

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-01-47-A
Date: 30 November 2007
Original: English

IN THE APPEALS CHAMBER

Before: Judge Fausto Pocar, Presiding
Judge Mohamed Shahabuddeen
Judge Mehmet Güney
Judge Liu Daqun
Judge Theodor Meron

Registrar: Mr. Hans Holthuis

Order of: 30 November 2007

PROSECUTOR

v.

**ENVER HADŽIHASANOVIĆ
AMIR KUBURA**

PUBLIC

**DECISION ON HADŽIHASANOVIĆ'S EXPEDITED MOTION
SEEKING ADMISSION IN THE RECORD ON APPEAL OF
CERTAIN OFFICIAL TRANSLATIONS AND REQUEST FOR
ADDITIONAL TIME DURING THE APPEAL HEARING**

The Office of the Prosecutor:

Mr. Peter Kremer, QC
Ms. Shelagh McCall
Mr. Marwan Dalal
Mr. Xavier Tracol
Ms. Barbara Goy
Ms. Katharina Margetts
Mr. Matteo Costi

Counsel for the Appellants:

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

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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”),

RECALLING the “Scheduling Order for Preparation of Appeal Hearing” filed 14 November 2007, in which the Appeals Chamber ordered that the appeal hearing take place on 4 and 5 December 2007, and that Enver Hadžihasanović (“Hadžihasanović”) be given 70 minutes for the presentation of his oral arguments on his appeal;

BEING SEIZED OF the “Expedited Appellant Motion Seeking Admission in the Record on Appeal of Certain Official Translations and Request for Additional Time During the Appeal Oral Hearing” filed confidentially on 26 November 2007 (“Hadžihasanović’s Motion”), in which Hadžihasanović requests that the Appeals Chamber: (i) admit in the record on appeal the official translations obtained by the Trial Chamber from the Conference and Language Services Section (“CLSS”) of certain parts of the trial transcript (“Official Translations”);¹ (ii) take into account those Official Translations in its determination of his responsibility for Counts 3 and 4 of the Indictment, for which he was found guilty by the Trial Chamber;² (iii) grant him an additional time of 20 minutes at the appeal hearing in order to provide further explanations concerning those Official Translations and their impact on the present appeal;³ and (iv) grant him a further additional time of 30 minutes to argue his appeal, following arrangements he made with Amir Kubura (“Kubura”), who accepted to have the time to argue his own appeal reduced from 60 minutes to 40 minutes and to have his time to respond to the Prosecution’s appeal reduced from 40 minutes to 30 minutes;⁴

NOTING the “Prosecution Response to Expedited Appellant Motion Seeking Admission in the Record on Appeal of Certain Official Translations and Request for Additional Time During the Appeal Oral Hearing” filed confidentially on 28 November 2007 (“Prosecution’s Response”), in which the Prosecution does not oppose Hadžihasanović’s Motion, consents that Hadžihasanović be given additional time to address the arguments contained in his Motion provided that it be given equal time to respond, and does not oppose that Hadžihasanovic be given an additional 30 minutes to argue his appeal;⁵

¹ See Hadžihasanović’s Motion, paras 2, 25 and 34(a). The Official Translations are attached to Hadžihasanović’s Motion as Annexe C (“First Memorandum Addressed to the Trial Chamber by CLSS on 19 September 2005”) and Annexe D (“Second Memorandum Addressed to the Trial Chamber by CLSS on 19 September 2005”) and concern: English T. 14987, lines 24-25; French T. 14987, lines 22-24; English T. 15039, lines 1-9 and 21-24; French T. 15039, lines 19-25; French T. 15040, lines 1-5 and 21-23.

² See Hadžihasanović’s Motion, paras 26 and 34(b).

³ See Hadžihasanović’s Motion, paras 3 and 32-33.

⁴ See Hadžihasanović’s Motion, footnote 1: “[T]he Defence has already secured the Co-appellant’s consent for 30 additional minutes to be taken from the time allocated to him and transferred to the Defence to argue its appeal”. See also the new proposed schedule enclosed as Annexe E to Hadžihasanović’s Motion, as amended on 27 November 2007 (correspondence to Counsel for the Prosecution, Counsel for Kubura, and the Senior Legal Officer of the Appeals Chamber).

⁵ Prosecution’s Response, paras 3-4. On 28 November 2007, the Defence for Hadžihasanović informed a Legal Officer of the Appeals Chamber that it will not reply to the Prosecution’s Response.

CONSIDERING that, under Rule 89(C) of the Rules of Procedure and Evidence, the Appeals Chamber may admit any evidence it deems relevant;⁶

CONSIDERING that the Official Translations (Annexes C and D)⁷ were provided to the Trial Chamber by CLSS following its request that the English and French transcripts be checked against the recordings made of certain witnesses' live testimony (original Bosnian/Croatian/Serbian version), that those reveal discrepancies with the English and French transcripts used by the Trial Chamber in the Trial Judgement, and hence should be made available to the Parties and form part of the record of the case;

CONSIDERING that, in support of his request for an additional time of 30 minutes to argue his appeal, Hadžihasanović only mentions that Kubura consented that the time allocated to him by the Appeals Chamber in its "Scheduling Order for Preparation of Appeal Hearing" of 14 November 2007 be reduced and merely refers to the "number of grounds" in his appeal,⁸ thus failing to show good cause warranting that the Appeals Chamber grant him the requested additional time;

ON THE BASIS OF THE FOREGOING,

GRANTS in part Hadžihasanović's Motion;

ADMITS in the record on appeal the Official Translations (Annexes C and D) referred to by Hadžihasanović;

GRANTS Hadžihasanović an additional 20 minutes to present oral arguments regarding the alleged impact of the Official Translations on the present appeal;

GRANTS the Prosecution an additional 20 minutes to respond to those arguments;

REJECTS Hadžihasanović's Motion with regard to his request for a further addition of 30 minutes to argue his appeal;

HEREBY ORDERS that the appeal hearing scheduled to take place on Tuesday, 4 December 2007, and Wednesday, 5 December 2007, in Courtroom I, be held subject to the following tentative arrangements:

Tuesday, 4 December 2007:

08:30 am – 08:40 am	Introductory statement by the Presiding Judge (10 minutes)
08:40 am – 09:20 am	Appeal from Kubura (40 minutes)
09:20 am – 10:00 am	Response by the Prosecution (40 minutes)
10:00 am – 10:20 am	Reply by Kubura (20 minutes)
10:20 am – 10:50 am	<i>Pause (30 minutes)</i>

⁶ *Prosecutor v. Kupreškić et al.*, Case No. IT-95-16-A, Judgement, 23 October 2001, para. 55.

⁷ See supra footnote 1.

10:50 am – 11:50 am	Appeal from the Prosecution (60 minutes)
11:50 am – 12:10 pm	Response by Hadžihasanović (20 minutes)
12:10 pm – 12:30 pm	<i>Pause (20 minutes)</i>
12:30 pm – 13:10 pm	Response by Kubura (40 minutes)
13:10 pm – 13:30 pm	Reply by the Prosecution (20 minutes)

Wednesday, 5 December 2007:

08:30 am – 10:00 am	Appeal from Hadžihasanović (90 minutes)
10:00 am – 10:20 am	<i>Pause (20 minutes)</i>
10:20 am – 11:50 am	Response by the Prosecution (90 minutes)
11:50 am – 12:10 am	<i>Pause (20 minutes)</i>
12: 10 pm – 12:30 pm	Reply by Hadžihasanović (20 minutes)
12:30 pm – 12:40 pm	Brief Personal Address by Kubura (10 minutes) (optional)
12:40 pm – 12:50 pm	Brief Personal Address by Hadžihasanović (10 minutes) (optional).

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



Fausto Pocar
Presiding Judge

Dated this 30th day of November 2007,
At The Hague,
The Netherlands.

[Seal of the International Tribunal]

⁸ See Hadžihasanović's Motion, footnote 1.