



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-04-83-A
Date: 29 June 2010
Original: English

IT-04-83-A
A1531-A1529
29 June 2010

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IN THE APPEALS CHAMBER

Before: Judge Andréia Vaz, Presiding
Judge Mehmet Güney
Judge Fausto Pocar
Judge Liu Daqun
Judge Theodor Meron

Registrar: John Hocking

Decision: 29 June 2010

PROSECUTOR

v.

RASIM DELIĆ

PUBLIC

**DECISION ON MOTION FOR CONTINUATION OF THE
APPELLATE PROCEEDINGS**

The Office of the Prosecutor:

Mr. Peter Kremer QC

Counsel for Rasim Delić:

Ms. Vasvija Vidović
Mr. John Jones

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 in this case by Trial Chamber I (“Trial Chamber”) on 15 September 2008;¹

NOTING that both parties lodged their appeals against the Trial Judgement,² and that the briefing of the appeals was completed on 24 February 2009;³

NOTING that the parties’ oral submissions regarding these appeals were heard on 19 January 2010;⁴

NOTING that Rasim Delić (“Delić”) passed away on 16 April 2010, at his home, while on provisional release;⁵

BEING SEISED OF the “Formal Notification of Death and Motion for Continuation of the Appeal Proceedings” filed by Counsel for Delić on 21 April 2010 (“Motion”), requesting that the appellate proceedings continue, on behalf of Delić’s son as his heir, and the appeal judgement be issued despite Delić’s death;⁶

NOTING the “Response to Motion for Continuation of the Appeal Proceedings” filed by the Office of the Prosecutor (“Prosecution”) on 28 April 2010 (“Response”), whereby the Prosecution (i) withdraws its appeal and (ii) suggests that the Appeals Chamber exercise its discretion to continue the proceedings in this case;⁷

ACCEPTING the withdrawal of the Prosecution’s appeal;

¹ *Prosecutor v. Rasim Delić*, Case No. IT-04-83-T, Judgement, 15 September 2008.

² Defence Notice of Appeal, 14 October 2008; Prosecution’s Notice of Appeal, 15 October 2008.

³ With respect to the Prosecution’s appeal dealing exclusively with sentencing, see Prosecution’s Appeal Brief, 14 November 2008; Defence Respondent’s Brief, 11 December 2008; Prosecution’s Reply Brief, 22 December 2008. With respect to Delić’s appeal, see Defence Appellant’s Brief, 29 December 2008 (confidential; public redacted version filed on 7 January 2009); Prosecution Response Brief, 9 February 2009 (confidential; public redacted version filed on 17 February 2009); Appellant’s Reply Brief, 24 February 2009 (confidential, public redacted version filed on 27 February 2009).

⁴ AT. 6 *et seq.*

⁵ See Letter from the Office of the Bosniak Liaison Officer to the ICTY, “Information on Implementation of the Decisions Made by the Government of the Federation of Bosnia and Herzegovina and the Trial Chamber [sic], ICTY, in respect of provisional release of Mr. Rasim Delić”, 19 April 2010; Letter from the Office of the Bosniak Liaison Officer to the ICTY, 4 May 2010, accompanied by the International Death Certificate.

⁶ Motion, paras 3, 7.

⁷ Response, paras 3, 6-8, 15.

CONSIDERING that the plain reading of the Motion indicates that the entirety of the submissions therein are made on behalf of Delić's son,⁸ who is not and cannot qualify as a party to any existing proceedings before the Tribunal;

CONSIDERING, therefore, that Delić's son has no standing to submit a motion before the Tribunal and cannot be represented by Counsel assigned to Delić;

FINDING, consequently, that the Motion is not validly filed before the Appeals Chamber and that the Appeals Chamber has no jurisdiction to consider its merits;

FINDING further that, as a result, there is no need to address the merits of the Prosecution's arguments in response either;⁹

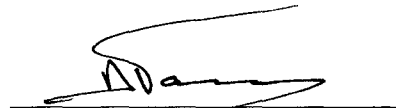
FOR THE FOREGOING REASONS,

DENIES the Motion for want of standing.

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

Dated this 29th day of June 2010,

At The Hague, The Netherlands.



Judge Andrézia Vaz,
Presiding

[Seal of the Tribunal]

⁸ *E.g.*, Motion, paras 3, 7; Response, para. 2.

⁹ In addition, the Prosecution's request that the Appeals Chamber accept the Response as validly filed despite the fact that it exceeds the applicable word-limit (Response, para. 4), is rendered moot.