



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-01-48-A  
Date: 14 July 2006  
Original: English

**BEFORE THE PRE-APPEAL JUDGE**

**Before:** Judge Mehmet Güney  
**Registrar:** Mr. Hans Holthuis  
**Decision:** 14 July 2006

**PROSECUTOR**

v.

**Sefer HALILOVIĆ**

**DECISION ON MOTION FOR EXTENSION OF NUMBER OF WORDS  
FOR RESPONDENT'S BRIEF**

**The Office of the Prosecutor:**

Mr. Peter Kremer

**Counsel for Mr. Sefer Halilović**

Mr. Peter Morrissey  
Mr. Guénaél Mettraux

**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”) and Pre-Appeal Judge in the present case,

**NOTING** the Judgement rendered in this case on 16 November 2005 by Trial Chamber I;

**NOTING** the “Prosecution’s Notice of Appeal” and the “Prosecution’s Appellant’s Brief” filed on 16 December 2005 and 1 March 2006, respectively;

**BEING SEISED OF** the “Motions for Extension of Number of Words for Respondent’s Brief” filed on 12 July 2006 by Counsel for Sefer Halilović (“Motion” and “Defence”, respectively), in which the Defence “seeks orders granting the Defence, respectively,

- (i) a 11,000-word extension for the purpose of responding to the Prosecution’s Second ground of appeal; and
- (ii) a 41,000-word extension for the purpose of responding to the other grounds of appeal. If the prosecution withdraws ground 1(v) (‘beyond reasonable doubt’ ground), the Defence application for an extension of words would be reduced by 6,500 words”;<sup>1</sup>

**NOTING** that, in support of its request related to the Prosecution’s second ground of appeal, the Defence contends that the Prosecution has abandoned its allegation of error and that this ground of appeal is not alleged to be directly relevant to this appeal and submits, *inter alia*, that the extension sought is necessary to allow the Defence to provide a thorough analysis of the trial record to properly address the Prosecution’s submissions and the issues at hand;<sup>2</sup>

**NOTING** that, with respect to its request concerning the remainder of the Prosecution’s appeal, the Defence submits that “exceptional circumstances exist” and that the 41,000 words extension

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<sup>1</sup> Motion, para. 8 (footnotes and emphasis omitted).

<sup>2</sup> Motion, paras. 10-14.

“is reasonable and proportionate to the need of the Defence to address all relevant matters fully though concisely”; it lists the following factors as being relevant:

- (i) the scope of the Prosecution’s appeal;
- (ii) the number of grounds, sub-grounds of appeal and allegations made in the Appellant’s brief;
- (iii) the number of basis upon which the grounds of appeal could be rejected;
- (iv) the Prosecution’s refusal to withdraw grounds of appeal;
- (v) the absence in the Appellant’s brief of a “Standard of Review” section;
- (vi) the incomplete presentation of the evidence;
- (vii) the Prosecution’s failure to provide relevant procedural backgrounds;
- (viii) the variation of grounds of appeal without leave;
- (ix) the presentation of arguments and theories that did not form part of the Prosecution case at trial;
- (x) the extent of authority and precedents cited in response;
- (xi) the absence of a cross-appeal by the Defence;<sup>3</sup>

**NOTING** that the Defence further submits that the requested extensions of words “would cause no prejudice to the Prosecution, nor would it create any unfairness”,<sup>4</sup>

**NOTING** that the Prosecution informed me that it does not intend to withdraw any ground of appeal at this stage of the proceedings and objects to the Motion on the basis that the Defence fails to demonstrate any exceptional circumstances for such request;

**CONSIDERING** that paragraph C(1)(b) of the Practice Direction on the Length of Briefs and Motions<sup>5</sup> (“Practice Direction”) provides that the response of an appellee on an appeal from a final judgement of a Trial Chamber will not exceed 30,000 words but that, pursuant to paragraph C(7)

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<sup>3</sup> Motion, para. 16.

<sup>4</sup> Motion, para. 17.

of the Practice Direction, variations from word limits may be authorized if requested in advance and supported by an explanation of the exceptional circumstances necessitating the oversized filing;

**CONSIDERING** that most of the circumstances alleged by the Defence in support of its requests do not constitute exceptional circumstances within the meaning of the Practice Direction;

**CONSIDERING** however that the importance, the scope and the number of issues raised in the Prosecution's appeal, and the necessity for the Defence to provide a thorough analysis of the trial record warrant a reasonable extension of the number of words allowed by the Practice Direction;

**CONSIDERING** further that, although the quality and effectiveness of a Respondent's brief do not depend on its length, it is in the interests of the Appeals Chamber to have the arguments of the Defence presented as clearly and as fully as possible;

**FINDING** however that the required extensions of the number of words appear excessive not only in light of the normal words limit provided by the Practice Direction but also in light of the particular circumstances of the case;

**FOR THE FOREGOING REASONS**

**HEREBY GRANT**, in part, the Motion; and

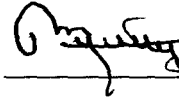
**ALLOW** the Defence to file a Respondent's brief of 45,000 words in total.

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

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<sup>5</sup> IT/184/Rev. 2, 16 September 2005.

Dated this 14<sup>th</sup> day of July 2006,  
At The Hague,  
The Netherlands.



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Judge Mehmet Güney  
Pre-Appeal Judge

**[Seal of the International Tribunal]**