



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-PT

Date: 19 March 2009

Original: English

**IN THE TRIAL CHAMBER**

**Before:** Judge Iain Bonomy, Presiding  
Judge Christoph Flügge  
Judge Michèle Picard

**Acting Registrar:** Mr. John Hocking

**Order of:** 19 March 2009

**PROSECUTOR**

v.

**RADOVAN KARADŽIĆ**

***PUBLIC***

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**ORDER CONFIRMING A RULE 65 TER MEETING AND  
SCHEDULING A STATUS CONFERENCE**

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**Office of the Prosecutor:**

Mr. Alan Tieger  
Mr. Mark B. Harmon  
Ms Hildegard Uertz-Retzlaff

**The Accused:**

Mr. Radovan Karadžić

**THIS TRIAL 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 (“Tribunal”) hereby issues this order, *ex proprio motu*, confirming a meeting to be held pursuant to Rule 65 *ter* of the Rules of Procedure and Evidence (“Rules”) and scheduling a Status Conference.

1. On 12 March 2009, the Trial Chamber communicated to both the Office of the Prosecutor (“Prosecution”) and the Accused that a meeting would be held on 24 March 2009 in one of the Tribunal’s conference rooms, under Rule 65 *ter* of the Rules, at which a number of issues relating to trial preparation would be discussed. This meeting would be attended by all three Judges of the Chamber, as well as the Accused and representatives from the Prosecution.

2. On 16 March 2009, the Accused filed a Request for Proceedings to be held in Public (“Request”), in which he declined to attend the scheduled meeting and requested that “any and all proceedings in his case be held in public in a courtroom of the Tribunal.” The Accused further requested that all communication between the Chamber and the parties be conducted by way of publicly filed documents, rather than by private correspondence. On 18 March 2009, the Prosecution filed a Response to Karadžić’s Request for Proceedings to be held in Public, opposing both aspects of the Request, citing to relevant Rules and practice in other cases.

3. The Trial Chamber notes the terms of Rule 65 *ter*, which sets out the role of the Pre-Trial Judge at this Tribunal, and some of the mechanisms by which the Pre-Trial Judge ensures that cases are fairly and expeditiously brought to trial. Rule 65 *ter* (D) establishes a framework for meetings to be held regularly between the parties in order to discuss practical matters of trial preparation, under the supervision of the Pre-Trial Judge and/or a Senior Legal Officer of the Chamber. Meetings held within the terms of Rule 65 *ter* are generally conducted in private, in a conference room, and do not form part of the trial process. Rather, they are for purposes of effective trial preparation in a context where the parties are encouraged to discuss matters freely without any risk to the safety of witnesses by inadvertent reference to confidential material. A transcript of such meetings is recorded by the Registry, and provided to the parties on a confidential basis. Normally, the accused is not present at such meetings, but is represented by counsel who engages in the discussions with counsel for the Prosecution and the representatives of the Chamber. These provisions are routinely used in cases at this Tribunal and are recognised tools of pre-trial case management.

4. Rule 65 *ter* meetings are therefore to the benefit of all the parties to a case. One of their aims is to ensure transparency in the trial process, because the parties are encouraged to share

information, discuss practical problems that may arise in the course of trial preparation, and find mutually acceptable solutions to such problems. This system of meetings works well in practice, and the Trial Chamber sees no reason why, if the Accused wishes to represent himself, it should not work well in this case, with his participation. Following such meetings, should the Chamber or Pre-Trial Judge deem it appropriate, the transcript recorded by the Registry may be made public, upon further order. In addition, should there be matters which the parties consider to be more appropriately discussed in the context of a public hearing, these can be raised at one of the regularly scheduled status conferences. Indeed, the Chamber considers that such status conferences are likely to be more productive if they are conducted after a Rule 65 *ter* meeting has been held, which has been the routine practice in other cases at this Tribunal.

5. While the meeting scheduled for 24 March 2009 is to be attended by all of the Judges of the Chamber, this does not change its character as an administrative meeting for purposes of trial preparation. The Chamber considers it appropriate, in light of the fact that this is the first such meeting in the present case, for all of the Judges to be present, as well as the Accused and the Prosecution, so that a full discussion can be held of how the Rule 65 *ter* process will be applied in the future, among other administrative matters.

6. For these reasons, while the Chamber notes the Accused's expressed reluctance to attend any such Rule 65 *ter* meeting, it wishes to leave him in no doubt that the decision to hold them is not his, and that his attendance is in his own interests and is expected.

7. With regard to the Accused's request that all communication between the Chamber and the parties be conducted by way of publicly filed documents, the Chamber again notes that it is standard practice for the parties to proceedings before the Tribunal to communicate privately, by way of letter or e-mail, about routine administrative matters. In the present case, both parties are notified of all such correspondence. This Chamber will continue to use such methods of communication in order to most effectively and expeditiously prepare the case for trial without clogging the trial record with routine administrative correspondence.

8. Pursuant to Rules 54, 65 *bis*, and 65 *ter* of the Rules, the Chamber **HEREBY**:

**DENIES** the Request;

**CONFIRMS** that a Rule 65 *ter* meeting will be held on Tuesday 24 March 2009, at 2:15 p.m., in conference room M177, to be attended by the Accused, appropriate representatives from the Prosecution, and the Judges of the Chamber; and

**SCHEDULES** a Status Conference for Thursday 2 April 2009, at 9:00 a.m., in Courtroom 1.

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

Judge Iain Bony  
Presiding

Dated this nineteenth day of March 2009  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**