



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-98-34-A
Date: 25 June 2003
Original: ENGLISH

BEFORE THE PRE-APPEAL JUDGE

Before: Judge Fausto Pocar, Pre-Appeal Judge

Registrar: Mr. Hans Holthuis

Decision of: 25 June 2003

PROSECUTOR

v.

**MLADEN NALETILIĆ, aka "TUTA"
VINKO MARTINOVIĆ, aka "ŠTELA"**

DECISION ON MLADEN NALETILIĆ'S MOTIONS FOR EXTENSION OF TIME

**Counsel for the Prosecutor:
Mr. Christopher Staker**

**Counsel for the Defence:
Mr. Matthew Hennessy and Mr. Christopher Meek for Mladen Naletilić
Mr. Želimir Par for Vinko Martinović**

I, FAUSTO POCAR, Judge of the Appeals 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 (“the International Tribunal”),

BEING SEIZED of the “Motion for Enlargement of Time to File Brief” filed on 26 May 2003 (“First Naletilić Motion”) by counsel for Naletilić, and the “Motion of Naletilić for Extension of time for Filing of Rule 115 Evidence” filed on 5 June 2003 (“Second Naletilić Motion”);

NOTING the “Decision on Motions for Extension of Time” issued on 12 June 2003, in which I stayed a decision on the First and Second Naletilić motions until the replacement of counsel for Naletilić;

RECALLING that in the First Naletilić Motion, Naletilić seeks an extension of time of seventy-five days from the date he receives a copy of the judgment in his own language to file his appellant’s brief; a suspension of the time limits until the appointment of a new lead counsel; and a reasonable period of time for the newly appointed counsel to familiarize himself with the case;

RECALLING that in the Second Naletilić Motion, Naletilić seeks an extension of time to file additional evidence pursuant to Rule 115 of the Rules of Procedure and Evidence of the International Tribunal (“Rules”), of seventy-five days from the date of the appointment of the new counsel by the Registry;

CONSIDERING the primary reasons proffered by Naletilić in his motions—namely, that he requested the removal of lead counsel Mr. Krsnik and replacement by Mr. Matthew Hennessy, but Mr. Hennessy had yet to meet with Naletilić and the Registry had not issued a decision on the matter; Mr. Krsnik was counsel in name only; it is essential that Naletilić be able to understand the judgment so that he may discuss his appeal with counsel; and without this input, he will be denied the equality of arms and his right to a fair appeal;

NOTING the “Prosecution Response to Defence Motions for Extensions of Time” filed on 3 June 2003 (“Prosecution Response to First Naletilić Motion”), in which the Prosecution submits, in relation to the First Naletilić Motion, that it would not oppose an extension of time of 40 days from the date of the filing of the translation of the judgment;

NOTING the “Prosecution Response to Second Motion by Naletilić for Extension of Time” filed on 16 June 2003 (“Prosecution Response to Second Naletilić Motion”), in which it submits, in summary, that the Second Naletilić Motion is premature; that Naletilić never made a timely request for reciprocal disclosure pursuant to Rule 66(B) of the Rules; the Prosecution is not obligated to provide any documents under Rule 66(B); and that the additional evidence the Defense presently seeks was, *inter alia*, either dealt with and on the trial record, or will not pass the due diligence test which is part of Rule 115, or would not change the trial judgment;

CONSIDERING that no reply has been filed by the Defense in relation to either of the Prosecution responses;

CONSIDERING that Rule 111 of the Rules provides that “[a]n Appellant’s brief setting out all the arguments and authorities shall be filed within seventy-five days of [the] filing of the notice of appeal pursuant to Rule 108”;

CONSIDERING that Rule 115 of the Rules provides that motions to present additional evidence before the Appeals Chamber shall be filed “not later than seventy-five days from the date of the judgment, unless good cause is shown for further delay[;]”

CONSIDERING that pursuant to Rule 127 of the Rules, the time limits prescribed under these Rules may be enlarged on good cause being shown by motion;

CONSIDERING that the BSC translation of the trial judgment will be available to the Appellant on 1 July 2003;

CONSIDERING that it is in the interests of justice to allow an appellant adequate time to read the judgment and to consult with counsel before filing his appellant’s brief and motion for additional evidence;

CONSIDERING further that by the decision of the Registrar filed on 23 June 2003, lead counsel for Naletilić has been replaced and Mr. Hennessy has been assigned in his place;

CONSIDERING that it is also in the interests of justice to allow newly appointed lead counsel to familiarize himself with the case;

FINDING that these circumstances constitute good cause for granting extensions of time;

FOR THE FOREGOING REASONS,

GRANT the First and Second Naletilić motions in whole and in part, respectively, and **ORDER** the Appellant Naletilić to file his appellant's brief by 15 September 2003, and his Rule 115 motion, if any, by 15 August 2003.

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

Dated this 25th day of June 2003,

At The Hague,

The Netherlands.



Fausto Pocar

Pre-Appeal Judge

[Seal of the Tribunal]