

IT-95-11-AR73.2
A16. A13
23 June 2006

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**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-95-11-AR73.2

Date: 23 June 2006

Original: English

THE APPEALS CHAMBER

Before: Judge Fausto Pocar, Pre-Appeal Judge

Registrar: Mr. Hans Holthuis

Order of: 23 June 2006

PROSECUTOR

v.

MILAN MARTIĆ

DECISION ON MOTION FOR ENLARGEMENT OF TIME

Counsel for the Appellant:

Mr. Predrag Milovančević
Mr. Nikola Perović

The Office of the Prosecutor:

Mr. Alex Whiting
Ms. Anna Richterova
Ms. Nisha Valabhji
Mr. Colin L. Black

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I, FAUSTO POCAR, 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 (“International Tribunal”), and Pre-Appeal Judge in this case,¹

NOTING the “Decision on Defence Motion to Exclude Testimony of Witness Milan Babić, together with Associated Exhibits, from Evidence” rendered by Trial Chamber I on 9 June 2006 (“Impugned Decision”),² in which the Trial Chamber rejected the request of Counsel for Milan Martić that the evidence of Witness Milan Babić proffered by the Prosecution be excluded because Counsel’s cross-examination of that witness was interrupted by his death;³

NOTING the “Decision on Defence Application for Certification of Appeal Pursuant to Rule 73(B)” rendered by Trial Chamber I on 20 June 2006,⁴ granting the request of Counsel for Milan Martić for certification to file an interlocutory appeal against the Impugned Decision;

BEING SEIZED OF the “Motion for Enlargement of Time-Limit for Filing the Appeal” filed urgently by Counsel for Milan Martić on 21 June 2006 (“Motion”), in which Counsel requests that the time limit for filing its interlocutory appeal against the Impugned Decision be enlarged in accordance with Rule 127 of the Rules of Procedure and Evidence of the International Tribunal (“Rules”) by 10 days such that the appeal will be due on 7 July 2006 rather than 27 June 2006;⁵

NOTING that in support of the Motion, Counsel for Milan Martić states that good cause for enlargement of the time limit for filing its interlocutory appeal exists because: (1) its request before the Vice-President of the International Tribunal for disclosure of the statements of several persons produced during the inquiry into the death of Milan Babić is still pending and Counsel needs to review the requested statements in order to file a proper appeal; and (2) its oral submissions before Trial Chamber I pursuant to Rule 98*bis* are to be made on 26 June 2006 resulting in an unfortunate overlap of time that Counsel has for preparing for both the Rule 98*bis* hearing and this interlocutory appeal;⁶

NOTING the “Prosecution’s Response to Defence Motion for Enlargement of Time-Limit for Filing the Appeal” filed on 23 June 2006 (“Response”), in which the Prosecution contends that

¹ Order Assigning Judges to a Case Before the Appeals Chamber and Designating a Pre-Appeal Judge, 22 June 2006.

² *Prosecutor v. Milan Martić*, Case No. IT-95-11-T.

³ Impugned Decision, p. 26.

⁴ *Prosecutor v. Milan Martić*, Case No. IT-95-11-T.

⁵ Motion, paras. 3, 7.

“[t]he only circumstance offered in the Motion for Enlargement as justifying delay is the pending request for disclosure of statements obtained in the inquiry into Milan BABIĆ’s death” but opposes the 10 days extension of time requested by Counsel for Milan Martić as excessive and “would consent to a delay of two or three days to accommodate the schedule of Defence counsel”;⁷

CONSIDERING that in light of the urgency of the Motion and the submissions made by the parties in the Motion and the Response, the present decision may be rendered before the filing of a reply, if any, by Counsel for Milan Martić;

CONSIDERING that under Rule 73(C) of the Rules, where a party’s request for certification to appeal a Trial Chamber decision is granted, that party is required to file the interlocutory appeal within seven days of the filing of that decision and therefore, Counsel for Milan Martić’s interlocutory appeal of the Impugned Decision is due on 27 June 2006;

CONSIDERING that pursuant to Rule 127(A)(i) and (B) of the Rules, the Pre-Appeal Judge may, on good cause being shown by motion, enlarge or reduce any time prescribed by or under the Rules;

CONSIDERING that on 14 June 2006, Counsel for Milan Martić urgently filed its “Request of the Defence of Milan Martić for Disclosure of Certain Materials Produced During the Inquiry on the Death of Milan Babić” before the Vice-President of the International Tribunal (“Request”),⁸ in which Counsel requests that it be provided with statements given by certain persons during the internal inquiry into the death of Milan Babić because “the requested statements (at least in part) address the issues which might be relevant on appeal” and Counsel should have access to them “in order to fully and adequately prepare arguments for the appeal”;⁹

FINDING that the fact that the deadline for oral submissions before Trial Chamber I pursuant to Rule 98*bis* overlaps with the deadline for filing this interlocutory appeal does not constitute good cause within the meaning of Rule 127(A)(i) of the Rules in light of the fact that Counsel for Milan Martić has had opportunity to prepare for this appeal since the rendering of the Impugned Decision on 9 June 2006;

⁶ *Id.*, paras. 5-6.

⁷ Response, paras. 4-5.

⁸ *Prosecutor v. Milan Martić*, Case No. IT-95-11-T.

⁹ Request, para. 13.

FINDING however that Counsel for Milan Martić has established that its pending Request does constitute good cause within the meaning of Rule 127(A)(i) of the Rules for an extension of time for filing its interlocutory appeal against the Impugned Decision;

ON THE BASIS OF THE FOREGOING,

GRANTS the Motion and **ORDERS** Counsel for Milan Martić to file the interlocutory appeal against the Impugned Decision no later than 7 July 2006.

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

Done this 23rd day of June 2006,
At The Hague,
The Netherlands.



Judge Fausto Pocar
Pre-Appeal Judge

[Seal of the International Tribunal]