



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: IT-95-14-A  
Date: 22 July 2002  
Original: English

**IN THE APPEALS CHAMBER**

**Before:** Judge Fausto Pocar, Pre-Appeal Judge  
**Registrar:** Mr. Hans Holthuis  
**Decision of:** 22 July 2002

**PROSECUTOR**  
v.  
**TIHOMIR BLAŠKIĆ**

**DECISION ON REQUEST FOR EXTENSION OF TIME**

**Prosecutor v. Hadžihasanović *et al***  
**Counsel for the Prosecutor:**  
Mr. Ekkehard Withopf

**Counsel for the Defence:**  
Ms. Edina Rešidović and Mr. Stéphane Bourgon for Enver Hadžihasanović  
Ms. Vasvija Vidović and Mr. John Jones for Mehmed Alagić  
Mr. Fahrudin Ibrišimović and Mr. Rodney Dixon for Amir Kubura

***Prosecutor v. Blaškić***  
**Counsel for the Prosecutor:**  
Mr. Norman Farrell

**Counsel for the Appellant:**  
Mr. Anto Nobile  
Mr. Russell Hayman  
Mr. Andrew Payley

I, Fausto Pocar, Pre-Appeal Judge in this case,

**NOTING** the “Joint Motion of Enver Hadžihasanović, Mehmed Alagić and Amir Kubura for Access to All Confidential Material—Transcripts and Exhibits from the *Prosecutor v Zoran Kupreškić and Others* (Case No IT-95-16A); *Prosecutor v Tihomir Blaškić* (Case No IT-95-14-T); & *Prosecutor v Dario Kordić and Mario Čerkez* (Case No IT-95-14/2-T)” filed on 6 September 2001 (the “Motion”);

**NOTING** the “Prosecution’s Consolidated Response to the Motions [*sic*] of Enver Hadžihasanović, Mehmed Alagić and Amir Kubura for Access to All Confidential Material—Transcripts and Exhibits from the *Prosecutor v Zoran Kupreškić and Others* (Case No IT-95-16A); *Prosecutor v Tihomir Blaškić* (Case No IT-95-14-T); & *Prosecutor v Dario Kordić and Mario Čerkez* (Case No IT-95-14/2-T)” filed on 20 September 2001;

**NOTING** the “Ordonnance du Président relative à la Requête conjointe de la Défense dans l’Affaire *Le Procureur c/Hadžihasanović et consorts* aux fins d’autoriser l’access à des pièces confidentielles de l’affaire *le Procureur c/Kupreskić et consorts*” issued on 25 September 2001, whereby the President rejected the Motion;

**NOTING** the “Order of the President on Defence Counsel’s Joint Motion in the case the Prosecutor v. Hadžihasanović et al. for Access to all Confidential Material in the case the Prosecutor v. Blaškić”, issued on 16 October 2001, whereby the President decided to stay a decision on the Motion with respect to the confidential material in the *Blaškić* case, until the Appeals Chamber had ruled on Hadžihasanović’s Application for Leave to Appeal from the President’s order dated 25 September 2001;

**NOTING** the “Decision on Appeal from Refusal to Grant Access to Confidential Material in Another Case” issued on 23 April 2002, whereby the Appeals Chamber found that the President erred in law when he refused to grant access to the material sought and remitted the case to the President for him to provide for the requested access and to indicate any appropriate protective measures;

**NOTING** the “Order of the President on the Defence Motion for Access to Confidential Material in the Case *The Prosecutor v. Blaškić*” issued on 28 May 2002 (the “President’s Order”), whereby the President invited the Registrar to transmit the Motion to the Appeals Chamber in the *Blaškić* case;

**NOTING** the “Appellant’s Response to Joint Motion of Enver Hadžihasanović, Mehmed Alagić and Amir Kubura for Access to all Confidential Material, Transcripts and Exhibits” filed by Tihomir Blaškić on 14 June 2002;

**BEING SEISED** of the “Prosecution’s Response to the Motion of Enver Hadžihasanović, Mehmed Alagić and Amir Kubura for Access to All Confidential Material—Transcripts and Exhibits from: *Prosecutor v Tihomir Blaškić* (Case No IT-95-14-T) and Request for An Extension of Time Limit” filed confidentially on 12 July 2002 (the “Prosecution’s Response”), whereby the Prosecution requests that its present response be recognised as validly done by the Appeals Chamber pursuant to paragraph 16 of the Practice Direction on Procedure for the Filing of Written Submissions in Appeal Proceedings Before the International Tribunal (IT/155 Rev.1) (the “Practice Direction”);

**NOTING** that since the President’s Order was filed on 28 May 2002, the Prosecution’s Response should therefore had been filed no later than 7 June 2002;

**NOTING** the “Defence Response to Prosecution Filing of 12 July 2002” filed confidentially by Enver Hadžihasanović, Mehmed Alagić and Amir Kubura o 18 July 2002 (the “Defence Response”), whereby the Defence submits that the Prosecution’s Response is unjustified and should be rejected since the Prosecution failed to explain how the Appeals Chamber’s decision of 8 March 2002, created a “new standard” to be applied with respect to the identification of confidential material, which would significantly differ from the prior one and would justify the late filing of the Prosecution’s Response;

**CONSIDERING** that the Prosecution could have sought leave to bring its Response filed on 20 September 2001 up to date, since the jurisprudence on the issue of access to confidential material from another case has substantially evolved since the Motion was originally filed;

**CONSIDERING** that paragraph 16 of the Practice Direction provides that the Appeals Chamber may recognise as validly done any act done after the expiration of a time limit so prescribed;

**HEREBY GRANT** the Prosecution’s request and consider the Prosecution’s Response as having been validly filed, and

**GRANT** the Defence's request for leave to file a reply to the Prosecution's Response no later than 1 August 2002.

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



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Fausto Pocar  
Pre-Appeal Judge

Done this twenty second day of July 2002  
At The Hague,  
The Netherlands.

**[Seal of the Tribunal]**