

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-03-68-A
Date: 29 November
2006
Original: English

BEFORE THE PRE-APPEAL JUDGE

Before: Judge Liu Daqun
Registrar: Mr. Hans Holthuis
Decision: 29 November 2006

PROSECUTOR

v.

NASER ORIĆ

**DECISION ON DEFENCE'S MOTION FOR EXTENSION OF
WORD LIMIT FOR DEFENCE RESPONDENT'S BRIEF**

The Office of the Prosecutor:

Ms. Christine Dahl

Counsel for the Accused:

Ms. Vasvija Vidović
Mr. John Jones

I, **LIU DAQUN**, Judge 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,¹

NOTING the Judgement rendered in the present case on 30 June 2006 by Trial Chamber II;

NOTING the Prosecution’s Notice of Appeal filed on 31 July 2006 and the Prosecution’s Appeal Brief filed on 16 October 2006;²

BEING SEIZED OF the “Motion for Extension of Word Limit for Defence Respondent’s Brief” filed on 22 November 2006 by Counsel for Naser Orić (“Motion” and “Defence” respectively) in which the Defence requests an extension of the word limit for its Respondent’s Brief from 30 000 words to 40 000 words;

NOTING that the Prosecution has not yet filed a response;

NOTING however that pursuant to paragraph C(7) of the Practice Direction on the Length of Briefs and Motions, IT/184 Rev. 2, 16 September 2005 (“Practice Direction”), a Pre-Appeal Judge may dispose of a motion for extension of word limits without hearing the other party unless he or she considers that the other party may be prejudiced;

CONSIDERING that the Prosecution is not prejudiced by this decision;

CONSIDERING that pursuant to paragraph C(1)(b) of the Practice Direction, a Respondent’s Brief will not exceed 30 000 words;

CONSIDERING that pursuant to paragraph C(7) of the Practice Direction, variations of word limits may be authorized if requested in advance and supported by an explanation of the exceptional circumstances necessitating the oversized filing;

NOTING that in support of its Motion, the Defence submits that exceptional circumstances exist justifying an extension and that:

¹ See Order Assigning Judges to a case Before the Appeals Chamber and Appointing a Pre-Appeal Judge, 14 August 2006.

² The Prosecution further filed the Prosecution’s Corrigendum to Appeal Brief on 18 October 2006. The Pre-Appeal Judge notes however that the validity of this filing is the subject of another request and it is opposed by the Defence in the Defense Response to Prosecution Motion for Variance Concerning Order and Numbering of Arguments on Appeal and to Prosecution’s “Corrigendum to Appeals Brief”, 27 October 2006.

1. the Prosecution has set out in its Annexes “extensive material relating to a large number of exhibits and extensive legal argument” and that accordingly, the Defence should be allowed to respond to this material as a matter of basic fairness;³
2. the Prosecution has raised an exceptionally large number of legal issues in the Prosecution’s Appeal Brief which are tied to many legal issues;⁴
3. an extension will cause no prejudice to the Prosecution since the very need for the Defence’s request arises from the Prosecution’s extensive use of Annexes to set out complex factual and legal argument;⁵

CONSIDERING that the annexes to the Prosecution’s Appeal Brief need not be wholly reproduced in the Defence Respondent’s Brief as mere references to the documents in the annexes would be sufficient;

CONSIDERING that the volume of the annexes the Third Rule 115 Motion does not in and of itself constitute exceptional circumstances that justify an increase in the page limit;⁶

CONSIDERING that a party referring to passages within a specific filing is required to indicate precisely the page number and paragraph number of the text or exhibit referred to;⁷

CONSIDERING that the Defence has not demonstrated that there are an exceptionally large number of legal issues in the Prosecution’s Appeal Brief which distinguish this case;

CONSIDERING that the Defence’s arguments that the Annexes set out legal argument are unsubstantiated in this Motion and that the Defence has offered no satisfactory reason as to why this appeal involves issues that are so complex that they cannot be addressed sufficiently within 30 000 words;⁸

FINDING that the nature of these issues does not make this case "extraordinary" in comparison with other cases addressed by the Appeals Chamber;

³ Motion, para. 5.

⁴ Motion, para. 8.

⁵ Motion, para. 10.

⁶ *Prosecutor v. Stanislav Galić*, Case No. IT-98-29-A, Decision on Request for Extension of Page Limit for the Prosecution’s Response to Galić’s Third Rule 115 Motion, 16 March 2005, p. 3.

⁷ See Practice Direction on Procedure for the Filing of Written Submissions in Appeal Proceedings Before the International Tribunal, IT/155/Rev. 3, para. 17.

⁸ The Pre-Appeal Judge notes however that in the Motion to Strike Annexes A, C, D and E of the Prosecution’s Appeals Brief, filed on 26 October 2006, the Appellant makes submissions regarding specific instances where the Prosecution allegedly includes arguments in the annexes. Because the Pre-Appeal Judge in the present Motion is not seized of that request, those submissions will not be addressed in this decision.

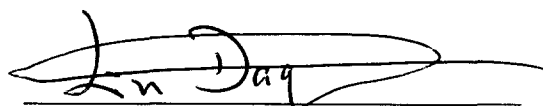
CONSIDERING however that the Defence filed the Defence Respondent's Brief on 27 November 2006;

FINDING that consequently the Motion is moot.

FOR THE FOREGOING REASONS,

DISMISS the Motion in its entirety.

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



Judge Liu Daqun
Pre-Appeal Judge

Dated this 29th day of November 2006,
At The Hague, The Netherlands.

[Seal of the Tribunal]