



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-02-60-A
Date: 1 June 2005
Original: English

BEFORE THE PRE-APPEAL JUDGE

Before: Judge Mohamed Shahabuddeen, Pre-Appeal Judge

Registrar: Mr. Hans Holthuis

Decision: 1 June 2005

THE PROSECUTOR

v.

**Vidoje BLAGOJEVIĆ
Dragan JOKIĆ**

**DECISION ON APPELLANTS' MOTIONS FOR EXTENSION OF TIME IN WHICH
TO FILE THEIR RESPONSES TO THE PROSECUTOR'S APPEAL BRIEF**

Counsel for the Prosecutor:

Mr. Norman Farrell

Counsel for the Accused:

**Mr. Vladimir Domazet for Mr. Vidoje Blagojević
Ms. Cynthia Sinatra for Mr. Dragan Jokić**

INTRODUCTION

1. 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 (“International Tribunal”) is seised of appeals from the Judgement of Trial Chamber I in the case of *Prosecutor v. Blagojević et al.*, Case No. IT-02-60, rendered orally on 17 January 2005 and in writing on 24 January 2005 (“Judgement”). Appeals have been filed by both Appellants, Vidoje Blagojević and Dragan Jokić, as well as by the Prosecution.
2. I, Judge Mohamed Shahabuddeen, was designated Pre-Appeal Judge in this case by an “Order Assigning Judges to a Case Before the Appeals Chamber,” made by President Meron and filed on 14 February 2005.
3. The appeals process in this case has been delayed by several necessary extensions of time. First, one-week extensions of the deadlines for filing their Notices of Appeal were granted to both the Prosecution and Appellant Jokić on the ground that the written Judgement had not been released until one week after the Judgement was orally rendered.¹ Both the Prosecution and Jokić accordingly filed their Notices of Appeal on 23 January 2005; Jokić filed an Amended Notice of Appeal on 25 January 2005. Appellant Blagojević, however, was given a longer extension of ten weeks to file his Notice of Appeal—to 26 April 2005—in order to allow reasonable time for his newly selected defence team to review the record.²
4. Both Appellants subsequently moved for additional extensions of time. Blagojević sought a further two-month extension of time to file his notice of appeal on the grounds of the complexity of the case and delay in the transfer of certain material to his new counsel. Jokić sought a six-month extension of time to file his Appeal Brief on the grounds of the complexity of the case and delay in the translation of the Judgement to B/C/S. In response, the Prosecution conceded that extensions of reasonable length were appropriate—although it opposed the length of the extensions sought—and

¹ Decision on Prosecution Motion for Extension of Time in Which To File the Prosecution Notice of Appeal, Case No. IT-02-60-A, 15 February 2005; Decision on Defense Motion for Extension of Time in Which To File the Defence Notice of Appeal, Case No. IT-02-60-A, 15 February 2005.

² Decision on Vidoje Blagojević’s Expedited Motion for Extension of Time in Which to File His Notice of Appeal, Case No. IT-02-60-A, 16 February 2005.

requested that, for the sake of efficiency, any relief be tailored so as to re-synchronize the two defendants' appeals.

5. Pursuant to the Pre-Appeal Judge's Decision of 14 April 2005, both appellants' motions were granted in part. The Decision granted a 35-day extension for Blagojević to file his Notice of Appeal, to 31 May 2005, and extended the date for Jokić to file his Appeal Brief to 14 August 2005. Blagojević filed his Notice of Appeal on 31 May 2005, rendering a deadline for his Appeal Brief that also falls on 14 August 2005.

6. Meanwhile, the Prosecution filed its Appeal Brief on 9 May 2005. Pursuant to Rule 111 of the International Tribunal's Rules of Procedure and Evidence ("Rules"), Blagojević and Jokić must each file their Response Briefs within 40 days of that date, or by 18 June 2005; because 18 June is a Saturday, this deadline is adjusted to 20 June 2005 pursuant to Rule 126(b) of the Rules.

7. The Appeals Chamber is now seised of new motions filed by both Blagojević and Jokić, this time seeking extensions of time to file their Response Briefs.³ Each offers different reasoning, but the relief sought is the same: an extension to 40 days beyond the 14 August due date of the appellants' own Appeal Briefs, or 24 September 2005. The Prosecution opposes both extensions, arguing that neither motion establishes "good cause" within the meaning of Rule 127 of the Rules.⁴

DISCUSSION

8. Rule 127 of the Rules allows for the enlargement of time for filing on the basis of "good cause being shown by motion." Here, the Appellants offer two different rationales for an extension. Neither constitutes "good cause".

9. First, Blagojević argues that the deadline for filing his Response Brief (20 June 2005), which falls during the 75-day period between the new deadlines for his Notice of Appeal and Appeal Brief (31 May 2005 and 14 August 2005, respectively), does not allow his counsel sufficient time to

³ Defence of Accused Mr. Vidoje Blagojević Motion for Extension of Time Limited in Which to File a Respondent's Brief, Case No. IT-02-60-A, 25 May 2005; Appellant, Dragan Jokić's Motion for Extension of Time to File Respondent's Brief Pursuant to Rule 112, Case No. IT-02-60-A, filed 26 May 2005. Jokić's Motion was filed before the full Appeals Chamber, while Blagojević's was filed before me as Pre-Appeal Judge; however, both Motions are appropriate for disposition by the Pre-Appeal Judge.

⁴ Prosecution's Consolidated Response to Defence Motions for Extension of Time to File Respondent's Brief, Case No. IT-02-60-A, 27 May 2005.

devote to Blagojević's own appeal and to that of the Prosecution, both of which involve complex issues and an extensive record. It bears noting in this respect that Blagojević sought an extension of time to file his notice of appeal with full knowledge of the briefing schedule pertaining to the Prosecutor's appeal. Now, having received an extension, he argues that it will be too difficult for him to comply with the resulting combination of deadlines, and that he should receive *another* extension as a result. This does not come close to establishing "good cause."

10. In cases before the International Tribunal, it often occurs that appeals are taken by both sides; in such cases, each side has to be responsible for balancing the demands of two different briefing schedules. This requirement is not inconsistent with the Rules. Moreover, the prior extensions granted by the Appeals Chamber have already adequately accounted for the complexity of the case and the record.

11. In addition to adverting to the complexity of the case, Jokić argues that an extension will synchronize the schedule of the appellants' appeals with that of the Prosecution. Jokić cites the Prosecution's prior argument in favour of synchronization of Blagojević's and Jokić's appeals with one another, contending that synchronization will "conserve the energies" of the Appeals Chamber and the parties.

12. This argument is not persuasive. The Decision of 14 April granting the most recent set of extensions did not deem synchronization alone "good cause" for an extension. Rather, once it had been determined that the appellants had each established good cause, the advantages of synchronization were considered in determining the exact length of each extension. The extended deadlines were then harmonized in a way that worked to the advantage of the defendants, by moving what would have been the earlier of the two deadlines to match the later.

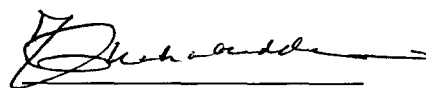
13. There is no good reason for synchronization in this context. The prosecution's earlier request for synchronization of the two appellants' appeals was designed in part to enable it to submit a joint response brief, noticeably streamlining the process and conserving the Tribunal's resources. Synchronization of the appeals of the *opposing* parties in the case, however, has no such advantage—the same number of separate briefs would still have to be filed by all parties, with the response and reply briefs of the two appellants due on the same dates as the response and reply briefs of the prosecution, respectively. Nor, contrary to Jokić's assertion, would additional hearings be necessitated by the unsynchronized schedule.

14. For these reasons, neither Blagojević nor Jokić has established “good cause” for an extension of time.

DISPOSITION

The Motions of Blagojević and Jokić for extensions of time to respond to the Prosecution’s Appeal Brief are hereby **DENIED**.

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



Mohamed Shahabuddeen
Pre-Appeal Judge

Dated 1 June 2005
At The Hague
The Netherlands

[Seal of the Tribunal]