



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-00-39-A
Date: 18 October 2007
Original: English

IN THE APPEALS CHAMBER

Before: Judge Fausto Pocar, Presiding
Judge Mohamed Shahabuddeen
Judge Mehmet Güney
Judge Andréia Vaz
Judge Theodor Meron

Registrar: Mr. Hans Holthuis

Decision of: 18 October 2007

PROSECUTOR

v.

MOMČILO KRAJIŠNIK

PUBLIC

**DECISION ON MOMČILO KRAJIŠNIK'S MOTION FOR
RECONSIDERATION OF THE APPEALS CHAMBER'S
DECISION OF 27 SEPTEMBER 2007**

The Office of the Prosecutor:

Mr. Peter Kremer

The Accused

Momčilo Krajišnik

Amicus Curiae

Mr. Colin Nicholls

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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 (“Appeals Chamber” and “Tribunal”, respectively),

NOTING the Appeals Chamber’s Decision of 27 September 2007 in which it, *inter alia*, denied a request by Momčilo Krajišnik (“Mr. Krajišnik”) for permission to submit an appeals brief longer than 30,000 words;¹

NOTING the “Motion by Momčilo Krajišnik for Reconsideration of the Trial [*sic*] Chamber’s Decision of 27 September 2007” filed on 5 October 2007 (“Motion”)² in which Mr. Krajišnik seeks reconsideration of the Appeals Chamber’s refusal to increase the applicable word limit for appeals briefs, as provided by the Practice Direction on the Length of Briefs and Motions,³ from 30,000 words to 45,000 words;

NOTING that on 15 October 2007 the Prosecution filed the “Prosecution Response to Motion by Momčilo Krajišnik for Reconsideration of Decision of 27 September 2007” in which it argued that Mr. Krajišnik satisfied neither the requirements for receiving a word limit extension nor the standard for reconsideration of the Appeals Chamber’s Decision of 27 September 2007;

RECALLING that the Appeals Chamber has “inherent discretionary power” to reconsider decisions “if a clear error of reasoning has been demonstrated or if it is necessary to do so to prevent an injustice”,⁴

CONSIDERING that a party must seek advanced authorization to exceed the applicable word limit and that such authorization will be granted only where the party has demonstrated that exceptional circumstances exist to justify the word limit extension;⁵

¹ Decision on “Motion by Momcilo Krajisnik for Reconsideration of the Appellate Chamber’s Decision of September 11, 2007”, 27 September 2007.

² The English translation was filed on 15 October 2007.

³ IT/184/Rev.2, 16 September 2005, para. (C)(1).

⁴ *Kajelijeli v. Prosecutor*, Case No. ICTR-98-44A-A, Judgement, 23 May 2005, para. 203 (internal quotation marks omitted). See also *Nahimana et al. v. Prosecutor*, Case No. ICTR-99-52-A, *Décision relative à la Requête de l’Appelant Jean-Bosco Barayagwiza demandant l’examen de la Requête de la Défense datée du 28 juillet 2000 et réparation pour abus de procédure*, 23 June 2006, para. 22; *Prosecutor v. Strugar*, Case No. IT-01-42-Misc.1, Decision on Strugar’s Request to Reopen Appeal Proceedings, 7 June 2007, para. 26.

⁵ Practice Direction on the Length of Briefs and Motions, IT/184/Rev.2, 16 September 2005, para. (C)(7); *Prosecutor v. 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. 2; *Nahimana et al. v. Prosecutor*, Case No. ICTR-99-52-A, Decision on “Appellant Jean-Bosco Barayagwiza’s Urgent Motion for Leave to Have Further Time to File the Appeals Brief and the Appeal Notice”, 17 May 2005, p. 3.

RECALLING that the forcefulness and efficacy of an appeals brief submission does not hinge on the number of words used to support an argument but rather on the clarity and coherence of the argument, an endeavour aided more by succinct reference to legal and evidentiary issues requiring the Appeals Chamber's attention than by an excessive level of detail that may not bolster the cause of an efficient administration of justice;⁶

NOTING that the Appeals Chamber, at its discretion, may request further briefing or elaboration of specific points at a hearing if it deems that certain issues are insufficiently developed;⁷

CONSIDERING that the principal reason for the present request rests on Mr. Krajišnik's supposed need to advance legal arguments and marshal evidence that his trial attorneys failed to present; that such an argument is essentially part of an ineffective assistance of counsel claim, which the Appeals Chamber will resolve in due course; and that the mere conjunction of an ineffective assistance claim with other alleged errors does not constitute exceptional circumstances;

NOTING that Mr. Krajišnik is appealing more alleged errors than is the Prosecutor, but that the Prosecutor, within the applicable word limits, must respond to all of Mr. Krajišnik's arguments;

HEREBY FINDS that Mr. Krajišnik has neither demonstrated "exceptional circumstances" that would justify granting his request nor established, in accordance with the standard governing motions for reconsideration, that such dispensation is necessary in order "to prevent an injustice," and, therefore, **DENIES** the Motion.

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

Issued this 18th day of October 2007,
At The Hague, The Netherlands.



Fausto Pocar
President of the Tribunal

[Seal of the Tribunal]

⁶ *Prosecutor v. 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 *Nahimana et al. v. Prosecutor*, Case No. ICTR-99-52-A, Decision on "Appellant Jean-Bosco Barayagwiza's Urgent Motion for Leave to Have Further Time to File the Appeals Brief and the Appeal Notice", 17 May 2005, p. 3.