

**UNITED
NATIONS**



International Residual Mechanism
for Criminal Tribunals

Case No.: MICT-13-56-A

Date: 20 May 2020

Original: English

IN THE APPEALS CHAMBER

Before: Judge Prisca Matimba Nyambe, Presiding
Judge Aminatta Lois Runeni N'gum
Judge Gberdao Gustave Kam
Judge Seymour Panton
Judge Elizabeth Ibanda-Nahamya

Registrar: Mr. Olufemi Elias

Order of: 20 May 2020

PROSECUTOR

v.

RATKO MLADIĆ

PUBLIC

**ORDER FOR SUBMISSIONS REGARDING
THE APPEAL HEARING**

The Office of the Prosecutor:

Mr. Serge Brammertz
Ms. Laurel Baig
Ms. Barbara Goy

Counsel for Mr. Ratko Mladić:

Mr. Branko Lukić
Mr. Dragan Ivetić

THE APPEALS CHAMBER of the International Residual Mechanism for Criminal Tribunals (“Appeals Chamber” and “Mechanism”, respectively);¹

NOTING the judgement issued in this case by Trial Chamber I of the International Criminal Tribunal for the former Yugoslavia on 22 November 2017,² and the appeals against the Trial Judgement filed before the Mechanism by Mr. Ratko Mladić (“Mladić”) and the Office of the Prosecutor of the Mechanism;³

RECALLING that, on 16 December 2019, the Appeals Chamber ordered that the hearing of the appeals in the present case shall take place in The Hague, The Netherlands on 17 and 18 March 2020;⁴

NOTING the motion, filed by Mladić on 28 February 2020, requesting the Appeals Chamber to, *inter alia*, reschedule the hearing of the appeals to a fixed date four to six weeks after his then upcoming surgery;⁵

RECALLING the decision, issued on 6 March 2020, wherein the Appeals Chamber, *inter alia*: (i) vacated the Scheduling Order of 16 December 2019; (ii) stayed the hearing of the appeals until further notice on the basis of Mladić’s upcoming surgery; and (iii) requested the Registrar to inform the Appeals Chamber on a weekly basis of matters relating to the scheduling of Mladić’s surgery and his recovery therefrom to facilitate the expeditious rescheduling of the hearing to a date approximately six weeks after the surgery;⁶

¹ Order Assigning Judges to a Case Before the Appeals Chamber, 19 December 2017, p. 1; Order Assigning Three Judges Pursuant to Rule 18 of the Rules, 4 September 2018 (originally filed in French; English translation filed on 5 September 2018), p. 1; Order Replacing a Judge, 14 September 2018 (originally filed in French; English translation filed on 27 February 2019), p. 1.

² *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-T, Judgment, 22 November 2017 (public with confidential annex) (“Trial Judgement”).

³ See Notice of Appeal of Ratko Mladić, 22 March 2018 (public with public and confidential annexes); Appeal Brief on Behalf of Ratko Mladić, 6 August 2018 (confidential); Notice of Filing of Corrigendum to: Appeal Brief on Behalf of Ratko Mladić, 16 August 2018 (confidential; public redacted version filed on 11 September 2018); Prosecution Response Brief, 14 November 2018 (confidential; public redacted version filed on 1 February 2019); Reply to Prosecution’s Response Brief on Behalf of Ratko Mladić, 29 November 2018 (confidential; public redacted version filed on the same date). See also Prosecution’s Notice of Appeal, 22 March 2018; Prosecution Appeal Brief, 6 August 2018 (confidential; public redacted version filed on 7 August 2018); Response to Prosecution’s Appeal Brief on Behalf of Ratko Mladić, 14 November 2018; Prosecution Reply Brief, 29 November 2018 (confidential; public redacted version filed on 21 January 2019).

⁴ Scheduling Order for the Hearing of the Appeals, 16 December 2019 (“Scheduling Order of 16 December 2019”), pp. 1, 2.

⁵ Urgent Defence Motion to Stay Appeal Oral Arguments Hearing in Order to Permit Competency Review of Appellant and Hearing on Same, 28 February 2020 (confidential; public redacted version filed on 10 March 2020), para. 5, p. 8.

⁶ Decision on a Motion to Stay the Appeal Hearing, 6 March 2020 (confidential; public redacted version filed on 11 March 2020), p. 4. See also Decision on a Motion to Reconsider the Decision Staying the Appeal Hearing, 11 March 2020 (confidential; public redacted version filed on the same date).

RECALLING that, on 1 May 2020, noting Mladić’s progress in recovering from the surgery, the Appeals Chamber ordered the hearing of the appeals in the present case to take place in The Hague, The Netherlands on 16 and 17 June 2020 (“Appeal Hearing”),⁷ “subject to change should coronavirus pandemic-related restrictions inhibit the necessary travel or the holding of the hearing for other reasons”;⁸

NOTING the submission, filed on 13 May 2020, wherein the Registrar indicated, *inter alia*, that in view of the coronavirus pandemic and particularly the “detainees’ advanced age and medical histories”, measures have been implemented to prevent the occurrence of the coronavirus at the United Nations Detention Unit⁹ and that this may be relevant to the Appeal Hearing;¹⁰

CONSIDERING the continuing existence of the coronavirus pandemic and related restrictions;¹¹

REITERATING the need to hold the hearing of the appeals in this case without delay when it is safe and practicable to do so;¹²

CONSIDERING the need to ascertain well in advance of the Appeal Hearing the feasibility of holding it as scheduled and to change the dates should coronavirus pandemic-related restrictions inhibit the necessary travel or the holding of the hearing for other reasons;

FINDING that, in light of the foregoing, it is appropriate to request the Registrar to provide submissions on the feasibility of: (i) each Judge’s unhindered ability to travel to The Hague, The Netherlands for the Appeal Hearing from his or her home country and to subsequently return, including any applicable exit, entry, or transit restrictions, taking into account the Judges’ status, and the availability of flights; and (ii) Mladić’s physical presence in the courtroom for the duration of the Appeal Hearing;

⁷ Second Order Scheduling the Hearing of the Appeals, 1 May 2020 (“Order of 1 May 2020”), pp. 2, 3.

⁸ Order of 1 May 2020, p. 2.

⁹ Registrar’s Submission in Response to “Order Scheduling a Status Conference”, 13 May 2020 (“Registrar’s Submission of 13 May 2020”), paras. 2, 3. *See also* Registrar’s Submission in Relation to “Defence Submission in Compliance with the ‘Order Scheduling a Status Conference’ Issued 11 May 2020”, 18 May 2020, paras. 2, 3.

¹⁰ Registrar’s Submission of 13 May 2020, para. 7. *See also* Registrar’s Submission of 13 May 2020, paras. 2-6.

¹¹ *See, e.g.*, “Coronavirus disease (COVID-19) pandemic”, World Health Organization: <https://www.who.int/emergencies/diseases/novel-coronavirus-2019> (accessed on: 20 May 2020); “Travel and transportation during the coronavirus pandemic”, European Commission, https://ec.europa.eu/info/live-work-travel-eu/health/coronavirus-response/travel-and-transportation-during-coronavirus-pandemic_en (accessed on: 20 May 2020).

¹² *See* Order of 1 May 2020, p. 2.

FOR THE FOREGOING REASONS,

HEREBY REQUEST the Registrar to provide the requested submissions within three days of the filing of this Order.

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

Done this 20th day of May 2020,
At The Hague,
The Netherlands



Judge Prisca Matimba Nyambe
Presiding Judge

[Seal of the Mechanism]



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