



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-03-66-A  
Date: 16 February  
2006  
Original: English

**BEFORE THE PRE-APPEAL JUDGE**

**Before:** Judge Theodor Meron, Pre-Appeal Judge  
**Registrar:** Mr. Hans Holthuis  
**Decision:** 16 February 2006

**PROSECUTOR**

v.

**Fatmir LIMAJ  
Haradin BALA  
Isak MUSLIU**

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**DECISION ON EXTENSION OF TIME**

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**The Office of the Prosecutor:**

Mr. Alex Whiting  
Mr. Julian Nicholls  
Mr. Colin Black

**Counsel for the Accused:**

Mr. Gregor Guy-Smith and Mr. Richard Harvey for Haradin Bala

1. I, THEODOR MERON, Judge of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of Former Yugoslavia since 1991 (“Tribunal”), and Pre-Appeal Judge in the case of *Prosecutor v. Limaj et al.*, am seized of the “Motion for the Extension of Time to File the Appellant’s Brief” (“Motion” or “Motion for Extension”), filed on 18 January 2006 by counsel for Haradin Bala (“Accused”).

2. In his Motion, the Accused seeks an extension of time in which to file his Appellant’s brief because the Trial Chamber’s Judgement<sup>1</sup> has not yet been translated into Albanian, and the Accused, who speaks only Albanian, is thus unable to read and review the Judgement with his counsel.<sup>2</sup>

## I. PROCEDURAL HISTORY

3. The Trial Chamber rendered its Judgement on 30 November 2005. Under Rule 108 of the Rules, the Accused then had 30 days in which to file a Notice of Appeal. The Notice was filed in a timely fashion on 30 December 2005.<sup>3</sup> Rule 111 provides that the Appellant’s brief must be filed within 75 days of the filing of the Notice of Appeal.

4. On 1 December 2005, the day after the Trial Chamber rendered its Judgement, the Accused asked the Registry, pursuant to Rule 98ter(D), to provide him with a copy of the Judgement in Albanian so he “could read and review it and assist counsel with regard to issues of fact and/or law that may be raised on appeal”.<sup>4</sup> On 11 January 2006, the Registry advised the Accused that the Judgement would not be translated into Albanian before 1 March 2006.<sup>5</sup>

5. The Accused filed the Motion for Extension on 18 January 2006. The Prosecution filed its response on 30 January 2006.<sup>6</sup>

## II. PARTY SUBMISSIONS

6. The Accused argues that it would not be fair and that it would violate due process to require him to prepare an Appellant’s brief before he has been able to read and review the Judgement in a language he understands. He argues that Rule 98ter(D), which provides that an accused shall

<sup>1</sup> *Prosecutor v. Limaj et al.*, Case No. IT-03-66, Judgement, 30 November 2005 (“Judgment”).

<sup>2</sup> Motion, para. 2.

<sup>3</sup> See *Prosecutor v. Limaj et al.*, Case No. IT-03-66-A, Notice of Appeal by the Defence for Haradin Bala of the Judgement by Trial Chamber I Rendered on 30 November 2005, 30 December 2005.

<sup>4</sup> Motion, para. 2.

<sup>5</sup> *Ibid.*, para. 3.

receive copies of the Judgement in a language he understands, and Article 21(4)(a) of the Statute of the Tribunal, which entitles an accused to be informed in a language he understands of the nature and cause of the charges against him, both compel this conclusion.<sup>7</sup>

7. The Accused therefore suggests that Rule 111's 75 day time limit for filing an Appellant's brief should be held, in this case, to commence from the date the written Judgement is made available in Albanian.<sup>8</sup> The Accused also argues that the fairness problems he identified satisfy Rule 127's requirement that "good cause" be shown before an extension of time is granted.<sup>9</sup> Though the Accused would prefer that the Appeals Chamber fix the deadline for filing the Appellant's brief at 75 days from the date the Albanian translation of the Trial Judgment is provided, he requests in the alternative that the deadline for filing the Appellant's brief be extended until 40 days from the date the Judgement is made available in Albanian.<sup>10</sup>

8. The Prosecution does not oppose the request for an extension of time.<sup>11</sup> However, it contends that Article 21 of the Statute is inapposite here; the Prosecution contends that, as this Article refers to the charge against an accused, it does not relate to trial judgements.<sup>12</sup> The Prosecution also argues that Rule 111 should not be read to give 75 days from the date the Albanian translation of the Trial Judgment is made available because Rule 111 states "on its face" that the 75-day period starts from the filing of the notice of appeal.<sup>13</sup>

9. According to the Prosecution, only Rule 127(A)(i), allowing an extension for good cause, applies to this situation.<sup>14</sup> The Prosecution asks that an extension be limited to 40 days because the Accused's counsel was his counsel at trial, and is therefore already familiar with the trial record.<sup>15</sup>

### III. DISCUSSION

10. Rule 111 clearly states that the Appellant's brief "shall be filed within seventy-five days of filing the notice of appeal". Hence, in this case, if the Accused wishes to file his Appellant's brief later than seventy-five days after the filing of the notice of appeal, he will need to obtain an

<sup>6</sup> Prosecution's Response to Bala's Motion for Extension of Time to File Appeal Brief, 30 January 2006 ("Response").

<sup>7</sup> Motion, paras 5-6.

<sup>8</sup> *Ibid.*, paras 9, 11.

<sup>9</sup> *Ibid.*, para. 7 (citing *Prosecutor v. Brdanin*, case No. IT-99-36-A, Decision on Motions for Extension of Time, 9 December 2004 ("*Brdanin Decision*"), p. 3).

<sup>10</sup> *Ibid.*, para. 12.

<sup>11</sup> Response, para. 2.

<sup>12</sup> *Ibid.*, para. 6.

<sup>13</sup> *Ibid.*, para. 5.

<sup>14</sup> *Ibid.*, para. 8.

<sup>15</sup> *Ibid.*, para. 9.

extension – the time in which to file the Appellant’s brief does not automatically stop running just because the Trial Judgment has not been translated into Albanian.

11. The Appeals Chamber has ruled that it is “in the interests of justice to allow the [Accused] adequate time to read the Judgement in a language he understands and to consult with counsel before filing his Appeal brief”.<sup>16</sup> The Appeals Chamber, moreover, has granted extensions for this purpose on several occasions.<sup>17</sup>

12. The Appeals Chamber, however, has also held that “the main burden lies on counsel in preparing the submissions as he has the legal expertise to advise the [Accused] whether there exist any potential errors of law and fact”, and that a counsel who speaks English can “commence the preparation of the appeal in consultation with the [Accused] before the translation of the Judgement is rendered”.<sup>18</sup> In this case, counsel for the Accused speak fluent English, so it would not be appropriate for the deadline for filing the Appellant’s brief to be fixed at a full 75 days after the translated Judgement is made available.<sup>19</sup>

13. In previous cases where a translated judgement was not ready by the time the notice of appeal was filed, the Appeals Chamber has granted extensions of 30,<sup>20</sup> 40,<sup>21</sup> 50<sup>22</sup> or 75<sup>23</sup> days. The longer extensions have been granted when there existed, in addition to the translation issue, either a desire to resynchronize appeals of co-accused<sup>24</sup> or a Judgement of unusual length.<sup>25</sup> Neither consideration is present in the instant case.

14. As previously mentioned, the Accused’s alternative request is that the deadline be fixed at 40 days after the Albanian translation of the Judgement is filed, and the Prosecution does not oppose this alternative request.<sup>26</sup> The Pre-Appeal Judge therefore concludes that it is in the interests of justice that the deadline for filing the Appellant’s brief in this case be fixed at 40 days after the Albanian translation of the Judgement is filed.

<sup>16</sup> *Brdanin* Decision, p. 3.

<sup>17</sup> See, e.g., *ibid.*, p. 6; *Prosecutor v. Blagojević & Jokić*, Case No. IT-02-60-A, Decision on Vidoje Blagojević’s Motion for Extension of Time in Which to File His Notice of Appeal and on Dragan Jokić’s Motion for Extension of Time in Which to File His Appeal Brief, 14 April 2005 (“*Blagojević & Jokić* Decision”), p. 5.

<sup>18</sup> *Brdanin* Decision, pp. 3-4.

<sup>19</sup> See *ibid.*, p. 4.

<sup>20</sup> See *Prosecutor v. Dragan Nikolić*, Case No. IT-94-2-A, Decision on Motion for Variation of Time-Limit, 25 March 2004, p. 3.

<sup>21</sup> See *Prosecutor v. Momir Nikolić*, Case No. IT-02-60/1-A, Decision on Motion for Variation of Time-Limit, 22 January 2004 (“*Momir Nikolić* Decision”).

<sup>22</sup> See *Brdanin* Decision, p. 6.

<sup>23</sup> See *Blagojević & Jokić* Decision, p. 5.

<sup>24</sup> See *ibid.*


<sup>25</sup> See *Brdanin* Decision, p. 4.

<sup>26</sup> Motion, para. 12; Response, para. 9.

15. For the foregoing reasons, the Pre-Appeal Judge **DENIES** the relief sought in paragraph 11 of the Motion; **GRANTS** the alternative relief sought in paragraph 12 of the Motion; and **ORDERS** the Accused to file his Appellant's brief not later than 40 days after the filing of the Albanian translation of the Judgement. The Pre-Appeal Judge **REQUESTS** the Registrar to inform the Appeals Chamber and the parties to this case when the translation of the Judgement in Albanian is filed.

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

Dated this 16th day of February 2006,  
At The Hague,  
The Netherlands.

  
Judge Theodor Meron  
Pre-Appeal Judge