

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-04-74-A
Date: 22 August 2014
Original: English

IT-04-74-A
A133-A1307
22 August 2014

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MC

IN THE APPEALS CHAMBER

Before: Judge Theodor Meron, Pre-Appeal Judge
Registrar: Mr. John Hocking
Decision of: 22 August 2014

PROSECUTOR

v.

**JADRANKO PRLIĆ
BRUNO STOJIĆ
SLOBODAN PRALJAK
MILIVOJ PETKOVIĆ
VALENTIN ČORIĆ
BERISLAV PUŠIĆ**

PUBLIC

**DECISION ON DEFENCE MOTIONS TO EXTEND TIME AND/OR
EXCEED WORD LIMITS FOR APPEAL BRIEFS AND
PROSECUTION MOTION FOR EXTENSION OF TIME TO FILE
RESPONDENT'S BRIEFS**

The Office of the Prosecutor:

Mr. Douglas Stringer
Mr. Mathias Marcussen

Counsel for the Defence:

Mr. Michael G. Karnavas and Ms. Suzana Tomanović for Mr. Jadranko Prlić
Ms. Senka Nožica and Mr. Karim A. A. Khan for Mr. Bruno Stojić
Ms. Nika Pinter and Ms. Nataša Fauveau-Ivanović for Mr. Slobodan Praljak
Ms. Vesna Alaburić and Mr. Guénaél Mettraux for Mr. Milivoj Petković
Ms. Dijana Tomašegović-Tomić and Mr. Dražen Plavec for Mr. Valentin Čorić
Mr. Fahrudin Ibrišimović and Mr. Roger Sahota for Mr. Berislav Pušić

I, THEODOR MERON, 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 in French by Trial Chamber III of the Tribunal on 29 May 2013 and the English translation thereof filed on 6 June 2014;²

BEING SEISED OF the “Motion to Enlarge Time for Filing of Appellant’s Brief and Word Count, Presented on Behalf of Valentin Ćorić”, filed on 4 August 2014 (“Ćorić Motion”), by which Valentin Ćorić (“Ćorić”) requests: (i) that the filing date for his Appellant’s brief be extended for two months beyond the 75 days provided for in the Tribunal’s Rules of Procedure and Evidence (“Rules”) or, in the alternative, three months from the filing of the B/C/S translation of the Trial Judgement; and (ii) an increase in the word limit of his brief from 30,000 to 50,000 words;³

BEING FURTHER SEISED OF (i) “Bruno Stojić’s Motion for an Extension of Time for Filing of the Appellant’s Brief and Extension of the Applicable Word Limit”, filed by Bruno Stojić (“Stojić”) on 5 August 2014 (“Stojić Motion”); (ii) “Jadranko Prlić’s Joinder to Valentin Ćorić’s Motion to Enlarge Time for Filing of Appellant’s Brief and Word Count and Bruno Stojić’s Motion for an Extension of Time for Filing of the Appellant’s Brief and Extension of the Applicable Word Limit”, filed by Jadranko Prlić (“Prlić”) on 7 August 2014 (“Prlić Joinder”); and (iii) “Milivoj Petković’s Motion for an Extension of the Word Limit of the Appellant’s Brief and an Extension of Time for Filing of the Appellant’s Brief”, filed by Milivoj Petković (“Petković”) on 7 August 2014 (“Petković Motion”), by which Stojić, Prlić, and Petković request: (i) that the filing date for their respective Appellant’s briefs be extended for 60 days beyond the 75 days provided for in the Rules; and (ii) an increase in the word limit of their briefs from 30,000 to 50,000 words;⁴

BEING FURTHER SEISED OF “Slobodan Praljak’s Second Motion for Extension of Time to File Appeal Brief”, filed on 7 August 2014 (“Praljak Motion”), by which Slobodan Praljak (“Praljak”) seeks an extension of two months from the date that counsel was re-assigned to him by

¹ Order Designating a Pre-Appeal Judge, 19 June 2013, p. 1.

² *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-T, Judgement, 6 June 2014 (French original filed on 29 May 2013) (“Trial Judgement”).

³ Ćorić Motion, paras 8, 26, and p. 9.

⁴ Stojić Motion, paras 1, 17, 19, and p. 7; Prlić Joinder, p. 1; Petković Motion, paras 9, 17.

the Registrar of the Tribunal (*i.e.*, 6 August 2014⁵) and further requests a harmonised schedule for the filing of all Appellant's briefs in this case in the interests of justice;⁶

BEING FURTHER SEISED OF "Berislav Pušić's Request for Harmonised Filing of Appeal Briefs", filed on 8 August 2014 ("Pušić Motion" and together with all other motions and joinders filed by the Appellants in this case, the "Motions"), by which Berislav Pusić ("Pusić") supports the requests by his co-Appellants for the extension of both the deadlines for the filing of their Appellant's briefs and the relevant word limits and requests an extension of time for the filing of his own Appellant's brief to ensure a harmonised briefing schedule;⁷

BEING FURTHER SEISED OF the "Prosecution's Consolidated Response to Defence's Motions to Extend Time and/or Exceed Word Limits for Appeal Briefs and Prosecution's Motion for Extension of Time to File Respondent's Briefs", filed on 13 August 2014 ("Prosecution Consolidated Response and Motion"), by which the Office of the Prosecutor ("Prosecution") submits that: (i) all Appellants should be held to a simultaneous filing deadline of 12 January 2015 in the interests of case management so as to avoid unfairness and inefficiency; (ii) the Prosecution be granted an additional 75 days to file its Respondent's brief(s), beginning on the date set for the filing of all Appellant's briefs; (iii) all Appellants be given 45,000 words for their Appellant's briefs;⁸ and that; (iv) the Prosecution be given 45,000 words for its response to each Appellant's brief;⁹

NOTING "Bruno Stojić's Response to the Prosecution's Motion for an Extension of Time to File Respondent's Briefs", filed by Stojić on 20 August 2014 ("Stojić Response"), which states that Stojić does not oppose the Prosecution's requests for a harmonised briefing schedule and an extension of time for the filing of its Respondent's brief(s);¹⁰

NOTING the Appellants' and the Prosecution's submissions that the requested extensions of the deadlines for the filings of Appellant's briefs and Respondent's brief(s) and of the relevant word limits of those briefs are justified due to the volume of the trial record, the length of the Trial Judgement, and the complexity of the issues in the instant case;¹¹

⁵ See Registry Decision, 6 August 2014, p. 5 (assigning counsel and co-counsel to Praljak).

⁶ Praljak Motion, paras 9, 19, 21, 25-28.

⁷ Pusić Motion, para. 2, p. 3.

⁸ Prosecution Consolidated Response and Motion, paras 1-3, 6, 8, 16-17; Corrigendum to Prosecution's Consolidated Response to Defence's Motions to Extend Time and/or Exceed Word Limits for Appeal Briefs and Prosecution's Motion for Extension of Time to File Respondent's Briefs, 14 August 2014, p. 1.

⁹ Prosecution Consolidated Response and Motion, para. 11.

¹⁰ Stojić Response, para. 4.

¹¹ See Ćorić Motion, paras 9-26; Stojić Motion, 11-17; Prlić Joinder, p. 1; Petković Motion, paras 8-16; Praljak Motion, paras 12, 15-17; Pusić Motion, para. 2; Prosecution Consolidated Response and Motion, para. 4.

FURTHER NOTING the submissions of Ćorić, Stojić, Petković, joined by Prlić and Pušić, that an extension of time to file their Appellant's briefs is warranted because a B/C/S translation of the Trial Judgement is not yet available;¹²

NOTING the notices of appeal lodged by all parties against the Trial Judgement;¹³

NOTING that, pursuant to Rule 111(A) of the Rules, an Appellant's brief shall be filed within 75 days of filing of the notice of appeal and, pursuant to Rule 112(A) of the Rules, a Respondent's brief shall be filed within 40 days of filing of the Appellant's Brief;

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

RECALLING that Praljak, Pusić, and the Prosecution have already been granted an extension of time for the filing of their Appellant's briefs, which are due no later than 135 days from the filing of the English translation of the Trial Judgement, and that, pursuant to Rules 111(A) and 126 of the Rules, the Appellant's briefs of Prlić, Stojić, Petković, and Ćorić are to be filed within 75 days of their notices of appeal, and, thus, all Appellant's briefs are currently due no later than 20 October 2014;¹⁴

FURTHER RECALLING that all parties have already been granted extensions of time to file either their Notices of Appeal or Appellant's briefs based on the exceptional length of the Trial Judgement, the delay in receipt of the English translation of the Trial Judgement, and the complexity of the issues contained therein;¹⁵

FURTHER RECALLING that Praljak filed his notice of appeal as early as June of 2013 (re-filed in March of 2014) and has been represented by counsel throughout the appeal proceedings, save for the period between 28 April 2014 and 6 August 2014 during which time he elected to represent

¹² Ćorić Motion, para. 8, p. 9; Stojić Motion, para. 16; Petković Motion, para. 15. *See also* Prlić Joinder, p. 1; Pušić Motion, para. 2.

¹³ *See* Slobodan Praljak's Notice of Appeal, 28 June 2013; Notice of Appeal on Behalf of Berislav Pušić, 28 June 2013, and Re-Filing of the Notice of Appeal on Behalf of Berislav Pusić, 13 March 2014; Prosecution's Notice of Appeal, 27 August 2013; Notice of Appeal filed on Behalf of Mr. Valentin Ćorić, 4 August 2014; Bruno Stojić's Notice of Appeal, 4 August 2014; Milivoj Petković Notice of Appeal, 5 August 2014; Jadranko Prlić's Notice of Appeal, 5 August 2014 (collectively referred to as "Notices of Appeal").

¹⁴ Decision on Motions for Extension of Time to File Appeal Briefs and for Authorization to Exceed Word Limit, 22 August 2013 ("22 August 2013 Decision"), para. 18.

¹⁵ *See* 22 August 2013 Decision, para. 15; 21 June 2013 Decision, p. 3.

himself,¹⁶ and thus has had considerable time, since the filing of his notice of appeal, to prepare his Appellant's brief;

CONSIDERING that the deadlines for the filing of briefs pursuant to Rule 111(A) and 112(A) of the Rules are essential to ensuring appeal proceedings are conducted in a fair and expeditious manner;¹⁷

CONSIDERING, nonetheless, that it is in the interests of justice to ensure that the parties have sufficient time to prepare meaningful briefs in full conformity with the relevant provisions¹⁸ and that the parties in this case have shown good cause for a limited extension of the deadlines for the filings of their Appellant's and Respondent's briefs in addition to the extensions already granted;

NOTING that, pursuant to Rule 108 of the Rules and the Appeals Chamber's well-established jurisprudence, all the Appellants will have the opportunity, if they so wish, to request authorisation for variation of their grounds of appeal and subsequent amendments to the notices of appeal and appeal briefs, provided that they show good cause, after receiving the B/C/S translation of the Trial Judgement,¹⁹

CONSIDERING that it is in the interests of justice and effective case management to maintain a harmonized briefing schedule;²⁰

NOTING that paragraph (C)1(a) of the Practice Direction on the Length of Briefs and Motions²¹ stipulates that an Appellant's brief on appeal from a final judgement of a Trial Chamber should not exceed 30,000 words and that paragraph (C)7 of the Practice Direction provides that the Pre-Appeal Judge may, in exceptional circumstances, grant an extension of the word limit set by the Practice Direction;

RECALLING the Appeals Chamber's decision to extend the word limit for (i) the Appellant's briefs of Praljak and the Prosecution from 30,000 to 45,000 words given "the length of the Trial

¹⁶ See Decision of the Registrar, 6 August 2014, p. 5; Decision on Praljak's Request for Stay of Proceedings, 27 June 2014, paras 3-6.

¹⁷ *Prosecutor v. Vujadin Popović et al.*, Case No. IT-05-88-A, Decision on Motions for Extension of Time and for Permission to Exceed Word Limitations, 20 October 2010 ("*Popović et al.* Decision"), p. 5 (citations omitted).

¹⁸ Decision on Motions for an Extension of Time to File Notices of Appeal and Other Relief, 21 June 2013 ("*21 June 2013 Decision*"), p. 3.

¹⁹ 21 June 2013 Decision, p. 3.

²⁰ See generally 21 June 2013 Decision and 22 August 2013 Decision.

²¹ IT/184 Rev. 2, 16 September 2005 ("Practice Direction").

Judgement and the complexity of issues raised during the course of the trial” and (ii) for the Prosecution’s Respondent’s brief to Praljak’s Appellant’s brief from 30,000 to 45,000 words;²²

FINDING that the same exceptional circumstances warrant granting the same extension of the word limit for all other Appellants’ briefs in this case;

FURTHER FINDING that the reasoning justifying an extension for the word limit of the Prosecution’s Respondent’s brief to Praljak’s Appellant’s brief applies equally to the Respondent’s brief(s) the Prosecution must prepare for the other five Appellants;

CONSIDERING that paragraph (C)1(b) of the Practice Direction reflects the principle of allowing the Respondent to file a brief of the same length as the Appellant’s brief²³ and that, therefore, equal extensions of the word limits of the Respondent’s brief(s) are warranted;

CONSIDERING, finally, that, given the parties’ need for clarity as to the time limit and the word limit, it is in the interests of justice and without prejudice to the parties to render this Decision before the expiration of the deadlines for the filing of responses to the Motions and any requests for leave to file a reply to such response(s);

FOR THE FOREGOING REASONS,

HEREBY GRANT the Motions **in part**;

GRANT the Prosecution Consolidated Response and Motion **in part**;

ORDER that all Appellant’s briefs shall, therefore, be filed no later than 4 November 2014;

ORDER that the Prosecution Respondent’s brief(s) be filed no later than 55 days after receipt of the Appellant’s briefs;

ALLOW all Appellants 45,000 words for their Appellant’s briefs;

ORDER that the Prosecution’s Respondent’s brief(s) shall not exceed 270,000 words in total; and

REMIND the Registrar of the Tribunal of the need to ensure the timely filing of the B/C/S translation of the Trial Judgement.

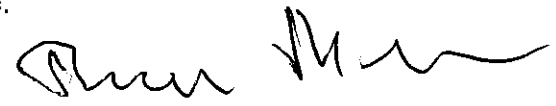
²² 22 August 2013 Decision, paras 17-18.

²³ See *Popović et al.* Decision, p. 6.

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

Done this 22nd day of August 2014,
At The Hague,
The Netherlands.



Judge Theodor Meron
Pre-Appeal Judge

[Seal of the Tribunal]