

**UNITED
NATIONS**



Mechanism for International Criminal Tribunals

Case No.: MICT-13-55-A

Date: 21 March 2017

Original: English

IN THE APPEALS CHAMBER

Before: Judge Theodor Meron, Pre-Appeal Judge

Registrar: Mr. Olufemi Elias

Decision of: 21 March 2017

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

**DECISION ON A MOTION
FOR EXTENSION OF TIME AND WORD LIMIT
FOR REPLY BRIEF**

The Office of the Prosecutor:

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

Counsel for Mr. Radovan Karadžić:

Mr. Peter Robinson
Ms. Kate Gibson

I, **THEODOR MERON**, Judge of the Appeals Chamber of the International Residual Mechanism for Criminal Tribunals (“Mechanism”) and Pre-Appeal Judge in this case;¹

NOTING the judgement issued in this case by the Trial Chamber of the International Criminal Tribunal for the former Yugoslavia (“ICTY”) on 24 March 2016;²

NOTING the notices of appeal filed by Mr. Radovan Karadžić (“Karadžić”) and the Prosecution on 22 July 2016;³

NOTING the “Decision on a Joint Motion for Extension of Time to File Appeal and Response Briefs” issued on 9 August 2016, in which the Appeals Chamber granted an extension of 60 days for filing the appeal briefs and an extension of 45 days for filing the response briefs beyond the time provided for in Rules 138 and 139 of the Rules of Procedure and Evidence of the Mechanism (“Rules”);⁴

NOTING the “Decision on a Motion for an Extension of a Word Limit” issued on 8 September 2016, in which the Appeals Chamber granted Karadžić’s request for an extension of the word limit for his appeal brief from 30,000 to 75,000 words and authorized the Prosecution to have an equivalent extension of the word limit for its response brief;⁵

NOTING the appeal briefs filed by Karadžić and the Prosecution on 5 December 2016;⁶

NOTING the “Decision on the Renewed Prosecution Motion for an Extension of Time to File the Response Briefs” issued on 9 January 2017, in which the Appeals Chamber granted a further limited extension of 15 days for filing the parties’ response briefs;⁷

NOTING the response briefs filed by Karadžić and the Prosecution on 15 March 2017;⁸

¹ Order Assigning a Pre-Appeal Judge, 21 April 2016; Order Assigning Judges to a Case Before the Appeals Chamber, 20 April 2016.

² *Prosecutor v. Radovan Karadžić*, Case No. IT-95-5/18-T, Public Redacted Version of Judgement Issued on 24 March 2016, 24 March 2016 (“Trial Judgement”).

³ Radovan Karadžić’s Notice of Appeal, 22 July 2016 (public with a confidential annex); Prosecution’s Notice of Appeal, 22 July 2016.

⁴ Decision on a Joint Motion for Extension of Time to File Appeal and Response Briefs, 9 August 2016, pp. 2, 3.

⁵ Decision on a Motion for an Extension of a Word Limit, 8 September 2016 (“Decision of 8 September 2016”), pp. 2, 3.

⁶ Radovan Karadžić’s Appeal Brief, 5 December 2016 (confidential); Prosecution Appeal Brief, 5 December 2016 (confidential). Karadžić filed a revised public redacted version of his appeal brief on 23 December 2016 and the Prosecution filed a public redacted version of its appeal brief on 11 January 2017.

⁷ Decision on the Renewed Prosecution Motion for an Extension of Time to File the Response Briefs, 9 January 2017, pp. 1, 2.

⁸ Radovan Karadžić’s Response Brief, 15 March 2017 (public redacted version); Prosecution Response Brief, 15 March 2017 (confidential) (“Prosecution Response Brief”).

BEING SEISED OF the “Motion for Extension of Time and Word Limit for Reply Brief”, filed by Karadžić on 17 March 2017 in which he requests a 14-day extension of the time within which he must file his reply brief and an extension of the word limit for his reply brief from 9,000 to 22,500 words;⁹

NOTING the Prosecution’s response to the Motion filed on 17 March 2017;¹⁰

NOTING Karadžić’s submission that good cause exists for granting the requested extensions in light of the unprecedented breadth and complexity of this case, the prodigious amount of evidence on the trial record, the length of the Trial Judgement, which is the longest ever issued by the ICTY or any other international criminal tribunal, the complex and wide-ranging legal issues raised on appeal, the complex factual issues related to Karadžić’s responsibility under four separate joint criminal enterprises, and the expanded length of the appeal and response briefs;¹¹

NOTING Karadžić’s submission that analogous extensions of time and word limit were granted by the ICTY in comparable cases¹² and that the requested extension reflects his estimates as to the length necessary to respond to the expanded response brief;¹³

NOTING that the Prosecution does not oppose the extensions requested, which it considers reasonable, and submits that any extension of time granted should apply to both parties to maintain a synchronized briefing schedule;¹⁴

CONSIDERING that, pursuant to Rule 140 of the Rules, an appellant’s brief in reply must be filed within 15 days of filing of the respondent’s brief;

RECALLING that, pursuant to Rule 154(A) of the Rules, the time limits prescribed in the Rules may be enlarged on good cause being shown;

CONSIDERING the expanded length of the Prosecution’s response brief;¹⁵

⁹ Motion for Extension of Time and Word Limit for Reply Brief, 17 March 2017 (“Motion”), paras. 1, 10.

¹⁰ Prosecution Response to Motion for Extension of Time and Word Limit for Reply Brief, 17 March 2017 (“Response”).

¹¹ Motion, paras. 3, 5, 6, 8.

¹² Motion, paras. 7-9. In particular, Karadžić submits that the parties in the *Prlić et al.* case were granted a 7-day extension for filing their reply briefs, the parties in the *Šainović et al.* case were granted a 14-day extension and the parties in the *Popović et al.* case a 13-day extension. See Motion, para. 7. He also submits that extensions on the word limit for reply briefs were granted in the *Šainović et al.* and *Popović et al.* cases. See Motion, para. 9.

¹³ Motion, paras. 6, 8.

¹⁴ Response, paras. 1, 2.

¹⁵ See Prosecution Response Brief, RP. 3054 (noting that the brief is 69,160 words long).

CONSIDERING the parties' right to adequate time for preparing their respective cases in full conformity with the applicable provisions;

CONSIDERING the need to ensure expeditious proceedings before the Mechanism;

CONSIDERING that it is in the interests of justice and effective case management to maintain a synchronised briefing schedule;¹⁶

FINDING that good cause exists for granting a limited extension of the time provided for in Rule 140 of the Rules in which the reply briefs must be filed;

FINDING that granting an extension of seven days for filing the reply briefs beyond the time provided for in Rule 140 of the Rules is justified in the circumstances of this case;

RECALLING that, pursuant to paragraph 8 of the Practice Direction on Lengths of Briefs and Motions, a brief in reply in an appeal from a trial judgement should not exceed 9,000 words where the appeal is not restricted to sentencing issues;¹⁷

RECALLING that, pursuant to paragraph 17 of the Practice Direction, a party must seek advance authorization to exceed the word limits set out in the Practice Direction, and must provide an explanation of the exceptional circumstances that necessitate the oversized filing;

CONSIDERING that the quality and effectiveness of briefs in appellate proceedings do not depend on their length, but on the clarity and cogency of the arguments presented and that, therefore, excessively long briefs do not necessarily facilitate the efficient administration of justice;¹⁸

CONSIDERING, however, that it is in the interests of justice to ensure that parties in proceedings before the Mechanism can prepare meaningful briefs in full conformity with the relevant provisions;¹⁹

FINDING that the expanded length of the Prosecution Response Brief justifies granting the requested extension of the word limit for Karadžić's reply brief;

PURSUANT TO Rules 55, 131, and 140 of the Rules;

¹⁶ Decision on a Motion for a Further Extension of Time to File a Notice of Appeal, 15 June 2016, p. 4; Decision on Motion for Extension of Time to File Notice of Appeal, 21 April 2016, p. 2.

¹⁷ Practice Direction on Lengths of Briefs and Motions, MICT/11, 6 August 2013 ("Practice Direction").

¹⁸ Decision of 8 September 2016, p. 2 and references cited therein.

¹⁹ Decision of 8 September 2016, p. 2; Decision on a Joint Motion for Extension of Time to File Appeal and Response Briefs, p. 2.

HEREBY

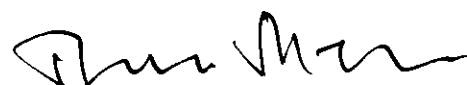
GRANT the Motion in part;

INSTRUCT the parties to file their reply briefs no later than Thursday, 6 April 2017; and

AUTHORIZE Karadžić to file a reply brief not exceeding 22,500 words.

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

Done this 21st day of March 2017,
At The Hague,
The Netherlands



Judge Theodor Meron
Pre-Appeal Judge

[Seal of the Mechanism]