



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-06-90-A  
Date: 20 July 2011  
Original: English

**IN THE APPEALS CHAMBER**

**Before:** Judge Theodor Meron, Pre-Appeal Judge  
**Registrar:** Mr. John Hocking  
**Decision of:** 20 July 2011

**PROSECUTOR**

v.

**ANTE GOTOVINA  
MLADEN MARKAČ**

***PUBLIC***

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**DECISION ON ANTE GOTOVINA'S AND MLADEN  
MARKAČ'S MOTIONS FOR LEAVE TO EXCEED THE WORD  
LIMIT**

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**The Office of the Prosecutor**

Ms. Helen Brady and Mr. Douglas Stringer

**Counsel for Ante Gotovina**

Mr. Gregory Kehoe, Mr. Luka Mišetić, Mr. Payam Akhavan, and Mr. Guénaél Mettraux

**Counsel for Mladen Markač**

Mr. Goran Mikuličić, Mr. Tomislav Kuzmanović, Mr. Kai Ambos, and Mr. John Jones

**I, THEODOR MERON**, 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,<sup>1</sup>

**BEING SEISED OF** “Ante Gotovina’s Motion for Leave to Exceed the Word Limit”, filed by Ante Gotovina (“Gotovina”) on 15 July 2011 (“Motion”) and “Mladen Markač’s Joinder to Ante Gotovina’s Motion for Leave to Exceed the Word Limit”, filed by Mladen Markač (“Markač”) on 20 July 2011 (“Joinder”);

**NOTING** the “Prosecution’s Opposition to Gotovina’s Motion for Leave to Exceed the Word Limit”, filed by the Office of the Prosecutor (“Prosecution”) on 19 July 2011 (“Response”);<sup>2</sup>

**NOTING** that the Motion requests leave to exceed the word limit for Gotovina’s Appellant’s brief by 30,000 words, for a total maximum length of 60,000 words;<sup>3</sup>

**NOTING** Gotovina’s contentions, *inter alia*, that such an extension is both reasonable and necessary to the exercise of his right of appeal due to the length of the Trial Judgement in this case, the extensive evidentiary record, the absence of prior proceedings regarding certain issues, the duration of appeal proceedings, and the number of alleged errors raised on appeal;<sup>4</sup>

**NOTING** Gotovina’s additional contention that granting the Motion would not prejudice the Prosecution;<sup>5</sup>

**NOTING** that Markač reiterates Gotovina’s contentions, joins the Motion, and seeks an extension of 30,000 words for his Appellant’s brief;<sup>6</sup>

**NOTING** the Prosecution’s contention that Gotovina has not demonstrated exceptional circumstances sufficient to justify doubling the applicable word limit for his Appellant’s brief, as well as its request that, should the Motion be granted, it be allowed an equivalent extension of the word limit for its respondent’s brief;<sup>7</sup>

<sup>1</sup> *Prosecutor v. Ante Gotovina et al.*, Case No. IT-06-90-A, Order Designating a Pre-Appeal Judge, 30 May 2011.

<sup>2</sup> This decision is filed without awaiting a reply from Gotovina or a response from the Prosecution to the Joinder, given the need to provide immediate clarity to the parties as well as the basis for the decision and the consequent lack of prejudice.

<sup>3</sup> Motion, paras 5, 8.

<sup>4</sup> Motion, paras 5-7. *See also* *Prosecutor v. Ante Gotovina et al.*, Case No. IT-06-90-T, Judgement, 15 April 2011; Notice of Appeal of Ante Gotovina, 16 May 2011.

<sup>5</sup> Motion, para. 9.

<sup>6</sup> Joinder, paras 1, 3, 6

<sup>7</sup> Response, paras 1-3, 11, 12.

**RECALLING** that an Appellant's brief in an appeal on the merits shall not normally exceed 30,000 words;<sup>8</sup>

**RECALLING** that a party "must seek authorization in advance from the Chamber to exceed the word limits [...] and must provide an explanation of the exceptional circumstances that necessitate the oversized filing";<sup>9</sup>

**CONSIDERING** that unlike a trial brief, which must address all issues in a case, an Appellant's brief should be concerned only with the narrow range of matters that fall within the ambit of Article 25 of the Statute of the Tribunal;<sup>10</sup>

**RECALLING** that the number of grounds or sub-grounds on appeal is not a factor that in itself justifies enlarging the word limits prescribed by the Practice Direction;<sup>11</sup>

**RECALLING** that the quality and effectiveness of an Appellant's brief does not depend on length but on the clarity and cogency of the arguments presented and that, therefore, excessively long briefs do not necessarily facilitate the administration of justice;<sup>12</sup>

**CONSIDERING**, however, the length and complexity of the Trial Judgement;

**FINDING** therefore that exceptional circumstances exist which justify an oversized filing by the appellants in this case;

**CONSIDERING** that the increase in the word limit requested by Gotovina and Markač is excessive;

**RECALLING** that the Appeals Chamber may, should it find it necessary in the course of the appeal proceedings, request additional briefing or grant a party additional time for oral argument for the purposes of further clarification of any point at issue;<sup>13</sup>

<sup>8</sup> Practice Direction on the Length of Briefs and Motions, IT/184 Rev. 2, 16 September 2005, para. C(1)(a) ("Practice Direction").

<sup>9</sup> Practice Direction, para. C(7).

<sup>10</sup> *Prosecutor v. Nikola Šainović et al.*, Case No. IT-05-87-A, Decision on Defence Motions for Extension of Word Limit, 8 September 2009 ("Šainović Decision"), p. 4.

<sup>11</sup> *Prosecutor v. Vujadin Popović et al.*, Case No. IT-05-88-A, Decision on Motion of Radivoje Miletić for Permission to Further Exceed Word Limitation, 18 January 2011 ("Popović Decision"), p. 2; Šainović Decision, p. 4.

<sup>12</sup> See Popović Decision, p. 2; Šainović Decision, p. 4.

<sup>13</sup> Cf. *Léonidas Nshogoza v. The Prosecutor*, Case No. ICTR-07-91-A, Decision on Léonidas Nshogoza's Motion to Exceed Word Limits, 31 July 2009, para. 5.

**CONSIDERING** that the Practice Direction allows the respondent to file a brief of the same length as the Appellant's brief and that the Prosecution will therefore not be prejudiced by an extension of the word limit,<sup>14</sup>

**PURSUANT** to Paragraph (C)(7) of the Practice Direction,

**HEREBY GRANT** the Motion and Joinder, **IN PART**, and **DISMISS** them in all remaining respects;

**ORDER** Gotovina and Markač to file their respective Appellant's briefs consisting of no more than 40,000 words each no later than 1 August 2011;

**ALLOW** the Prosecution to file a Respondent's brief of up to 40,000 words, plus an additional 10,000 words should it file a consolidated Respondent's brief, pursuant to Paragraph C(1)(b) of the Practice Direction.

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

Dated this 20th day of July 2011  
at The Hague  
The Netherlands



Judge Theodor Meron  
Pre-Appeal Judge

[Seal of the Tribunal]

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<sup>14</sup> Practice Direction, para. C(1)(b). I note that should the Prosecution conclude, after reading the Appellants' briefs, that exceptional circumstances exist necessitating an extension of the word limit for its Respondent's brief, it may file a motion requesting such an extension.