



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-01-47-A
Date: 22 January 2007
Original: English

BEFORE THE PRE-APPEAL JUDGE

Before: Judge Mohamed Shahabuddeen, Pre-Appeal Judge
Registrar: Mr. Hans Holthius
Decision: 22 January 2007

PROSECUTOR

v.

**ENVER HADŽIHASANOVIĆ
AMIR KUBURA**

**DECISION ON DEFENCE MOTION ON BEHALF OF ENVER
HADŽIHASANOVIĆ SEEKING LEAVE TO EXCEED WORDS
LIMIT FOR THE APPEAL BRIEF**

The Office of the Prosecutor:

Mr. Peter Kremer, QC
Mr. Arthur Buck
Ms. Antoinette Issa

Counsel for the Appellants:

Ms. Edina Rešidović and Mr. Stéphane Bourgon for Mr. Hadžihasanović
Mr. Fahrudin Ibrišimović and Mr. Rodney Dixon for Mr. Kubura

I, MOHAMED SHAHABUDDEEN, 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 this case;¹

NOTING the Judgement rendered in the present case on 15 March 2006 by Trial Chamber II;

NOTING the Notice of Appeal filed by Enver Hadžihasanović on 18 April 2006;²

BEING SEIZED of “Defence Motion on Behalf of Enver Hadžihasanović Seeking Leave to Exceed Words Limit for the Appeal Brief” (“Motion”), filed on 18 January 2007, in which Counsel for Mr. Hadžihasanović (“Defence”) requests an extension of the word limit for its Appeal Brief from 30,000 to 39,000 words;

NOTING that the Prosecution has not filed a response but has indicated in an email to legal officers of the Appeals Chamber and to the Defence that it opposes the Motion;

NOTING that the Pre-Appeal Judge may in any event dispose of a motion for an extension of word limits without hearing the other party unless he considers that there is a risk that the other party may be prejudiced;³

NOTING that the Defence submits that its request for an extension of word limits is justified by the following “exceptional circumstances”:

- (i) the length of the Judgement;
- (ii) the number of exhibits admitted into evidence;
- (iii) the number of grounds and sub-grounds of appeal; and
- (iv) the need to address numerous exhibits and testimonies;⁴

NOTING that the Defence further submits that the additional words requested “are required to allow the Appellant to clearly set out the basis for each ground of appeal, which will be of assistance to the Appeals Chamber in adjudicating on this Appeal”;⁵

¹ Order Assigning Judges to a Case Before the Appeals Chamber and Appointing a Pre-Appeal Judge, 26 April 2006.

² Notice of Appeal from Judgement on Behalf of Enver Hadžihasanović and Request for Leave to Exceed the Page Limit, 18 April 2006.

³ Practice Direction on the Length of Briefs and Motions (IT/184 Rev. 2), 16 September 2005 (“Practice Direction”), para. C(7).

⁴ Motion, p. 1.

⁵ Motion, p. 2.

CONSIDERING that according to paragraph C(1)(a) of the Practice Direction, “[t]he brief of an appellant on appeal from a final judgement of a Trial Chamber will not exceed 30,000 words”;

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

CONSIDERING that an appeal is not a trial *de novo*,⁶ and that the length of the Trial Judgement and number of exhibits admitted are not in themselves factors that constitute exceptional circumstances on appeal;⁷

CONSIDERING that the number of grounds and sub-grounds on appeal also does not in itself provide sufficient reason for an enlargement of word limits;⁸

CONSIDERING that the Defence has not demonstrated exceptional circumstances which distinguish this case and which necessitate an extension of the word limits prescribed in the Practice Direction;

RECALLING that the quality and effectiveness of an Appellant’s brief does not depend on the length but on the clarity and cogency of the presented arguments and that, therefore, excessively long briefs do not necessarily serve the cause of efficient administration of justice;⁹

FOR THE FOREGOING REASONS,

DISMISS the Motion in its entirety.

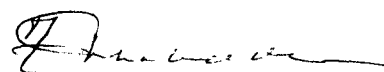
⁶ *Prosecutor v. Naser Orić*, Case No. IT-03-68-A, Decision on Defence Motion for Extension of Word Limit for Defence Appellant’s Brief, 6 October 2006, p. 3.

⁷ *Cf. Ferdinand Nahimana v. The Prosecutor*, Case No. ITCR-99-52-A, Decision on Ferdinand Nahimana’s Second Motion for an Extension of Page Limits for Appellant’s Brief, 31 August 2004, p. 3.

⁸ *Prosecutor v. Naser Orić*, Case No. IT-03-68-A, Decision on Defence Motion for Extension of Word Limit for Defence Appellant’s Brief, 6 October 2006, p. 3; *The Prosecutor v. Radoslav Brdanin*, Case No. IT-99-36-A, Decision on Appellant’s Motion for Extension of Time to File a Consolidated Brief and for Enlargement of Page Limit, 22 June 2005, para. 11.

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

22 January 2007,
The Hague,
The Netherlands



Mohamed Shahabuddeen
Pre-Appeal Judge

[Seal of the Tribunal]

⁹ *Prosecutor v. Naser Orić*, Case No. IT-03-68-A, Decision on Defence Motion for Extension of Word Limit for Defence Appellant's Brief, 6 October 2006, p. 3; *Prosecutor v. Milorad Krnojelac*, Case No. IT-97-25-A, Decision on Prosecution's Request for Authorisation to Exceed Prescribed Page Limits, 26 July 2002, p. 2.