

UNITED  
NATIONS

MICT-13-55-A  
A6412-A6410 6412  
27 FEBRUARY 2018 13



Mechanism for International Criminal Tribunals

Case No.: MICT-13-55-A

Date: 27 February 2018

Original: English

**IN THE APPEALS CHAMBER**

**Before:**

**Judge Theodor Meron, Presiding Judge  
Judge William H. Sekule  
Judge Vagn Joensen  
Judge José R. de Prada Solaesa  
Judge Graciela S. Gatti Santana**

**Registrar:**

**Mr. Olufemi Elias**

**Decision of:**

**27 February 2018**

**PROSECUTOR**

**v.**

**RADOVAN KARADŽIĆ**

***PUBLIC***

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**DECISION ON KARADŽIĆ'S REQUEST TO  
PARTICIPATE IN THE APPEAL HEARING**

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**The Office of the Prosecutor:**

Ms. Laurel Baig  
Ms. Barbara Goy  
Ms. Katrina Gustafson

**Counsel for Mr. Radovan Karadžić:**

Mr. Peter Robinson  
Ms. Kate Gibson

**THE APPEALS CHAMBER** of the International Residual Mechanism for Criminal Tribunals (“Appeals Chamber” and “Mechanism”, respectively);<sup>1</sup>

**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;<sup>2</sup>

**NOTING** the appeals against the Trial Judgement filed before the Mechanism by Mr. Radovan Karadžić (“Karadžić”) and the Office of the Prosecutor of the Mechanism (“Prosecution”);<sup>3</sup>

**BEING SEISED OF** the “Request for Radovan Karadžić’s Participation During the Appeal Hearing”, filed on 5 January 2018 (“Motion”), in which Karadžić requests that the Appeals Chamber allow him to participate in the appeal hearing alongside his Counsel and Co-Counsel by addressing grounds 28, 34, 36-39, and 45 of his appeal (“Appeal Grounds”);<sup>4</sup>

**NOTING** Karadžić’s arguments in support of the Motion that: (i) the Appeal Grounds are factual in nature and that he is the most knowledgeable about them;<sup>5</sup> and (ii) no additional time will be sought as a result of his participation in the appeal hearing;<sup>6</sup>

**NOTING** the response filed by the Prosecution, which does not oppose the Motion;<sup>7</sup>

**RECALLING** that Article 19(4)(d) of the Statute of the Mechanism provides for an alternative between the right to self-representation and the right to legal assistance, but does not entitle an accused or an appellant who is represented by counsel to self-representation;<sup>8</sup>

<sup>1</sup> Order Assigning Judges to a Case Before the Appeals Chamber, 20 April 2016.

<sup>2</sup> *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”).

<sup>3</sup> See Radovan Karadžić’s Notice of Appeal, 22 July 2016 (public with a confidential annex); Radovan Karadžić’s Appeal Brief, 5 December 2016 (confidential; public redacted version filed on 23 December 2016); Prosecution Response Brief, 15 March 2017 (confidential; public redacted version filed on 16 May 2017); Radovan Karadžić’s Reply Brief, 6 April 2017 (confidential; public redacted version filed on 19 April 2017). See also Prosecution’s Notice of Appeal, 22 July 2016; Prosecution Appeal Brief, 5 December 2016 (confidential; public redacted version filed on 11 January 2017); Radovan Karadžić’s Response Brief, 15 March 2017 (confidential; public redacted version filed on 15 March 2017); Prosecution Reply Brief, 6 April 2017 (confidential; public redacted version filed on 16 May 2017).

<sup>4</sup> Motion, paras. 1-8.

<sup>5</sup> Motion, paras. 3, 4, 6, 8. To demonstrate his specialized knowledge of the Appeal Grounds, Karadžić emphasises that, as a self-represented accused at trial, he examined the relevant witnesses in the first instance and that he substantially participated in preparing “the Defence opening and reply briefs” concerning the Appeal Grounds. Motion, para. 3.

<sup>6</sup> Motion, para. 7.

<sup>7</sup> Prosecution Response to Request for Radovan Karadžić’s Participation During the Appeal Hearing, 15 January 2018, para. 1.

<sup>8</sup> See *Ferdinand Nahimana et al. v. The Prosecutor*, Case No. ICTR-99-52-A, Scheduling Order for Appeals Hearing and Decision on Hassan Ngeze’s Motion of 24 January 2006, 16 November 2006, p. 3. See also *Slobodan Milošević v. Prosecutor*, Case No. IT-02-54AR73.7, Decision on Interlocutory Appeal of the Trial Chamber’s Decision on the Assignment of Defense Counsel, 1 November 2004, para. 11.

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**OBSERVING** that Karadžić elected to be represented by counsel on appeal and that the Registrar of the Mechanism respectively assigned Mr. Peter Robinson and Ms. Kate Gibson as his Counsel and Co-Counsel in this case;<sup>9</sup>

**RECALLING** that assigned counsel “shall be responsible for all aspects of defence of [...] accused before the Mechanism”;<sup>10</sup>

**CONSIDERING**, however, that the Appeals Chamber may exercise its discretion to allow persons other than counsel and co-counsel to make representations before it;<sup>11</sup>

**CONSIDERING FURTHER** that the Prosecution does not oppose the Motion and that Karadžić’s limited participation will not require additional time for the presentation of his appeal;

**FINDING** that it is in the interests of justice to grant Karadžić the right of audience before the Appeals Chamber to present arguments related to the Appeal Grounds;

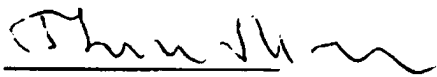
**CONSIDERING** that this finding is without prejudice to the opportunity which will be afforded to Karadžić to make a brief personal address to the Appeals Chamber at the end of the hearing of the appeals;

**FOR THE FOREGOING REASONS,**

**GRANTS** the Motion.

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

Done this 27<sup>th</sup> of February 2018,  
At The Hague,  
The Netherlands

  
Judge Theodor Meron  
Presiding Judge

[Seal of the Mechanism]

<sup>9</sup> Decision, 6 July 2016, p. 2; Decision, 11 November 2016, pp. 1, 2.

<sup>10</sup> Directive on the Assignment of Defence Counsel, MICT/5, 14 November 2012, Article 16(B).

<sup>11</sup> See, e.g., *Prosecutor v. Vlastimir Đorđević*, Case No. IT-0587/1-A, Transcript (“T.”) 13 May 2013 pp. 53, 54 (granting right of audience to a legal assistant); *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-A, T. 20 March 2017 p. 116 (granting right of audience to legal consultants assigned pursuant to Rule 45 of the Rules of Procedure and Evidence of the ICTY).



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