



International Tribunal for the
Prosecution of Persons
Responsible for Serious Violations of
International Humanitarian Law
Committed in the Territory of
Former Yugoslavia since 1991

Case No. IT-01-47-A
Date: 8 August 2006
Original: English

IT-01-47-A
A586. A583
08 August 2006

586
MC

IN THE APPEALS CHAMBER

Before: Judge Mohamed Shahabuddeen, Pre-Appeal Judge
Registrar: Mr. Hans Holthuis
Decision: 8 August 2006

PROSECUTOR

v.

**ENVER HADŽIHASANOVIĆ
AMIR KUBURA**

DECISION ON MOTION FOR EXTENSION OF TIME

The Office of the Prosecutor:

Mr. Peter Kremer, QC

Counsel for the Appellants:

Ms. Edina Redišović and Mr. Stéphane Bourgon for Mr. Hadžihasanović
Mr. Fahrudin Ibrišimović and Mr. Rodney Dixon for Mr. Kubura

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 seized of appeals from all parties from the Judgement of Trial Chamber II in the case of *Prosecutor v. Hadžihasanović and Kubura*, Case No. IT-01-47, rendered in French on 15 March 2006 (“Judgement”).

2. I, Judge Mohamed Shahabuddeen, was designated Pre-Appeal Judge in this case by an “Order Assigning Judges to a Case Before an Appeals Chamber and Appointing a Pre-Appeal Judge,” filed on 26 April 2006.

3. Enver Hadžihasanović filed his “Notice of Appeal from Judgement on Behalf of Enver Hadžihasanović and Request for Leave to Exceed the Page Limit” in this case on 18 April 2006. On 8 May 2006, Mr. Hadžihasanović, who does not speak French, filed a “Motion for Variation of Time Limits Pursuant to Rule 127,” in which he sought an extension of time for the completion of his Appeal Brief until 45 days after the completion of a translation in B/C/S of certain sections of the Judgement that are of particular importance to his appeal.¹ On 27 June 2006, Mr. Hadžihasanović’s request for an extension of time was granted.² The Decision of 27 June 2006 found that the request was reasonable and that there was good cause for it, noting that “the Appeals Chamber has consistently held that there is good cause to grant an extension for an appeal brief in order to permit an appellant to review the judgement in a language he understands and to help his counsel to prepare the brief.”³

4. The Prosecution filed its Appeal Brief in its own appeal in this case on 3 July 2006.⁴ The Response Briefs of Mr. Hadžihasanović and Mr. Kubura would ordinarily be due within 40 days of this date, or the following working day of the Tribunal, which in this case is 14 August 2006. On 21 July 2006, Mr. Kubura filed a “Motion on Behalf of Mr. Amir Kubura for Extension of Time to File Respondent’s Brief”, which sought an extension until 40 days after his counsel received a certified English translation of the Judgement as provided for by the Decision of 27 June 2006. Mr. Kubura’s motion was granted on 26 July 2006, and he was ordered to file his Response Brief within

¹ *Prosecutor v. Hadžihasanović & Kubura*, Case No. IT-01-47-A, Appellant’s Motion for Variation of Time Limits Pursuant to Rule 127, 8 May 2006, paras 14-16 (specifically seeking translations of pages 133-277, 383-421, 466-508, 538-602, and 707-718).

² *Prosecutor v. Hadžihasanović & Kubura*, Case No. IT-01-47-A, Decision on Motions for Extension of Time, Request to Exceed Page Limit, and Motion to File a Consolidated Response to Appeal Briefs, 27 June 2006, p. 4 (“Decision of 27 June 2006”).

³ *Ibid.*, para. 6 (citing cases).

⁴ *Prosecutor v. Hadžihasanović & Kubura*, Case No. IT-01-47-A, Prosecution Appeal Brief, 3 July 2006.

40 days of the transmission of the translation of the Judgement to his counsel.⁵ The Prosecution was permitted to file its Consolidated Reply Brief within 15 days of the filing of the latter of the two Response Briefs of Mr. Kubura and Mr. Hadžihasanović.⁶

5. On 28 July 2006, Mr. Hadžihasanović filed the “Motion on Behalf of Enver Hadžihasanović Seeking an extension of Time to File Respondent’s Brief” (“Motion”), which seeks an extension until 40 days after he receives the B/C/S translation of the specific pages referred to in his “Motion for Variation of Time Limits Pursuant to Rule 127 of 8 May 2006”. On 1 August 2006, the Prosecution filed its “Response to Motion on Behalf of Enver Hadžihasanović Seeking an Extension of Time to File Respondent’s Brief”, in which it stated that it did not oppose Mr. Hadžihasanović’s Motion and requested that, in the event that Mr. Hadžihasanović’s Motion is granted, the decision “permit the Prosecution to file a Consolidated Reply Brief within 15 days from the filing of the latter of the two Respondent’s Briefs” consistent with the Decision granting Mr. Kubura’s motion for extension of time to file his Respondent’s Brief.⁷

6. An extension of time is merited in this case on the basis of the reasons given in the Decision of 27 June 2006. As was held in a recent Appeals Chamber Decision, because “[a] response, no less than an Appellant’s brief, may contain factual argument that can affect decisions taken by the Appeals Chamber . . . , the interests of justice equally require that accused be allowed to read the Judgement in a language they understand before responding to an Appellant’s brief filed by the Prosecution.”⁸ It is true that Mr. Hadžihasanović’s defence counsel can begin work on the Response while awaiting the partial B/C/S translation of the Judgement.⁹ Nonetheless, as I found in the Decision of 26 July 2006 granting Mr. Kubura’s motion for an extension of time to file his Response Brief, a 40-day extension is reasonable in this case because it will not cause a delay in the proceedings. In light of the extension already granted to Mr. Hadžihasanović for the filing of his

⁵ *Prosecutor v. Hadžihasanović & Kubura*, Case No. IT-01-47-A, Decision on Motion for Extension of Time, 26 July 2006, para. 6 (“Decision of 26 July 2006”).

⁶ *Id.*

⁷ *Prosecutor v. Hadžihasanović & Kubura*, Case No. IT-01-47-A, Prosecution’s Response to Motion on Behalf of Enver Hadžihasanović Seeking an Extension of Time to File Respondent’s Brief, 1 August 2006, para. 5. Defence counsel indicated to the Senior Legal Officer for the Appeals Chamber that he did not intend to file a reply to the Prosecution’s Response.

⁸ *Prosecutor v. Limaj et al.*, Case No. IT-03-66-A, Decision on Extension of Time to File Response, 5 April 2006, para. 2.

⁹ *See Prosecutor v. Pavle Strugar*, Case No. IT-01-42-A, Decision on Defence Request for Extension of Time, 9 May 2005, p. 2 (granting in part a motion for extension of time to file an appeal brief but noting that the Defence was “perfectly capable of commencing work on the Appellant’s brief while the translation of the B/C/S translation of the Judgement is being prepared”).

Appeal Brief, the briefing of the Prosecution's appeal will continue to proceed ahead of the briefing of Mr. Hadžihasanović's appeal.¹⁰

7. The unopposed Motion is therefore GRANTED. Mr. Hadžihasanović is ordered to file his Response Brief, if any, not later than 40 days after the date on which the partial B/C/S translation of the Judgement is transmitted to him. The Prosecution is permitted to file its Consolidated Reply Brief within 15 days of the filing of the later of the two Response Briefs of Mr. Hadžihasanović and Mr. Kubura, in line with Rule 113 of the Rules of Procedure and Evidence of the International Tribunal and paragraph C(1)(c) of the Practice Direction on the Length of Briefs and Motions.¹¹

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



Mohamed Shahabuddeen
Pre-Appeal Judge

Dated 8 August 2006
At The Hague
The Netherlands

[Seal of the International Tribunal]

¹⁰ In view of the finding that an extension of time is warranted for the reasons given above, it is not necessary to address the alternative ground upon which Mr. Hadžihasanović's seeks an extension, which is based on the alleged inability of the Defence to file Mr. Hadžihasanović's Respondent's Brief by 14 August 2006 in light of *Prosecutor v. Hadžihasanović & Kubura*, Case No. IT-01-47-A, *Ex Parte* and Confidential Decision on Motion Seeking Clarification and Requesting an Oral Hearing, 13 July 2006.

¹¹ Under Rule 113 of the Rules of Procedure and Evidence of the International Tribunal, an appellant may file a reply brief within fifteen days after the filing of the respondent's brief. Practice Direction on the Length of Briefs and Motions, IT/184/Rev/2, 16 September 2005, para. C(1)(c) provides that an appellant may file a consolidated reply brief, the time limit of which shall run from the filing date of the last appellee's response.