



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-04-82-PT  
Date: 16 August 2006  
Original: English

**IN TRIAL CHAMBER II**

**Before:** Judge Kimberly Prost, Pre-Trial Judge  
**Registrar:** Mr. Hans Holthuis  
**Decision:** 16 August 2006

**PROSECUTOR**

v.

**Ljube BOŠKOSKI  
Johan TARČULOVSKI**

**DECISION ON REQUEST TO DECLARE THE ENVISIONED  
DEADLINES INVALID AND DEFENCE COUNSEL  
MOTION SEEKING NEW DEADLINES**

**The Office of the Prosecutor:**

Mr. Dan Saxon  
Mr. Anees Ahmed

**Counsel for the Accused:**

Ms. Edina Rešidović for Ljube Boškosi  
Mr. Antonio Apostolski for Johan Tarčulovski

**TRIAL CHAMBER II** (“Trial 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 (“Tribunal”),

**BEING SEISED OF** the “Request to Declare the Envisioned Deadlines Invalid”, filed on 12 July 2006 by the Accused Ljube Boškosi (“First Motion” and “Accused”), the “Defence Counsel Motion Seeking New Deadlines” filed on 2 August 2006 by Counsel for Accused Ljube Boškosi (“Second Motion” and “Counsel for the Accused”) and the “Defence Counsel Motion Seeking Leave to Reply and Reply to ‘Prosecution’s Response to Accused Boškosi’s ‘Request to Declare the Envisioned Deadlines Invalid’” (“First Motion to Reply”) filed on 27 July 2006;

**NOTING** the “Prosecution’s Response to the Accused Boškosi’s ‘Defence Counsel Motion Seeking New Deadlines”, filed on 10 August 2006, whereby the Prosecution submits that it does not object to the requested relief in the Second Motion;

**NOTING** the “Decision on the Motions on Fair Trial and Extensions of Time” issued by the Trial Chamber on 19 May 2006 (“19 May Decision”), in which the Trial Chamber considered that since the Accused was representing himself and does not speak either of the working languages of the Tribunal, he should be provided with translations in Macedonian to enable him to participate in the proceedings and to prepare his defence;

**NOTING** the decision of the Deputy Registrar dated 20 July 2006, whereby Ms. Edina Rešidović was appointed as privately retained counsel for the Accused (“Deputy Registrar’s Decision”);

**NOTING** the “Prosecution’s Response to Accused Boškosi’s ‘Request to Declare the Envisioned Deadlines Invalid’” (“First Response”), filed on 21 July 2006, whereby the Prosecution argues that the First Motion should be declared moot in view of the Deputy Registrar’s Decision and that the Trial Chamber should revoke the part of its 19 May Decision dealing with translation and the related deadlines;

**CONSIDERING**, with regard to the First Motion, that the Accused at the time of the 19 May Decision was representing himself; that he is now represented and that therefore the arguments raised in the First Motion are no longer valid;

**FINDING** the First Motion moot;

**FINDING FURTHER** that since the First Motion is moot, the First Motion to Reply is also moot;

**NOTING** that Counsel for the Accused, in the Second Motion, requests that the Trial Chamber grants a “(1) deadline of no less than 3 (three) weeks after the final decisions on jurisdiction and form of the Second Amended Indictment to submit its Pre-Trial Brief; (2) deadline of 10 days to respond to each of the Prosecution’s 92bis motions, starting from 1 September 2006 as the deadline for response to the Prosecution’s First Revised 92bis Motion, until 20 October 2006 as the deadline for the Prosecution’s Sixth Revised 92bis Motion; (3) deadline of no less than 60 days for response to the Prosecution’s Military and Police Expert Reports and no less than 30 days for the other Prosecution’s Expert reports from the date on which the Defence Counsel receives all the disclosures; (4) deadline for reports on progress on agreed facts proposal to be 20 September 2006; and (5) deadline for challenging the authenticity of the Prosecution’s exhibits and agreement on admission of exhibits to be 30 October 2006”;

**NOTING** that in the 19 May Decision the Trial Chamber considered that the Accused, who at the time was representing himself, should be provided with translations in Macedonian to enable him to participate in the proceedings and to prepare his defence and that the deadlines for responses to motions and decisions was to be calculated from the date of translation;

**CONSIDERING** that since the Deputy Registrar’s Decision the basis for the 19 May Decision regarding translation is no longer present and there is no need to calculate time-limits from the date of translation;

**FINDING** that because the Accused is now represented the Tribunal will no longer translate the additional material identified in the 19 May decision into Macedonian and the time-limits should no longer be calculated from the date of translation but rather in accordance with the time-limits in Rule 126bis of the Rules of Procedure and Evidence (“Rules”);

**NOTING** that in the decision of 11 July 2006 (“11 July Decision”),<sup>1</sup> the Pre-Trial Judge ordered “Boškoski and the Defence of Tarčulovski to submit the Pre-Trial Brief by no later than three days after the current pending motions relating to Jurisdiction and the form of the Second Amended Indictment<sup>2</sup> (“Preliminary Motions”) have been disposed of, but the time will run from the date of the translation of the decisions on these motions”;

**NOTING** that in the Second Motion, the Accused requests the Trial Chamber to confirm that the time-limit in the 11 July Decision runs from the translations of the final decisions on the current

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<sup>1</sup> Decision on Ljube Boškoski’s Submission for the Clarification and Determination of Time-limits for Filing of the Pre-Trial Brief, 11 July 2006.

<sup>2</sup> Assigned *Pro Bono* Counsel Motion Challenging Jurisdiction, filed on 21 June 2006, and Assigned *Pro Bono* Counsel Motion Challenging the Form of the Second Amended Indictment, filed on 21 June 2006.

pending Preliminary Motions, which is understood to be either the Appeals Chamber's decision or the Trial Chamber's decisions in case there is no appeal;

**CONSIDERING** that the Trial Chamber is of the view that its 11 July Decision does not refer to any deadline running from the time of a potential appeal decision and therefore restates that the time-limit was intended to run from the time of the filing of the Trial Chamber's decisions on the Preliminary Motions;

**FINDING**, however, that since the reasons to have time-limits depending on the date of translations are no longer valid, the Trial Chamber sets the deadline for the filing of the Pre-Trial Briefs to be no later than three days after this Trial Chamber has disposed of the Preliminary Motions;

**NOTING** that, in the 19 May Decision, the time-limits for the Prosecution's 92bis motions<sup>3</sup> was set to be fourteen days after translation of the respective 92bis motions;

**NOTING** that the translations of the Third 92bis Motion, First Revised 92bis Motion and Second Revised 92bis Motion were received by both the Accused and his co-accused Johan Tarčulovski on 18 July 2006, and that the time-limit for filing responses to these three motions therefore expired on 1 August 2006;

**NOTING** that Counsel for Johan Tarčulovski filed the responses to these three motions on 19 May 2006<sup>4</sup> and 1 August 2006<sup>5</sup> respectively and that no responses were filed within the time-limit by the Accused;

**CONSIDERING** that the First Motion requested the Trial Chamber to declare invalid the time-limit to respond to these three motions, that no decision had been issued by the Trial Chamber and that Counsel for the Accused is well aware of the fact that time-limits imposed by the Trial Chamber continue to be in force until otherwise ordered;

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<sup>3</sup> "Prosecution's Third Rule 92bis Motion" filed on 31 March 2006 ("Third 92bis Motion"); "Prosecution's First Revised 92bis Motion" filed on 8 May 2006 ("First Revised 92bis Motion"); "Prosecution's Second Revised Rule 92bis Motion" filed on 16 May 2006 ("Second Revised 92bis Motion"); "Prosecution's Third Revised Rule 92bis Motion" filed on 8 June 2006 ("Third Revised Rule 92bis Motion"); "Prosecution's Fourth Revised Rule 92bis Motion" filed on 26 June 2006 ("Fourth Revised Rule 92bis Motion"); "Prosecution's Fifth Revised Rule 92bis Motion" filed on 27 June 2006 ("Fifth Revised Rule 92bis Motion"); and "Prosecution's Sixth Revised Rule 92bis Motion" filed on 29 June 2006 ("Sixth Revised Rule 92bis Motion").

<sup>4</sup> "Confidential Defence Response to the Confidential Prosecution's Third Motion for Admission of Written Statements in Lieu of Viva Voce Testimony Pursuant to Rule 92bis" filed on 19 May 2006.

<sup>5</sup> "Confidential Defence Response to the Confidential Prosecution's First Revised Motion for Admission of Written Statements Pursuant to Rule 92bis, for Extension of Time and for Submission of Second Amended Witness List" filed on 1 August 2006; "Confidential Defenc [sic] Response to the Confidential Prosecution's Second Revised Motion for Admission of Written Statements Pursuant to Rule 92bis, with Annexes A through G" filed on 1 August 2006.

**CONSIDERING FURTHER** that Counsel for the Accused had ample time from the date she was assigned until the deadline for filing of the responses to these motions;

**CONSIDERING HOWEVER** that a response from Counsel for the Accused to the Third *92bis* Motion, First Revised *92bis* Motion and Second Revised *92bis* Motion would be of assistance to the Trial Chamber;

**CONSIDERING** that in relation to the Third Revised Rule *92bis* Motion, Fourth Revised Rule *92bis* Motion, Fifth Revised Rule *92bis* Motion and Sixth Revised Rule *92bis* Motion, the reason to have the time-limit run from the date of translation is no longer valid;

**NOTING** that in the 19 May Decision the time-limit was 30 days after translation of the Prosecution's expert reports and that this deadline was reiterated in the decision on 17 July 2006 ("17 July Decision")<sup>6</sup>;

**NOTING** that in the Second Motion it is argued that the deadline should be no less than "60 days for response to the Prosecution's Military and Police Expert Reports and no less than 30 days for the other Prosecution's Expert reports from the date on which the Defence Counsel receives all the disclosures";

**CONSIDERING** that it is for Counsel to organise the work and the fact that Counsel, when acting as *Pro Bono* Counsel,<sup>7</sup> in consultation with the Accused, chose to have the disclosed material only with the Accused is a factor the Trial Chamber will not consider in favour of granting Counsel additional time to respond;

**NOTING** that in the 17 July Decision the Pre-Trial Judge granted the Accused until ten days after the translation of the agreed facts proposal to submit his report on the progress made;

**NOTING** that Counsel for Johan Tarčulovski reported on progress made in relation to the proposed agreed facts on 16 June 2006<sup>8</sup>;

**CONSIDERING** that the reason to have time-limits run from the time of translation into Macedonian is no longer valid;

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<sup>6</sup> Decision on Ljube Boškovski's Motion for Submission of Documents and Scheduling Order, 17 July 2006.

<sup>7</sup> The Trial Chamber notes the Deputy Registrar's Decision in which Counsel is requested to transfer the disclosed material to the Accused, however this decision was taken when the Accused had not yet indicated that Counsel would act as his *Pro Bono* Counsel and following that assignment it was made clear from Registry to *Pro Bono* Counsel that it was for the Accused to choose how they shared material.

<sup>8</sup> Defence Report for the Agreed Facts Proposal, 16 June 2006.

**NOTING** that in the 19 May Decision, a deadline of 30 June 2006 was set for both accused to indicate whether they challenge the authenticity of the exhibits proposed by the Prosecution, and which exhibits they agree to have admitted, if any;

**NOTING** that neither accused responded within the prescribed time-limit;

**CONSIDERING** that it is in the interests of the Trial Chamber to have the parties indicate their positions in relation to the authenticity of exhibits prior to the trial, as it expedites the proceedings;

**FOR THE FOREGOING REASONS**

**DECLARES** the First Motion and the First Motion to Reply moot;

**GRANTS** the Second Motion in part, and;

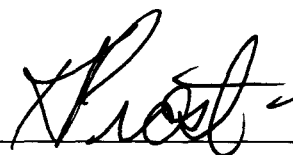
**ORDERS** that

1. the time-limits for filing are again calculated from the date of filing in accordance with Rule 126*bis* of the Rules and not from the date of translation, which had previously been ordered in the 19 May Decision;
2. the Pre-Trial Briefs be filed no later than three days after Decisions on the current pending Preliminary Motions have been issued by this Trial Chamber;
3. Counsel for the Accused file the response, if any, to the Third 92*bis* Motion, First Revised 92*bis* Motion and Second Revised 92*bis* Motion no later than 4 September 2006;
4. the responses from Counsel for the Accused and Counsel for Johan Tarčulovski to the Third Revised Rule 92*bis* Motion, Fourth Revised Rule 92*bis* Motion, Fifth Revised Rule 92*bis* Motion and Sixth Revised Rule 92*bis* be filed no later than 18 September 2006;
5. the responses to the Prosecution's expert reports be filed no later than 11 September 2006;
6. Counsel for the Accused and Counsel for Johan Tarčulovski file their reports on the progress relating to the proposed agreed facts no later than 18 September 2006;

7. Counsel for the Accused and Counsel for Johan Tarčulovski indicate whether they challenge the authenticity of the exhibits proposed by the Prosecution, and which exhibits they agree to have admitted, if any by 2 October 2006.

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

Dated this 16<sup>th</sup> day of August 2006,  
At The Hague  
The Netherlands



**Judge Kimberly Prost**

**Pre-Trial Judge**

**[Seal of the Tribunal]**