

IT-02-60/1-A 2876  
A2876-A2876  
02 September 2005 MC

UNITED  
NATIONS



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-02-60/1-A  
Date: 2 September 2005  
Original: English

**BEFORE THE PRE-APPEAL JUDGE**

Before: Judge Mehmet Güney  
Registrar: Mr. Hans Holthuis  
Decision: 2 September 2005

Momir NIKOLIĆ

v.

PROSECUTOR

**DECISION ON DEFENCE MOTION FOR EXTENSION OF TIME  
TO FILE REVISED BRIEF IN REPLY**

**Counsel for the Appellant:**

Mr. Rock Tansey  
Mr. Richard John Livingston

**Counsel for the Prosecutor:**

Mr. Norman Farrell

A handwritten signature in black ink, appearing to be 'Güney'.

**I, MEHMET GÜNEY**, Judge of the Appeals Chamber of the International Criminal 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”) and Pre-Appeal Judge in this case,

**NOTING** the “Decision on Appellant’s Requests to Withdraw Previous Motions, to Revise Appellant’s Brief and to Amend Notice of Appeal” issued on 19 July 2005, in which the Appeals Chamber ordered that a revised Appellant’s brief shall be filed no later than 8 August 2005, a revised Respondent’s brief no later than 26 August 2005 and a revised brief in reply no later than 5 September 2005;

**NOTING** that Momir Nikolić (“Appellant”) filed his revised Appellant’s brief on 29 July 2005,<sup>1</sup> and the Prosecution filed its revised Respondent’s brief on 26 August 2005 (“Revised Response Brief”);<sup>2</sup>

**BEING SEISED OF** the “Motion for Extension of Time to File Reply to Prosecution Response to Revised Appellant’s Brief on Appeal against Sentence” filed on 1 September 2005 (“Motion”), whereby the Appellant requests an extension of 21 days to file his revised brief in reply ;

**NOTING** that the Motion relies, *inter alia*, on the following grounds:

- (i) the Revised Response Brief was not sent to the Appellant’s Lead Counsel before Monday 29 August 2005;
- (ii) since *a*) no copy was sent to the Appellant’s Co-Counsel, *b*) 29 August was a public holiday in England, and *c*) the Lead Counsel was abroad, the Appellant’s Co-Counsel did not obtain a copy of the Revised Response Brief until 18:00 on 30 August 2005;
- (iii) the Lead Counsel and Co-Counsel did not have an opportunity to discuss before the evening of 31 August 2005, when the Lead Counsel returned from holiday;
- (iv) the drafting of the revised brief in reply cannot be completed quickly due to the length of the Revised Response Brief and the careful consideration this document requires;
- (v) it will be necessary that the revised brief in reply be translated, sent to the Appellant for his comments, and that a conference be arranged thereafter for this purpose;

**CONSIDERING** that it is not necessary to wait for a response from the Prosecution to the Motion, as it would not be prejudiced by the outcome of the decision;

**NOTING** that, at the status conference held in this case on 19 July 2005, Counsel for the Appellant had indicated that they would have great difficulties in complying with the deadline prescribed for the filing of the revised brief in reply;

<sup>1</sup> Revised Appellant’s Brief on Appeal against Sentence, 29 July 2005.

<sup>2</sup> Prosecution’s Response to Revised Appellant’s Brief on Appeal against Sentence, 26 August 2005.

**RECALLING** that the Tribunal's deadlines are essential to the orderly and efficient progress of cases;

**CONSIDERING** that (1) Counsel for the Appellant were aware that the Revised Response Brief was to be filed on 26 August 2005, and the revised brief in reply no later than Monday 5 September 2005, and that they should have made the appropriate arrangements in order to fulfil their responsibilities towards their client and the International Tribunal; (2) the length of the Revised Response Brief does not justify an extension of time; (3) the care required by the drafting of the different briefs had been fully taken into consideration by the Appeals Chamber when it ordered the time-limits for the filing of the revised briefs;

**CONSIDERING**, however, that the delay in which the Appellant's Lead Counsel received the Revised Response Brief warrants an extension of time limited to the length of the delay;

**CONSIDERING** further that, in the circumstances of the case, it is in the interest of justice to allow the Appellant more time to consult with Counsel before filing his revised brief in reply;

**FINDING** nevertheless that the requested extension of time of 21 days is excessive in light of the reasons found to have merit, and that it is in the interests of justice to expedite the proceedings of an appeal already substantially delayed;

**REMINDING** the Appellant that it is also in his interests to benefit from the expeditiousness of the proceedings, which forms part of his fundamental right to a fair trial;

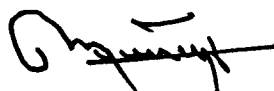
**FOR THE FOREGOING REASONS,**

**GRANT** the Motion in part; and

**ORDER** the Appellant to file the revised brief in reply no later than Wednesday, 21 September 2005.

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

Done this second day of September 2005,  
At The Hague, The Netherlands.



---

Mehmet Güney  
Pre-Appeal Judge

[Seal of the International Tribunal]