



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-09-92-T
Date: 9 September 2016
Original: English

IN TRIAL CHAMBER I

Before: Judge Alphons Orie, Presiding
Judge Bakone Justice Moloto
Judge Christoph Flügge

Registrar: Mr John Hocking

Order of: 9 September 2016

PROSECUTOR

v.

RATKO MLADIĆ

PUBLIC

SCHEDULING ORDER

Office of the Prosecutor
Mr Peter McCloskey
Mr Alan Tieger

Counsel for Ratko Mladić
Mr Branko Lukić
Mr Miodrag Stojanović

TRIAL CHAMBER I 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 (“Chamber” and “Tribunal”, respectively);

NOTING that the trial in this case commenced on 16 May 2012;¹

NOTING that the last Prosecution witness concluded his testimony on 12 December 2013;²

NOTING that on 16 August 2016, the last Defence witness concluded his testimony;³

NOTING the Chamber’s decision of 16 August 2016 in relation to rebuttal evidence;⁴

NOTING the Chamber’s decision of 2 September 2016 in relation to rejoinder evidence;⁵

NOTING that the Chamber has decided not to call any evidence pursuant to Rule 98 of the Tribunal’s Rules of Procedure and Evidence (“Rules”);⁶

NOTING the Chamber’s decision of 2 September 2016 in relation to information tendered pursuant to Rule 85 (A) (vi) of the Rules;⁷

NOTING that on 12 April 2016, the Chamber emailed the parties advising that they should expect to file their final trial briefs by 1 September 2016;

NOTING that on 23 June 2016, the Defence filed a motion requesting an extension of time to file the final trial briefs (“Extension Motion”);⁸

NOTING the Registry’s submissions in relation to the Extension Motion, filed on 27 June and 4 July 2016;⁹

¹ T. 402.

² T. 20685. On 23 October 2014, the Chamber granted a Prosecution motion to re-open its case-in-chief. The Prosecution’s in-court witnesses during the re-opening of its case-in-chief were heard between 22 June and 8 July 2015.

³ T. 44319.

⁴ Decision on Prosecution Motion to Admit Evidence in Rebuttal, 16 August 2016. *See also* T. 44319-44320.

⁵ Decision on Defence Motion to Admit Evidence in Rejoinder and Prosecution Request to Withdraw Exhibits, 2 September 2016.

⁶ The Chamber clarifies that this is separate from any decision in relation to the pending Defence Motion Requesting to Strike Amor Mašović Charts due to Clear Error and New Particular Circumstances or, Alternatively, that this Trial Chamber Require the Testimony of Amor Mašović or Exercise its Power under Rule 98 to Call Amor Mašović to Clarify the Reliability of his Expansive Forensic Assertions, 9 August 2016.

⁷ Decision on Defence Motion for an Extension of Time to Tender Sentence-Related Information, 2 September 2016.

⁸ Defence Motion Requesting 7 December 2016 for the Final Brief and 12 January 2017 for Closing Arguments, 23 June 2016. The Extension Motion also contained a request to exceed the word limit, which the Chamber granted in the Fourth Defence Case Omnibus Decision, 2 August 2016, ¶. 1.

⁹ Registrar’s Submission in Relation to the Defence Motion of 23 June 2016, 27 June 2016 (Confidential); Deputy Registrar’s Submission in Relation to the Defence Motion of 23 June 2016, 4 July 2016.

NOTING that on 29 June 2016, the Prosecution responded to the Extension Motion, opposing it;¹⁰

NOTING that on 8 July 2016, the Chamber informed the parties that the new provisional deadline for filing the final trial briefs was 3 October 2016;¹¹

NOTING that on 2 August 2016, the Chamber held that it “will take the arguments of the Defence [in the Extension Motion] into consideration when setting the fixed deadline for the final trial briefs and closing arguments”;¹²

NOTING the parties’ submissions in relation to the timing and duration for closing arguments made on 16 June 2016, in which the parties *inter alia* jointly submitted that there should be five-and-a-half weeks between final trial briefs and closing arguments;¹³

NOTING the Defence’s supplemental motion of 5 September 2016, wherein it requests a further extension for the filing of the final trial briefs until 12 January 2017 (“Supplemental Motion”);¹⁴

CONSIDERING that there is no merit in the Defence’s submissions that the complexity of the case and the Chamber’s decision of 17 December 2015 to increase the word limit for the final trial briefs should weigh in favour of extension, as these factors were taken into account by the Chamber when setting the first provisional deadline;¹⁵

CONSIDERING that in relation to the Defence’s submissions that information technology access restrictions impact the Defence’s final trial brief preparations, the Defence never sought the Chamber’s intervention in relation to these matters and therefore failed to efficiently remove any obstacles for its final trial brief preparation;¹⁶

CONSIDERING that there is no merit in the Defence’s submissions that certain litigation detracted from the Defence’s final trial brief preparations, as litigation is part of the normal judicial process;¹⁷

CONSIDERING that there is limited merit in the Defence’s submissions that unforeseen events in relation to Defence team members impacted its final trial brief preparations;¹⁸

¹⁰ Prosecution Response to Defence Motion Requesting 7 December 2016 for the Final Brief and 12 January 2017 for Closing Arguments, 29 June 2016.

¹¹ T. 44217.

¹² Fourth Defence Case Omnibus Decision, 2 August 2016, para. 2.

¹³ T. 44212-44214.

¹⁴ Defence Further Submission in Support of “Defence Motion Requesting 7 December 2016 for the Final Brief and 12 January 2017 for Closing Arguments”, 5 September 2016, para. 10.

¹⁵ See Extension Motion, paras 14-19.

¹⁶ See Extension Motion, paras 31-34.

¹⁷ See Extension Motion, paras 21-23, 27-30, 38.

CONSIDERING that there is some merit in the Defence's submissions related to work product lost due to computer and network failures;¹⁹

CONSIDERING that the submissions raised in the Supplemental Motion are unmeritorious;

CONSIDERING that the Chamber has consistently, on many occasions, impressed upon the parties the need to use non-sitting periods for its final trial brief preparations;²⁰

CONSIDERING that since 17 December 2015, the Chamber only had evidentiary court hearings on 17 days;

CONSIDERING that the Defence already benefited from the Chamber's *proprio motu* change of the provisional final trial brief deadline from 1 September to 3 October, which was necessitated by outstanding evidentiary matters;

FINDING that under these circumstances, it is warranted to further extend the deadline for filing the final trial briefs;

PURSUANT TO Rules 54, 85, and 98 of the Rules;

GRANTS the Extension Motion **IN PART**;

DENIES the Supplemental Motion;

¹⁸ See Extension Motion, paras 24-26.

¹⁹ See Extension Motion, paras 35-37.

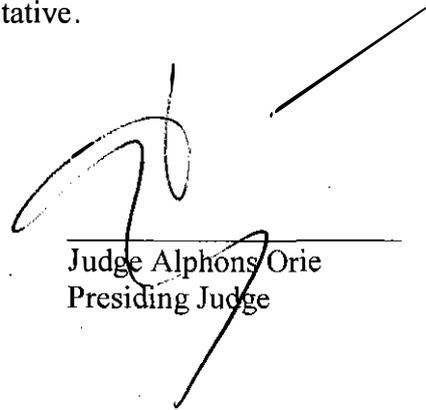
²⁰ T. 42898 ("The Chamber has taken note of the parties' submissions but maintains that any periods of non-sitting, for example, this coming January, must also be used by the parties for its final brief preparations. The Chamber will not grant an extended period of time after the close of the case for the preparation of final briefs, especially if the parties had various opportunities to prepare prior to the closure."), 43142 ("Yesterday I indicated that the court sessions for the purpose of hearing evidence during the second, the third, and the fourth week of February are cancelled. Not every session but at least for sessions to hear evidence. The reason for this is that it has not been possible to schedule witnesses for that period. The Chamber therefore expects the parties to spend this time preparing for the next phases of the case, in particular, the rebuttal case and preparation of their final briefs. When later setting a date for the submission of the final briefs, the Chamber will consider these non-sitting periods against the overall time for the parties' preparation of the briefs. In this respect, the Chamber seeks to minimise the negative effect the problematic witness scheduling could have on the overall scheduling of the case."), 43228 ("We are at a stage where you could already work, for example, on final briefs even if you have not the full 100 per cent of evidence available. Perhaps not knowing what rebuttal evidence will still be heard. But you're supposed to start with preparing the next stages and then, of course, if there is any rebuttal evidence then it may well be that you have to change or to adapt to that new situation. But we would not like to hear in a couple of months from now, it's only know [sic] that we could start preparing final briefs, final argument, et cetera, even if you cannot complete that for the full 100 per cent, there's quite some substance that can be dealt with already in those early stages and the mere fact that there are still three, four, five witnesses from which we would receive evidence, doesn't mean that you could not yet work on those stages."), 44211 ("However, I wish to remind the parties that they were already advised informally that the deadline could be the 1st of September, 2016, and the Chamber has emphasised again and again that any delays in hearing evidence in court should not be understood as that there was more time to prepare for the final briefs, that the time should be used even if not every evidentiary issue had been finally settled.").

ORDERS that the final trial briefs in this case be filed no later than 25 October 2016;²¹ and

ORDERS that the closing arguments in this case be held as follows:

- Prosecution: 5-7 December 2016;
- Defence: 9, 12-13 December 2016; and
- Replies: 15 December 2016 (Replies of 1.5 hours each).

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



Judge Alphons Orié
Presiding Judge

Dated this ninth day of September 2016
At The Hague
The Netherlands

[Seal of the Tribunal]

²¹ In the event that the Chamber decides that Mašović should be called to testify under Rule 98 of the Rules (see motion mentioned in footnote 6), the Chamber will adjust the dates set out in this order as necessary.