

IT-08-91-A
A6147-A6145
30 October 2014

6147
ML

**UNITED
NATIONS**



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-08-91-A
Date: 30 October 2014
Original: English

IN THE APPEALS CHAMBER

Before: Judge Carmel Agius, Presiding
Judge Patrick Robinson
Judge Arlette Ramaroson
Judge Khalida Rachid Khan
Judge Koffi Kumelio A. Afande

Registrar: Mr. John Hocking

Decision of: 30 October 2014

PROSECUTOR

v.

**MIĆO STANIŠIĆ
STOJAN ŽUPLJANIN**

PUBLIC

**DECISION ON PROSECUTION MOTION FOR LEAVE TO
FILE SUR-REPLY AND SUR-REPLY TO ŽUPLJANIN'S
REPLY TO PROSECUTION'S CONSOLIDATED
SUPPLEMENTAL RESPONSE BRIEF CONCERNING
ADDITIONAL APPEAL GROUND**

The Office of the Prosecutor

Ms. Laurel Baig

Counsel for Mićo Stanišić

Mr. Slobodan Zečević and Mr. Stéphane Bourgon

Counsel for Stojan Župljanin

Mr. Dragan Krgović, Ms. Tatjana Čmerić, and Mr. Christopher Gosnell

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);

BEING SEISED OF the “Prosecution Motion for Leave to File Sur-Reply and Sur-Reply to Župljanin’s Reply to Prosecution’s Consolidated Supplemental Response Brief Concerning Additional Appeal Ground”, filed by the Office of the Prosecutor (“Prosecution”) on 31 July 2014 (“Motion”);

NOTING the “Additional Appellant’s Brief on Behalf of Mićo Stanišić” and “Stojan Župljanin’s Supplement to Appeal Brief (Ground Six)” filed by Mićo Stanišić (“Stanišić”) and Stojan Župljanin (“Župljanin”) respectively, on 26 June 2014 and distributed on 27 June 2014;¹

NOTING the “Prosecution’s Consolidated Supplemental Response Brief” filed by the Prosecution on 18 July 2014 (“Consolidated Response”);

NOTING “Stojan Župljanin’s Reply to Prosecution’s Consolidated Supplemental Response Brief Concerning Additional Appeal Ground”, filed on 25 July 2014 by Župljanin (“Reply”);²

NOTING that the Prosecution requests leave to file a sur-reply to answer Župljanin’s new argument in his Reply concerning the alleged late filing of the Consolidated Response;³

CONSIDERING that the Consolidated Response was filed in compliance with the Decision;⁴

CONSIDERING that, on 31 July 2014, Župljanin withdrew his argument concerning the late filing of the Consolidated Response;⁵

FINDING, therefore, that the Motion is moot;

RECALLING, on a separate matter regarding the timeliness of filings, that the Appeals Chamber ordered Stanišić and Župljanin to file any additions to their reply briefs no later than seven days after the filing of any Prosecution response;⁶

¹ See Notification of Filing of Additional Appellant’s Brief on Behalf of Mićo Stanišić, 27 June 2014; Notification of Filing of Stojan Župljanin’s Supplement to Appeal Brief (Ground Six), 27 June 2014.

² In the Reply, Župljanin submits, *inter alia*, that the Consolidated Response was filed out of time as the deadline “was 17 July 2014, being ‘21 days after the filing of an addition to Župljanin’s appeal brief’, which was filed on 26 June 2014” (Reply, para. 1, fn. 2, referring to the Decision on Prosecution Motion to Admit Rebuttal Material, 11 June 2014 (“Decision”), para. 16). Župljanin argues that the Appeals Chamber should therefore decline to consider the Consolidated Response (Reply, para. 1).

³ Motion, para. 1.

⁴ Decision, para. 16.

⁵ Stojan Župljanin’s Notice Concerning its Reply to the Prosecution’s Consolidated Supplemental Response Brief, 31 July 2014, para. 1.

NOTING that the Prosecution filed its Consolidated Response on 18 July 2014, and that the “Additional Brief in Reply on Behalf of Mićo Stanišić” (“Stanišić Reply”) was received by the Registry of the Tribunal at 00.04 a.m. on 26 July 2014, and filed on 29 July 2014;⁷

FINDING, therefore, that the Stanišić Reply was filed out of time;

CONSIDERING, however, that the Prosecution has not raised any objection to the late filing of the Stanišić Reply;

FINDING, *proprio motu*, that it is in the interests of justice to accept the Stanišić Reply as validly filed;

FOR THE FOREGOING REASONS

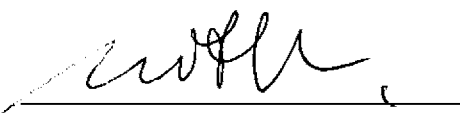
PURSUANT TO Rules 54, 107, 126, and 127 of the Rules of Procedure and Evidence of the Tribunal;

DISMISSES the Motion as moot; and

CONSIDERS the Stanišić Reply as validly filed.

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

Dated this thirtieth day of October 2014,
At The Hague,
The Netherlands.



Judge Carmel Agius
Presiding

[Seal of the Tribunal]

⁶ Decision, para. 16.

⁷ See Notification of Filing of Additional Brief in Reply on Behalf of Mićo Stanišić, 29 July 2014.