

IT-01-51-AR73
A332-A330
25 JANUARY 2002

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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

Cases: IT-99-37-AR73
IT-01-50-AR73
IT-01-51-AR73
Date: 25 January 2002
Original: English

BEFORE THE APPEALS CHAMBER

Before: Judge Claude Jorda, Presiding
Judge David Hunt
Judge Mehmet Güney
Judge Fausto Pocar
Judge Theodor Meron

Registrar: Mr Hans Holthuis

Decision of: 25 January 2002

PROSECUTOR

v

Slobodan MILOŠEVIĆ

**DECISION ON MOTION BY PROSECUTION FOR CLARIFICATION
OR ALTERNATIVE RELIEF**

Counsel for the Prosecutor:

Ms Carla Del Ponte, Prosecutor
Mr Geoffrey Nice
Ms Hildegard Uertz-Retzlaff
Mr Dirk Reyneveld

The Accused:

Mr Slobodan Milošević (unrepresented)

Aimici Curiae

Mr Steven Kay
Mr Branislav Tapušковиć
Mr Mischa Wladimiroff

Cases: IT-99-37-AR73, IT-01-50-AR73
& IT-01-51-AR73

25 January 2002

1. The Prosecutor, as the appellant in an interlocutory appeal and by motion,¹ seeks clarification as to whether the Book of Authorities (consisting of 264 pages),² which she has filed in addition to her Appellant’s Brief,³ complies with the Practice Direction on the Length of Briefs and Motions.⁴

2. The Practice Direction, by par 2(b)(1), imposes upon such an appellant a limit of 30 pages (or 9,000 words, whichever is the greater) for the length of his or her Appellant’s Brief. It also excludes from those limits any appendix or book of authorities, but provides in par 6 that:

An appendix or book of authorities will not contain legal or factual arguments, but rather references, source materials, items from the record, exhibits, and other relevant, non-argumentative material. An appendix will be of reasonable length, which is normally three times the page limit for [the Appellant’s Brief], although it is understood that the length of appendices will naturally vary more than the length of briefs.

3. The Prosecutor draws attention to Rule 111 of the Rules of Procedure and Evidence (“Rules”),⁵ which requires an Appellant’s Brief to set out “all of the arguments and authorities” in support of the grounds of appeal specified in the Notice of Appeal.⁶ The Prosecutor then seeks (1) clarification as to whether her Book of Authorities is limited to three times the length of her Appellant’s Brief,⁷ which is 30 pages, and (2) if it is so limited, leave to exceed that limit to a total of 264 pages.⁸

4. In the opinion of the Appeals Chamber, Rule 111 requires an appellant to identify in the Appellant’s Brief the authorities upon which he or she relies for the arguments put forward by name and citation (including the relevant page or paragraph of those authorities) only. A Book of Authorities is produced only in order to assist the Appeals Chamber in its consideration of the appeal. It is not an appendix to a party’s Brief. Provided that the Book

¹ Motion for Clarification or Alternatively, Variation of page Limitation of Book of Authorities Filed in Conjunction with Interlocutory Appeal of the Prosecution Against “Decision on Prosecution’s Motion for Joinder”, 16 Jan 2002 (“Motion”).

² Book of Authorities to Appellant’s Brief on Interlocutory Appeal of Decision on Prosecution’s Motion for Joinder, 16 Jan 2002.

³ Interlocutory Appeal of the Prosecution Against “Decision on Prosecution’s Motion for Joinder”, 15 Jan 2002.

⁴ IT/184, 19 Jan 2001 (“Practice Direction”).

⁵ As amended on 21 December 2001 (IT/199).

⁶ Filed in accordance with Rule 108, as similarly amended.

⁷ Motion, pars 3-5.

⁸ *Ibid*, par 9.

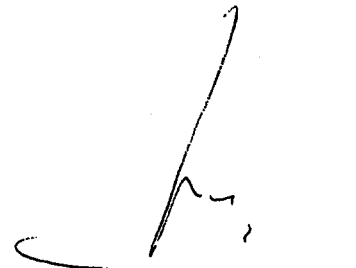
of Authorities does not contain any legal or factual arguments, and contains only source materials, its length is not limited by any of the provisions of the Practice Direction. However, parties should include within it only those authorities to which they believe the Appeals Chamber will *need* to refer. It is not usually necessary to include within a Book of Authorities copies of decisions of the Tribunal itself.

5. The Appeals Chamber nevertheless emphasises that any appendix to a party's motion or brief in an appeal (whether on the merits or an interlocutory appeal) *must* conform with the requirements of par 6 of the Practice Direction; it, too, must "not contain legal or factual arguments", and it must be "of reasonable length, which is normally three times the page limit for that class of motion or brief [...], although it is understood that the length of appendices will naturally vary more than the length of briefs".

6. In those circumstances, the Book of Authorities has been properly filed by the Prosecutor, and it is unnecessary to grant the alternative relief sought.

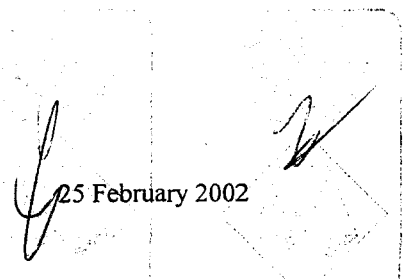
Done in English and French, the French text being authoritative.

Dated this 25th day of January 2002,
At The Hague,
The Netherlands.



Judge Claude Jorda
Presiding

[Seal of the Tribunal]



25 February 2002