



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-AR98bis.1  
Date: 1 August 2013  
Original: English

**IN THE APPEALS CHAMBER**

**Before:** Judge Theodor Meron, Presiding  
Judge Patrick Robinson  
Judge Liu Daqun  
Judge Khalida Rachid Khan  
Judge Bakhtiyar Tuzmukhamedov

**Registrar:** Mr. John Hocking

**Decision of:** 1 August 2013

**PROSECUTOR**

v.

**RADOVAN KARADŽIĆ**

***PUBLIC***

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**DECISION ON MOTION FOR CLARIFICATION**

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**The Office of the Prosecutor:**

Mr. Alan Tieger  
Ms. Hildegard Uertz-Retzlaff

**The Accused:**

Mr. Radovan Karadžić

**Standby Counsel:**

Mr. Richard Harvey

**THE APPEALS CHAMBER** of the 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 (“Appeals Chamber” and “Tribunal”, respectively);

**NOTING** the Judgement rendered by the Appeals Chamber on 11 July 2013 (“98 *bis* Appeal Judgement”), which: (i) reversed Trial Chamber III of the Tribunal’s (“Trial Chamber”) decision to acquit Radovan Karadžić (“Karadžić”) of genocide in certain municipalities of Bosnia and Herzegovina;<sup>1</sup> (ii) reinstated the charges against Radovan Karadžić under Count 1 of the Indictment;<sup>2</sup> and (iii) stated that the Trial Chamber should consider relevant evidence “after hearing evidence adduced by Karadžić with respect to Count 1 of the Indictment”;<sup>3</sup>

**NOTING** the “Motion for Clarification” filed by Karadžić on 22 July 2013 (“Motion”), in which he requests that the Appeals Chamber clarify the 98 *bis* Appeal Judgement;<sup>4</sup>

**NOTING** the “Prosecution Response to Karadžić’s Motion for Clarification and Request for Urgent Relief”, filed by the Office of the Prosecutor for the Tribunal (“Prosecution”) on 22 July 2013 (“Response”), which also asks for clarification but provides a different interpretation of the 98 *bis* Appeal Judgement than the one advanced by Karadžić;<sup>5</sup>

**CONSIDERING** that the matter has been remanded to the Trial Chamber;<sup>6</sup>

**NOTING** Karadžić’s submission that “[t]he Appeals Chamber has consistently provided clarification of its decisions when requested by a party”;<sup>7</sup>

**NOTING** that the cases cited by Karadžić concern clarification of decisions, rather than of final judgements;

**CONSIDERING** that any dispute about the application of the 98 *bis* Appeal Judgement by the Trial Chamber can, subject to the appropriate certification, be appealed;<sup>8</sup>

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<sup>1</sup> 98 *bis* Appeal Judgement, para. 2. See also *Prosecutor v. Radovan Karadžić*, Case No. IT-95-5/18-PT, Prosecution’s Marked-Up Indictment, 19 October 2009, Appendix A (“Indictment”).

<sup>2</sup> 98 *bis* Appeal Judgement, p. 46.

<sup>3</sup> 98 *bis* Appeal Judgement, para. 116.

<sup>4</sup> Motion, paras 1, 7-8. See also Motion, paras 2-6.

<sup>5</sup> Response, paras 3, 6, 7; Cf. Motion, para. 2.

<sup>6</sup> 98 *bis* Appeal Judgement, p. 46.

<sup>7</sup> Motion, para. 8, n. 6, citing *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-AR65.1, Decision on Motions for Re-Consideration, Clarification, Request for Release and Applications for Leave to Appeal, 8 September 2004, paras 15-17; *Ferdinand Nahimana et al. v. The Prosecutor*, Case No. ICTR-99-52-A, Decision on Jean-Bosco Barayagwiza’s Motion for Clarification and Guidance Following the Decision of the Appeals Chamber Dated 16 June 2006 in *Prosecutor v. Karemera et al.* Case and Prosecutor’s Motion to Object to the Late Filing of Jean-Bosco

**NOTING** that neither the Motion nor the Response cites to any such certification, or discusses any application of the 98 *bis* Appeal Judgement by the Trial Chamber;<sup>9</sup>

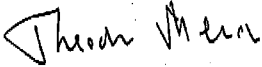
**CONSIDERING** that in these circumstances it is not appropriate for the Appeals Chamber to provide the relief Karadžić seeks;<sup>10</sup>

**FOR THE FOREGOING REASONS,**

**DENIES** the Motion in its entirety.

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

Done this 1st day of August 2013,  
At The Hague,  
The Netherlands.

  
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Judge Theodor Meron  
Presiding

[Seal of the Tribunal]

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Barayagwiza's Reply, 8 December 2006, paras 11-12; *Eliézer Niyitegeka v. The Prosecutor*, Case No. ICTR-96-14-R75, Decision on Motion for Clarification, 20 June 2008.

<sup>8</sup> *Cf. Prosecutor v. Ramush Haradinaj et al.*, Case No. IT-04-84bis-AR73.1, Decision on Haradinaj's Appeal on Scope of Partial Retrial, 31 May 2011, paras 7, 11-42. *See also The Prosecutor v. Tharcisse Muvunyi*, Case No. ICTR-2000-55A-AR73, Decision on the Prosecutor's Appeal Concerning the Scope of Evidence to be Adduced in the Retrial, 24 March 2009, paras 12-20.

<sup>9</sup> *See* Motion; Response.

<sup>10</sup> This decision is rendered without waiting for a potential reply from Karadžić, in the interests of judicial economy and in view of the parties' agreement with regards to the issues addressed by this decision.