

**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 January 2007
Original: English

IN THE APPEALS CHAMBER

Before: Judge Fausto Pocar, Presiding
Judge Liu Daqun
Judge Andréia Vaz
Judge Theodor Meron
Judge Wolfgang Schomburg

Registrar: Hans Holthuis

Decision of: 29 January 2007

PROSECUTOR

v.

NASER ORIĆ

**DECISION ON THE PROSECUTION'S MOTION TO STRIKE
DEFENCE RESPONSE BRIEF ANNEX**

The Office of the Prosecutor:

Ms. Christine Dahl

Counsel for Naser Orić:

Ms. Vasvija Vidović
Mr. John Jones

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”),

RECALLING that it is seized with the “Prosecution’s Notice of Appeal” filed on 31 July 2006 from the Judgement of Trial Chamber II rendered on 30 June 2006 in *Prosecutor v. Naser Orić*;¹

NOTING “[t]he Prosecution’s Appeal Brief” filed on 17 October 2006;

NOTING the “Defence Respondent’s Brief” and “Annex A”² (“Defence Response Brief Annex”) filed on 27 November 2006 by Counsel for Naser Orić (“Defence”);

BEING SEIZED OF “The Prosecution’s Motion to Strike Defence Response Brief Annex” filed on 4 December 2006 (“Prosecution Motion to Strike”), in which the Prosecution requests that the Appeals Chamber strike the Defence Response Brief Annex in its entirety because, under the column “Correct Description of the Document”, the Defence reiterates arguments relating to authenticity, weight, probative value and relevance of exhibits at trial;³

NOTING that the Defence did not file a response to the Prosecution Motion to Strike;

RECALLING that according to the Practice Direction on the Length of Briefs and Motions, “[a]n 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”;⁴

FINDING that because the Defence Response Brief Annex presents arguments relating to each of the exhibits listed therein under the column heading “Correct Description of the Document”, it may not be considered as an appendix properly filed under the Practice Direction on the Length of Briefs and Motions;⁵

¹ Case No. IT-03-68-T.

² See Defence Respondent’s Brief at p. 95 *et seq.*

³ Prosecution Motion to Strike, paras 1, 3.

⁴ IT/184/Rev. 2, 16 September 2005, para. (C)(6); See also *Prosecutor v. Sefer Halilović*, Case No. IT-01-48-A, Decision on Prosecution’s Motion to Strike Annexes to the Respondent’s Brief, 6 September 2006, para. 12.

⁵ Cf. *Nahimana et al. v. The Prosecutor*, Case No. ICTR-99-52-A, Order Expunging from the Record Annexures “A” through “G” of Appendix “A” to the Consolidated Respondent’s Brief filed on 22 November 2005, 30 November 2005.

FOR THE FOREGOING REASONS,

GRANTS the Prosecution Motion to Strike;

ORDERS the Defence, if it so wishes, to re-file the Defence Response Brief Annex in compliance with the Practice Direction on the Length of Briefs and Motions within five (5) days of the date of this Decision;

DECLARES the Defence Response Brief Annex to be null and void; and

DIRECTS the Registry to remove the Defence Response Brief Annex from the case file.

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



Judge Fausto Pocar
Presiding Judge

Dated this 29th day of January 2007,
At The Hague, The Netherlands.

[Seal of the International Tribunal]