



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-00-39-A
Date: 31 July 2007
Original: English

BEFORE THE PRE-APPEAL AND DUTY JUDGE

Before: Judge Theodor Meron, Pre-Appeal and Duty Judge

Registrar: Mr. Hans Holthuis

Order of: 31 July 2007

PROSECUTOR

v.

MOMČILO KRAJIŠNIK

PUBLIC

**ORDER ON *AMICUS CURIAE*'S MOTIONS REGARDING
WORD LIMITS AND ORDERING OF HIS APPEAL BRIEF**

The Office of the Prosecutor:

Mr. Peter Kremer QC

The Appellant

Mr. Momčilo Krajišnik

Amicus Curiae

Mr. Colin Nicholls QC

I, THEODOR MERON, Judge of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of Former Yugoslavia since 1991 (“Tribunal”), Duty Judge for this week of the summer recess, and Pre-Appeal Judge in this case,

NOTING the “Motion for Extension of Word Limit for Amicus Curiae’s Appellate Brief”, filed on 26 July 2007 (“Word Limit Motion”), in which *amicus curiae* seeks leave to file an appeal brief of not more than 25,000 words, a limit which is 5,000 words greater than the limit accorded to *amicus curiae* by the Appeal Chamber in a prior ruling;¹

FURTHER NOTING “*Amicus Curiae’s* Motion for Variance Concerning the Order and Numbering of the Arguments on Appeal”, also filed on 26 July 2007 (“Ordering Motion”), in which *amicus curiae* asks leave to switch the order and numbering of two sub-grounds of appeal in his appeal brief from how they appear in his notice of appeal;

NOTING that the Prosecution has informed me that it does not intend to respond to these motions;

CONSIDERING that as Duty Judge and also Pre-Appeal Judge in this case, I have the authority to resolve these motions, particularly since I deem them urgent in light of the fact that *amicus curiae’s* appeal brief is due on 3 August 2007;

OBSERVING with regard to the Word Limit Motion that, pursuant to paragraph 7 of the “Practice Direction on the Length of Briefs and Motions”, *amicus curiae* “must provide an explanation of the exceptional circumstances that necessitate the oversized filing”;²

CONSIDERING that *amicus curiae* claims that such exceptional circumstances exist due to “a unique combination of a complex legal and factual matrix combined with a fundamentally flawed approach by the [Trial] Chamber to the analysis of legal issues and to the evaluation of evidence” and that the original word limit will require *amicus curiae* to crop his brief, which contains 11 grounds of appeal, “to the point that important legal arguments and authorities, and references to the evidence, would have to simply be deleted”;³

CONSIDERING that the mere invocation of complexity and the assertion of a sizable number of grounds of appeal do not amount to “exceptional circumstances”⁴ and that *amicus curiae* has not

¹ Decision on Momčilo Krajišnik’s Request to Self-Represent, on Counsel’s Motions in Relation to Appointment of *Amicus Curiae*, and on the Prosecution Motion of 16 February 2007, 11 May 2007, para. 21.

² IT/184/Rev. 2, 16 September 2005.

³ Word Limit Motion, paras 8-9.

⁴ See *Prosecutor v. Radoslav Brđanin*, Case No. IT-99-36-A, Decision on Appellant’s Motion for Extension of Time to File a Consolidated Brief and for Enlargement of Page Limit, 22 June 2005, paras 9-12 (finding that the existence of 172 grounds of appeal did not constitute exceptional circumstances for a word limit extension); see also *Prosecutor v.*

provided a persuasive explanation for why he cannot successfully make his arguments within the word limit allotted to him;

OBSERVING with regard to the Ordering Motion that, pursuant to paragraph 4 of the “Practice Direction on the Formal Requirements for Appeals from Judgement”, *amicus curiae* may vary the ordering of the grounds of appeal if granted leave;⁵


CONSIDERING that *amicus curiae* explains that he wishes to switch the order of two sub-grounds of appeal because it will “improve the clarity and structure” of his brief;⁶

CONSIDERING that Appeal Chamber precedent permits minor changes to the ordering of an appeal brief where a party seeks leave for such reordering and asserts that these changes will provide greater clarity;⁷

HEREBY DENY the Word Limit Motion; and **GRANT** the Ordering Motion.

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

Dated this 31st day of July 2007,
At The Hague,
The Netherlands.



Theodor Meron
Pre-Appeal and Duty Judge

[Seal of the Tribunal]

Vidoje Blagojević & Dragan Jokić, Case No. IT-02-60-A, Decision on Prosecution’s Motion to Extend Word Limit of Consolidated Response Brief, 6 December 2005, para. 4 (denying a Prosecution request for a word limit extension).

⁵ IT/201, 7 March 2002.

⁶ Ordering Motion, para. 3.

⁷ *Prosecutor v. Naser Orić*, Case No. IT-03-68-A, Decision on the Prosecution’s Motion for Variance Concerning Order and Numbering of the Arguments on Appeal and on the Prosecution’s Corrigendum to Appeal Brief, 3 May 2007, p. 2.