



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-06-90-AR65.2

Date: 15 January 2008

Original: English

IN THE APPEALS CHAMBER

Before: Judge Fausto Pocar, President
Judge Mohamed Shahabuddeen
Judge Liu Daqun
Judge Andréia Vaz
Judge Theodor Meron

Registrar: Mr. Hans Holthuis

Decision of: 15 January 2008

THE PROSECUTOR

v.

**ANTE GOTOVINA
IVAN ČERMAK
MLADEN MARKAČ**

PUBLIC

DECISION ON PROSECUTION REQUEST FOR EXTENSION OF TIME

Office of the Prosecutor

Mr. Alan Tieger
Mr. Stefan Waespi

Counsel for the Defence

Mr. Luka S. Mišetić, Mr. Gregory Kehoe and Mr. Payam Akhavan for Ante Gotovina
Mr. Steven Kay and Mr. Andrew Cayley for Ivan Čermak
Mr. Goran Mikuličić and Mr. Tomislav Z. Kuzmanović for Mladen Markač

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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 (“Appeals Chamber” and “International Tribunal”, respectively),

NOTING the “Defence Interlocutory Appeal against Duty Judge’s Order for the Arrest and Transfer of Accused Mladen Markač from Provisional Release” filed on 4 January 2008 (“Appeal”);

NOTING the “Prosecution Request for Extension of Time to Respond to Markač’s Appeal” filed on 14 January 2008 (“Request”);

NOTING that the “Practice Direction on Procedure for the Filing of Written Submissions in Appeal Proceedings before the International Tribunal”¹ provides that responses to interlocutory appeals from decisions where appeal lies as of right should be filed within ten days of the filing of the interlocutory appeal;

NOTING that in this case, a response by the Prosecution to the Appeal should have been filed on 14 January 2008;

NOTING that the Prosecution was served with the Appeal on 7 January 2008 and requests that the deadline for the filing of its response be extended until 17 January 2008;

CONSIDERING that pursuant to Rule 127(A)(i) and (B) of the Rules of Procedure and Evidence of the International Tribunal (“Rules”), the Appeals Chamber may, on good cause being shown by motion, enlarge or reduce any time prescribed by or under the Rules;

CONSIDERING that the International Tribunal’s deadlines are essential to the orderly and efficient progress of cases;²

CONSIDERING that in seeking an extension of time, a party should file its request so as to allow the Appeals Chamber enough time to determine its merits prior to the expiry of the deadline;

¹ IT/155 Rev. 3, 16 September 2005.

² See *The Prosecutor v. Kayishema and Ruzindana*, Case No. ICTR-95-1-A, Judgement, 1 June 2001, paras 46-47.

CONSIDERING, that in the present case, the timing of the filing of the Request was such that it was impossible for the Appeals Chamber to issue a decision before the expiry of the 14 January 2008 deadline, as the Prosecution did not file the Request until late that afternoon, and that the determination of whether good cause was shown for an extension of time is therefore immaterial;


FOR THE FOREGOING REASONS,

DENIES the Request; and

REMINDS the Prosecution that pursuant to Rule 127(A)(ii) and (B) of the Rules, the Appeals Chamber may recognize as validly done any act done after the expiration of a time so prescribed on such terms, if any, as is thought just;

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

Done this 15th day of January 2008,
At The Hague,
The Netherlands.



Judge Fausto Pocar
President

[Seal of the International Tribunal]