



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-04-82-A  
Date: 5 August 2008  
Original: English

**Before:** Judge O-Gon Kwon, Duty Judge  
**Registrar:** Mr. Hans Holthuis  
**Decision of:** 5 August 2008

**PROSECUTOR**

v.

**LJUBE BOŠKOSKI  
JOHAN TARČULOVSKI**

*PUBLIC*

---

**DECISION ON JOHAN TARČULOVSKI'S MOTION FOR  
EXTENSION OF TIME TO FILE THE NOTICE OF APPEAL**

---

**The Office of the Prosecutor:**

Mr. Peter Kremer

**Counsel for the Accused:**

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

**I, O-GON KWON**, Judge 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”), acting in my current capacity as Duty Judge;

**NOTING** the Judgement rendered by Trial Chamber II in the present case on 10 July 2008;<sup>1</sup>

**NOTING** the “Order Assigning Judges to a Case Before the Appeals Chamber and Appointing a Pre-Appeal Judge” issued by the President of the International Tribunal on 30 July 2008;

**NOTING** the “Tarčulovski Motion for Extension of Time to File the Notice of Appeal” (“Motion”) filed by Johan Tarčulovski (“Applicant”) on 22 July 2008, in which the Applicant requests that the Appeals Chamber grant him an extension of time of one month to file his notice of appeal;<sup>2</sup>

**NOTING** that, pursuant to Rule 108 of the Rules of Procedure and Evidence of the International Tribunal (“Rules”), a party seeking to appeal a judgement shall file a notice of appeal, setting forth the grounds of appeal, no more than thirty days from the date on which the judgement was pronounced;

**NOTING** that, pursuant to Rule 127(A)(i) and (B) of the Rules, the Appeals Chamber may, on good cause being shown by motion, enlarge or reduce any time prescribed by or under the Rules;

**NOTING** that, pursuant to Rule 28(D)(ii) and (F) of the Rules, where a case has already been assigned to the Appeals Chamber and an application is made within the normal Registry hours and the Appeals Chamber is unavailable, it shall be dealt with by the Duty Judge if he is satisfied as to its urgency or that it is otherwise appropriate to do so in the absence of the Appeals Chamber;

**CONSIDERING** that this case has been assigned to a bench of the Appeals Chamber but that the International Tribunal is currently in court recess and the Appeals Chamber remains unavailable until the end thereof;

**CONSIDERING** that the time limit for filing the notice of appeal will expire on 11 August 2008, *i.e.* before the end of the court recess, and that the matter is therefore one of urgency;

**FINDING** therefore that I am competent to decide on the Motion;

**NOTING** that the Applicant submits in the Motion that his Defence is presently composed of lead counsel only and that a new co-counsel is currently being selected for assignment;<sup>3</sup>

**NOTING** that the Applicant submits that the contribution of the new co-counsel will be of significant importance to the structure of the notice of appeal and to identifying the grounds of appeal;<sup>4</sup>

**NOTING** that Applicant further submits that “the Judgement contains many errors in law and fact in almost every part” and thus additional time is necessary to identify all of the errors allegedly committed by Trial Chamber II;<sup>5</sup>

**NOTING** that the Applicant concludes that an extension of time until 9 September 2008 to file the notice of appeal would be in the interest of justice and would grant a fair proceeding;

**NOTING** that the Prosecution has indicated by e-mail that it will not respond to the Motion;

**CONSIDERING** that the International Tribunal’s deadlines for the filing of the notice of appeal pursuant to Rule 108 are essential to the ensuring the expeditious preparation of the case;<sup>6</sup>

**NOTING** that Article 16(B) of the Directive on the Assignment of Defence Counsel<sup>7</sup> provides that lead counsel shall be responsible for all aspects of the defence;

**CONSIDERING** that lead counsel for the Applicant is familiar with the case and the record;

**FINDING** therefore that the fact that the defence of Applicant is currently only composed of lead counsel as opposed to lead and co-counsel is not a sufficient circumstance to establish a showing of good cause warranting the grant of an extension of time for the filing of a notice of appeal;

**CONSIDERING** further that the Applicant has not demonstrated that his case is so overly complex that the normal time limits would not suffice for him to prepare his notice of appeal;

---

<sup>1</sup> *Prosecutor v. Ljube Boškoski and Johan Tarčulovski*, Case No. IT-04-82-T, Judgement, 10 July 2008.

<sup>2</sup> Motion, paras 4 and 6.

<sup>3</sup> Motion, para. 4.

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

<sup>5</sup> Motion, para. 5.

<sup>6</sup> *Cf. Prosecutor v. Kayishema and Ruzindana*, Case No. ICTR-95-1-A, Judgement, 1 June 2001, paras 46-47.

<sup>7</sup> IT/73/Rev.11.

**FINDING** therefore that the allegation that the Trial Judgement is riddled with errors of law and fact is also not a sufficient circumstance to establish a showing of good cause to warrant the grant of an extension of time for the filing of a notice of appeal;


**RECALLING** that, pursuant to Rule 108 of the Rules, the Appeals Chamber may, after the filing of the notice of appeal by a party and on good cause being shown by motion, authorize a variation of the grounds of appeal;

**CONSIDERING** therefore that the Applicant will have the opportunity to submit to the Appeals Chamber at a later stage that good cause exists in order to vary the grounds of appeal if he so wishes;

**FOR THE FOREGOING REASONS**

**HEREBY DENY** the Motion.

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

  
\_\_\_\_\_  
O-Gon Kwon  
Duty Judge

Dated this fifth day of August 2008  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**