

IT-95-5/18-R77.1  
D 12 - DG  
04 FEBRUARY 2011

12  
TR

UNITED  
NATIONS



International Tribunal for the  
Prosecution of Persons  
Responsible for Serious Violations  
of International Humanitarian Law  
Committed in the Territory of the  
former Yugoslavia since 1991

Case No.: IT-95-5/18-R77.1  
Date: 4 February 2011  
Original: English

**IN THE TRIAL CHAMBER**

**Before:** Judge O-Gon Kwon, Presiding Judge  
Judge Howard Morrison  
Judge Melville Baird  
Judge Flavia Lattanzi, Reserve Judge

**Registrar:** Mr. John Hocking

**Order of:** 4 February 2011

**IN THE CONTEMPT CASE OF BERKO ZEČEVIĆ**

*CONFIDENTIAL*

**WARRANT OF ARREST AND ORDER FOR SURRENDER**

**Office of the Prosecutor in Case IT-95-5/18-T**

Mr. Alan Tieger  
Ms. Hildegard Uertz-Retzlaff

**The Government of Bosnia and Herzegovina**

via the Embassy of Bosnia and Herzegovina to  
The Netherlands, The Hague

**The Accused in Case IT-95-5/18-T**

Mr. Radovan Karadžić

**Government of the Kingdom of the Netherlands**

Attn: The Ministry of Foreign Affairs

**Standby Counsel in Case IT-95-5/18-T**

Mr. Richard Harvey

**THIS TRIAL CHAMBER** of the International Criminal Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991 (“Tribunal”);

**NOTING** the Order in Lieu of Indictment on Contempt Concerning Berko Zečević issued by the Chamber on 4 February 2011;

**PURSUANT TO** Rules 54, 55, 56, 57, 58, 59, 59bis and 77 of the Tribunal’s Rules of Procedure and Evidence and Articles 19, 21 and 29 of its Statute,

**HEREBY ISSUES** an arrest warrant and **DIRECTS AND AUTHORISES** the competent authorities in Bosnia and Herzegovina to whom this warrant is transmitted to search for, arrest, detain, and surrender promptly to the Tribunal:

**BERKO ZEČEVIĆ**, born 13 December 1949 at Srebrenica, Bosnia and Herzegovina, residing at Vilsonovo šetalište 9, 71000 Sarajevo, Bosnia and Herzegovina, whose prosecution is being pursued for:

having been informed on 28 January 2011 of the contents of a subpoena *ad testificandum* dated 20 January 2011, and of his obligation to appear before the Trial Chamber, failing to appear before the Chamber as ordered, or to show good cause why he could not comply with the subpoena and therefore knowingly and wilfully interfering with the administration of justice by refusing to comply with the Chamber’s subpoena of 20 January 2011.

**REQUESTS** the competent authorities of Bosnia and Herzegovina to advise Berko Zečević, at the time of his arrest and in a language that he understands, of his rights set forth in Article 21 of the Statute and, *mutatis mutandis*, in Rules 42 and 43 of the Rules, which are annexed hereto in English and BCS, and of his right to remain silent, and to caution him that any statement he makes shall be recorded and may be used in evidence;

**REQUESTS** the Registrar of the Tribunal to negotiate with the relevant authorities of Bosnia and Herzegovina and the Kingdom of The Netherlands to arrange for the transfer of Berko Zečević to the seat of the Tribunal;

**REQUESTS** the competent authorities of Bosnia and Herzegovina to execute this warrant promptly pursuant to Rule 56 of the Rules, and promptly to notify the Registrar of the Tribunal

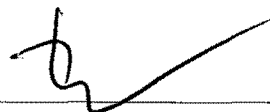
of the arrest of Berko Zečević pursuant to Rule 57 of the Rules, and to arrange with the Registrar of the Tribunal and the Kingdom of the Netherlands for his transfer to the seat of the Tribunal;

**REQUESTS** the competent authorities of Bosnia and Herzegovina to escort Berko Zečević to an airport in Bosnia and Herzegovina, to escort him on the aeroplane to an airport in the Kingdom of The Netherlands, and to hand him over to the authorities of the Kingdom of The Netherlands pursuant to further agreement with the Registrar of the Tribunal and the authorities of the Kingdom of The Netherlands;

**REQUESTS** the authorities of the Kingdom of The Netherlands to take Berko Zečević into custody at such airport and escort him to the seat of the Tribunal pursuant to further agreement with the Registrar of the Tribunal and the authorities in The Netherlands;

**REQUESTS** the authorities of Bosnia and Herzegovina immediately to report to the Registrar of the Tribunal if they are unable to execute this warrant of arrest and to indicate the reasons for such non execution, pursuant to Rule 59(A) of the Rules.

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



Judge O-Gon Kwon  
Presiding

Dated this fourth day of February 2011  
At The Hague  
The Netherlands

[Seal of the Tribunal]

ANNEX

**STATUTE OF THE TRIBUNAL**

**Article 21**

**Rights of the accused**

1. All persons shall be equal before the International Tribunal.
2. In the determination of charges against him, the accused shall be entitled to a fair and public hearing, subject to article 22 of the Statute.
3. The accused shall be presumed innocent until proved guilty according to the provisions of the present Statute.
4. In the determination of any charge against the accused pursuant to the present Statute, the accused shall be entitled to the following minimum guarantees, in full equality:
  - (a) to be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
  - (b) to have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;
  - (c) to be tried without undue delay;
  - (d) to be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
  - (e) to examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
  - (f) to have the free assistance of an interpreter if he cannot understand or speak the language used in the International Tribunal;
  - (g) not to be compelled to testify against himself or to confess guilt.

**RULES OF PROCEDURE AND EVIDENCE OF THE TRIBUNAL**

**Rule 42**

**Rights of Suspects during Investigation**

- (A) A suspect who is to be questioned by the Prosecutor shall have the following rights, of which the Prosecutor shall inform the suspect prior to questioning, in a language the suspect understands:
  - (i) the right to be assisted by counsel of the suspect's choice or to be assigned legal assistance without payment if the suspect does not have sufficient means to pay for it;
  - (ii) the right to have the free assistance of an interpreter if the suspect cannot understand or speak the language to be used for questioning; and
  - (iii) the right to remain silent, and to be cautioned that any statement the suspect makes shall be recorded and may be used in evidence.
  
- (B) Questioning of a suspect shall not proceed without the presence of counsel unless the suspect has voluntarily waived the right to counsel. In case of waiver, if the suspect subsequently expresses a desire to have counsel, questioning shall thereupon cease, and shall only resume when the suspect has obtained or has been assigned counsel.

**Rule 43**

**Recording Questioning of Suspects**

Whenever the Prosecutor questions a suspect, the questioning shall be audiorecorded or video-recorded, in accordance with the following procedure:

- (i) the suspect shall be informed in a language the suspect understands that the questioning is being audio-recorded or video-recorded;
- (ii) in the event of a break in the course of the questioning, the fact and the time of the break shall be recorded before audio-recording or videorecording ends and the time of resumption of the questioning shall also be recorded;
- (iii) at the conclusion of the questioning the suspect shall be offered the opportunity to clarify anything the suspect has said, and to add anything the suspect may wish, and the time of conclusion shall be recorded;
- (iv) a copy of the recorded tape will be supplied to the suspect or, if multiple recording apparatus was used, one of the original recorded tapes;
- (v) after a copy has been made, if necessary, of the recorded tape, the original recorded tape or one of the original tapes shall be sealed in the presence of the suspect under the signature of the Prosecutor and the suspect; and
- (vi) the tape shall be transcribed if the suspect becomes an accused.

**ANEKS**  
**STATUT**  
**MEĐUNARODNOG KRIVIČNOG SUDA ZA BIVŠU JUGOSLAVIJU**

**Član 21**  
**Prava optuženog**

1. Sve su osobe ravnopravne pred Međunarodnim sudom.
2. Prilikom rješavanja po optužbama protiv njega optuženi ima pravo na pravično i javno suđenje, uz ograde predviđene članom 22 Statuta.
3. Optuženi se smatra nevinim dok mu se ne dokaže krivica u skladu s odredbama ovog Statuta.
4. Prilikom rješavanja po svim optužbama na osnovu ovog Statuta, optuženom se, uz puno poštovanje načela ravnopravnosti, garantuju sljedeća minimalna prava:
  - (a) da bude pravovremeno i detaljno obaviješten, na jeziku koji razumije, o prirodi i razlozima optužbi protiv njega;
  - (b) da ima odgovarajuće vrijeme i uslove za pripremu obrane i komunikaciju s pravim zastupnikom po vlastitom izboru;
  - (c) da mu se sudi bez nepotrebnog odgađanja;
  - (d) da mu se sudi u njegovom prisustvu i da se brani lično ili putem pravnog zastupnika po vlastitom izboru; da se, ako nema pravnog zastupnika, obavijesti o tom pravu; te da mu se, kad god to zahtijevaju interesi pravde, dodijeli pravni zastupnik, a da pritom ne snosi troškove odbrane ako za to nema dovoljno sredstava;
  - (e) da ispita ili da se u njegovo ime ispituju svjedoci koji ga terete, kao i da se svjedoci odbrane dovedu i ispituju pod istim uslovima kao i svjedoci koji ga terete;
  - (f) da ima besplatnu pomoć prevodioca ako ne razumije ili ne govori jezik koji se koristi na Međunarodnom sudu;
  - (g) da ne bude primoran svjedočiti protiv sebe ni priznati krivicu.

**PRAVILNIK O POSTUPKU I DOKAZIMA  
MEĐUNARODNOG KRIVIČNOG SUDA ZA BIVŠU JUGOSLAVIJU**

**Pravilo 42**

**Prava osumnjičenog za vrijeme istrage**

- (A) Osumnjičeni kojeg tužilac bude ispitivao ima sljedeća prava, o kojima tužilac mora da ga obavijesti prije ispitivanja na jeziku koji osumnjičeni govori i razumije:
- (i) pravo na branioca po vlastitom izboru ili na besplatnu pravnu pomoć koja će mu biti dodijeljena ako nema materijalnih sredstava da je sam plati;
  - (ii) pravo na besplatnu pomoć prevodioca ako ne razumije niti govori jezik na kojem se vrši ispitivanje;
  - (iii) pravo da ne daje nikakve izjave i pravo da bude upozoren da će svaka izjava koju bude dao biti zabilježena i da može biti korištena kao dokaz.
- (B) Ispitivanje osumnjičenog ne vodi se bez prisustva branioca, osim ako se osumnjičeni nije dobrovoljno odrekao svog prava na branioca. Ako se osumnjičeni odrekao tog prava, a kasnije ipak izrazi želju da ima branioca, ispitivanje se odmah prekida i nastavlja se tek kada osumnjičeni angažuje branioca ili mu se on dodijeli.

**Pravilo 43**

**Snimanje ispitivanja osumnjičenog**

Kad god tužilac ispituje osumnjičenog, to se ispitivanje snima na audio ili video traku, u skladu sa sljedećom procedurom:

- (i) osumnjičeni će na jeziku koji govori i razumije biti obaviješten da se ispitivanje snima na audio ili video traku;
- (ii) u slučaju prekida u ispitivanju, ta činjenica, kao i vrijeme kad je do prekida došlo, zabilježit će se prije prekida snimanja na audio ili video traku, a zabilježit će se i vrijeme kada je ispitivanje nastavljeno;
- (iii) po završetku ispitivanja, osumnjičenom će se dati prilika da razjasni sve što je rekao i da doda šta god želi da doda i zabilježiće se vrijeme kad je ispitivanje završeno;
- (iv) kopija snimljene trake ili, ako je korišteno više uređaja za snimanje, jedna od originalnih snimljenih traka dostavit će se osumnjičenom;
- (v) nakon što je, ako je to potrebno, napravljena jedna kopija trake, originalna snimljena traka ili jedna od originalnih traka biće zapečaćena u prisustvu osumnjičenog, uz potpis tužioca i osumnjičenog; i
- (vi) ako osumnjičeni postane optuženi, izradiće se transkript trake.