

T-95-5/18-AR73.12
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20 September 2013

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No.

UNITED
NATIONS



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-AR73.12
Date: 20 September 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: 20 September 2013

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

**DECISION ON CERTIFIED APPEAL OF
DECISION ON REMAND OF COUNT ONE**

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 (“Rule 98 *bis* Appeal Judgement”)¹ and the “Decision on Accused’s Motions for Severance of Count 1 and Suspension of Defence Case” rendered by the Trial Chamber on 2 August 2013 (“Impugned Decision”);²

NOTING FURTHER the “Decision on Accused’s Application for Certification to Appeal Decision on Remand of Count One” rendered by the Trial Chamber on 3 September 2013 (“Certification to Appeal Decision”),³ which granted Radovan Karadžić (“Karadžić”) certification to appeal the Impugned Decision;⁴

BEING SEISED OF the “Certified Appeal of Decision on Remand of Count One” filed by Karadžić on 5 September 2013 (“Appeal”), in which he submits that: (i) the Appeals Chamber should decide the issue of whether an appeal of right lies from a Trial Chamber’s interpretation of the Appeals Chamber’s instructions;⁵ (ii) the Rule 98 *bis* Appeal Judgement did not address his arguments with respect to whether there was a confluence between the *actus reus* and *mens rea* elements of genocide;⁶ (iii) the Rule 98 *bis* Appeal Judgement “put the parties back where they were before the Trial Chamber granted the motion for judgement of acquittal”;⁷ and (iv) the Appeals Chamber should reverse the Impugned Decision and direct the Trial Chamber to make a new determination on Karadžić’s Rule 98 *bis* motion for acquittal;⁸

NOTING the “Prosecution Response to Karadžić’s Certified Appeal of Decision on Remand of Count One” filed by the Office of the Prosecutor of the Tribunal on 9 September 2013;⁹

¹ *Prosecutor v. Radovan Karadžić*, Case No. IT-95-5/18-AR98bis.1.

² *Prosecutor v. Radovan Karadžić*, Case No. IT-95-5/18-T.

³ *Prosecutor v. Radovan Karadžić*, Case No. IT-95-5/18-T.

⁴ Certification to Appeal Decision, paras 14-16.

⁵ Appeal, para. 14.

⁶ Appeal, paras 16-23.

⁷ Appeal, para. 24.

⁸ Appeal, para. 25.

⁹ Karadžić did not file a brief in reply.

NOTING the “Decision on Appeal of Decision on Remand of Count One” rendered by the Appeals Chamber on 12 September 2013 (“Decision on Appeal”),¹⁰ which held, *inter alia*, that: (i) the Trial Chamber’s certification to appeal renders moot Karadžić’s claims with respect to jurisdiction;¹¹ (ii) the Rule 98 *bis* Appeal Judgement explicitly addressed Karadžić’s contentions regarding the confluence of genocidal intent and the *actus reus* of genocide;¹² and (iii) the Trial Chamber correctly determined that the Rule 98 *bis* Appeal Judgement made a final determination with regard to Karadžić’s Rule 98 *bis* motion for acquittal;¹³

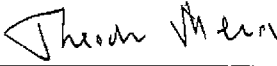
CONSIDERING that the Decision on Appeal renders moot all of the issues raised in the Appeal;

FOR THE FOREGOING REASONS,

HEREBY DISMISSES the Appeal in its entirety.

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

Done this 20th day of September 2013,
At The Hague,
The Netherlands.



Judge Theodor Meron
Presiding

[Seal of the Tribunal]

¹⁰ *Prosecutor v. Radovan Karadžić*, Case No. IT-95-5/18-AR98bis.1.

¹¹ Decision on Appeal, p. 2.

¹² Decision on Appeal, p. 2.

¹³ Decision on Appeal, p. 3.