



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-PT

Date: 18 February 2009

Original: English

IN THE TRIAL CHAMBER

Before: Judge Iain Bonomy, Presiding
Judge Christoph Flügge
Judge Michèle Picard

Acting Registrar: Mr. John Hocking

Order of: 18 February 2009

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

**ORDER ON PROSECUTION URGENT REQUESTS
FOR STAY OF THE TRIAL CHAMBER'S ORDER
TO FILE A SECOND AMENDED INDICTMENT**

Office of the Prosecutor:

Mr. Alan Tieger
Mr. Mark B. Harmon
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”);

BEING SEISED OF the “Prosecution Motion for Reconsideration of the Trial Chamber’s Decision to Amend the First Amended Indictment and Urgent Request for a Stay of the Trial Chamber’s Order to File a Second Amended Indictment”, filed on 17 February 2009 with Confidential Annex A (“Motion”);

RECALLING that, in its “Decision on Prosecution Motion to Amend the First Amended Indictment” of 16 February 2009 (“Indictment Decision”), pursuant to Rule 50 of the Rules of Procedure and Evidence of the Tribunal (“Rules”), the Trial Chamber ordered the Prosecution to file a Second Amended Indictment to reflect the Indictment Decision in English and B/C/S by noon today, and scheduled a further appearance of the Accused for Friday 20 February 2009 at 2.15 p.m.;¹

NOTING that, in the Motion, the Prosecution (a) requests the Trial Chamber “to reconsider its finding [in the Indictment Decision] that Incident 18.2 of Schedule B of the Proposed Second Amended Indictment ... was not adequately supported”² (“Motion for reconsideration”), (b) “urgently requests the Chamber to stay its order to the Prosecution to file a Second Amended Indictment without Incident 18.2 of Schedule B by 18 February 2009 at noon while this motion for reconsideration is pending”,³ and (c) additionally seeks an immediate temporary stay of that order “to provide the Accused with adequate time to respond to the Prosecution’s request for a stay of the order for the period during which its motion for reconsideration is pending”⁴ (together “the Requests for stay”);

CONSIDERING that the Trial Chamber is not persuaded that the interests of justice will be served by granting either of the Requests for stay;

CONSIDERING that it will assist the Trial Chamber and be in the interest of judicial economy if the parties are prepared to address the timing for responses to the Motion for reconsideration and, if possible, its substance, at the Status Conference on Friday 20 February 2009;

¹ Indictment Decision, para. 54.

² Motion, para 1.

³ Motion, para. 6.

⁴ Motion, paras 6, 7.

CONSIDERING further that, depending on any decisions that may be made by the Trial Chamber at that time, it may still be possible for the Accused to enter a plea on the Second Amended Indictment, as scheduled in the Indictment Decision, and that the Accused should be ready to respond to an invitation to do so;

PURSUANT TO Rules 54 and 73 of the Rules;

HEREBY:

- a. **DENIES** the Prosecution Requests for stay;
- b. **REAFFIRMS** its order in the Indictment Decision directing the Prosecution to file a Second Amended Indictment to reflect the Indictment Decision in English and B/C/S by noon today;
- c. **REMAINS** seised of the Motion for reconsideration;
- d. **DECLINES** at this stage to make any order in relation to the filing of any response to the Motion for reconsideration;
- e. **CONFIRMS** the scheduling of the Status Conference to be held on Friday 20 February 2009 at 2.15 p.m.; and
- f. **DIRECTS** the parties to be prepared to make submissions in relation to both substance and timing of the Motion for reconsideration during that hearing.

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

Judge Iain Bony
Presiding

Dated this eighteenth day of February 2009
At The Hague
The Netherlands

[Seal of the Tribunal]