



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-05-88/2-PT

Date: 29 May 2009

Original: English

IN TRIAL CHAMBER II

Before: Judge Kimberly Prost, Pre-Trial Judge
Registrar: Mr. John Hocking
Decision of: 29 May 2009

PROSECUTOR

v.

ZDRAVKO TOLIMIR

PUBLIC

**DECISION ON TOLIMIR'S REQUEST FOR EXTENSION OF TIME
LIMIT FOR FILING A RESPONSE TO THE PROSECUTION MOTION
UNDER RULE 92bis**

Office of the Prosecutor

Mr. Peter McCloskey

The Accused

Zdravko Tolimir

I, KIMBERLY PROST, 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 (“Tribunal”);

BEING SEISED OF the “Request for Extension of Time Limit for Filing a Response to the Prosecution Motion under Rule 92 *bis*”, submitted by the Accused Zdravko Tolimir on 11 May 2009 and filed in the English version on 15 May 2009 (“Motion”);

RECALLING that the “Prosecution’s Motion for Admission of Written Evidence in Lieu of *Viva Voce* Testimony Pursuant to Rule 92 *bis* and Attached Appendix A” was filed confidentially on 13 February 2009 and its BCS version was filed on 1 April 2009 (“Prosecution’s 92 *bis* Motion”), in which the Prosecution requests the admission of the written evidence of 121 witnesses;¹

RECALLING ALSO that on 24 April 2009, the Accused was granted leave to file a response to the Prosecution’s 92 *bis* Motion by no later than 8 June 2009;²

NOTING that in the Motion, the Accused argues that in order to properly analyse the Prosecution’s 92 *bis* Motion and prepare a comprehensive response thereto, an extension of time limit should be granted by allowing either a single response to be submitted by 15 July 1995 or separate responses to be submitted as follows;³

- (i) By 8 June: a response to certain legal issues raised in the Prosecution’s 92 *bis* motion and to the written evidence of expert witnesses;
- (ii) By 15 June: a response to the written evidence of Bosnian Muslim witnesses, except for intercept operator witnesses;
- (iii) By 25 June: a response to the written evidence of Dutch Battalion personnel, the UN Military Observers and the intercept operator witnesses; and
- (iv) By 17 July: a response to the written evidence of officers of the Republika Srpska Ministry of Interior (“MUP”), members of the Drina Corps, Rogatica Brigade, Romanija

¹ Prosecution’s 92 *bis* Motion, para. 1.

² Decision on Tolimir’s Requests Regarding Setting Time Limits for Filing Responses to Prosecution Motions, 24 April 2009. In this decision, the Accused was also ordered to file a response to the Prosecution’s 94 *bis* Notice by no later than 25 May 2009. The Prosecution’s 94 *bis* Notice was filed on 13 March 2009. *See* Prosecution’s Notice of Disclosure of Expert Witness Reports Pursuant to Rule 94 *bis* and Attached Appendices A and B”, 13 March 2009.

³ Motion, paras. 1, 4–11.

Brigade, Bratunac Brigade and Zvornik Brigade, the Serbian MUP members, Serb civilians and journalists;⁴

NOTING the “Prosecution’s Response to the Accused Tolimir’s Request for Extension of Time Limit for Filing a Response to the Prosecution Motion under Rule 92 *bis*”, filed on 26 May 2009 (“Response”);

NOTING that in the Response, the Prosecution submits that while it does not oppose the Motion, the Accused’s alternative request to file multiple responses would be unnecessarily complicated and would frustrate the effective and efficient administration of the proceedings; that, should the Motion be granted, the Accused should file a single response to the Prosecution’s 92 *bis* Motion by no later than 15 July 2009; and that following its translation in English, the Prosecution should be afforded a reasonable period of time in which to file any reply after the summer recess;⁵

CONSIDERING that the significant amount of witness statements and transcripts are submitted in the Prosecution’s 92 *bis* Motion;⁶

CONSIDERING that good cause has been shown for granting an extension of time and that the filing of separate responses in different periods of time as proposed by the Accused will facilitate and expedite the translation process;

CONSIDERING the need for the expeditious preparation for trial, with full respect for the right of the Accused;

PURSUANT TO Rule 127(A)(ii) of the Rules;

HEREBY GRANT the Motion in part and **ORDER** that:

- (i) A response to certain legal issues raised in the Prosecution’s 92 *bis* motion and to the written evidence of expert witnesses be submitted by no later than 8 June 2009;
- (ii) A response to the written evidence of Bosnian Muslim witnesses except for intercept operator witnesses be submitted by no later than 15 June 2009:

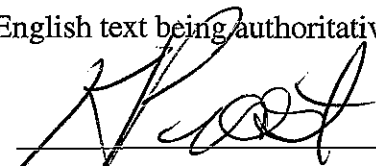
⁴ Motion, para. 11.

⁵ Response, para. 2.

⁶ See also Decision on Tolimir’s Requests Regarding Setting Time Limits for Filing Responses to Prosecution Motions, 24 April 2009, p. 3.

- (iii) A response to the written evidence concerning the Dutch Battalion personnel, the UN Military Observers and the intercept operator witnesses be submitted by no later than 25 June 2009;
- (iv) A response to the written evidence concerning the officers of the Republika Srpska Ministry of Interior (“MUP”), members of the Drina Corps, Rogatica Brigade, Romanija Brigade, Bratunac Brigade and Zvornik Brigade, the Serbian MUP members, Serb civilians and journalists be submitted by no later than 10 July 2009; and
- (v) A reply to the responses, if any, be filed within seven days of the filing of the English version of the last response.

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



Kimberly Prost
Pre-Trial Judge

Dated this twenty-ninth day of May 2009
At The Hague
The Netherlands

[Seal of the Tribunal]