



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: 26 November 2009

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: 26 November 2009

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

**DECISION ON THE ACCUSED'S SECOND SUBMISSION FOR EXTENSION OF TIME
TO FILE RESPONSE: RULE 92 QUATER SUBMISSIONS (BABIĆ & DERONJIĆ)**

Office of the Prosecutor

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

The Accused

Mr. Radovan Karadžić

Appointed 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”) is seised of the “Second Submission for Extension of Time to File Response: Rule 92 *quater* Submissions: Babić & Deronjić and Submission for Review of the Registry Decision regarding the Phase of the Proceedings”, filed by the Accused on 26 November 2009 (“Second Motion for Extension of Time”), and hereby renders its decision thereon.

1. The Accused seeks yet another extension of time to respond to the “Prosecution’s Further Submissions for Admission of the Evidence of KDZ172 Pursuant to Rule 92 *Quater*” and the “Prosecution’s Further Submission for Admission of KDZ297’s Evidence Pursuant to Rule 92 *Quater*,” both filed on 15 October 2009 (“Prosecution’s Submissions”).¹ On 21 August 2009, the Trial Chamber ordered the Accused to respond to the Prosecution’s Submissions by 12 November 2009.²

2. On 11 November 2009, the Accused filed a motion for extension of time in which he submitted that his legal advisor, Mr. Peter Robinson, had been working on the relevant responses but had suspended his work as of 10 November 2009, due to a dispute with the Registrar regarding compensation. Therefore, the Accused argued that he was not in a position to file timely responses, and requested an extension of time until three working days after the Tribunal’s Office of Legal Aid and Detention (“OLAD”) determined that the trial phase of the case had started and agreed to compensate members of his defence team.³ The Trial Chamber issued its decision on 12 November, granting the Accused’s motion in part, and giving him until 26 November 2009 to respond to the Prosecution’s Submissions. The Chamber also made the point that it was doing so because a limited extension was in the interests of justice and “irrespective of the issue of remuneration of the Accused’s legal team, which is a matter that has been raised with the Tribunal’s President, and the fact that it is for the Accused to organise the work of his team in such a way that all deadlines are met.”⁴

3. In the Second Motion for Extension of Time, the Accused requests another extension of time on the basis that the Registry did not “keep its promise” and has failed to approve the payment of members of his team. According to the Accused, all eight members of his team

¹ Second Motion for Extension of Time, para. 1.

² Order for Further Submissions Concerning Prosecution’s Motions for Admission of Rule 92 *Quater* Evidence, 21 August 2009, para. 7.

³ Motion for Extension of Time to File Response: Rule 92 *quater* Submissions: Babić & Deronjić, paras. 3, 6, 7.

⁴ Decision on Motion for Extension of Time to File Response: Rule 92 *quater* Submissions: Babić & Deronjić, 12 November 2009, para. 2.

have now suspended their work on the case, and thus there is no team that he can organise in accordance with the Chamber's earlier decision on extension of time.⁵ The Accused then recounts the substance of his team's dispute with the Registrar regarding compensation, and requests that he be given an extension of time until three working days after OLAD determines that the trial phase of the case has started and agrees to compensate members of his Defence team.⁶ The Accused also states that OLAD's position will have repercussions on his ability to prepare for the resumption of trial on 1 March, and further requests that the Chamber review the Registrar's decision that "the trial phase of the case has not started."⁷

4. The Prosecution has not yet responded to the Second Motion for Extension of Time but, given the urgency of the matter, the Chamber is of the view that it can decide the issue without hearing from the Prosecution.

5. The Chamber is unconvinced that the Accused should be granted the further extension of time that he seeks in order to respond to the Prosecution's Submissions. His new request for an extension of time largely repeats the arguments made in his earlier motion, which were considered by the Chamber in setting the deadline for his response at 26 November 2009. As stated in the Chamber's earlier decision, it is for the Accused to organise his Defence team properly so that deadlines can be met. As before with regard to Mr. Peter Robinson, the fact that the rest of his Defence team have decided to stop working due to a dispute with the Registry over payment for work carried out during the pre-trial phase (this matter being currently before the President of the Tribunal) does not take away from the fact that he, as a self-represented Accused, should meet his deadlines. This is especially so in the particular circumstances of the Prosecution's Submissions where he was first given an extensive, above-regular, time to respond to them, and was then granted an additional 14 days to do so. The Accused cannot, therefore, argue that he has not had enough time to respond. Having said that, given that this decision is being issued on the day the Accused is due to respond, the Chamber will allow an extension of time until Monday, 30 November 2009, in order to give him time to finalise his responses, which appear already to be substantially completed.

6. The Chamber is mindful of the position in which the Accused currently finds himself, essentially without the benefit of assistance from his assigned legal advisers and other members of his Defence team assigned by the Registry. Indeed, the Chamber is concerned about the actions of those members of his team who have ceased providing the Accused with necessary

⁵ Second Motion for Extension of Time, paras. 2-4.

⁶ Second Motion for Extension of Time, paras. 5-9.

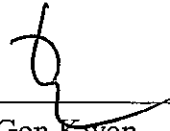
⁷ Second Motion for Extension of Time, paras. 10-12.

assistance, which is clearly to the detriment of their client. Before joining the case, the Accused's assigned legal advisers all signed an undertaking that they would comply with the "Code of Professional Conduct for Counsel Appearing before the International Tribunal" ("Code of Conduct"), and any other Rules and Regulations of the Tribunal. Article 11 of the Code of Conduct mandates that counsel shall represent a client diligently and promptly in order to protect his or her best interests, and then also provides that, "[u]nless the representation is terminated or withdrawn, counsel shall carry through to conclusion all matters undertaken for a client within the scope of his legal representation." According to Article 9(D), even when such representation is terminated, the counsel in question must take steps, to the extent reasonably practicable, to protect the client's interests.

7. The Chamber will not order, as the Accused requests, the Registry to declare that the "trial phase" of the case has commenced for the purposes of determining the appropriate payment scheme for members of his assigned Defence team. Firstly, the Chamber notes that in her letter of 5 November 2009, the Acting Head of OLAD has not, as the Accused suggests, stated that the trial has not yet commenced, but rather that the Registry would determine the allocation of funds to the Accused's Defence team during the adjournment of trial hearings in due course. In a subsequent e-mail, the Acting Head of OLAD indicated that the allocation of funds for this period would not be that set out in the Remuneration Scheme for Persons Assisting Indigent Self-Represented Accused for the trial phase. The Chamber notes that payment envisaged by the Remuneration Scheme for the trial phase of a case is linked to hours spent in the courtroom, as well as a limited number of out of court hours. While the trial in his case has clearly already started, it is for OLAD and the Registrar to determine how the payment policy envisaged in the Remuneration Scheme is to be applied, and indeed whether the interests of the Accused may in fact be better served by the application of a more flexible regime, not tied to in-court time, until the trial hearings recommence in March 2010. Any disputes over remuneration arising from the application of the Remuneration Scheme are governed by paragraph 8.1. of that Scheme.

8. Accordingly, pursuant to Rules 54 and 127 of the Tribunal's Rules of Procedure and Evidence, the Chamber hereby **DENIES** the Second Motion for Extension of Time, and **ORDERS** the Accused to submit his responses to the Prosecution's Submissions by no later than **Monday, 30 November 2009**, following which the Chamber will render its decisions in relation to the two relevant Rule 92 *quater* motions.

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



Judge O-Gon Kwon
Presiding

Dated this twenty-sixth day of November 2009
At The Hague
The Netherlands

[Seal of the Tribunal]