



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-01-42-A
Date: 1 March 2005
Original: English

IN THE APPEALS CHAMBER

Before: Judge Wolfgang Schomburg, Pre-Appeal Judge
Registrar: Mr. Hans Holthuis
Decision of: 1 March 2005

PROSECUTOR

v.

PAVLE STRUGAR

DECISION ON REQUEST FOR EXTENSION OF TIME

The Office of the Prosecutor:

Mr. Mark J. McKeon

Counsel for Pavle Strugar:

Mr. Goran Rodić
Mr. Vladimir Petrović

I, WOLFGANG SCHOMBURG, a Judge 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 (“International Tribunal”);

NOTING the “Order Assigning Judges to a Case Before the Appeals Chamber and Appointing a Pre-Appeal Judge” filed on 28 February 2005 which, *inter alia*, designated me to serve as Pre-Appeal Judge in this case;

BEING SEIZED OF the “Defence Request for Variation of Time Limit to File Notice of Appeal”, publicly filed by counsel for Pavle Strugar (“Defence”) on 18 February 2005 (“Defence Request”);

NOTING the “Prosecution Response to Defence Motion [sic] for Variation of Time Limit to File Notice of Appeal”, publicly filed by the Office of the Prosecutor (“Prosecution”) on 23 February 2005 (“Response”), in which the Prosecution submits its reasons for holding that the Defence Request is not justified;

NOTING that the Defence did not reply to the Response;

NOTING that the Judgement in this case has been rendered by Trial Chamber II on 31 January 2005;

CONSIDERING that the Defence requests that the 30 days pursuant to Rule 108 of the Rules to file the notice of appeal shall commence only on the day the translation of the Judgement into a language the accused understands is completed, as Pavle Strugar’s ability to advise his counsel on the notice of appeal and the grounds of appeal depends on his capability to read the Judgement in a language he understands;

NOTING that the Defence also argues that Pavle Strugar “faces serious health problems [...] particularly with dementia and memory loss”, and that “these problems are slowing down work progress previously anticipated”;

CONSIDERING that Rule 108 of the Rules of Procedure and Evidence (“Rules”) provides that “[a] party seeking to appeal a judgement shall, not more than thirty days from the date on which the judgement was pronounced, file a notice of appeal, setting forth the grounds”, and that Rule 108 of the Rules further states that “[t]he Appeals Chamber may, on good cause being shown by motion, authorise a variation of the grounds of appeal”;

CONSIDERING that Rule 127(B) of the Rules provides, *inter alia*, that on good cause being shown by motion, any time prescribed by the Rules can be enlarged;

CONSIDERING that time limits have to be respected and that any delay at such an early stage will affect subsequent filings, as the filing of the notice of appeal marks the very beginning of the appeals proceedings, and the time limits for the filing of appellant's briefs, respondent's briefs, and briefs in reply are calculated from the date on which the notice of appeal is filed;

CONSIDERING that the Defence, having chosen English as the working language for the case, is able to understand the Judgement, to discuss with Pavle Strugar possible grounds of appeal and to advise him as to potential errors of facts and law contained therein, and that the determination of potential grounds of appeal falls primarily within the purview of counsel;

CONSIDERING that the Defence did not sufficiently demonstrate that the "serious health problems" of Pavle Strugar prevent him from being able to follow the proceedings and to assist counsel in the preparation of the notice of appeal;

CONSIDERING, therefore, that the Defence may file a notice of appeal within the time limit provided for under Rule 108 of the Rules, and that no good cause has been shown pursuant to Rule 127(B) of the Rules for an extension of the time limit set out in Rule 108 of the Rules;

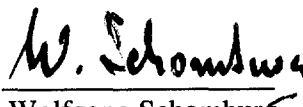
CONSIDERING that after the Judgement is made available to the accused in B/C/S, the Defence may seek, pursuant to Rule 108 of the Rules, authorisation to vary, specify or withdraw grounds of appeal or to file additional grounds of appeal, provided that it may show that the accused's inability to read the Judgement prior to the filing of the notice of appeal prevented the Defence from filing a full notice of appeal;

FOR THE FOREGOING REASONS,

DENY the Defence Request and

DIRECT the Registrar to inform the Bench about the day on which the translation of the Judgement has been served on the accused in B/C/S.

Done this first day of March 2005 in English and French, the English version being authoritative,
at The Hague, The Netherlands.


Wolfgang Schomburg
Pre-Appeal Judge

[Seal of the Tribunal]