

IT-98-32/1-A  
A1149- A1146  
02 February 2010

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HC

**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-98-32/1-A  
Date: 2 February 2010  
Original: English

**BEFORE THE APPEALS CHAMBER**

**Before:** Judge Mehmet Güney, Pre-Appeal Judge  
**Registrar:** Mr. John Hocking  
**Decision of:** 2 February 2010

**PROSECUTOR**

v.

**MILAN LUKIĆ  
SREDOJE LUKIĆ**

***PUBLIC***

**DECISION ON MILAN LUKIĆ'S MOTION TO ENLARGE  
TIME FOR FILING REPLY BRIEF**

**The Office of the Prosecutor:**

Mr. Paul Rogers

**Counsel for Milan Lukić:**

Mr. Tomislav Višnjić  
Mr. Dragan Ivetić

**Counsel for Sredoje Lukić:**

Mr. Đuro J. Čerpić  
Mr. Jens Dieckmann

**I, MEHMET GÜNEY**, Pre-Appeal Judge of 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 “Tribunal”, respectively);

**RECALLING** the “Decision on Milan Lukić’s Motion Seeking Extension of Time to File Appeal Brief and Motion for Stay of Proceedings” filed on 30 October 2009 in which the Appeals Chamber granted the request and extended the deadline for Milan Lukić to file his appeal brief that was to be due on 17 December 2009 and, consequently, the Prosecution to file its response brief to Milan Lukić’s appeal brief by 5 February 2010;

**BEING SEISED OF** “Milan Lukić’s Motion to Enlarge Time for Filing Reply Brief” filed on 27 January 2010 (“Motion”) in which he requests that the Appeals Chamber enlarge the time for filing his reply brief up to and including 2 March 2010;

**NOTING** that, in support of his request, Milan Lukić submits, *inter alia*, that since his Defence Team is concurrently working on the complex *Šainović et al* case it is not available to efficiently attend to the reply to the Prosecution’s response to the appeal brief in the present case and that the fifteen day delay sought is not unreasonable and is in the interest of justice;<sup>1</sup>

**NOTING** that the Prosecution informed the Appeals Chamber via e-mail that it takes no position on the Motion;

**NOTING** that, pursuant to Rule 113 of the Tribunal’s Rules of Procedure and Evidence (“Rules”), an Appellant may file a brief in reply within fifteen days of filing of the Respondent’s brief and that the Pre-Appeal Judge may, on good cause being shown by motion, enlarge the time limits prescribed under the Rules;<sup>2</sup>

**CONSIDERING** that it is in the interest of justice to ensure that the parties have sufficient time to prepare meaningful briefs in full conformity with applicable provisions;<sup>3</sup>

<sup>1</sup> Motion, paras 9, 10, 12, 14, 16. Milan Lukić submits that the Appeals Chamber in *Prosecutor v. Nikola Šainović, et al.*, Case No. IT-05-87-A, Decision on the Prosecution’s Motion for an Extension of Time to File Respondent’s Briefs, 1 October 2009, (“*Šainović* 1 October 2009 Decision”), granted an extension of time “because the same Prosecution team had two concurrent appeals with imminently upcoming appeal hearings and, as a result, the majority of the Prosecution Staff would be otherwise engaged in those 2 cases and unable to focus on the Respondent’s Brief.”

<sup>2</sup> Rule 127 of the Rules.

<sup>3</sup> *Šainović* 1 October 2009 Decision, p. 3.

**CONSIDERING** that, in the *Šainović, et al.* case, the Appeals Chamber granted an extension of time for the defence teams to file their reply briefs to compensate for the unprecedented complexity and length of the Trial Judgement in that case;<sup>4</sup>

**CONSIDERING** that Milan Lukić has failed to demonstrate that the present case is unusually long or complex;<sup>5</sup>

**CONSIDERING** moreover that a reply is restricted to dealing with issues raised in the opposite party's response and cannot be used to supplement the initial motion with new arguments;<sup>6</sup>

**CONSIDERING** further that the Appeals Chamber has previously held that "Counsel assigned to represent accused at this Tribunal are expected to organise their work schedules in order to meet their obligation to respect the time limits for filing on appeals"<sup>7</sup> and that Counsel's other professional commitments do not constitute "good cause" pursuant to Rule 127 of the Rules;<sup>8</sup>

**FINDING** that good cause has not been shown to grant an extension of time to Milan Lukić for the filing of his reply to the Prosecution's Response;

**FOR THE FOREGOING REASONS,**

**DENY** the Motion in its entirety.

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

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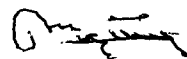
<sup>4</sup> *Prosecutor v. Nikola Šainović, et al.*, Case No. IT-05-87-A, Decision on Defence Requests for Extension of Time and Word Limits to File Reply Briefs, 20 January 2010, p. 2, referencing *Prosecutor v. Milan Milutinović, et al.*, Case No. IT-05-87-A, Decision on Motions for Extension of Time to File Notice of Appeal, 23 March 2009.

<sup>5</sup> Motion, para. 9. It is noted that Milan Lukić, in paragraph 12 of the Motion, summarily states that the present case is complex without substantiating this claim.

<sup>6</sup> *Momir Nikolić v. Prosecutor*, Case No. IT-02-60/1-A, Decision on Second Defence Motion to Enlarge Time for Filing of Replies, 1 April 2005, p. 4.

<sup>7</sup> Decision on Milan Lukić's Urgent Motion for Enlargement of Time to File Notice of Appeal, 19 August 2009, para. 11 (19 August 2009 Decision), referencing *Prosecutor v. Rasim Delić*, Case No. IT-04-83-AR72, Decision on Interlocutory Appeal Challenging the Jurisdiction of the Tribunal, 8 December 2005, para. 3.

<sup>8</sup> 19 August 2009 Decision, para. 11. It is further noted that, contrary to Milan Lukić's submission, the *Šainović* 1 October 2009 Decision held that "the fact that the Prosecution's briefing schedule overlaps with that of another case does not in itself constitute "good cause" as the Prosecution is expected to balance the work requirements in multiple cases and to assign staff to those cases accordingly" and granted the Prosecution's request for an enlargement of time to file its briefs in conjunction with other factors.



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Judge Mehmet Güney  
Pre-Appeal Judge

Dated this second day of February 2010

At The Hague

The Netherlands

**[Seal of the Tribunal]**