, Twitter or Facebook and the UNDU would not be aware of this until after the call was underway. According to ITSS there is no way of preventing a remote end user from performing these actions with the right software. In order to validate this point, tests were carried out at the UNDU, which confirmed that it is both easy to do and that the audio/video quality of the live streamed VTC is very good.

Further, there have been two significant incidents which have occurred in recent times involving breaches of the applicable rules for the use of the communication facilities in the UNDU. Both of these incidents were found to be offences which led to disciplinary sanctions; and in one case, restrictions and conditions on the detainee's use of the communication facilities at the UNDU, which are still in place.³ While both these offences have been related to phone calls on the non-privileged line in the UNDU that were likely to result in the public dissemination of information without prior approval by the Commanding Officer,⁴ it is clear that the reactions to these two phone calls, both in the media and by victim organizations in the region, were strong. Any potential breach in connection with a VTC call, where there would be (live) footage of the detainee from the UNDU is likely to have an even larger impact both

² Regulation 11(A) of the Regulations on the Supervision of Visits to and Communications with Detainees, MICT/23, 5 December 2018.

³ Currently a possible third breach of the communication facilities in the UNDU is being investigated.

⁴ It should be noted that the circumstances of the two breaches were different from each other.

within the UNDU as well as in the region. In short, the opportunity for abuse of the VTC system by the Detainees and others would constitute an exceptional risk for the Mechanism.

Conclusions

The following conclusions may be drawn from the operational testing and analysis of risks:

1. 80% of the four key issues identified as Denial of Service (DOS) are capable of being resolved via ITSS/UNDU intervention ahead of a VTC session. However, further planned testing would be required to fully verify this.
2. The other 20% of these four issues have been assessed by ITSS to be related to the type of Internet Service Provider (ISP) used by the remote end user. It is the considered view of UNDU management that requiring Detainees' family members to use the most reliable or even compatible ISPs could be viewed by them as intrusive as well as being time consuming and resource intensive for the UNDU and outside its remit. Moreover, it would still not guarantee to make the connection of VTC calls entirely consistent and stable.
3. More testing would be required on the synchronization of the audio/video aspects of the VTC to see if its stability and resilience could be improved.
4. The easy availability of online software capable of recording and/or live streaming VTC calls at the remote user end, in light of the recent breaches of Rule 74 of the Rules of Detention by some Detainees, coupled with the possibly increased likelihood of Detainees intentionally attempting to breach the regulatory framework due to judicial avenues being closed as trials and appeals conclude, presents a demonstrated security risk. In addition, there are practically no effective measures that could be put in place to eliminate or mitigate the high risk of abuse of the VTC system in the UNDU.

Recommendations

1. While most of the identified technical and operational matters might be resolved with continued improvements and testing of the system, the key issue remains the security risk presented by VTC and its potential abuse by Detainees and the end users and the significant consequences thereof for the UNDU and the Mechanism. As Commanding Officer of the UNDU I have given my fullest consideration to this matter. Despite the considerable effort and time that has been expended on this pilot project, the results of testing and the assessment of security risks indicate that VTC calls cannot be used by Detainees in a manner that does not compromise the security and good order of the UNDU in line with the Mechanism's Rules of Detention. I believe that the security risk is too high for the UNDU and the Mechanism to tolerate and regrettably recommend that we do not proceed to Phase 3 of the pilot project. I further recommend against the introduction of a VTC system for Detainees at the UNDU. Instead, I recommend that other supplementary measures of communication be explored, such as email, which could be better contained and may present fewer security risks.
2. If, in spite of the risk highlighted, a decision is taken to implement the VTC system, then further comprehensive testing and refinements should be taken forward by the UNDU in conjunction with ITSS to determine if a resilient system can be achieved.
3. Finally, we have continued discussion with the Dutch Custodial Institutions Agency ("DJI") on the issue of a nation-wide platform for video communication in Dutch prisons. I note that

the most recent indication of the DJI is that such a platform may be introduced in 2020. If this takes place, the UNDU will make a renewed assessment of this option for Detainees.



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Case Name/ Affaire :	Prosecutor v. Radovan Karadzic	Case Number/ Affaire n° :	MICT-13-55-ES
Date Created/ Daté du :	30 April 2020	Date transmitted/ Transmis le :	30 April 2020
		No. of Pages/ Nombre de pages :	14
Original Language / Langue de l'original :	<input checked="" type="checkbox"/> English/ <i>Anglais</i>	<input type="checkbox"/> French/ <i>Français</i>	<input type="checkbox"/> Kinyarwanda <input type="checkbox"/> B/C/S
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