



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: 5 June 2009

Original: English

IN THE TRIAL CHAMBER

Before: Judge Iain Bonomy, Pre-Trial Judge

Registrar: Mr. John Hocking

Order of: 5 June 2009

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

ORDER REGARDING THE ACCUSED'S PRE-TRIAL BRIEF

Office of the Prosecutor

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

The Accused

Mr. Radovan Karadžić

I, Iain Bonomy, Judge 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”), having held a status conference on 3 June 2009 (“Conference”), as per Rule 65 *bis* of the Tribunal’s Rules of Procedure and Evidence (“Rules”), hereby issue this order.

1. During the Conference, a number of issues were addressed related to the pre-trial management of the case, and both the Office of the Prosecutor (“Prosecution”) and the Accused were heard on these issues. One of the issues discussed was the content and the progress of the Accused’s pre-trial brief, which is to be filed on 22 June 2009.¹ The following was said on that issue:²

JUDGE BONOMOY: Now could you deal with the pre-trial brief for me which was the subject of my question?

THE ACCUSED: [Interpretation] Yes, of course. I omitted to respond to your question. We have been given a dead-line of the 22nd of June. Unfortunately, for the reasons I have described, because the material is enormous, we will not be able to go into factual matters in our pre-trial brief because we haven't studied all the material. But we will respect the dead-line, and we will hand in our pre-trial brief by the 22nd of June, which will mostly be dealing with legal issues. As for matters of fact, will have to be left for later, for the opening statement or some other occasion. But in any event, we will try to elucidate only the legal issue because it is simply not possible to cover all this material that I have mentioned and to review it in the pre-trial brief by this dead-line.

JUDGE BONOMOY: Mr. Karadzic, there are very considerable number of passages in this pre-trial brief where the evidence is evidence of which you are said to have direct personal knowledge. Now, these are factual matters that you can deal with, and indeed your failure to deal with them may be seen as significant. What's the problem about specifically dealing with these matters?

THE ACCUSED: [Interpretation] Well, Your Lordship, if you’ll believe me at my word, I can deal with them of course, but I doubt that I’ll be able to get through that by the 22nd of June. On the other hand, I want to corroborate my words and assertions through evidence on

¹ See Order Following on Status Conference and Appended Work Plan, 6 April 2009, para. 7(10).

² Status Conference, T. 273–277 (3 June 2009).

the ground so that you know what I'm saying and so that I can back it up. Now, if you expect me in my pre-trial brief to deal with the facts, the factual situation, then I need more time. Otherwise, it wasn't my intention to ask for an extension of the dead-line for the pre-trial brief, but if this is going to make my position more difficult, the position of the Defence more difficult, then I would like to ask for an extension of time so that I can investigate matters on the ground and so that I can back up my assertions with evidence and facts from the ground.

...

THE ACCUSED: [Interpretation] At this point in time I can't say because I've already burdened all my associates with a great deal of work and a lot of documents. So I'll have to see how many people I have at my disposal and what are the capabilities. And as you have already said, we have over 500.000 pages to date and most of that material relates to evidence; exhibits, 23.000 of them; statements; testimony; and so on opposite. So the time we need for a valid pre-trial brief, a worthwhile pre-trial brief, which would set out the main lines of my defence and provide the Chamber with an insight of what we will produce in your defence case to challenge the indictment, for all that, I need a great deal of time. And the people working for me are people from all over the world, and they have a heavy burden on their shoulders. We have 400 documents to date, and they have invested a great deal of effort, young people, university professors from many countries, and the like. So we have 400 submissions already.

JUDGE BONOMO: It may be a question, of course, of focusing the resources on the right issues. You can take it that the Trial Chamber will expect a pre-trial brief that is of assistance to it in keeping with the provisions of Rule 65 *ter* prior to the next Status Conference, and the next Status Conference will be four weeks from now which is the 1st of July. So there's a possibility -- and an order will be issued once my two colleagues have had an opportunity to discuss it with me, there's a possibility of the dead-line for your brief being extended.

2. It is important to note that the Prosecution's Pre-Trial Brief, which was filed on 18 May 2009, is of a substantial size, due to the Chamber granting a significant extension of word limit to the Prosecution,³ and that the vast majority of that Pre-Trial Brief is concerned with matters of fact.

3. It is also noteworthy that Rule 65 *ter* (F) requires the Accused to file a pre-trial brief "addressing the factual and legal issues" and including a written statement setting out:

³ Status Conference, T. 225--226 (6 May 2009).


...

- (ii) the matters with which the accused takes issue in the Prosecutor's pre-trial brief; and
- (iii) in the case of each such matter, the reason why the accused takes issue with it.

4. Accordingly, considering the terms of Rule 65 *ter* (F), and in light of (i) the discussion at the Conference referred to above, (ii) the size and the content of the Prosecution's Pre-Trial Brief, and (iii) the Accused's helpful assertion of his willingness to make an effort to cover factual issues in his pre-trial brief, I am of the view that it would be in the interests of good case management to give the Accused an extension of time in which to file his pre-trial brief.

5. For those reasons, pursuant to Rules 54 and 65 *ter* (B) of the Rules, I hereby **ORDER** the Accused to file his pre-trial brief by no later than 29 June 2009.

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



Judge Iain Bonomy, Pre-Trial Judge

Dated this fifth day of June 2009
At The Hague
The Netherlands

[Seal of the Tribunal]