



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-04-81-A
Date: 30 January 2012
Original: English

IN THE APPEALS CHAMBER

Before: Judge Theodor Meron, Pre-Appeal Judge
Registrar: Mr. John Hocking
Decision: 30 January 2012

PROSECUTOR

v.

MOMČILO PERIŠIĆ

PUBLIC

**DECISION ON MOMČILO PERIŠIĆ'S MOTION FOR LEAVE
TO EXCEED THE WORD LIMIT FOR THE APPEAL BRIEF**

The Office of the Prosecutor:

Ms. Helen Brady

Counsel for Momčilo Perišić:

Mr. Novak Lukić
Mr. Gregor Guy-Smith

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 “Mr. Perišić’s Motion for Leave to Exceed the Word Limit for the Appeal Brief” filed on 25 January 2012 (“Motion”) by Momčilo Perišić (“Perišić”), in which Perišić seeks leave to exceed the word limit for his appeal brief by 8,000 words (“Extension”);²

NOTING the “Response to Defence Motion to Exceed the Word Limit for Appeal Brief” filed on 26 January 2012 (“Response”) by the Office of the Prosecutor (“Prosecution”);

NOTING that Perišić’s appeal brief is due to be filed on 6 February 2011;³

NOTING that, pursuant to paragraph (C)(1)(a) of the Practice Direction on the Length of Briefs and Motions,⁴ an appellant’s brief on appeal from a final judgement of a Trial Chamber shall not exceed 30,000 words;

NOTING that, pursuant to paragraph (C)(7) of the Practice Direction, the Pre-Appeal Judge may, in exceptional circumstances, grant an extension of the word limit prescribed by the Practice Direction;⁵

NOTING that in the Motion, Perišić submits that the following factors constitute exceptional circumstances warranting the Extension: (1) the length of the trial judgement, and the fact that, as a single accused, the entire judgement relates exclusively to him;⁶ (2) the fact that he was convicted under both Articles 7(1) and 7(3) of the Statute of the Tribunal (“Statute”), thus “necessitating separate and distinct factual and legal discussions for each of the modes of liability”;⁷ (3) his conviction in relation to three separate crime bases, each requiring separate discussion;⁸ (4) the presiding Judge’s dissenting opinion (“Dissenting Opinion”) with respect to the findings of guilt made by the majority of the Trial Chamber (“Majority”), and the resulting need for Perišić to address both the Majority’s findings and the Dissenting Opinion in many of his grounds of appeal;⁹

¹ Order Designating a Pre-Appeal Judge, 16 September 2011.

² Motion, paras 1, 6, 13.

³ Decision on Momčilo Perišić’s Motion for an Extension of Time to File his Appeal Brief, 24 November 2011.

⁴ IT/184 Rev.2, 16 September 2005 (“Practice Direction”).

⁵ See also *Prosecutor v. Nikola Šainović et al.*, Case No. IT-05-87-A, Decision on Sreten Lukić’s Motion to Reconsider Decision on Defence Motions for Extension of Word Limit, 14 September 2009 (“Šainović Appeal Decision”), p. 2.

⁶ Motion, para. 7.

⁷ Motion, para. 8.

⁸ Motion, para. 8. ⁹ Motion, para. 9.

and (5) the fact that “Perišić is the sole national from Serbia to have been tried and convicted by the Tribunal, for crimes which took place in Croatia and Bosnia and Herzegovina”¹⁰ (collectively, “Factors”);

NOTING Perišić’s submission that granting the Extension would not prejudice the Prosecution, as he would not oppose an 8,000 word extension to the Prosecution’s response brief;¹¹

NOTING that in its Response, the Prosecution states that it “does not oppose a reasonable increase in the word limit, subject to any such increase also being granted to the Prosecution in respect of its Response Brief”;¹²

RECALLING that unlike a trial brief, which must address all issues in a case, an appellant’s brief deals only with the narrow range of matters that fall within Article 25 of the Statute;¹³

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 efficient administration of justice;¹⁴

RECALLING that the length of the Trial Judgement is not *per se* a factor that constitutes an exceptional circumstance for extending the word limit prescribed by the Practice Direction;¹⁵

CONSIDERING however the length and complexity of the Trial Judgement;¹⁶

FINDING therefore that exceptional circumstances exist which justify an oversized filing by Perišić;

CONSIDERING that the Practice Direction permits the respondent to file a brief of the same length as the appellant’s brief,¹⁷ that the Prosecution does not object to a reasonable extension of the

¹⁰ Motion, para. 10.

¹¹ Motion, para. 11.

¹² Response, para. 1.

¹³ Šainović Appeal Decision, p. 3.

¹⁴ Šainović Appeal Decision, p. 3; *Prosecutor v. Naser Orić*, Case No. IT-03-68-A, Decision on Defence Motion for Extension of Word Limit for Defence Appellant’s Brief, 6 October 2006 (“*Orić Appeal Decision*”), p. 3.

¹⁵ *Prosecutor v. Enver Hadžihasanović and Amir Kubura*, Case No. IT-01-47-A, Decision on Defence Motion on Behalf of Enver Hadžihasanović Seeking Leave to Exceed Words [*sic*] Limit for the Appeal Brief, 22 January 2007, p. 3.

¹⁶ See *Prosecutor v. Momčilo Perišić*, Case No. IT-04-81-T, Judgement, 6 September 2011 (public with confidential Annex).

¹⁷ Practice Direction, para. (C)(1)(b). See also *Orić Appeal Decision*, p. 3.

word limit in this case,¹⁸ and that granting the requested extension of the word limit would not prejudice the Prosecution;

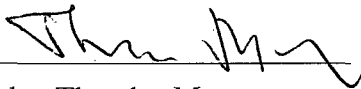
PURSUANT to paragraph C(7) of the Practice Direction;

HEREBY GRANT the Motion; and

ALLOW:

1. Perišić to file an appeal brief totalling no more than 38,000 words; and
2. the Prosecution to file a response brief totalling no more than 38,000 words.

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



Judge Theodor Meron
Presiding

Dated this 30th day of January 2012,
At The Hague,
The Netherlands

[Seal of the Tribunal]

¹⁸ Response, para. 1.