



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: 14 September 2011
Original: English

IN THE APPEALS CHAMBER

Before: Judge Theodor Meron, Pre-Appeal Judge
Registrar: Mr. John Hocking
Decision of: 14 September 2011

PROSECUTOR

v.

**ANTE GOTOVINA
MLADEN MARKAČ**

PUBLIC

**DECISION ON MOTION TO STRIKE THE RESPONDENT'S
BRIEFS**

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. John Jones, and Mr. Kai Ambos

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 (“Tribunal”), and Pre-Appeal Judge in this case,¹

BEING SEISED OF the “Ante Gotovina’s Motion to Strike the Respondent’s Briefs Due to Violations of the Practice Direction on Length of Briefs and Motions and the Appeals Chamber’s 20 July 2011 Decision” filed by Ante Gotovina (“Gotovina”) on 13 September 2011 (“Motion”);

NOTING Gotovina’s suggestion that the Respondent’s briefs filed by the Office of the Prosecutor (“Prosecution”) on 12 September 2011, which together total 79,160 words, exceed by 29,160 words the extended word limit authorized in the “Decision on Ante Gotovina’s and Mladen Markač’s Motions for Leave to Exceed the Word Limit” filed on 20 July 2011 (“Decision of 20 July 2011”);²

NOTING Mladen Markač’s Joinder to Ante Gotovina’s Motion to Strike the Respondent’s Briefs” filed by Mladen Markač (“Markač”) on 13 September 2011 (“Joinder”);

NOTING the “Prosecution Response to Gotovina’s Motion to Strike the Prosecution Responses to the Appeal Briefs” filed on 13 September 2011 (“Response”) in which the Prosecution argues that it is in compliance with the Decision of 20 July 2011;³

NOTING “Ante Gotovina’s Reply in Support of his Motion to Strike the Respondent’s Briefs” filed on 14 September 2011;

RECALLING that, on 20 July 2011, Ante Gotovina (“Gotovina”) and Mladen Markač (“Markač”) were each granted a 10,000 word extension of the word limit and allowed to file their respective Appellant’s briefs consisting of no more than 40,000 words each;⁴

NOTING that the Decision of 20 July 2011 also authorized the Prosecution to file a Respondent’s brief of 40,000 words to each appeal;⁵

CONSIDERING that in view of the complexity and distinct nature of the appeals this *proprio motu* extension of the word limits for the Prosecution was justified;⁶

¹ Order Designating a Pre-Appeal Judge, 30 May 2011.

² See Motion, paras 4-5.

³ Response, paras 2-3.

⁴ Decision of 20 July 2011, p. 3.

⁵ Decision of 20 July 2011, p. 3.

⁶ See 20 July 2011 Decision, p. 2. Cf. *Théoneste Bagosora et al. v. The Prosecutor*, Case No. ICTR-98-41-A, Decision on Aloys Ntabakuze’s Motion for Severance, Retention of the Briefing Schedule and Judicial Bar to the Untimely

CONSIDERING, therefore, that the Prosecution's Respondent's briefs are in compliance with the Decision of 20 July 2011;

CONSIDERING that, in view of the extension of word limits for the Prosecution's Respondent's briefs, it would be in the interests of justice to allow Gotovina and Markač an extension of the word limit for their respective Reply briefs;

HEREBY DISMISS the Motion and Joinder and **ALLOW**, *proprio motu*, Gotovina and Markač to exceed the word limits for their respective Reply briefs by 6,000 words.

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

Dated this 14th day of September 2011,
at The Hague,
The Netherlands.



Judge Theodor Meron,
Pre-Appeal Judge

[Seal of the Tribunal]

Filing of the Prosecution's Response Brief, 24 July 2009, para. 47 (Ordering the Prosecution to file separate Respondent's briefs in respect of each appellant and allowing each brief to contain 30,000 words). The relevant practice direction on the length of briefs on appeal is the same in both the Tribunal and the International Criminal Tribunal for Rwanda.