



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: 4 July 2012

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: 4 July 2012

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

**DECISION ON ACCUSED'S MOTION FOR TRIAL SESSIONS TO BE CONDUCTED IN
THE FORMER YUGOSLAVIA AND FOR INVITATION TO GOVERNMENTS OF
BOSNIA AND HERZEGOVINA, REPUBLIKA SRPSKA, AND SERBIA**

Office of the Prosecutor

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

The Accused

Mr. Radovan Karadžić

Standby 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 Accused’s “Motion for Trial Sessions to be Held in the Former Yugoslavia”, filed on 7 May 2012 (“Motion”), and of the Accused’s “Request for Invitation to Governments of Bosnia, Republika Srpska, and Serbia” filed on 9 May 2012 (“Request for Invitation”), and hereby issues its decision thereon.

1. In the Motion, the Accused requests, pursuant to Rule 4 of the Tribunal’s Rules of Procedure and Evidence (“Rules”), that during his defence case the Chamber hold three one-week trial sessions in Sarajevo, Banja Luka, and Belgrade respectively.¹ He submits that this will serve the interests of justice by bringing “the work of the Tribunal directly to the people for whom it is intended to benefit” and by being more convenient for some of the witnesses.²

2. On 21 May 2012, the Office of the Prosecutor (“Prosecution”) filed the “Prosecution Response to the Accused’s ‘Motion for Trial Sessions to be Held in the Former Yugoslavia’” (“Response”), wherein it opposes the Motion on the basis that it fails to meet the requirements of Rule 4 and submits that the Accused did not demonstrate the requested hearings are in the interests of justice.³ The Prosecution further submits that in any event, the Accused’s presence at any trial hearing in the former Yugoslavia would pose a significant risk to the security of “all the persons involved”.⁴

3. In the Request for Invitation, the Accused asks that the Chamber issue an invitation to BiH, the Republika Srpska (“RS”), and Serbia to comment on the Motion. He submits that they should have the opportunity to be heard on whether they welcome the Motion and are willing to provide the facilities necessary for the proceedings.⁵

4. Rule 4 of the Rules provides that a “Chamber may exercise its functions at a place other than the seat of the Tribunal, if so authorised by the President in the interests of justice”.

5. In the Motion, the Accused simply argues that it would be more ‘convenient’ to hold some hearings away from the seat of the Tribunal.⁶ He does not identify any witnesses who would be unable to travel to the seat of the Tribunal in The Hague nor does he refer to any current or foreseen

¹ Motion, paras. 1, 6.

² Motion, para. 3.

³ Response, paras. 2–6.

⁴ Response, paras. 7–8.

⁵ Request for Invitation, paras. 1–2.

⁶ Motion, para. 3.

problem encountered with states in the transfer of detained witnesses.⁷ The Chamber is not satisfied that mere convenience is a reason warranting that hearings be held away from the seat of the Tribunal pursuant to Rule 4. There are means available to the Accused under the Rules to address witness related issues, in particular pursuant to Rules 54 and 90 *bis*. The Chamber also notes that the Victims and Witnesses Section of the Tribunal is mandated under Rule 34 with providing support to victims and witnesses who come to testify before the Tribunal, which should alleviate some of the Accused's concerns.

6. With regard to the Accused's argument that granting the Motion would bring "the work of the Tribunal directly to the people for whom it is intended to benefit", the Chamber notes that while this consideration is an important one, as shown by the work undertaken by the Outreach programme of the Tribunal, it does not warrant the exceptional application of Rule 4 in the interests of justice. The Chamber is therefore not satisfied that the Accused has established that it is in the interests of justice to conduct hearings away from the seat of the Tribunal pursuant to Rule 4.

7. Given the Chamber's finding above, the Chamber finds it unnecessary to issue invitations to BiH, the RS, and Serbia in relation to this matter.

8. Accordingly, the Chamber, pursuant to Rule 4 of the Rules, hereby **DENIES** the Motion and **DECLARES** moot the Request for Invitation.

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



Judge O-Gon Kwon
Presiding

Dated this fourth day of July 2012
At The Hague
The Netherlands

[Seal of the Tribunal]

⁷ In relation to the transfer of detained witnesses, the Chamber notes that on 28 June 2012, the Accused already filed a "Motion for the Temporary Transfer of Detained Witnesses" pursuant to Rule 90 *bis*. This motion is currently pending before the Chamber.