



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-05-88-A  
Date: 12 January 2011  
Original: English

**IN THE APPEALS CHAMBER**

**Before:** Judge Patrick Robinson, Pre-Appeal Judge  
**Registrar:** Mr. John Hocking  
**Decision:** 12 January 2011

**PROSECUTOR**

v.

**VUJADIN POPOVIĆ  
LJUBIŠA BEARA  
DRAGO NIKOLIĆ  
RADIOVOJE MILETIĆ  
MILAN GVERO  
VINKO PANDUREVIĆ**

**PUBLIC**

**DECISION ON MOTION OF DRAGO NIKOLIĆ FOR PERMISSION TO  
FURTHER EXCEED WORD LIMITATION**

**The Office of the Prosecutor:**

Mr. Peter Kremer

**Counsel for the Defence:**

Mr. Zoran Živanović and Ms. Mira Tapušковиć for Mr. Vujadin Popović  
Mr. John Ostojić and Mr. Predrag Nikolić for Mr. Ljubiša Beara  
Ms. Jelena Nikolić and Mr. Stéphane Bourgon for Mr. Drago Nikolić  
Ms. Natacha Fauveau Ivanović and Mr. Nenad Petrušić for Mr. Radivoje Miletić  
Mr. Dragan Krgović and Mr. David Josse for Mr. Milan Gvero  
Mr. Peter Haynes and Mr. Simon Davis for Mr. Vinko Pandurević

**I, Patrick Robinson**, Presiding 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 (“Appeals Chamber” and “Tribunal”, respectively), and Pre-Appeal Judge in this case,

**NOTING** the “Judgement” rendered by Trial Chamber II on 10 June 2010;<sup>1</sup>

**NOTING** the respective notices of appeal filed by the parties on 8 September 2010;<sup>2</sup>

**BEING SEISED OF** an “Expedited Motion on Behalf of Drago Nikolić Seeking a Limited Variation of the Word Limit – With Confidential *Ex Parte* Annex”, filed by counsel for Drago Nikolić (“Nikolić”) on 4 January 2011 (“Motion”), in which Nikolić requests permission to file an appellant brief comprising a maximum of 47,500 words (representing a further 7,500-word increase);<sup>3</sup>

**CONSIDERING** that Nikolić argues that the 10,000-word increase granted by the Pre-Appeal Judge in the “Decision on Motions for Extension of Time and for Permission to Exceed Word Limitations”, issued on 20 October 2010 (“Extension Decision”), is insufficient due to the number of grounds of appeal, the size of the trial record, the number of crime sites, and the fact that there are genocide-related charges in the case and several modes of individual criminal responsibility;<sup>4</sup>

**CONSIDERING** that the Prosecution responds that the Motion should be denied because it is a motion for reconsideration and Nikolić has not demonstrated a clear error of reasoning or a change in circumstances, but rather repeats arguments from his first request for an extension that were either rejected or for which relief has already been granted;<sup>5</sup>

**CONSIDERING** that the Prosecution argues that Nikolić has been granted an additional 60 days to file his appellant brief and therefore still has enough time to edit his brief so that it complies with the 40,000-word limit imposed by the Extension Decision;<sup>6</sup>

<sup>1</sup> *Prosecutor v. Vujadin Popović et al.*, Case No. IT-05-88-T, Judgement, 10 June 2010.

<sup>2</sup> Prosecution’s Notice of Appeal, 8 September 2010; Vujadin Popović’s Notice of Appeal, 8 September 2010 (confidential); Appellant, Ljubiša Beara’s Notice of Appeal, 8 September 2010; Notice of Appeal on Behalf of Drago Nikolić, 8 September 2010 (confidential); Notice of Appeal by the Radivoje Miletić Defence, 8 September 2010; Notice of Appeal on Behalf of Vinko Pandurević Against the Judgment of the Trial Chamber Dated 10<sup>th</sup> June 2010, 8 September 2010 (confidential).

<sup>3</sup> Motion, para. 17.

<sup>4</sup> Motion, paras 11, 14.

<sup>5</sup> Prosecution’s Response to Expedited Motion on Behalf of Drago Nikolić Seeking a Limited Variation of the Word Limit, 5 January 2011 (“Response”), paras 1, 3-4, 7.

<sup>6</sup> Response, paras 2, 5.

**CONSIDERING** that Nikolić replies that the Motion is not one for reconsideration, but that, to the extent that it may be considered as such, he has demonstrated a clear error or reasoning in the Extension Decision and a change in circumstances;<sup>7</sup>

**CONSIDERING** that, pursuant to paragraph (C)(1)(a) of the Practice Direction on the Length of Briefs and Motions (“Practice Direction”), an appellant brief from a final judgement of a Trial Chamber will not exceed 30,000 words;<sup>8</sup>

**CONSIDERING** that the Tribunal’s word limits for appellant briefs are necessary to ensure the fair and expeditious conduct of the appeal;<sup>9</sup>

**CONSIDERING** that the Pre-Appeal Judge may, in exceptional circumstances, grant an extension of the word limit set by the Practice Direction;<sup>10</sup>

**CONSIDERING** that the number of grounds or sub-grounds on appeal is not a factor that in itself provides sufficient reason to enlarge the word limits prescribed by the Practice Direction;<sup>11</sup>

**CONSIDERING** that the quality and effectiveness of an appellant brief does not depend upon length, but upon the clarity and cogency of the arguments presented and that excessively long briefs do not necessarily facilitate the efficient administration of justice;<sup>12</sup>

**CONSIDERING** that, in the Extension Decision, I considered that Nikolić had demonstrated exceptional circumstances for a 10,000-word increase in the word limitation for his appellant brief due to the length of the Judgement and the complexity of the issues that it raises;<sup>13</sup>

**FINDING** that Nikolić repeats arguments from his first request and has not demonstrated in the Motion any further exceptional circumstances that would necessitate an additional increase in the word limitation;

<sup>7</sup> Reply to Prosecution’s Response to Expedited Motion on Behalf of Drago Nikolić Seeking a Limited Variation of the Word Limit, 6 January 2011, paras 3-10.

<sup>8</sup> IT/184/Rev. 2, 16 September 2005.

<sup>9</sup> *Prosecutor v. Dragomir Milošević*, Case No. IT-98-29/1-A, Decision on Defence Motion for Extension of Time to File Appellate Brief and to Increase the Word Limit, 11 August 2008, p. 3.

<sup>10</sup> Practice Direction, para. (C)(7).

<sup>11</sup> *Prosecutor v. Nikola Šainović*, Case No. IT-05-87-A, Decision on Nikola Šainović’s and Dragoljub Ojdanić’s Joint Motion for Extension of Word Limit, 11 September 2009 (“Šainović Decision of 11 September 2009”), p. 3 (citing *Prosecutor v. Naser Orić*, Case No. IT-03-68-A, Decision on Defence Motion for Extension of Word Limit for Defence Appellant’s Brief (“Orić Decision”), 6 October 2006, p. 3).

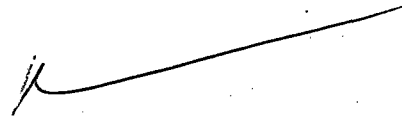
<sup>12</sup> Šainović Decision of 11 September 2009, p. 4 (citing Orić Decision, p. 3).

<sup>13</sup> Extension Decision, p. 6 (citing Decision on Joint Motion for Extension of Time to File Notice of Appeal, 25 June 2010, p. 2).

**PURSUANT TO** Rule 111 of the Rules of Procedure and Evidence of the Tribunal and paragraph (C)(1) of the Practice Direction,

**HEREBY DENY** the Motion without prejudice to additional requests for an extension of the word limit set by the Practice Direction on the basis of a demonstration of further exceptional circumstances.

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



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Judge Patrick Robinson  
Pre-Appeal Judge

Dated this twelfth day of January 2011  
At The Hague  
The Netherlands

[Seal of the Tribunal]