

BOSNIA AND HERZEGOVINA



Prosecutor's Office of Bosnia and Herzegovina

Number: A-RZ 76/14
Sarajevo, 7 September 2018

URGENT!

Mechanism for International Criminal Tribunals
Churchillplein 1
Attn. President of the Mechanism for International Criminal Tribunals
Judge Theodor Meron
2517 JW, The Hague,
Kingdom of the Netherlands

SUBJECT: Request for additional extension of time to keep the model of the Omarska camp with the Registry of the Court of Bosnia and Herzegovina, so that it could be used in criminal proceedings in war crimes cases

Dear Sir,

We hereby address you in regard to the implementation of the Decision of the Appeals Chamber of the International Criminal Tribunal for the former Yugoslavia (ICTY), number: IT-98-30/1-R.1 in the case of *Prosecutor v. Mlado Radić*, of 13 October 2014, which was rendered on the basis of the Request by the Prosecutor's Office of Bosnia and Herzegovina in the *11bis* case of *Prosecutor v. Željko Mejačić and others*. Pursuant to this Decision, the model of the Omarska camp, as well as photos and video recordings of the model, had been transferred to the Court of Bosnia and Herzegovina in order to be used at the main trial in the *Mejačić and others* case. As we know, the case of *Mejačić and others* was completed by a final Verdict of the Appeals Panel of the Court of Bosnia and Herzegovina of 16 February 2009.

In the aforementioned Decision, instructions were given to the Prosecutor's Office of Bosnia and Herzegovina to address the ICTY Prosecutor with a request for the model in question to remain with the Registry of the Court of Bosnia and Herzegovina, so that it could be used in other concrete criminal cases currently pending before the Court of Bosnia and Herzegovina.

On 19 September 2014, the Prosecutor's Office of Bosnia and Herzegovina submitted a Request to keep the model of the Omarska camp with the Registry of the Court of Bosnia and

Herzegovina, so that it could be used in the criminal proceedings in war crimes cases, dated 28 August 2014.

On 8 June 2016 the Prosecutor's Office of Bosnia and Herzegovina again submitted a Request to keep the model of the Omarska camp with the Registry of the Court of Bosnia and Herzegovina, so that it could be used in the criminal proceedings in war crimes cases, as addition to the one dated 28 August 2014.

Having been seised of the aforementioned Request of the Prosecutor's Office of Bosnia and Herzegovina dated 8 June August 2016, the Mechanism for International Criminal Tribunals issued its Decision number: MICT-14-81 of 22 June 2016, whereby the request of the Prosecutor's Office of Bosnia and Herzegovina was partially granted.

It was ordered therein that the model remain under temporary custody of the Registry of the Court of Bosnia and Herzegovina and that it be returned to the Registry of the Mechanism within eighteen (18) months from the day of rendering the Decision, or immediately after the completion of the trial and appellate proceedings in Omarska cases, should that occur prior to the expiration of the eighteen-month period.

The aforementioned Decision also orders the Prosecutor's Office of Bosnia and Herzegovina to address the President of the Mechanism directly with a request for an extension of the given time period, should such need arise for the model to remain longer under temporary custody of the Registry of the State Court of Bosnia and Herzegovina.

In view of the Decisions of the Mechanism of 13 October 2014 and 22 June 2016 and the fact that the circumstances due to which the Request of 28 August 2014 was submitted remain unchanged, for the purpose of finalizing criminal cases which are in the investigation phase or reported criminal cases, the Prosecutor's Office of Bosnia and Herzegovina hereby submits the Request for the additional extension of the time period in which the model of the Omarska camp could be kept with the Registry of the Court of Bosnia and Herzegovina, so that it could be used in criminal proceedings in war crimes cases.

In regard to the Decision, we would like to inform you that, currently, there are no main trials ongoing before the Court of Bosnia and Herzegovina which would require the model of the Omarska camp to be used.

However, the Prosecutor's Office of Bosnia and Herzegovina is presently conducting criminal proceedings in the following cases: T20 0 KTRZ 0000473 05, T20 0 KTRZ 0004542 05, T20 0 KTRZ 0004545 07 and T20 0 KTRZ 0004546 05, in which crimes have been reported or

which have reached the investigation phase; these cases, inter alia, include crimes committed at the Omarska camp in Prijedor.

In these cases, among other allegations, the suspected and reported persons are charged, as member of the Army of Republika Srpska, Commander of the 43rd Motorized Brigade, Commander of the 4th Tactical Group of the Army of Republika Srpska, member of the SDS Crisis Staff, member of the National Defense Council, Commander of the 'Žarko Zgonjanin' JNA Barracks, member of the Crisis Staff in Prijedor, respectively, with participating in an attack against non-Serb civilians of Prijedor Municipality, from April to end of May of 1992, and with carrying out an attack on the city and surrounding villages in order to secure the takeover of the city. After the takeover of the city, the surrounding Bosniak villages were shelled and subsequently infantry entered those villages and started killing the population, setting houses on fire, separating men from women and children, unlawfully taking men to the camps of Omarska, Keraterm and the 'Žarko Zgonjanin' Barracks, and taking women to the Trnopolje camp, where the killing and physical and mental mistreatment of a large number of victims continued. These suspected and reported persons are charged with individual and command responsibility and participation in the commission of the criminal offense of Crimes against Humanity, as referred to in Article 172 of the Criminal Code of Bosnia and Herzegovina.

The Prosecutor's Office of Bosnia and Herzegovina is undertaking necessary investigative activities in order to examine the circumstances surrounding the commission of these criminal offenses, examine witnesses, gather material documentation and establish facts required to prove the acts of commission and criminal responsibility of the suspected and reported persons. We hereby note that those are very complex and extensive cases involving criminal offenses of grave consequences and requiring analysis of the roles and capacities of a large number of reported and suspected persons, witnesses and extensive documentation. The Prosecutor's Office of Bosnia and Herzegovina is obligated to give priority to the prosecution of these cases, in accordance with the National War Crimes Strategy.

We believe that the model of the Omarska camp represents valuable material evidence which could assist in proving indirect circumstances under which acts in the Omarska camp were committed.

If these cases result in indictments and main trials, then the Prosecutor's Office of Bosnia and Herzegovina intends to propose the model of the Omarska camp as material evidence to be adduced before the Court of Bosnia and Herzegovina.

Giving consideration to the above-mentioned reasons, we believe that it would be justified to extend the time period in which the model of the Omarska camp could be kept with the Registry of

the Court of Bosnia and Herzegovina, so as to allow it to be kept until the completion of the criminal proceedings in the above-specified cases.

As the date for the return of the model of the Omarska camp has passed on 30 June 2018, we kindly ask for additional extension of time to keep the model of the Omarska camp.

In that sense, and on the basis of the Decision of the ICTY Appeals Chamber number: IT-98-30/1-R.1 of 10 November 2006, via the ICTY Office of the Prosecutor, and the Decision of the Mechanism for International Criminal Tribunals number: MICT-14-81 of 22 June 2016, we hereby submit our Request to have the time period in which the model of the Omarska camp could be kept with the Registry of the Court of Bosnia and Herzegovina extended until the completion of the criminal proceedings in the cases of the Prosecutor's Office of Bosnia and Herzegovina number: T20 0 KTRZ 0000473 05, T20 0 KTRZ 0004542 05, T20 0 KTRZ 0004545 07 and T20 0 KTRZ 0004546 05, respectively.

Please accept the assurances of our highest consideration and appreciation for the cooperation and support you have been extending to the Prosecutor's Office of Bosnia and Herzegovina.

PROSECUTOR'S OFFICE OF BIH
Deputy Head of the Special Department for War Crimes

Izet Odobašić

BOSNA I HERCEGOVINA



БОСНА И ХЕРЦЕГОВИНА

Tužilaštvo - Tužiteljstvo Bosne i Hercegovine
Тужилаштво Босне и Херцеговине

Broj: A-RZ 76/14

ИТНО!

Datum: 07.09.2018.godine

Mehanizam za međunarodne krivične sudove
Churchillplein 1
N/R Predsjednika Mehanizma za međunarodne krivične sudove
Sudija Theodor Meron
2517 JW, The Hague,
Kraljevina Nizozemaska

PREDMET: Molba za dodatno produženje vremenskog roka za zadržavanje makete logora Omarska u Uredu registrara Suda BiH, radi korištenja u krivičnim postupcima u predmetima ratnih zločina

Poštovani,

Obraćamo Vam se u vezi provođenja Odluke Žalbenog vijeća Međunarodnog krivičnog suda za bivšu Jugoslaviju (MKSJ), broj: IT-98-30/1-R.1 u predmetu *Tužilac protiv Mlade Radića*, od 13.10.2014.godine, koja je donesena na osnovu zahtjeva Tužilaštva Bosne i Hercegovine (BiH) u predmetu *11bis Tužilac protiv Željka Mejakića i dr.* U skladu sa Odlukom, maketa logora Omarska, kao i fotografije i video snimke makete proslijeđene su Sudu BiH radi korištenja na glavnom pretresu u predmetu *Mejakić i dr.* Kao što je poznato, predmet *Mejakić i dr.* je odlukom Apelacionog vijeća od 16.02.2009.godine pravosnažno okončan pred Sudom BiH.

U predmetnoj Odluci, data je uputa Tužilaštvu BiH, da, posredstvom tužioca Međunarodnog suda, zatraži da maketa ostane u Uredu registrara Suda BiH radi korištenja u drugim konkretnim krivičnim predmetima koji se trenutno održavaju pred Sudom BiH.

Tužilaštvo/Tužiteljstvo Bosne i Hercegovine je dana 19.09.2014. godine podnijelo "Molbu da se maketa logora Omarska zadrži u Uredu registrara Suda BiH, radi korištenja u krivičnim postupcima u predmetima ratnih zločina od 28.08.2014. godine".

Tužilaštvo/Tužiteljstvo Bosne i Hercegovine je također dana 08.06.2016. godine podnijelo "Molbu da se maketa logora Omarska zadrži u Uredu registrara Suda BiH, radi korištenja u krivičnim postupcima u predmetima ratnih zločina od 28.08.2014. godine".

Rješavajući po navedenoj Molbi Tužilaštva/Tužiteljstva od 08.06.2016. godine pred Mehanizmom za međunarodne krivične sudove donesena je Odluka broj: MICT-14-81 od 22.06.2016. godine, kojom se djelomično odobrava molba Tužilaštva/Tužiteljstva BiH.

Naloženo je da maketa ostane pod privremenim nadzorom Sekretarijata Suda BiH, da bude vraćena Sekretarijatu Mehanizma u roku od 18 mjeseci od donošenja odluke ili neposredno nakon zaključenja suđenja i žalbenih postupaka u predmetima Omarske ukoliko do toga dođe prije isteka roka od 18. mjeseci.

Navedenom odlukom također je naloženo da Tužilaštvo BiH, ukoliko se ukaže potreba da maketa ostane pod privremenim nadzorom Sekretarijata Državnog Suda BiH, podnese zahtjev za produženje ovog vremenskog roka neposredno predsjedniku Mehanizma.

Imajući u vidu Odluku Mehanizma od 13.10.2014. godine kao i Odluke od 22.06.2016.godine te da se okolnosti zbog kojih je Molba od 28.08.2014. godine podnesena, nisu promijenile, u smislu okončanja krivičnih postupaka koji su u fazi istrage/prijave, Tužilaštvo/Tužiteljstvo podnosi "Molbu za dodatno produženje vremenskog roka za zadržavanje makete logora Omarska u Uredu registrara Suda BiH, radi korištenja u krivičnim postupcima u predmetima ratnih zločina"

Vezano za Odluku, želimo Vas obavijestiti da se trenutno ne vode glavni pretresi pred Sudom BiH u kojima je potrebno koristiti maketu logora Omarska.

Međutim, Tužilaštvo BiH trenutno provodi krivični postupak u fazi istrage i prijave u predmetima: T20 0 KTRZ 0000473 05, T20 0 KTRZ 0004542 05, T20 0 KTRZ 0004545 07, T20 0 KTRZ 0004546 05 koji između ostalog, obuhvataju i zločine počinjene u logoru Omarska u Prijedoru.

U ovim predmetima, osumnjičena i prijavljena lica se, između ostalih navoda, terete da su u svojstvu pripadnika Vojske Republike Srpske, komandanta 43. Motorizovane brigade, komandanta 4. Taktičke grupe VRS, člana Kriznog štaba SDS-a, člana Savjeta za narodnu odbranu, komandanta kasarne JNA Žarko Zgonjanin, člana Kriznog štaba Prijedor, učestvovali u napadu na nesrpsko civilno stanovništvo općine Prijedor u periodu od aprila do kraja 1992. godine, te izvršili napad na grad i okolna sela kako bi obezbijedili preuzimanje vlasti u gradu. Nakon zauzimanja grada, granatirana su okolna bošnjačka sela, a potom je pješadija ušla u sela, ubijala stanovništvo, palila kuće, razdvajala muškarce od žena i djece, muškarce protivzakonito odvodila u logore **Omarska**, Keraterm i kasarnu Žarko Zgonjanin, a žene u logor Trnopolje, gdje je nastavljeno ubijanje, psihičko i fizičko maltretiranje velikog broja žrtava. Osumnjičena i prijavljena lica terete se za individualnu i

komandnu odgovornost i učešća u počinjenju krivičnog djela Zločin protiv čovječnosti iz člana 172. Krivičnog zakona Bosne i Hercegovine.

Tužilaštvo Bosne i Hercegovine poduzima neophodne istražne radnje kako bi se ispitala okolnosti izvršenja ovih krivičnih djela, saslušavaju svjedoke, prikupljaju materijalnu dokumentaciju i utvrđuju činjenice neophodne za dokazivanje radnji izvršenja i krivičnopravne odgovornosti osumnjičenih i prijavljenih osoba. Napominjemo da se radi o veoma složenim i obimnim predmetima sa teškim posljedicama krivičnog djela, koji zahtijevaju obradu uloga i svojstava velikog broja prijavljenih i osumnjičenih lica, svjedoka i obimne dokumentacije koje je Tužilaštvo BiH obavezno procesuirati prioritetno u skladu sa Državnom strategijom za rad na predmetima ratnih zločina.

Mišljenja smo da maketa logora Omaraska predstavlja vrijedan materijalni dokaz koji bi mogao pomoći u dokazivanju posrednih okolnosti pod kojima su počinjene radnje u logoru Omaraska.

Ukoliko se u ovim predmetima podignu optužnice i otvore glavni pretresi, Tužilaštvo u tom smislu namjerava predložiti maketu logora Omaraska kao materijalni dokaz koji bi bio izveden pred Sudom BiH.

Razmatrajući naprijed iznesene razloge, mišljenja smo da bilo opravdano da se produži vremenski rok za zadržavanje makete logora Omaraska u Uredu registrara Suda BiH sve do okončanja krivičnih postupaka u naznačenim predmetima.

Pošto je vremenski rok za privremeno zadržavanje makete logora Omaraska istekao 30.06.2018. godine, ljubazno Vas molimo za dodatno produženje roka za zadržavanje makete logora Omaraska.

U tom smislu, a na osnovu Odluke Žalbenog vijeća MKSJ-a, broj: IT-98-30/1-R.1 od 10.11.2006.godine, putem Ureda tužioca MKSJ-a, i Odluke Mehanizma za međunarodne krivične sudove broj: MICT-14-81 od 22.06.2016. godine, podnosimo molbu za produženje vremenskog roka za zadržavanje makete logora Omaraska u Uredu registrara Suda BiH sve do okončanja krivičnih postupaka u predmetima Tužilaštva BiH, broj: T20 0 KTRZ 0000473 05, T20 0 KTRZ 0004542 05, T20 0 KTRZ 0004545 07 i T20 0 KTRZ 0004546 05.

Molimo da primite izraze našeg poštovanja i zahvalnosti za Vašu saradnju i podršku koju pružate Tužilaštvu BiH.

