



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: 16 April 2009  
Original: English

**BEFORE THE PRE-APPEAL JUDGE**

**Before:** Judge Mehmet Güney, Pre-Appeal Judge

**Acting Registrar:** Mr. John Hocking

**Decision of:** 16 April 2009

**PROSECUTOR**

v.

**LJUBE BOŠKOSKI  
JOHAN TARČULOVSKI**

*PUBLIC*

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**DECISION ON TARČULOVSKI'S URGENT MOTION FOR  
EXTENSION OF TIME TO FILE HIS REPLY BRIEF**

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**The Office of the Prosecutor:**

Mr. Paul Rogers

**Counsel for Ljube Boškosi:**

Ms. Edina Rešidović  
Mr. Guénaél Mettraux

**Counsel for Johan Tarčulovski:**

Mr. Alan M. Dershowitz  
Mr. Nathan Z. Dershowitz  
Mr. Antonio Apostolski  
Mr. Jordan Apostolski

**I, MEHMET GÜNEY**, 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 (“Tribunal”), and Pre-Appeal Judge in this case;<sup>1</sup>

**NOTING** the Judgement rendered by Trial Chamber II in the present case on 10 July 2008, where the Trial Chamber convicted Johan Tarčulovski (“Tarčulovski”) of murder, wanton destruction and cruel treatment;<sup>2</sup>

**NOTING** the “Tarčulovski Notice of Appeal”, filed on 8 August 2008 (“Notice of Appeal”), and the “Brief of Johan Tarčulovski”, filed confidentially on 12 January 2009 (“Appeal Brief”);<sup>3</sup>

**NOTING** the “Decision on Johan Tarčulovski’s Motion for Leave to Present Appellate Arguments in Order Different from that Presented in Notice of Appeal, to Amend the Notice of Appeal, and to File Sur-Reply, and on Prosecution Motion to Strike”, issued by the Appeals Chamber on 26 March 2009 (“Decision of 26 March 2009”), whereby it ordered Tarčulovski to file an amended Notice of Appeal in conformity with the Practice Direction on Formal Requirements for Appeals from Judgement<sup>4</sup> no later than seven days from the date of filing of the Decision of 26 March 2003;

**NOTING** the “Tarčulovski Amended Notice of Appeal”, filed on 2 April 2009;

**NOTING** the “Prosecution Response to Johan Tarčulovski’s Appeal Brief”, filed confidentially on 9 April 2009 (“Response Brief”);<sup>5</sup>

**NOTING** that pursuant to Rule 113 of the Tribunal’s Rules of Procedure and Evidence (“Rules”), Tarčulovski may file a brief in reply in the present case by 24 April 2009;

**BEING SEIZED** of “Tarčulovski’s Urgent Motion for a Two-Week Extension of Time to File his Reply Brief”, filed on 14 April 2009 (“Motion”);<sup>6</sup>

**NOTING** that in the Motion, Tarčulovski seeks a two-week extension of time to file his brief in reply on the grounds that:

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<sup>1</sup> Order Designating the Pre-Appeal Judge, 17 November 2008.

<sup>2</sup> *Prosecutor v. Ljube Bošković and Johan Tarčulovski*, Case No. IT-04-82-T, Judgement, 10 July 2008, para. 607.

<sup>3</sup> Signed on 9 January 2009. A public redacted version of the Appeal Brief was filed on 12 January 2009.

<sup>4</sup> IT/201, 7 March 2002.

<sup>5</sup> A public redacted version of the Response Brief was filed on 16 April 2009.

<sup>6</sup> Signed on 13 April 2009.

- 1) Tarčulovski received the Prosecution's Response Brief on 9 April 2009 "immediately before the Jewish Passover and Christian Easter holidays", for which both of his counsel and their staff members had long-standing holiday plans for family gatherings;<sup>7</sup>
- 2) Both of his counsel had already scheduled business trips immediately before and on 24 April 2009 due to the uncertainty as to when a decision on his motion of 12 January 2009<sup>8</sup> would be issued;<sup>9</sup>
- 3) "Given the complexity and significance of the issues raised on this appeal, and the deep disputes over fundamental factual issues and legal interpretations, it will be extremely difficult to conduct a full review of the Prosecution's 69-page Respondent Brief and to prepare a full cohesive Reply Brief by 24 April 2009";<sup>10</sup> and
- 4) The Prosecution had in effect almost three months to file its Response Brief;<sup>11</sup>

**NOTING** that the Prosecution has informed the Appeals Chamber that it does not take any position on Tarčulovski's Motion and will not file a response to it;

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

**CONSIDERING** that the Tribunal's deadlines are essential to orderly and efficient progress of the cases;<sup>12</sup>

**CONSIDERING** that deadlines in the Rules are to be respected regardless of counsel's other business engagements and holidays in which family gatherings would take place;<sup>13</sup>

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<sup>7</sup> Motion, para. 12.

<sup>8</sup> Motion of Johan Tarčulovski for Leave to Present Appellate Arguments in Order Different from that Presented in Notice of Appeal, Pursuant to Practice Direction 4 and to Amend the Notice of Appeal Pursuant to Practice Direction 2, 12 January 2009 (signed on 9 January 2009).

<sup>9</sup> Motion, para. 13, also stating that Mr. Nathan Z. Dershowitz "is scheduled to be on business in Moscow, Russia," from 20 to 24 April 2009, and that Mr. Alan M. Dershowitz "has a scheduled trip to Europe to speak in a number of cities."

<sup>10</sup> Motion, para. 14.

<sup>11</sup> Motion, para. 15.

<sup>12</sup> *Prosecutor v. Momir Nikolić*, Case No. IT-02-60/1-A, Decision on Defence Motion for Extension of Time to File Revised Brief in Reply, 2 September 2005 ("*Nikolić* Decision of 2 September 2005"), p. 3.

<sup>13</sup> *Prosecutor v. Momir Nikolić*, Case No. IT-02-60/1-A, Decision on Second Defence Motion to Enlarge Time for Filing of Replies, 1 April 2005, p. 4.

**CONSIDERING** that neither the complexity and significance of the issues raised in briefing nor the length of the Response Brief in and of themselves constitute good cause for an extension of time for Tarčulovski to file his brief in reply;<sup>14</sup>

**CONSIDERING** further that it was Tarčulovski's request to amend his Notice of Appeal that caused the prolongation of the filing date of the Prosecution's Response Brief, and therefore that the amount of time the Prosecution had to prepare its Response Brief cannot constitute a justification for delaying the due date of his brief in reply;<sup>15</sup>


**FINDING** that Tarčulovski has not shown good cause for the extension of time to file his brief in reply;

**FOR THE FOREGOING REASONS**

**HEREBY DENY** the Motion.

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

Dated this sixteenth day of April 2009,  
At The Hague  
The Netherlands



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Judge Mehmet Güney  
Pre-Appeal Judge

**[Seal of the Tribunal]**

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<sup>14</sup> See, e.g., *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-70-AR73.14, Decision on the Prosecution's Motion for Extension of Time, 23 January 2009, p. 3; *Nikolić* Decision of 2 September 2005, p. 3. This is more so, since the Prosecution's Response Brief complies with paragraph C(1)(b) of the Practice Direction on the Length of Briefs and Motions (IT/184. Rev.2, 16 September 2005), which sets the word limit of a Respondent's brief.

<sup>15</sup> See Motion of Johan Tarčulovski for Leave to Present Appellate Arguments in Order Different from that Presented in Notice of Appeal, Pursuant to Practice Direction 4 and to Amend the Notice of Appeal Pursuant to Practice Direction 2, 12 January 2009 (signed on 9 January 2009); Urgent Motion for Extension of Time, 13 February 2009; Decision on Prosecution's Urgent Motion for Extension of Time, 19 February 2009 (signed 18 February 2009).