



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-AR98bis.1
Date: 1 August 2013
Original: English

IN THE APPEALS CHAMBER

Before: Judge Theodor Meron, Presiding
Judge Patrick Robinson
Judge Liu Daqun
Judge Khalida Rachid Khan
Judge Bakhtiyar Tuzmukhamedov

Registrar: Mr. John Hocking

Decision of: 1 August 2013

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

DECISION ON MOTION FOR CLARIFICATION

The Office of the Prosecutor:

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

The Accused:

Mr. Radovan Karadžić

Standby Counsel:

Mr. Richard Harvey

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 by the Appeals Chamber on 11 July 2013 (“98 *bis* Appeal Judgement”), which: (i) reversed Trial Chamber III of the Tribunal’s (“Trial Chamber”) decision to acquit Radovan Karadžić (“Karadžić”) of genocide in certain municipalities of Bosnia and Herzegovina;¹ (ii) reinstated the charges against Radovan Karadžić under Count 1 of the Indictment;² and (iii) stated that the Trial Chamber should consider relevant evidence “after hearing evidence adduced by Karadžić with respect to Count 1 of the Indictment”;³

NOTING the “Motion for Clarification” filed by Karadžić on 22 July 2013 (“Motion”), in which he requests that the Appeals Chamber clarify the 98 *bis* Appeal Judgement;⁴

NOTING the “Prosecution Response to Karadžić’s Motion for Clarification and Request for Urgent Relief”, filed by the Office of the Prosecutor for the Tribunal (“Prosecution”) on 22 July 2013 (“Response”), which also asks for clarification but provides a different interpretation of the 98 *bis* Appeal Judgement than the one advanced by Karadžić;⁵

CONSIDERING that the matter has been remanded to the Trial Chamber;⁶

NOTING Karadžić’s submission that “[t]he Appeals Chamber has consistently provided clarification of its decisions when requested by a party”;⁷

NOTING that the cases cited by Karadžić concern clarification of decisions, rather than of final judgements;

CONSIDERING that any dispute about the application of the 98 *bis* Appeal Judgement by the Trial Chamber can, subject to the appropriate certification, be appealed;⁸

¹ 98 *bis* Appeal Judgement, para. 2. See also *Prosecutor v. Radovan Karadžić*, Case No. IT-95-5/18-PT, Prosecution’s Marked-Up Indictment, 19 October 2009, Appendix A (“Indictment”).

² 98 *bis* Appeal Judgement, p. 46.

³ 98 *bis* Appeal Judgement, para. 116.

⁴ Motion, paras 1, 7-8. See also Motion, paras 2-6.

⁵ Response, paras 3, 6, 7; Cf. Motion, para. 2.

⁶ 98 *bis* Appeal Judgement, p. 46.

⁷ Motion, para. 8, n. 6, citing *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-AR65.1, Decision on Motions for Re-Consideration, Clarification, Request for Release and Applications for Leave to Appeal, 8 September 2004, paras 15-17; *Ferdinand Nahimana et al. v. The Prosecutor*, Case No. ICTR-99-52-A, Decision on Jean-Bosco Barayagwiza’s Motion for Clarification and Guidance Following the Decision of the Appeals Chamber Dated 16 June 2006 in *Prosecutor v. Karemera et al.* Case and Prosecutor’s Motion to Object to the Late Filing of Jean-Bosco

NOTING that neither the Motion nor the Response cites to any such certification, or discusses any application of the 98 *bis* Appeal Judgement by the Trial Chamber;⁹

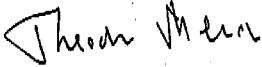
CONSIDERING that in these circumstances it is not appropriate for the Appeals Chamber to provide the relief Karadžić seeks;¹⁰

FOR THE FOREGOING REASONS,

DENIES the Motion in its entirety.

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

Done this 1st day of August 2013,
At The Hague,
The Netherlands.



Judge Theodor Meron
Presiding

[Seal of the Tribunal]

Barayagwiza's Reply, 8 December 2006, paras 11-12; *Eliézer Niyitegeka v. The Prosecutor*, Case No. ICTR-96-14-R75, Decision on Motion for Clarification, 20 June 2008.

⁸ *Cf. Prosecutor v. Ramush Haradinaj et al.*, Case No. IT-04-84bis-AR73.1, Decision on Haradinaj's Appeal on Scope of Partial Retrial, 31 May 2011, paras 7, 11-42. *See also The Prosecutor v. Tharcisse Muvunyi*, Case No. ICTR-2000-55A-AR73, Decision on the Prosecutor's Appeal Concerning the Scope of Evidence to be Adduced in the Retrial, 24 March 2009, paras 12-20.

⁹ *See* Motion; Response.

¹⁰ This decision is rendered without waiting for a potential reply from Karadžić, in the interests of judicial economy and in view of the parties' agreement with regards to the issues addressed by this decision.