

**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-04-74-A
Date: 9 April 2015
Original: English

IN THE APPEALS CHAMBER

Before: Judge Theodor Meron, Presiding
Judge Carmel Agius
Judge Fausto Pocar
Judge Liu Daqun
Judge Bakone Justice Moloto

Registrar: Mr. John Hocking

Decision of: 9 April 2015

PROSECUTOR

v.

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

PUBLIC

**DECISION ON REQUESTS FOR EXTENSION OF
WORD LIMIT FOR RESPONDENT'S BRIEFS
AND REPLY BRIEFS AND FOR TIME LIMIT FOR
REPLY BRIEFS**

The Office of the Prosecutor:

Mr. Douglas Stringer
Ms. Barbara Goy
Ms. Laurel Baig

Counsel for 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
Ms. Nika Pinter and Ms. Natacha Fauveau-Ivanović for 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

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);

RECALLING the judgement rendered in French by Trial Chamber III of the Tribunal on 29 May 2013 and the English translation thereof filed on 6 June 2014;¹

RECALLING the “Decision on Appellants’ Requests for Extension of Time and Word Limits”, issued by the Appeals Chamber on 9 October 2014 (“Decision of 9 October 2014”), in which the Appeals Chamber granted Jadranko Prlić (“Prlić”), Bruno Stojić (“Stojić”), Slobodan Praljak (“Praljak”), Milivoj Petković (“Petković”), Valentin Ćorić (“Ćorić”), Berislav Pušić (“Pušić”) (together the “Appellants”), and the Office of the Prosecutor (“Prosecution”) extensions of time to file their submissions on appeal and extensions of the word limit permitting a total of 50,000 words for the Appellant’s briefs and 300,000 words for the Prosecution’s Respondent’s brief(s);²

RECALLING that, in accordance with the Decision of 9 October 2014, all the Appellant’s briefs were filed on 12 January 2015,³ and that the Respondent’s briefs and the reply briefs are due to be filed no later than 7 May 2015 and 29 May 2015, respectively;⁴

BEING SEISED OF “Jadranko Prlić’s Motion to Exceed Word Count for His Response to the Prosecution’s Appeal and Reply to the Prosecution’s Response”, filed on 13 February 2015 (“Prlić Motion”), in which Prlić requests that: (i) the word limit for his Respondent’s brief be increased to a total of 50,000 words (“First Request in the Prlić Motion”); and (ii) the word limit for his reply brief be increased to a total of 20,000 words (“Second Request in the Prlić Motion”);⁵

¹ *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-T, Judgement, 6 June 2014 (French original filed on 29 May 2013) (“Trial Judgement”).

² Decision of 9 October 2014, p. 4.

³ Prosecution Appeal Brief, 12 January 2015 (confidential; public redacted version filed on 21 January 2015) (“Prosecution Appeal Brief”); Jadranko Prlić’s Appeal Brief, 12 January 2015 (confidential); Bruno Stojić’s Appellant’s Brief, 12 January 2015 (confidential; public redacted version filed on 13 February 2015); Slobodan Praljak’s Appeal Brief with Annexes, 12 January 2015 (confidential; public redacted version filed on 6 February 2015); Milivoj Petković’s Appeal Brief, 12 January 2015 (confidential with confidential annexes; public redacted version filed on 2 February 2015); Appellant’s Brief of Valentin Ćorić, 12 January 2015 (confidential); Appeal Brief of Berislav Pušić, 12 January 2015 (confidential; public redacted version filed on 20 March 2015). *See also* Jadranko Prlić’s Corrigendum to His Appeal Brief, 6 March 2015 (confidential); Corrigendum to Slobodan Praljak’s Appeal Brief, 5 February 2015 (confidential); Corrigendum to Milivoj Petković’s Appeal Brief, 30 January 2015 (confidential); Corrigendum to Appellant’s Brief of Valentin Ćorić, 12 January 2015 (confidential; public redacted version filed on 24 February 2015).

⁴ Decision of 9 October 2014, p. 4.

⁵ Prlić Motion, pp. 1, 9.

BEING FURTHER SEISED OF “Slobodan Praljak’s Joinder to Jadranko Prlić’s Motion to Exceed Word Count for the Response to the Prosecution’s Appeal and Reply to the Prosecution’s Response”, filed on 19 February 2015 (“Praljak Joinder”), in which Praljak joins the Prlić Motion;⁶

BEING FURTHER SEISED OF “Bruno Stojić’s Motion for an Extension of Time to File His Brief in Reply and Partial Joinder to Prlić’s Motion to Exceed Word Count [*sic*] for His Brief in Reply”, filed on 19 February 2015 (“Stojić Motion and Partial Joinder”), in which Stojić: (i) requests an extension of time of an additional 30 days to file his reply brief (“Stojić’s Time Extension Request”);⁷ (ii) joins the Second Request in the Prlić Motion;⁸ (iii) takes no position on the First Request in the Prlić Motion;⁹ and (iv) requests that any extension of time or words granted to any of the Appellants be extended to him as well;¹⁰

BEING FURTHER SEISED OF: (i) “Milivoj Petković’s Joinder to Bruno Stojić’s Motion for an Extension [*sic*] of Time to File His Brief in Reply and Partial Joinder to Prlić’s Motion to Exceed Word Count for His Brief in Reply”, filed on 23 February 2015 (“Petković Joinder to the Stojić Motion and Partial Joinder”); (ii) the “Joinder in Bruno Stojić’s Motion for Extension of Time to File His Brief in Reply and Partial Joinder to Prlić’s Motion to Exceed Word Count for His Brief in Reply”, filed by Ćorić on 24 February 2015 (“Ćorić Joinder to the Stojić Motion and Partial Joinder”); and (iii) “Berislav Pušić’s Joinder to Bruno Stojić’s Motion for an Extension of Time to File His Brief in Reply and Partial Joinder to Prlić’s Motion to Exceed Word Count for His Brief in Reply”, filed on 24 February 2015 (“Pušić Joinder to the Stojić Motion and Partial Joinder” and together with all the other above-mentioned motions and joinders filed by the Appellants in this case, “Motions”), in which Petković, Ćorić, and Pušić: (i) join Stojić’s Time Extension Request;¹¹ (ii) join the Second Request in the Prlić Motion;¹² and (iii) request that any increase of time and/or the word limit granted to any of the Appellants also be granted to them;¹³

NOTING Prlić’s submissions that: (i) granting the requested extension is imperative in safeguarding his fair trial rights, particularly his right to an effective appeal and to prepare meaningful briefs adequately responding to the Prosecution’s arguments;¹⁴ (ii) paragraph (C)1(b) of

⁶ Praljak Joinder, para. 6.

⁷ Stojić Motion, paras 1-2, 19(1). *See also* Stojić Motion and Partial Joinder, paras 7-16.

⁸ Stojić Motion and Partial Joinder, paras 1, 17-18, 19(2).

⁹ Stojić Motion and Partial Joinder, para. 18.

¹⁰ Stojić Motion and Partial Joinder, para. 19(3).

¹¹ Petković Joinder to the Stojić Motion and Partial Joinder, paras 2, 4(a); Ćorić Joinder to the Stojić Motion and Partial Joinder, paras 2, 4(a); Pušić Joinder to the Stojić Motion and Partial Joinder, paras 2-3.

¹² Petković Joinder to the Stojić Motion and Partial Joinder, paras 3, 4(b); Ćorić Joinder to the Stojić Motion and Partial Joinder, paras 2, 4(b); Pušić Joinder to the Stojić Motion and Partial Joinder, paras 2-3.

¹³ Petković Joinder to the Stojić Motion and Partial Joinder, paras 2, 4(c); Ćorić Joinder to the Stojić Motion and Partial Joinder, para. 4(c); Pušić Joinder to the Stojić Motion and Partial Joinder, paras 2-3.

¹⁴ Prlić Motion, paras 1-5.

the Practice Direction on the Length of Briefs and Motions of 16 September 2005¹⁵ and the Tribunal's jurisprudence provide that the Respondent's brief should be the same length as the Appellant's brief, and since the Decision of 9 October 2014 granted an increase of the word limit for the Appellant's briefs to 50,000 words, the word limit for his Respondent's brief should be equally increased;¹⁶ (iii) given the complexity of legal and factual issues to which Prlić must respond, the current word limit for his Respondent's brief "makes this task impossible";¹⁷ and (iv) the current word limit of 9,000 for his reply brief will prevent him from comprehensively presenting his reply and will deprive the Appeals Chamber "of relevant arguments and supporting material";¹⁸

NOTING the "Prosecution's Consolidated Response to Prlić's, Stojić's, Praljak's and Petković's Motions to Exceed Word Count for Response and/or Reply Briefs and to Stojić's and Petković's Motions for Extension of Time to File Reply Briefs", filed on 23 February 2015 ("Prosecution Consolidated Response"), in which the Prosecution: (i) opposes the First and Second Requests in the Prlić Motion;¹⁹ and (ii) requests that, should Stojić's Time Extension Request be granted, the same deadline for the filing of reply briefs be imposed on all parties in this case in order to maintain a harmonised briefing schedule;²⁰

NOTING the Prosecution's submission, *inter alia*, that: (i) the existence of exceptional circumstances warranting an increase of the word limit for the Respondent's brief, as required under the Practice Direction, have not been demonstrated;²¹ (ii) the current 30,000 word limit for the Appellants' Respondent's briefs is generous and an increase to 50,000 words would be excessive;²² (iii) it is premature to request an increase of the word count concerning the reply briefs as the Prosecution is yet to file its Respondent's brief;²³ and (iv) in any event, the request for 20,000 words to reply to a Respondent's brief of approximately 50,000 words is excessive;²⁴

NOTING the "Prosecution's Response to Ćorić's and Pušić's Joinders to Bruno Stojić's Motion for Extension of Time to File His Brief and Partial Joinder to Prlić's Motion to Exceed Word Count for His Brief in Reply", filed on 27 February 2015 ("Prosecution Second Response"), in which the

¹⁵ IT/184 Rev. 2, 16 September 2005 ("Practice Direction").

¹⁶ Prlić Motion, paras 6, 13. *See also* Prlić Motion, paras 7-8, 12.

¹⁷ Prlić Motion, paras 14-16.

¹⁸ Prlić Motion, para. 18. *See also* Prlić Motion, paras 17, 19-20.

¹⁹ Prosecution Consolidated Response, paras 1-2, 4-11, 13(i)-(ii).

²⁰ Prosecution Consolidated Response, paras 3, 12-13.

²¹ Prosecution Consolidated Response, paras 1, 4.

²² Prosecution Consolidated Response, paras 1, 4-7.

²³ Prosecution Consolidated Response, paras 2, 10.

²⁴ Prosecution Consolidated Response, paras 2, 11.

Prosecution submits that, concerning the joinders filed by Ćorić and Pušić to the Stojić Motion and Partial Joinder, it adopts in full the same position held in the Prosecution Consolidated Response;²⁵

NOTING FURTHER “Jadranko Prlić’s Request for Leave to Reply & Reply to Prosecution’s Consolidated Response to Requests to Exceed Word Count on Reply/Response”, filed on 2 March 2015 (“Prlić Reply”), in which Prlić requests leave, pursuant to Rule 126*bis* of the Tribunal’s Rules of Procedure and Evidence (“Rules”), to reply to the Prosecution Consolidated Response;²⁶

RECALLING that where a motion is filed during an appeal from judgement, the moving party may file a reply within four days of the filing of the response without first seeking leave to file such a reply;²⁷

CONSIDERING that the Prlić Reply was filed seven days after the Prosecution Consolidated Response and therefore does not conform with the Practice Direction on Appeal Proceedings but that, given the minimal prejudice arising from the late filing, the Appeals Chamber will consider the Prlić Reply as validly filed;²⁸

NOTING Prlić’s assertion that, *inter alia*, the First Request in the Prlić Motion and the Second Request in the Prlić Motion are consistent with the Tribunal’s jurisprudence and the Appeals Chamber’s previous considerations on the complexity and size of this case;²⁹

RECALLING that paragraph (C)1(b) and (c) of the Practice Direction stipulates that a Respondent’s brief on appeal from a final judgement should not exceed 30,000 words and that a reply brief should not exceed 9,000 words;

RECALLING that, pursuant to paragraph (C)7 of the Practice Direction, extension of these word limits may be granted upon the showing of exceptional circumstances that necessitate the oversized filing;

²⁵ Prosecution Second Response, para. 1.

²⁶ Prlić Reply, pp. 1-2.

²⁷ Practice Direction on Procedure for the Filing of Written Submission in Appeal Proceedings Before the International Tribunal, IT/155 Rev. 4, 4 April 2012 (“Practice Direction on Appeal Proceedings”), para. 14. *See also, e.g., Prosecutor v. Vujadin Popović et al.*, Case No. IT-05-88-A, Decision on Vujadin Popović’s Seventh Motion for Admission of Additional Evidence on Appeal Pursuant to Rule 115, 4 December 2014, fn. 3 and reference cited therein.

²⁸ Practice Direction on Appeal Proceedings, para. 19. *Cf. also, e.g., Prosecutor v. Ante Gotovina and Mladen Markač*, Case No. IT-06-90-A, Decision on Application and Proposed *Amicus Curiae* Brief, 14 February 2012, para. 5

²⁹ *See Prlić Reply*, paras 2-5, 16-19, *referring, inter alia, to Prosecutor v. Nikola Šainović et al.*, Case No. IT-05-87-A, Decision on Defence Requests for Extension of Time and Word limits to File Reply Briefs, 20 January 2010 (“*Šainović et al. Appeal Decision*”), p. 4, *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, p. 5; Decision of 9 October 2014, p. 4.

CONSIDERING that, in the Decision of 9 October 2014, the Appeals Chamber granted the Prosecution 300,000 words (50,000 words per appellant) for its Respondent's brief on the basis that paragraph (C)1(b) of the Practice Direction reflects the principle of allowing the respondent to file a brief of the same length as the Appellant's brief;³⁰

CONSIDERING, however, that the Prosecution Appeal Brief, filed as a consolidated brief pertaining to all six Appellants, contains 59,325 words³¹ and that not all sections of the brief have direct relevance to all the Appellants;

CONSIDERING that a reply brief is limited to arguments in reply to the Respondent's brief³² and its purpose, therefore, is not to repeat arguments already submitted in the Appellant's brief;

CONSIDERING FURTHER that the quality and effectiveness of written submissions on appeal do not depend upon length, but upon the clarity and cogency of the arguments presented and that, therefore, excessively long briefs do not necessarily facilitate the efficient administration of justice;³³

FINDING that, in this specific instance, the existence of exceptional circumstances justifying an increase of the word limit for the Respondent's briefs and for the reply briefs has not been established;

RECALLING that pursuant to Rule 113 of the Rules, an Appellant may file a reply brief within 15 days of filing of the Respondent's brief;

RECALLING that the Appeals Chamber granted an additional seven days, totalling 22 days, for the filing of the reply briefs;³⁴

RECALLING that pursuant to Rule 127(A)(i) and (B) of the Rules, the time-limits prescribed under the Rules may be enlarged, on good cause being shown;

CONSIDERING that it is in the interests of justice to ensure that the parties have sufficient time to prepare meaningful briefs in full conformity with the relevant provisions;³⁵

³⁰ Decision of 9 October 2014, p. 4.

³¹ Prosecution Appeal Brief, p. 177.

³² See Practice Direction on Formal Requirements for Appeals from Judgement, IT/201, 7 March 2002, para. 6.

³³ See e.g., *Šainović et al.* Appeal 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* Appeal Decision"), p. 2.

³⁴ Decision of 9 October 2014, p. 4.

³⁵ See Decision of 9 October 2014, p. 3.

CONSIDERING, however, that pursuant to Articles 20(1) and 21(4)(c) of the Statute of the Tribunal, the Appeals Chamber must ensure that the proceedings before it are fair and expeditious;³⁶

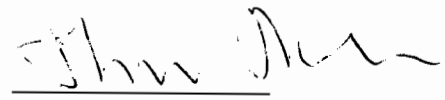
CONSIDERING that the relevant parties have failed to show the existence of any new circumstances since the Decision of 9 October 2014 justifying additional extensions of time to file their reply briefs and that, therefore, no good cause has been shown for the extension of the deadline for the filing of the reply briefs;

FOR THE FOREGOING REASONS,

HEREBY DENIES the Motions.

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

Done this 9th day of April 2015,
At The Hague,
The Netherlands.



Judge Theodor Meron
Presiding

[Seal of the Tribunal]

³⁶ See *Prosecutor v. Mićo Stanišić and Stojan Župljanin*, Case No. IT-08-91-A, Decision on Joint Motion on Behalf of Mićo Stanišić and Stojan Župljanin Seeking Expedited Adjudication of Their Respective Grounds of Appeal 1*Bis* and 6, 22 October 2014, para. 17. See also Decision on Motions for Extension of Time to File Appeal Briefs and for Authorization to Exceed Word Limit, 22 August 2013, para. 3; *Tolimir* Appeal Decision, p. 3.