



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: 5 October 2012

Original: English

IN THE TRIAL CHAMBER

Before: Judge O-Gon Kwon, Presiding Judge
Judge Howard Morrison
Judge Melville Baird
Judge Flavia Lattanzi, Reserve Judge

Registrar: Mr. John Hocking

Decision of: 5 October 2012

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

**DECISION ON APPLICATION FOR CERTIFICATION TO APPEAL DECISION ON
TIME FOR DEFENCE CASE**

Office of the Prosecutor

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

The Accused

Mr. Radovan Karadžić

Standby Counsel

Mr. Richard Harvey

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”);

BEING SEISED of the “Application for Certification to Appeal Decision on Time for Defence Case” filed by the Accused on 24 September 2012 (“Application”);

NOTING that the Accused requests certification for leave to appeal the Chamber’s “Decision on Time Allocated to the Accused for the Presentation of his Case” issued on 19 September 2012 (“Decision”) pursuant to Rule 73(B) of the Tribunal’s Rules of Procedure and Evidence (“Rules”);¹

NOTING that in the Decision the Chamber granted the Accused 300 hours to present his case;²

NOTING that the Accused contends that the issue of adequate time for the presentation of his defence case would significantly affect the fairness and expeditiousness of the trial and its outcome as this issue affects his “ability to present evidence of his innocence and to rebut the prosecution’s evidence of his guilt”;³

NOTING further the Accused’s submission that an immediate resolution of the issue by the Appeals Chambers will materially advance the proceedings, since, if the Appeals Chamber quashes the Decision, “the error can be corrected before a final judgement is rendered, thus avoiding a retrial or protracted proceedings on appeal if additional evidence has to be heard”;⁴

NOTING the “Prosecution’s Response to the Accused’s Application for Certification to Appeal Decision on Time for Defence Case” filed on 3 October 2012 (“Response”), in which the Prosecution opposes the Application and submits that the Accused has failed to establish any concrete basis for his submission that the test for certification is met;⁵

CONSIDERING that decisions on motions other than preliminary motions challenging jurisdiction are without interlocutory appeal save with certification by the Chamber,⁶ and that the Chamber may grant certification to appeal if the said decision “involves an issue that would significantly affect the fair and expeditious conduct of the proceedings or the outcome of the trial,

¹ Application, para. 1.

² Decision, paras. 12, 14.

³ Application, para. 5.

⁴ Application, para. 6.

⁵ Response, paras. 1, 11.

⁶ Rules 72(B) and 73(C) of the Rules.

and for which, in the opinion of the Trial Chamber, an immediate resolution by the Appeals Chamber may materially advance the proceedings”;⁷

CONSIDERING that the issue of the 300 hours granted to the Accused for the presentation of his case would significantly affect the fair and expeditious conduct of the proceedings in this case, as it pertains to the necessity for the Accused to present his case within a set amount of time and to organise his case accordingly;

CONSIDERING further that an immediate resolution by the Appeals Chamber may materially advance the proceedings as it may have an impact on the evidence that is to be presented during the defence case and is therefore in the interests of judicial economy;

PURSUANT TO Rule 73(B) of the Rules

HEREBY GRANTS the Application.

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



Judge O-Gon Kwon
Presiding

Dated this fifth day of October 2012
At The Hague
The Netherlands

[Seal of the Tribunal]

⁷ Rule 73(B) of the Rules.