



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-05-87-A
Date: 23 March 2009
Original: English

IN THE APPEALS CHAMBER

Before: Judge Liu Daqun, Pre-Appeal Judge

Acting Registrar: Mr. John Hocking

Decision: 23 March 2009

PROSECUTOR

v.

**MILAN MILUTINOVIĆ
NIKOLA ŠAINOVIĆ
DRAGOLJUB OJDANIĆ
NEBOJŠA PAVKOVIĆ
VLADIMIR LAZAREVIĆ
SRETEN LUKIĆ**

PUBLIC

**DECISION ON MOTIONS FOR EXTENSION OF TIME TO
FILE NOTICES OF APPEAL**

The Office of the Prosecutor:

Mr. Paul Rogers

Counsel for the Accused:

Mr. Eugene O'Sullivan and Mr. Slobodan Zečević for Mr. Milan Milutinović
Mr. Toma Fila and Mr. Vladimir Petrović for Mr. Nikola Šainović
Mr. Tomislav Višnjić and Mr. Norman Sepenuk for Mr. Dragoljub Ojdanić
Mr. John Ackerman and Mr. Aleksandar Aleksić for Nebojša Pavković
Mr. Mihajlo Bakrač and Mr. Đuro Čepić for Mr. Vladimir Lazarević
Mr. Branko Lukić and Mr. Dragan Ivetić for Mr. Sreten Lukić

I, LIU DAQUN, 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), and pre-appeal Judge in this case,¹

NOTING the “Judgement” rendered by Trial Chamber III on 26 February 2009;²

BEING SEIZED OF the “Joint Motion for an Extension of Time to File Notice of Appeal” filed by the Office of the Prosecutor (“Prosecution”) and the respective Defence teams for Nikola Šainović, Dragoljub Ojdanić and Vladimir Lazarević on 9 March 2009, in which they seek an extension of time of 40 days to file their respective notices of appeal (“Joint Motion”);

BEING SEIZED OF the “Motion for an Extension of Time to File Notice of Appeal with Annex” filed by the Defence for Nebojša Pavković (“Pavković”) on 9 March 2009 seeking an extension of time to file his notice of appeal of 60 days from the filing of the B/C/S translation of the Trial Judgement or, in the alternative, of 90 days from the date of the Trial Judgement (“Pavković’s Motion”);

BEING SEIZED OF “Sreten Lukić’s Joinder in the Motion for Extension of Time to File Notice of Appeal Filed by the Pavković Defense” filed by the Defence for Sreten Lukić (“Lukić”) on 9 March 2009, in which he joins Pavković’s Motion in its entirety (“Lukić’s Motion”);

NOTING that the parties have not filed their respective responses to the above-mentioned motions;³

CONSIDERING that, pursuant to Rule 108 of the Tribunal’s Rules of Procedure and Evidence (“Rules”), parties seeking to appeal a trial judgement should file their notices of appeal no later than 30 days from the date of that judgement, which in this case falls on 30 March 2009;

RECALLING that the Pre-Appeal Judge may, on good cause being shown by motion, enlarge the time limits prescribed under the Rules;⁴

¹ Order Appointing the Pre-Appeal Judge, 19 March 2009.

² *Prosecutor v. Milan Milutinović et al.*, Case No. IT-05-87-A, Judgement, 26 February 2009 (“Trial Judgement”).

³ The deadlines for filing the said responses expire on 23 March 2009, close of business. Considering the arguments presented by the parties and the outcome of the Decision, I find that rendering this Decision prior to the expiry of those deadlines is in the interests of justice and without prejudice to the parties.

⁴ Rules 127(A)(i) and 127(B) of the Rules.

NOTING that Pavković's and Lukić's Motions seek authorization to file their notices of appeal within 60 days from the filing of the B/C/S translation of the Trial Judgement on the ground that neither of them understand English;⁵

CONSIDERING that Counsel for Pavković and Lukić work in English;

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 grounds of appeal;

CONSIDERING therefore that Pavković and Lukić will have the opportunity, if they so wish, to request variation of their grounds of appeal after having read the B/C/S translation of the Trial Judgement, provided that they show good cause under Rule 108 of the Rules;

FURTHER CONSIDERING that it would be unreasonable to delay the appellate proceedings until the filing of the B/C/S translation of the Trial Judgement;

FINDING therefore that Pavković and Lukić have not shown good cause for the requested extension;

NOTING that the parties to the Joint Motion, as well as Pavković and Lukić in the alternative, submit that good cause for the extension sought exists due to the size of the record to be reviewed in the light of the Trial Judgement, the length and complexity of the Judgement, the number and hierarchical position of the Accused in this case, and the overall length of the trial;⁶

NOTING that parties to the Joint Motion request an extension of additional 40 days, while Pavković and Lukić request an extension of 60 days;

NOTING that the Joint Motion further requests that any extension granted be the same for all parties to this case so that they all "have the benefit of all the notices of appeal, and a uniform timetable for the filings when appellate briefing commences immediately thereafter";⁷

CONSIDERING that the length of the Trial Judgement is unprecedented and that, in conjunction with the other factors referred by the Joint Motion, this case raises issues of significant complexity;⁸

⁵ Pavković's Motion, paras 2-4; Lukić's Motion, para. 3.

⁶ Joint Motion, paras 1, 8; see also *ibid.*, paras 4-7 specifying, *inter alia*, that the Trial Chamber "heard evidence lasting for just over two years from 235 witnesses, with transcripts of the trial hearings exceeding 27400 pages[,] admitted a

CONSIDERING that it is in the interests of justice to ensure that the parties have sufficient time to prepare meaningful notices of appeal in full conformity with the applicable provisions;

FINDING that good cause exists for granting an extension on that basis;

FINDING FURTHER that, in the circumstances of this case, an extension of 60 additional days is reasonable and justified for the purposes of the preparation of the parties' respective notices of appeal;

FOR THE FOREGOING REASONS,

HEREBY GRANT the Joint Motion;

GRANT the alternative relief sought by Pavković's and Lukić's Motions;

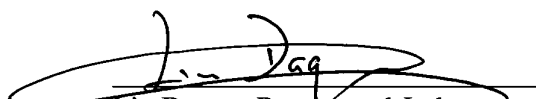
ORDER all parties wishing to appeal the Trial Judgement to file their notices of appeal within 90 days of the date of the Trial Judgement, *i.e.* no later than 27 May 2009;

REMAND the Registry of the Tribunal to ensure timely filing of the B/C/S translation of the Trial Judgement;

DISMISS the remainder of Pavković's and Lukić's Motions.

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

Done this 23rd day of March 2009,
At The Hague, The Netherlands.


Liu Daqun, Pre-Appeal Judge

[Seal of the Tribunal]

total of over 4300 exhibits" and that the Trial Judgement is 1435 pages long, excluding annexes; Pavković's Motion, paras 5-10, 12; Lukić's Motion, paras 1, 4.

⁷ Joint Motion, fn 1.

⁸ Cf. *Prosecutor v. Enver Hadžihasanović and Amir Kubura*, Case No. IT-01-47-A, Decision on Motions for Extension of Time, Request to Exceed Page Limit, and Motion to File a Consolidated Response to Appeal Briefs, 27 June 2006, para. 7 in which the Pre-Appeal Judge noted the "unusual length" of the Trial Judgement rendered in that case; *Prosecutor v. Milomir Stakić*, Case No. IT-97-24-A, Decision on the Defence Motion for Extension of Time, 26 April 2004, para. 5 mentioning the complexity of issues in that appeal as one of the factors in favour of an extension of time; *Prosecutor v. Dario Kordić & Mario Čerkez*, Case No. IT-95-14/2-A, Decision on Motions to Extend Time for Filing Appellant's Briefs, 11 May 2001, para. 19 referring to the length and the complexity of the trial.