

**UNITED
NATIONS**

Mechanism for International Criminal Tribunals

Case No.: MICT-13-55-A

Date: 15 June 2016

Original: English

IN THE APPEALS CHAMBER**Before: Judge Theodor Meron, Pre-Appeal Judge****Registrar: Mr. John Hocking****Decision of: 15 June 2016****PROSECUTOR**

v.

RADOVAN KARADŽIĆ***PUBLIC*****DECISION ON A MOTION FOR
A FURTHER EXTENSION OF TIME
TO FILE A NOTICE OF APPEAL****The Office of the Prosecutor:**Mr. Serge Brammertz
Ms. Laurel Baig
Ms. Barbara Goy
Ms. Katrina Gustafson**Counsel for Mr. Radovan Karadžić:**

Mr. Peter Robinson

I, **THEODOR MERON**, Judge of the Appeals Chamber of the International Residual Mechanism for Criminal Tribunals (“Mechanism”) and Pre-Appeal Judge in this case;¹

NOTING the judgement issued in this case by the Trial Chamber of the International Criminal Tribunal for the former Yugoslavia on 24 March 2016 (“Trial Judgement”);²

NOTING that, on 21 April 2016, I granted a 60-day extension of the time provided for in Rule 133 of the Rules of Procedure and Evidence of the Mechanism (“Rules”) for the filing of any notices of appeal in this case and that, accordingly, any notices of appeal are due by 22 June 2016;³

BEING SEISED OF the “Motion for Further Extension of Time to File Notice of Appeal”, filed on 20 May 2016 by Mr. Radovan Karadžić (“Motion” and “Karadžić”, respectively) in which Karadžić requests an additional 90-day extension for filing his notice of appeal because, he submits, he will not be in a position to file “a meaningful notice of appeal” by 22 June 2016 “due to the inadequate resources provided to [his] defence team”;⁴

NOTING Karadžić’s submission that his counsel has been unable to recruit or retain staff to assist with preparing the notice of appeal because the Registry did not make a determination on his request of 29 March 2016 to: (i) increase the amount of funding to his defence team given the complexity of the case and the resources available to the Prosecution, and (ii) assess the amount of the contribution to the cost of his defence he would be required to make (“Request”);⁵

NOTING ALSO Karadžić’s submission that, as a result, he is “at an extreme disadvantage when preparing his notice of appeal” given that the Prosecution has had a team of lawyers working on the appeal since November 2015;⁶

NOTING FURTHER Karadžić’s submission that respect for his statutory right to adequate time for the preparation of his defence requires the additional 90-day extension, which would allow a

¹ Order Assigning Judges to a Case Before the Appeals Chamber, 20 April 2016; Order Assigning a Pre-Appeal Judge, 21 April 2016.

² *Prosecutor v. Radovan Karadžić*, Case No. IT-95-5/18-T, Public Redacted Version of Judgement issued on 24 March 2016, 24 March 2016.

³ Decision on Motion for Extension of Time to File Notice of Appeal, 21 April 2016, p. 2.

⁴ Motion, paras. 1, 2, 27.

⁵ Motion, paras. 4-6.

⁶ Motion, paras. 7-15. Karadžić submits that the Prosecution “team currently consists of “at least three experienced counsel remunerated at the highest level for prosecution staff, and numerous other lawyers, case managers, and other support staff.” See Motion, para. 7.

thorough review of the voluminous Trial Judgement and trial record in an effort to identify potential grounds of appeal;⁷

RECALLING that, on 20 May 2016, I ordered the Registrar to rule on Karadžić's Request and to make any submission on the issues raised in the Motion, if necessary;⁸

NOTING the "Registrar's Submission on Funding on Appeal", filed on 25 May 2016 ("Registrar's Submission"), in which the Registry gave notice of compliance with the order to rule on Karadžić's Request;

NOTING ALSO the Registry's submission that: (i) on 1 April 2016, it allocated a default lump sum to the Karadžić defence team "covering the period up to and including the filing of any notice of appeal";⁹ (ii) upon counsel's request, on 12 April 2016, it immediately assigned three case managers and on, 23 May 2016, one legal assistant to assist Karadžić *pro bono*;¹⁰ (iii) on 25 April 2016, after the Appeals Chamber was constituted, it sought the Appeals Chamber's observations in connection with the request for an increase of the funds available to the defence in accordance with the Remuneration Policy for Persons Representing Indigent Accused in Appeals Proceedings before the Mechanism;¹¹ (iv) on 23 May 2016, it allocated additional funds to the Karadžić defence team, tripling the legal aid funds usually allocated for the first phase of appeal proceedings;¹² and (v) on 24 May 2016, it determined the amount of Karadžić's contribution to the cost of his defence;¹³

NOTING the "Prosecution Response to Motion for Further Extension of Time to File Notice of Appeal", filed on 27 May 2016, in which the Prosecution takes no position on Karadžić's request for a further extension of time or the issues related to the funding of his defence, and submits that, if a further extension is granted, it should apply to both parties;¹⁴

⁷ Motion, paras. 16-27.

⁸ Order on a Motion for Further Extension of Time to File Notice of Appeal, 20 May 2016, p. 2.

⁹ Registrar's Submission, para. 3.

¹⁰ Registrar's Submission, para. 8.

¹¹ Registrar's Submission, para. 5 referring to Remuneration Policy for Persons Representing Indigent Accused in Appeals Proceedings before the Mechanism, adopted on 21 March 2016. See also Decision on the Registry's Request for Observations Regarding Preparation of the Notice of Appeal, 4 May 2016, p. 1.

¹² Registrar's Submission, para. 5.

¹³ Registrar's Submission, para. 14.

¹⁴ Prosecution Response to Motion for Further Extension of Time to File Notice of Appeal, 27 May 2016 ("Prosecution Response"), para. 1.

NOTING ALSO the Prosecution's submission that Karadžić does not accurately compare the resources available to the Prosecution and the Defence as Prosecution staff do not work solely on the *Karadžić* appeal but rather on all matters relevant to the work of the Office of the Prosecutor,¹⁵

RECALLING that, pursuant to Rule 154 of the Rules, the time limits prescribed in the Rules may be enlarged on good cause being shown;

CONSIDERING that, on the basis of the Registry's submission that has not been disputed by the parties, since 1 April 2016 Karadžić was allocated a default lump sum for his defence to cover the period until the filing of any notice of appeal; upon his request, on 12 April 2016 and 23 May 2016, respectively, the Registry immediately assigned to his defence team three case managers and one legal assistant to assist him *pro bono*; and, on 23 May 2016, the Registry increased the funds available to his defence team by granting three times the amount normally allocated for the first phase of appeal proceedings;

CONSIDERING, however, the uncertainty as to the totality of available resources during the period in which any notice of appeal is to be prepared and the limited period of remaining time during which Karadžić can benefit from the increased funds before his notice of appeal is due;

RECALLING the Decision on Request for Review of Registrar's Remuneration Decision for Appeal Phase I in which I found that Karadžić was put at a disadvantage in the preparation of his appeal,¹⁶

CONSIDERING that the preparation of the notice of appeal determines the framework in which any appeal will be considered and that it is in the interests of justice to ensure that Karadžić has sufficient time to prepare his notice in full conformity with the applicable provisions;¹⁷

CONSIDERING FURTHER, however, that the length of the Trial Judgement and the significant complexity of this case are factors that were already taken into account when granting the 60-day extension of the time for the filing of any notice of appeal;

FINDING that, in these circumstances, good cause exists for granting Karadžić a further extension of 30 days for filing any notice of appeal;

¹⁵ See Prosecution Response, para. 2.

¹⁶ Decision on Request for Review of Registrar's Remuneration Decision for Appeal Phase I, 15 June 2016.

¹⁷ See Article 19(4)(b) of the Statute of the Mechanism. See also Decision on Motion for Extension of Time to File Notice of Appeal, p. 2.

CONSIDERING that it is in the interests of justice and effective case management to maintain a harmonised briefing schedule;¹⁸

HEREBY GRANT the Motion in part;

ORDER that any notices of appeal by the parties shall be filed no later than Friday, 22 July 2016;
and

DISMISS the Motion in all other respects.

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

Done this 15th day of June 2016,
At The Hague,
The Netherlands



Judge Theodor Meron
Pre-Appeal Judge

[Seal of the Mechanism]

¹⁸ *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-A, Decision on Appellants' Requests for Extension of Time and Word Limits, 9 October 2014, p. 3. *See also* Decision on Motion for Extension of Time to File Notice of Appeal, p. 2.