



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-T

Date: 24 December 2009

Original: English

BEFORE THE DUTY JUDGE

Before: Judge Guy Delvoie, Duty Judge

Registrar: Mr. John Hocking

Decision of: 24 December 2009

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

**DECISION ON THE ACCUSED'S RESPONSE TO PROSECUTION MOTION FOR
JUDICIAL NOTICE OF DOCUMENTS AND MOTION FOR FURTHER EXTENSION OF
TIME**

Office of the Prosecutor

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

The Accused

Mr. Radovan Karadžić

Appointed Counsel

Mr. Richard Harvey

I, GUY DELVOIE, 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”), acting in my current capacity as Duty Judge in accordance with Rule 28 of the Rules of Procedure and Evidence (“Rules”), am seized of the Accused’s “Response to Prosecution Motion for Judicial Notice of Documents and Motion for Further Extension of Time”, filed on 23 December 2009 (“Response and Motion for Extension of Time”), and I hereby issue this decision thereon.

I. Background and Submissions

1. In the Response and Motion for Extension of Time, the Accused submits a “partial response” to the “Prosecution’s First Motion for Judicial Notice of Documentary Evidence Related to the Sarajevo Component with Confidential Appendix A”, which was filed on 19 October 2009 (“Prosecution’s Motion for Judicial Notice”), and seeks a further extension of time to respond to the Prosecution’s Motion for Judicial Notice.

2. In the partial response, the Accused makes submissions regarding his interpretation of Rule 94(B) of the Rules, and argues that “the Trial Chamber is not empowered by Rule 94(B) to take judicial notice of the contents of the documents.”¹ With regard to his request for a further extension of time, he submits that:

Should the Trial Chamber hold that it has the authority under Rule 94(B) to take judicial notice of the content of the documents, and is minded to do so, Dr. Karadžić respectfully requests that he be given additional time to respond on a document-by-document basis to the motion. He requests that the time for this response be extended until the issue of the trial phase funding is resolved.²

3. The Accused thus seeks an extension of time with regard to filing his responses on each of the documents that are the subject of the Prosecution’s Motion for Judicial Notice. His request, however, appears to be contingent on the *Karadžić* Trial Chamber first making a determination on application of Rule 94(B) of the Rules that accords with the Prosecution’s interpretation of that Rule, in which case the Accused wishes to file a “document-by-document” response. The Chamber has not issued a decision addressing the merits of the Prosecution’s Motion for Judicial Notice, and it is not usual practice at the Tribunal to grant such conditional requests for extension of time. I will, therefore, treat the Accused’s request as an ordinary request for an extension of time. I will not address the Accused’s submissions concerning Rule

¹ Response and Motion for Extension of Time, paras. 9–15.

² Response and Motion for Extension of Time, para. 16.

94(B), which will be considered by the *Karadžić* Trial Chamber when it comes to determine the Prosecution's Motion for Judicial Notice.

4. In support of his request for an extension of time, the Accused argues that he now "is left to prepare for trial with only two members of his [defence] team", as a result of the litigation with the Registry regarding the payment of his defence team during the pre-trial phase and, more recently, during the trial phase.³ He also states that he has not had a case manager, who could retrieve the documents for which judicial notice is sought", since 10 November 2009.⁴

5. The Prosecution has not responded to the Response and Motion but I am of the view that, given the urgency of the matter, I can decide the issue without hearing from the Prosecution.

II. Discussion

6. I note that the *Karadžić* Trial Chamber has already granted the Accused one extension of time to respond to the Prosecution's Motion for Judicial Notice.⁵ In its Decision, the Chamber concluded that there was good cause to grant an extension of time to respond because of the volume of material covered by the Prosecution's Motion for Judicial Notice. It also found that "the internal organisation of the work of the Accused's team is not sufficient reason for the Chamber to grant the four month extension sought by him, which is excessive."⁶

7. The Chamber has also previously denied another request by the Accused for further extension of time to respond to two other motions for a similar reason.⁷ In the "Decision on the Accused's Second Submission for Extension of Time to File Response: Rule 92 *quater* Submissions (Babić & Deronjić)" ("Babić & Deronjić Decision"), the Chamber stated that it is for the Accused to organise his defence team properly so that deadlines can be met, and the fact that his defence team had decided to stop working due to a dispute with the Registry over payment for work carried out during the pre-trial phase did not take away from this.⁸ I am of the view that this conclusion applies equally to the current circumstances, in which a number of the Accused's defence team have decided to stop working due to a dispute with the Registry over

³ Response and Motion for Extension of Time, paras. 2–6.

⁴ Response and Motion for Extension of Time, para. 7.

⁵ Decision on Motion for Extension of Time to File Response to Prosecution Motion for Judicial Notice of Documents, 30 October 2009 ("First Decision on Motion for Extension of Time").

⁶ First Decision on Motion for Extension of Time, para. 3.

⁷ Decision on the Accused's Second Submission for Extension of Time to File Response: Rule 92 *quater* Submissions (Babić & Deronjić), 26 November 2009 ("Babić & Deronjić Decision"), para. 5.

⁸ Babić & Deronjić Decision, para. 5.

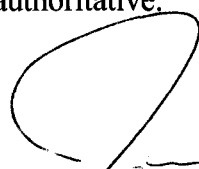
the allocation of paid working hours during the trial phase (this being a matter currently before the Registrar).⁹

8. The Accused has not put forth any arguments in support of his request other than the staffing difficulties that he has been facing, which do not differ in any substantive sense from the arguments he presented in respect of his first request for an extension of time to Prosecution's Motion for Judicial Notice, and were rejected by the Trial Chamber, or in respect of extensions of time that were denied by the Chamber in the Babić & Deronjić Decision. Therefore, and in light of the fact that the Accused has already been granted a considerable extension of time to respond to the Prosecution's Motion for Judicial Notice, I am not satisfied that there is good cause to grant the second extension of time to respond to the Prosecution's Motion for Judicial Notice.

III. Disposition

9. Accordingly, pursuant to Rules 28, 54, and 127 of the Rules, I hereby **DENY** the Accused's request for an extension of time as sought in the Response and Motion for Extension of Time.

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



Judge Guy Delvoie
Duty Judge

Dated this twenty-fourth day of December 2009
At The Hague
The Netherlands

[Seal of the Tribunal]

⁹ These issues are still before the Registrar and, as indicated by the Accused in another motion, may ultimately end up before the Appeals Chamber. *See* Motion for Extension of Time to Respond to Prosecution Motions", filed on 23 December 2009, footnote 3. This motion is currently also before me in my capacity as Duty Judge.