

UNITED
NATIONS

IT-02-60/1-A
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International Tribunal for the
Prosecution of Persons
Responsible for Serious Violations of
International Humanitarian Law
Committed in the Territory of
Former Yugoslavia since 1991

Case No. IT-02-60/1-A
Date: 2 August 2004
Original: English

BEFORE THE PRE-APPEAL JUDGE

Before: Judge Mehmet Güney
Registrar: Mr. Hans Holthuis
Decision: 2 August 2004

Momir NIKOLIĆ

v.

PROSECUTOR

**DECISION ON SECOND DEFENCE MOTION TO ENLARGE TIME
FOR FILING OF APPELLANT'S REPLY BRIEF**

Counsel for the Appellant:

Mr. Veselin Londrović
Ms. Virginia C. Lindsay

Counsel for the Prosecutor:

Mr. Norman Farrell

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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 (“International Tribunal”),

BEING SEISED OF the “Second Motion to Enlarge Time for Filing of Appellant’s Reply Brief” (“Motion”) filed on 28 July 2004 by the Defence of Momir Nikolić (“Appellant”) whereby he requests that the time for filing his Brief in Reply be enlarged to include 7 September 2004;

NOTING that, pursuant to the Decision on Defence Motion to Enlarge Time issued on 15 July 2004, the Appellant is currently due to file his Brief in Reply not later than 5 August 2004;

NOTING that under Rule 127(A)(i) and (B) of the Rules of Procedure and Evidence of the International Tribunal (“Rules”), the time-limit for the filing of the Brief in Reply may be enlarged on good cause being shown;

NOTING that the Motion relies, *inter alia*, on the following grounds:

- (i) following the discovery by Ms. Lindsay, Co-Counsel for the Appellant, of “numerous serious factual errors” in the Respondent’s Brief filed by the Prosecution, the parties held a meeting on 16 July 2004 and have since worked on these issues which required a significant amount of time;
- (ii) although the Prosecution indicated during the status conference held on 26 July 2004 that it would attempt to file its amended Respondent’s Brief by Friday 30 July 2004, further delays on the part of the Prosecution are possible and, until that is filed, the Appellant’s Counsel is unable to advise him;
- (iii) Ms. Lindsay, who is in charge of the drafting of the Brief in Reply due to Lead Counsel’s inability to work in English, has recently had significant additional responsibilities as a member of the *Haradin Bala* Defence Team; and
- (iv) the Appeals Chamber will be in recess until 23 August 2004;



NOTING that, during the status conference held in this case on Monday 26 July 2004, the Prosecution informed me that it would not oppose the granting of a short extension of time for the filing of the Appellant's Brief in Reply;

CONSIDERING that the recess of the Appeals Chamber does not mean that the time-limits prescribed under the Rules and the relevant Practice Directions stop running and that this ground does not constitute good cause within the meaning of Rule 127 of the Rules;

FINDING that the filing of a corrigendum to the Respondent's Brief constitutes good cause for granting an extension of time for the filing of the Brief in Reply;

FINDING however that the requested extension of time would not be appropriate, since the time-limit originally prescribed for the filing of the Brief in Reply pursuant to Rule 113 of the Rules was fifteen days, and since the Appellant has already obtained an extension of sixteen days;

NOTING moreover that the Prosecution filed its "Corrigenda to Prosecution Response Brief on Appeal" on 30 July 2004;

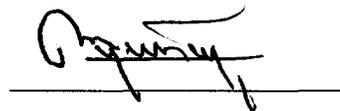
FOR THE FOREGOING REASONS,

HEREBY GRANT in part the Motion; and

ORDER the Appellant to file his Brief in Reply not later than 20 August 2004;

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

Done this 2nd day of August 2004,
At The Hague, The Netherlands.



Mehmet Güney
Pre-Appeal Judge

[Seal of the Tribunal]