



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: 8 January 2015

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: 8 January 2015

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

DECISION ON THE ACCUSED'S REQUEST FOR STATUS CONFERENCE

Office of the Prosecutor

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

The Accused

Mr. Radovan Karadžić

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”) is seised of the Accused’s “Request for Status Conference”, filed on 9 December 2014 (“Request”), and hereby issues its decision thereon.

I. Background and Submissions

1. The Accused requests that the Chamber convene a status conference on 2 February 2015 pursuant to Rule 65 *bis* (A) of the Tribunal’s Rules of Procedure and Evidence (“Rules”) so that he can make oral submissions on two distinct issues.¹ The Accused first seeks to discuss the “continuing failure” on the part of the Office of the Prosecutor (“Prosecution”) to comply with its disclosure obligations.² He also wishes to address his health and the conditions of his detention.³ The Accused notes that he last appeared before the Chamber on 7 October 2014.⁴ He recalls that the Chamber previously held that the Accused could seise the Chamber at any time of any specific issue he may wish to raise orally or in writing.⁵

2. On 2 January 2015, the Prosecution filed the “Prosecution Response to Karadžić Request for Status Conference and Request for Expanded Response Deadline” (“Response”), seeking an extension of the time-limit for filing the Response and opposing the Request in its entirety.⁶ In relation to the time-limit, the Prosecution submits that the Response was not filed before the prescribed deadline due to an internal miscommunication.⁷ On the substance, the Prosecution submits that the Chamber has already held that Rule 65 *bis* (A) of the Rules is not applicable at this stage of the trial and that the Accused has failed to put forth any argument for reconsideration.⁸ The Prosecution further submits that the issues raised by the Accused do not justify holding a status conference.⁹ More particularly, the Prosecution asserts that the Accused has failed to mention that the Prosecution and the Accused’s legal adviser have had further recent discussions and meetings

¹ Request, paras. 1, 8.

² Request, para. 4.

³ Request, para. 7.

⁴ Request, para. 2.

⁵ Request, para. 3, referring to Decision on Accused’s Request for Status Conference, 11 June 2014 (“Decision on Status Conference”), para. 4 and Decision on Accused’s Application for Certification to Appeal Decision on Request for Status Conference, 24 June 2014 (“Decision on Certification Request”), para. 6.

⁶ Response, paras. 1–2, 8.

⁷ Response, para. 1.

⁸ Response, para. 2, referring to Decision on Status Conference, para. 4.

⁹ Response, para. 2.

in relation to the Accused's disclosure queries.¹⁰ The Prosecution further submits that as a result of these discussions, it agreed to carry out additional searches in an effort to identify any exculpatory material that may have gone unnoticed during prior searches, thus rendering an oral request for any such additional measures superfluous.¹¹ Lastly, the Prosecution submits that the Accused has failed to identify any specific issue concerning his health which justifies the convening of a status conference and which cannot be raised by way of a written filing.¹²

II. Applicable Law

3. Rule 65 *bis* (A) of the Rules provides:

A Trial Chamber or a Trial Chamber Judge shall convene a status conference within one hundred and twenty days of the initial appearance of the accused and thereafter within one hundred and twenty days after the last status conference:

(i) to organize exchanges between the parties so as to ensure expeditious preparation for trial;

(ii) to review the status of his or her case and to allow the accused the opportunity to raise issues in relation thereto, including the mental and physical condition of the accused.

III. Discussion

4. As a preliminary matter, the Chamber grants the Prosecution's request for leave to file the Response outside the normal 14-day response period.

5. The Chamber recalls its finding in the Decision on Status Conference in respect of the applicability of Rule 65 *bis* (A) to the current stage of the proceedings. In that instance, the Chamber held that "it is clear from its formulation and its location in the Rules that Rule 65 *bis*(A) purports to apply to the pre-trial stage of the proceedings and that this has been confirmed by the consistent practice of other Chambers which have not convened status conferences after the start of trial, including during periods in which the accused person has not appeared before those Chambers for more than 120 days."¹³ However, in the Decision on Certification Request, the Chamber noted

¹⁰ Response, paras. 2–3. A copy of the letter which summarises the information provided by the Prosecution to the Accused's legal adviser during their meeting and the agreements reached therein is contained in Confidential Appendix A to the Response.

¹¹ Response, paras. 4–5.

¹² Response, paras. 6–7.

¹³ Decision on Status Conference, para. 4, referring to *Prosecutor v. Prlić et al.*, Judgement, 29 May 2013, Volume 5, para. 35; *Prosecutor v. Perišić*, Judgement, 6 September 2011, Annex A, paras. 15–16; *Prosecutor v. Popović et al.*, Judgement, 10 June 2010, Annex 2, para. 10.

that the Accused could seize the Chamber at any time of any specific issue he may wish to raise either orally or in writing.¹⁴

6. In the Request, the Accused expresses his wish to address the Chamber orally on the Prosecution's disclosure practices as well as on the state of his health and the conditions of his detention. The issue of disclosure has been, and continues to be, highly litigated in this case. In fact, the Chamber only recently issued its Decision on the Accused's Ninety-Fifth Disclosure Violation Motion, finding yet again that while the Prosecution had violated its disclosure obligations, the Accused was not prejudiced by that violation.¹⁵ Less than a week later, the Accused filed the "96th Motion for Finding of Disclosure Violation and for Exclusion of Evidence".¹⁶ In terms of disclosure, there is therefore no specific issue not addressed in writing which warrants the holding of a status conference.

7. However, at this stage of the proceedings, and given the importance it places on the Accused's well-being, the Chamber considers that holding a status conference for the Accused to raise any specific concern as to his health and conditions of detention as sought in the Request is in the interests of justice.

IV. Disposition

8. Accordingly, the Chamber, pursuant to Rules 54, 65 *bis* (A), and 127 of the Rules, hereby:
- a) **GRANTS** the Prosecution leave to file the Response;
 - b) **GRANTS** the Request in part and **ORDERS** that a status conference be convened on 28 January 2015 at 1 p.m. in Courtroom III so that the Accused can raise any specific issue as to his health or the conditions of his detention; and
 - c) **DENIES** the Request in all other respects.

¹⁴ Decision on Certification Request, para. 6.

¹⁵ Decision on the Accused's Ninety-Fifth Disclosure Violation Motion, 5 December 2014.

¹⁶ 96th Motion for Finding of Disclosure Violation and for Exclusion of Evidence, 11 December 2014.

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



Judge O-Gon Kwon
Presiding

Dated this eighth day of January 2015
At The Hague
The Netherlands

[Seal of the Tribunal]