

**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: 21 July 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:** 21 July 2015

**PROSECUTOR**

v.

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

**PUBLIC**

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**DECISION ON JADRANKO PRLIĆ'S NOTICE OF APPEAL BRIEF  
ERRORS AND PROSECUTION MOTION TO STRIKE PRLIĆ'S  
NOTICE OF APPEAL BRIEF ERRORS AND PUBLIC REDACTED  
VERSION OF PRLIĆ'S APPEAL BRIEF**

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**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. Nataša Fauveau-Ivanović for Mr. Slobodan Praljak  
Ms. Vesna Alaburić and Mr. Davor Lazić for Mr. Milivoj Petković  
Ms. Dijana Tomašegović-Tomić and Mr. Dražen Plavec for Mr. Valentin Čorić  
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);

**NOTING** “Jadranko Prlić’s Appeal Brief” and “Jadranko Prlić’s Corrigendum to his Appeal Brief” both filed confidentially on 12 January 2015 and 6 March 2015, respectively (together, “Appeal Brief”);

**BEING SEISED OF** “Jadranko Prlić’s Notice of Appeal Brief Errors” filed confidentially by Jadranko Prlić (“Prlić”) on 28 May 2015 (“Notice of Errors”), in which Prlić identifies five errors in his Appeal Brief and indicates that “[t]he public redacted version which has yet to be filed will include these corrections should leave be granted”;<sup>1</sup>

**NOTING** “Jadranko Prlić’s Notice of Filing of Public Redacted Version of his Appeal Brief” filed on 29 May 2015 (“Redacted Appeal Brief”);

**BEING FURTHER SEISED OF** the “Prosecution Motion to Strike Prlić’s Notice of Appeal Brief Errors and Public Redacted Version of Prlić’s Appeal Brief” filed confidentially by the Office of the Prosecutor (“Prosecution”) on 9 June 2015 (“Prosecution Motion”), in which the Prosecution requests the Appeals Chamber to strike the Notice of Errors and the Redacted Appeal Brief because substantive corrections have been made to the Appeal Brief without leave from the Appeals Chamber and to “order Prlić to remove the improper amendments to his Public Appeal Brief before refiling”;<sup>2</sup>

**NOTING** “Jadranko Prlić’s Response to Prosecution Motion to Strike Prlić’s Notice of Appeal Brief Errors and Public Redacted Version of Prlić’s Appeal Brief” filed confidentially by Prlić on 10 June 2015 (“Response”) in which Prlić: (i) clarifies that the wrong public redacted version of his Appeal Brief had been mistakenly filed on 29 May 2015; (ii) submits that the Redacted Appeal Brief should be reclassified as confidential pending a decision of the Appeals Chamber on the Notice of Errors; and (iii) indicates that a corrected redacted version of his Appeal Brief will be filed;<sup>3</sup>

**NOTING** “Jadranko Prlić’s Notice of Filing of Public Redacted Version of his Appeal Brief (Revised)” filed on 10 June 2015 (“Revised Redacted Appeal Brief”);

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<sup>1</sup> Notice of Errors, pp. 1-2.

<sup>2</sup> Prosecution Motion, paras 1, 4-7.

<sup>3</sup> Response, paras 2-4, 6.

**NOTING** that the Redacted Appeal Brief includes corrections identified in the Notice of Errors, even though the Appeals Chamber had not yet granted leave for Prlić to include these corrections in the Redacted Appeal Brief;<sup>4</sup>

**CONSIDERING** that “a party may, without requesting leave from the Appeals Chamber, file a corrigendum to their previously filed brief or motion whenever a minor or clerical error in said brief or motion is subsequently discovered and where correction of the error is necessary in order to provide clarification”;<sup>5</sup>

**CONSIDERING**, however, that if a party requires a substantive amendment to supplement their brief, they should, pursuant to Rule 127(A)(ii) and (B) of the Rules of Procedure and Evidence of the Tribunal, file the supplement with sufficient reasons to demonstrate good cause for the Appeals Chamber to recognise the supplement as validly filed;<sup>6</sup>

**CONSIDERING** that the “good cause” requirement is assessed on a case-by-case basis and the concept of “good cause” encompasses both good reason for amending a brief by supplementing new information and good reason showing why new information was not included in the original brief;<sup>7</sup>

**CONSIDERING FURTHER** that the “good cause” requirement is to be interpreted more restrictively at later stages in the appeal proceedings when an amendment to a brief may substantially affect the efficient administration of justice – for instance, where the briefing on appeal is completed and such an amendment would require further filings of a supplemental or revised response or reply;<sup>8</sup>

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<sup>4</sup> The Appeals Chamber notes that the Revised Redacted Appeal Brief does not include the corrections identified in the Notice of Errors and, pursuant to an order issued by the Pre-Appeal Judge in this case, was reclassified as confidential pending the issuing of this decision. See Order Relating to the Prosecution’s Urgent Motion to Reclassify Public Briefs and Modify the Public Redacted Briefing Schedule, 12 June 2015, p. 2.

<sup>5</sup> See, e.g., *Prosecutor v. Milan Martić*, Case No. IT-95-11-A, Order Concerning Milan Martić’s Submission of a Corrected Version of his Appellant’s Brief, 11 February 2008, p. 756 (Registry’s pagination); *Prosecutor v. Ljube Bošković and Johan Tarčulovski*, Case No. IT-04-82-A, Decision on Bošković Defence Corrigendum to Respondent Brief, 17 April 2009 (“*Bošković and Tarčulovski Decision*”), p. 3.

<sup>6</sup> See, e.g., *Bošković and Tarčulovski Decision*, p. 3; *Prosecutor v. Miroslav Bralo*, Case No. IT-95-17-A, Decision on Miroslav Bralo’s Motion for Leave to Supplement Appeal Brief in Light of New Information Concerning *Ex Parte* Portion of the Trial Record, 9 January 2007 (“*Bralo Decision*”), para. 9; *Prosecutor v. Željko Mejakić et al.*, Case No. IT-02-65-AR11bis.1, Decision on Joint Defense Motion for Enlargement of Time to File Appellants’ Brief, 30 August 2005, p. 3.

<sup>7</sup> See, e.g., *Bošković and Tarčulovski Decision*, p. 3; *Prosecutor v. Vidoje Blagojević and Dragan Jokić*, Case No. IT-02-60-A, Decision on Motion for Dragan Jokić for Leave to File Third Amended Notice of Appeal and Amended Appellate Brief, 26 June 2006, para. 7.

<sup>8</sup> See, e.g., *Bošković and Tarčulovski Decision*, p. 3; *Bralo Decision*, para. 11.

**CONSIDERING** that Prlić seeks leave to replace three original references in his Appeal Brief with new references to authorities;<sup>9</sup>

**CONSIDERING** that replacing these original references with new references is tantamount to supplementing the Appeal Brief with new substantive information that could have been included in his brief in reply;<sup>10</sup>

**CONSIDERING** that Prlić seeks to delete two substantive arguments from the Appeal Brief and the associated footnotes<sup>11</sup> which has an impact on the content of the Prosecution response to the Appeal Brief (“Prosecution Response Brief”) and, therefore, may interfere with the work of the Appeals Chamber;<sup>12</sup>

**CONSIDERING** that none of the proposed changes in the Notice of Errors can be considered as corrections of a minor or clerical nature that may be filed without leave from the Appeals Chamber;

**CONSIDERING** that the proposed changes in the Notice of Errors were to correct errors that were brought to Prlić’s attention only upon review of the Prosecution Response Brief and that this does not constitute good cause for amending the Appeal Brief at this stage of the appeal proceedings;

**FINDING**, therefore, that Prlić has not shown good cause to amend his Appeal Brief;

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<sup>9</sup> Notice of Errors, paras 1, 3-4, *referring to* Appeal Brief, paras 55, 390, 600, fns. 129, 985, 1535.

<sup>10</sup> *See Bošković and Tarčulovski* Decision, p. 4. While the third error mentioned by Prlić could *a priori* be understood as an error of a clerical nature, the Appeals Chamber considers that the fact that Prlić did not include this information in his brief in reply demonstrates that this was not the case. Moreover, the Appeals Chamber finds, with respect to this specific error, that it has an impact on the content of the Prosecution response to the Appeal Brief and, therefore, may interfere with the work of the Appeal Chamber, *See* Notice of Errors, para. 3.

<sup>11</sup> Notice of Errors, paras 2, 5, *referring to* Appeal Brief, paras 84, 184, fns. 237, 239, 241, 472.

<sup>12</sup> *Cf.* Prosecution Motion, para. 6.

**FOR THE FOREGOING REASONS,**

**DENIES** Prlić's request in the Notice of Errors to amend his Appeal Brief;


**GRANTS IN PART** the Prosecution Motion to strike the Redacted Appeal Brief from the record;

**ORDERS** the Registry of the Tribunal to strike the Redacted Appeal Brief from the record; and

**DENIES** the Prosecution Motion in all other respects.

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

Done this 21<sup>st</sup> day of July 2015,  
At The Hague,  
The Netherlands.

  
Judge Theodor Meron  
Presiding

**[Seal of the Tribunal]**