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# JUDGEMENT SUMMARY

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TRIAL CHAMBER

The Hague, 18 July 2013

## Summary of Judgement in the Contempt Case of Radislav Krstić

*Please find below the summary of the Judgement read out today by Judge Melville Baird.*

Today, Thursday 18 July 2013, this Trial Chamber consisting of Judges Melville Baird, O-Gon Kwon, Howard Morrison, and Flavia Lattanzi, sitting as a reserve judge, will pronounce its Judgement on allegations of contempt against the Accused, Radislav Krstić, pursuant to Rule 77 (A)(i) of the Rules of Procedure and Evidence of the Tribunal. This is only a summary, which does not form part of the Judgement delivered by the Trial Chamber. The authoritative account of the Trial Chamber's findings is contained in the written Judgement, copies of which will be made available after the hearing. The Accused will be given a confidential version of the Judgement and a public redacted version will also be made available to the public.

On 27 March 2013, the Chamber issued an Order in Lieu of Indictment, in which it charged the Accused with contempt of the Tribunal, punishable under Rule 77 of the Rules, for knowingly and wilfully interfering with the administration of justice by refusing to testify in the Karadžić case on several occasions as ordered in a subpoena dated 23 October 2012 and an addendum to this subpoena dated 7 November 2012, or to show good cause why he could not so comply.

On 4 April 2013, the Accused pleaded not guilty to the charge of contempt. The trial was held on 28 May 2013. At trial, the Defence called one expert witness and the Chamber admitted 6 Defence exhibits into evidence.

Rule 77 (A) of the Rules provides the Chamber with inherent power to hold in contempt those who knowingly and wilfully interfere with its administration of justice, including any person who, being a witness before the Chamber, contumaciously refuses or fails to answer a question. This includes individuals who have been subpoenaed by a chamber of the Tribunal, who appear before it, and then refuse to testify.

Turning now to the elements of contempt, the Chamber noted that the Accused was subpoenaed in the Karadžić case and that it is not disputed that he has persistently refused to testify before the Karadžić Chamber. The Accused has consistently contended however that he was refusing to testify because he was suffering from Post Traumatic Stress Syndrome—to which I will refer hereinafter as “PTSD”—and if he were to testify there would be a high likelihood that his health would be jeopardised and it could deteriorate to such an extent that it would be difficult to treat. The Chamber therefore considered whether the Accused's refusal to testify was “without reasonable excuse”.

From the medical testimony and various reports before it, the Chamber was satisfied that the Accused is suffering from PTSD. The Chamber also considered that the evidence of the Expert Witness called by the Defence, Ms. Ana Najman, supported in material particulars other evidence of a medical nature before the Chamber. The Chamber further considered that the testimony of the Expert Witness demonstrates that since the Accused

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has received the Subpoena requiring him to testify in the Karadžić case, his mental state has deteriorated. The Chamber is of the opinion therefore, by majority, Judge Kwon dissenting, that the additional evidence, set against the backdrop of the other evidence, reveals the existence of a reasonable excuse. Thus, on a consideration of the entirety of the evidence before it the Chamber is of the opinion, by majority, Judge Kwon dissenting, that the severity of the medical condition of the Accused and the possible aggravation of that medical condition testifying before the Karadžić Chamber might occasion, would amount to a reasonable excuse for the refusal of the Accused to so testify. Put in the converse, having regard to the evidence in its plenitude, the Chamber by majority, Judge Kwon dissenting, cannot be satisfied beyond reasonable doubt that the above mentioned factors do not amount to a reasonable excuse for the refusal by the Accused to testify before the Karadžić Chamber.

In light of the above finding, the Chamber will not address the remaining legal requirement under Rule 77(A)(i) of the Rules.

Mr. Krstić, would you please stand?

Having considered all the evidence, the Chamber, by majority, Judge Kwon dissenting, finds that the Accused, Radislav Krstić, is NOT GUILTY of contempt of the Tribunal pursuant to Rule 77(A)(i) of the Rules.

Judge Kwon appends a dissenting opinion to this Judgement.

The Chamber stands adjourned.

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