



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-04-74-A
Date: 22 August 2013
Original: English

IN THE APPEALS CHAMBER

Before: Judge Theodor Meron, Pre-Appeal Judge
Registrar: Mr. John Hocking
Decision of: 22 August 2013

PROSECUTOR

v.

**JADRANKO PRLIĆ
BRUNO STOJIC
SLOBODAN PRALJAK
MILIVOJ PETKOVIĆ
VALENTIN ĆORIĆ
BERISLAV PUŠIĆ**

PUBLIC

**DECISION ON MOTIONS FOR EXTENSION OF TIME TO
FILE APPEAL BRIEFS AND FOR AUTHORIZATION TO
EXCEED WORD LIMIT**

The Office of the Prosecutor:

Mr. Douglas Stringer
Mr. Mathias Marcussen

The Accused:

Mr. Michael G. Karnavas and Ms. Suzana Tomanović for Mr. Jadranko Prlić
Ms. Senka Nožica and Mr. Karim A. A. Khan for Mr. Bruno Stojić
Mr. Slobodan Praljak
Ms. Vesna Alaburić and Mr. Guénaél Mettraux for Mr. Milivoj Petković
Ms. Dijana Tomašegović-Tomić and Mr. Dražen Plavec for Mr. Valentin Ćorić
Mr. Fahrudin Ibrišimović and Mr. Roger Sahota for Mr. Berislav Pušić

1. **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,¹ am seised of the following motions: (i) "Slobodan Praljak's Motion for Extension of Time to File Appeal Brief and Authorization to Exceed Word Limit", filed by Slobodan Praljak ("Praljak") on 5 July 2013 ("Praljak Motion"), in which Praljak seeks to exceed the word limit for and an extension of time to file his appeal brief;² and (ii) the "Motion on Behalf of Berislav Pušić for Extension of Time to File the Appeal Brief", filed by Berislav Pušić ("Pušić") on 10 July 2013 ("Pušić Motion"), in which Pušić seeks an extension of time to file his appeal brief.³ The Office of the Prosecutor of the Tribunal ("Prosecution") filed a consolidated response on 15 July 2013.⁴ Praljak replied on 17 July 2013.⁵ Pušić did not file a reply.

I. BACKGROUND

2. On 29 May 2013, Trial Chamber III of the Tribunal ("Trial Chamber") rendered the judgement in the case *Prosecutor v. Jadranko Prlić et al.* in French.⁶ On 21 June 2013, upon request of the parties, I ordered that the notices of appeal of Jadranko Prlić, Bruno Stojić, Valention Ćorić, and Milivoj Petković be filed within 60 days of the issuance of the English translation of the Trial Judgement, and that, without prejudice, the remaining parties could file their notices of appeal, if any, within 90 days of the issuance of the Trial Judgement.⁷ On 28 June 2013, Praljak and Pušić filed their notices of appeal.⁸

II. APPLICABLE LAW

3. Pursuant to Article 20(1) of the Statute of the Tribunal ("Statute"), the Appeals Chamber must ensure that the proceedings before it are fair and expeditious.

4. According to Rule 108 of the Rules and the Appeals Chamber's well-established jurisprudence, the Appeals Chamber may, on good cause being shown by motion, authorize a

¹ Order Designating a Pre-Appeal Judge, 19 June 2013.

² Praljak Motion, paras 4-26.

³ Praljak Motion, paras 4-19, 26; Pušić Motion, paras 4-10.

⁴ Prosecution Consolidated Response to Praljak's and Pušić's Motions to Extend Time and Exceed Word Limits for Appeal Briefs, 15 July 2013 ("Prosecution Response").

⁵ Slobodan Praljak's Reply to Prosecution Consolidated Response filed on 15 July 2013, 17 July 2013 ("Praljak Reply").

⁶ *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-T, *Jugement*, 29 May 2013 ("Trial Judgement").

⁷ Decision on Motions for an Extension of Time to File Notices of Appeal and Other Relief, 21 June 2013 ("First Decision on Extension of Time"), pp. 4-5.

⁸ Slobodan Praljak's Notice of Appeal, 28 June 2013; Notice of Appeal on Behalf of Berislav Pušić, 28 June 2013.

variation of grounds of appeal and subsequent amendments to the notices of appeal and appellant's briefs.⁹

5. Rule 111(A) of the Rules of Procedure and Evidence of the Tribunal ("Rules") provides that an appellant's brief shall be filed within 75 days of filing of the notice of appeal.

6. Rule 127(A)(i) and (B) of the Rules stipulate that the Pre-Appeal Judge may, on good cause being shown, enlarge the time limits set under the Rules.

7. Section (C)1(a) of the Practice Direction on the Length of Briefs and Motions¹⁰ stipulates that an appellant's brief on appeal from a final judgement of a Trial Chamber should not exceed 30,000 words.

8. Section (C)7 of the Practice Direction provides that the Pre-Appeal Judge may, in exceptional circumstances, grant an extension of the word limit set by the Practice Direction.

III. SUBMISSIONS

9. First, Praljak asserts that there is good cause to grant him an extension of time to file his appeal brief.¹¹ In support of this request, Praljak points to, *inter alia*, the size and complexity of the Trial Judgement and the trial record¹² and notes that the Trial Judgement is not currently available in a language he understands.¹³ Praljak suggests that I set a uniform briefing schedule for all the parties.¹⁴ In this regard he asserts that without a uniform briefing schedule, the Prosecution could gain an unfair advantage in preparing its own appeal as it would be able to review Praljak's appeal brief before submitting its own consolidated appeal brief.¹⁵ Praljak further notes that other multi-accused cases have instituted uniform briefing schedules.¹⁶ Should a uniform briefing schedule not be granted, Praljak maintains that he requires "a four month[] extension or a total time of 195 days" from the date of the filing of his notice of appeal to file his appeal brief and states that it would be

⁹ *Prosecutor v. Vujadin Popović et al.*, Case No. IT-05-88-A, Decision on Motions for Extension of Time and for Permission to Exceed Word Limitations, 20 October 2010 ("Popović Decision"), p. 4; *Prosecutor v. Zdravko Tolimir*, Case No. IT-05-88/2-A, Decision on Motion for Setting a Time Limit for Filing an Appellant's Brief and for an Extension of Word Limit, 17 May 2013 ("Tolimir Decision"), p. 3.

¹⁰ IT/184 Rev. 2, 16 September 2005 ("Practice Direction").

¹¹ Praljak Motion, paras 4-19.

¹² Praljak Motion, paras 5, 13-16. Praljak notes, *inter alia*, that the Trial Judgement comprises 2,700 pages, including individual and dissenting opinions and is based on over 50,000 pages of trial transcripts and "several thousand exhibits". Praljak Motion, para. 13.

¹³ Praljak Motion, paras 5, 17-19.

¹⁴ Praljak Motion, paras 5-11.

¹⁵ Praljak Motion, para. 8. In particular, Praljak asserts that Section (C)1(a)(ii) of the Practice Direction permits the Prosecution to file its consolidated appeal brief in a multi-accused case after the filing of the last notice of appeal. Praljak Motion, para. 8.

¹⁶ Praljak Motion, para. 9.

“understood that [...] the same deadline [would] be imposed to the Prosecution” for filing its appeal brief in his case.¹⁷

10. Second, Praljak contends that the unprecedented size and complexity of the Trial Judgement and the trial record,¹⁸ coupled with the number and complexity of the grounds of appeal and the legal issues involved, justify a 50,000 word extension of the applicable word limit.¹⁹

11. Pušić submits that good cause exists for granting his request for an extension of time to file his appeal brief, on the basis that: (i) the Trial Judgement is not available in a language which his counsel works in;²⁰ and (ii) the Trial Judgement is of “exceptional length” and involves complex issues.²¹ Accordingly, Pušić requests that the Appeals Chamber grant an extension of time to file his appeal brief until the date set by the Appeals Chamber for the simultaneous filing of Appeal Briefs by all parties, or, in the alternative, at least 75 days from the date upon which Pušić receives the Trial Judgement in English.²²

12. The Prosecution agrees with Praljak and Pušić that the length and complexity of the case, as well as the unavailability of the Trial Judgement in a language understood by Pušić’s counsel, *inter alia*, are good cause for an extension of time for filing the appeal briefs of all parties.²³ The Prosecution submits in this regard that all parties should be held to a simultaneous briefing schedule to “avoid the unfairness and inefficiency that would result from staggered briefing”.²⁴ In support of its submission, the Prosecution asserts that other cases of a similar magnitude have benefited from harmonized briefing schedules.²⁵ The Prosecution further contends that the synchronized filing of the appeal briefs would allow parties to file their responses having considered the arguments raised in the other parties’ appeal briefs.²⁶ The Prosecution asserts that this is particularly important, given that it is required to “adopt a uniform and coherent position towards any cross-cutting issues relating to multiple accused in the same case”.²⁷ Lastly, the Prosecution argues that a harmonized briefing schedule would not cause any additional delay, since the majority of the appellants would only be able to prepare and file their response briefs once the official English translation of the Trial

¹⁷ Praljak Motion, para. 12.

¹⁸ Praljak Motion, paras 4, 20-22.

¹⁹ Praljak Motion, paras 4, 20, 23-25. Praljak notes, *inter alia*, that his notice of appeal comprises 58 grounds of appeal and 93 sub-grounds. Praljak Motion, para. 24.

²⁰ Pušić Motion, paras 5-7, 9.

²¹ Pušić Motion, para. 9.

²² Pušić Motion, para. 7. *See also* Pušić Motion, paras 9-10.

²³ Prosecution Response, paras 1, 3-4, 13.

²⁴ Prosecution Response, para. 1. *See also* Prosecution Response, paras 5-6.

²⁵ Prosecution Response, para. 5, n. 10.

²⁶ Prosecution Response, para. 5.

²⁷ Prosecution Response, para. 5.

Judgement becomes available.²⁸ By contrast, the Prosecution submits that an unsynchronized briefing schedule may create inefficiency and an unfair disadvantage for the parties required to file before the other appellants.²⁹ The Prosecution further asserts that, should the Appeals Chamber reject the request for a harmonized briefing schedule, Praljak's request for an extension of four months for the filing of his appeals brief is reasonable, and requests that it be granted the same extension.³⁰

13. The Prosecution submits that Praljak failed to show exceptional circumstances warranting an extension of his appeal brief by 50,000 words.³¹ However, the Prosecution does not oppose an extension by 15,000 words, should the Appeals Chamber grant Praljak's request to exceed the word limit, and submits that it would be in the interests of justice for the Appeals Chamber to grant the same extension for the Prosecution's response to Praljak's appeal brief.³² It contends that such an extension would be in line with extensions granted in other, similarly complex, multi-accused cases.³³

14. In reply, Praljak maintains that his request for a word limit extension is justified, noting, *inter alia*, that the Practice Direction was issued at a time when the average length of a trial judgement before the Tribunal was about 350 pages.³⁴ He further contends that the "similarly complex, multi-accused cases" used as a point of reference by the Prosecution are not comparable to the case at hand, due to its complexity, "the unprecedented volume of the [Trial] Judgement and the number of counts [in the Indictment]".³⁵

IV. DISCUSSION

A. Requests for an Extension of Time

15. At the outset, I observe that no disagreement among the parties exists regarding the request for an extension of time to file the appeal briefs. In this context, and noting the exceptional length of the Trial Judgement and the complexity of the issues raised during the course of the trial,³⁶ I am of the view that Praljak and Pušić have demonstrated, consistent with Rule 127 of the Rules, good cause justifying an extension of time to file their respective appeal briefs. I further observe that Praljak, Pušić, and the Prosecution all request that a harmonized briefing schedule be implemented

²⁸ Prosecution Response, para. 5.

²⁹ Prosecution Response, para. 6.

³⁰ Prosecution Response, paras 1, 7, 13.

³¹ Prosecution Response, para. 8. *See also* Prosecution Response, paras 9-10.

³² Prosecution Response, paras 11-12.

³³ Prosecution Response, para. 11.

³⁴ Praljak Reply, para. 5.

³⁵ Praljak Reply, para. 7.

to “avoid the unfairness and inefficiency that would result from staggered briefing”.³⁷ In the absence of any disagreement among Praljak, Pušić, and the Prosecution on this matter, I consider it in the interests of effective case management to allow for a harmonized briefing schedule³⁸ and, accordingly, grant their request in this regard.

B. Requests for Extension of Word Limit

16. I recall at the outset that the Appeals Chamber considers 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.³⁹ The Appeals Chamber has further held 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.⁴⁰ In this context, I consider Praljak’s request for a 50,000 word extension excessive.⁴¹

17. However, I recall my finding that certain exigent circumstances exist in this case, in light of “the length of the Trial Judgement and the complexity of the issues raised during the course of the trial”.⁴² Accordingly, I am of the view that Praljak has demonstrated that it is in the interests of justice that I allow him a limited extension to the word limit set forth in Section (C)1(a) of the Practice Direction, to ensure that he is able to prepare meaningful appeal briefs in full compliance with the relevant provisions.⁴³ In this context, I grant Praljak’s request in part and allow him to exceed the word limit by no more than 15,000 words.⁴⁴ I also grant the Prosecution an equivalent extension for its relevant response brief.⁴⁵

³⁶ See First Decision on Extension of Time, p. 3.

³⁷ See Prosecution Response, para. 1. See also Prosecution Response, paras 5-6; Praljak Motion, paras 5-12; Pušić Motion, para. 9.

³⁸ Jadranko Prlić, Bruno Stojić, Milivoj Petković, and Valentin Ćorić were granted a 60-day extension following the issuance of the English translation of the Trial Judgement to file their notices of appeal. See First Decision on Extension of Time, p. 4. In accordance with Rule 111(A) of the Rules, their appeal briefs are due 75 days thereafter.

³⁹ See, e.g., *Tolimir* Decision, p. 3, and references cited therein.

⁴⁰ See, e.g., *Tolimir* Decision, p. 2, and reference cited therein.

⁴¹ Praljak Motion, para. 25.

⁴² See *supra*, para. 15; See also First Decision on Extension of Time, p. 3.

⁴³ Cf. *Tolimir* Decision, p. 3; *Prosecutor v. Mićo Stanišić and Stojan Župljanin*, Case No. IT-08-91-A, Decision on Mićo Stanišić’s and Stojan Župljanin’s Motions Seeking Variation of Time and Word Limits to File Appeal Briefs, 4 June 2013, p. 4.

⁴⁴ Cf. *Tolimir* Decision, pp. 3-4; *Prosecutor v. Nikola Šainović et al.*, 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, p. 4.

⁴⁵ Cf. *Prosecutor v. Ante Gotovina and Mladen Markač*, Case No. IT-06-90-A, Decision on Gotovina’s Motion to Exceed Word Limit, 26 October 2011, p. 2.

V. DISPOSITION

18. For the foregoing reasons, I hereby:

GRANT the Praljak Motion, **in part**, and the Pušić Motion;

ORDER Praljak, Pušić, and the Prosecution shall file their appeal briefs no later than 135 days from the issuance of the official English translation of the Trial Judgement;

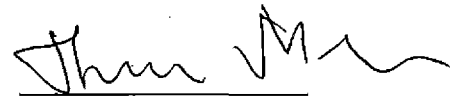
ALLOW Praljak to file an appeal brief totalling no more than 45,000 words;

ALLOW the Prosecution to file a response to Praljak's appeal brief totalling no more than 45,000 words; and

DENY the Praljak Motion in all other respects.

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

Done this 22nd day of August 2013,
At The Hague,
The Netherlands.



Judge Theodor Meron
Pre-Appeal Judge

[Seal of the Tribunal]