



International Tribunal for the
Prosecution of Persons
Responsible for Serious Violations of
International Humanitarian Law
Committed in the Territory of
Former Yugoslavia since 1991

Case No. IT-04-74-
AR65.1&
AR65.2
Date: 31 August 2004
Original: English

BEFORE A BENCH OF THE APPEALS CHAMBER

Before: Judge Theodor Meron, Presiding
Judge Fausto Pocar
Judge Mehmet Güney

Registrar: Mr. Hans Holthuis

Decision of: 31 August 2004

PROSECUTOR

v.

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

**DECISION ON MILIVOJ PETKOVIĆ REQUESTS FOR LEAVE TO
FILE A REPLY AND NOTICE OF OPPOSITION**

The Office of the Prosecutor:

Mr Kenneth Scott

For the Accused Jadranko Prlić

Mr. Ćamil Salahović

Mr. Želimir Par

For the Accused Bruno Stojic

Mr. Zeljko Olujić

For the Accused Milivoj Petković

Ms. Vesna Alaburić

For the Accused Slobodan Praljak

Mr. Božidar Kovačić

For the Accused Berislav Pušić

Mr. Marinko Škobić

For the Accused Valentin Ćorić

Mr. Tomislav Jonjić



1. On 19 August the accused Milivoj Petković ("Petković") filed two motions before the Appeals Chamber seeking leave to file a reply to responses filed by the Prosecution with respect to applications for leave to appeal made by the accused in this case,¹ and one motion opposing a reply filed by the Prosecution with respect to an application made by it for leave to appeal.²
2. In his Motions seeking leave, and his Motion opposing a reply filed by the Prosecution without leave being granted, Petković refers to Rule 126bis of the Rules of Procedure and Evidence as requiring a party seeking to reply to a response to request the leave of the relevant Chamber prior to the filing of that reply. Rule 126bis provides:

Unless otherwise ordered by a Chamber either generally or in the particular case, a response, if any, to a motion filed by a party shall be filed within fourteen days of the filing of the motion. A reply to the response, if any, shall be filed within seven days of the filing of the response, with the leave of the relevant Chamber.
3. With respect to filings before the Appeals Chamber Rule 126bis is modified in general by the Practice Direction on Procedure for the Filing of Written Submissions in Appeal Proceedings Before the International Tribunal.³ Defence Counsel for Petković is obviously unfamiliar with that Practice Direction. Pursuant to that Practice Direction, where a party seeks leave to file an interlocutory appeal from a decision of a Trial Chamber, the opposite party has 10 days in which to file a response,⁴ and the party seeking the leave may file a reply to that response within 4 days of its filing.⁵ There is, therefore, no need for a party seeking leave to appeal to seek leave to file a reply to any response made to its leave application.
4. To avoid any prejudice accruing to Petković from his Defence Counsel's unfamiliarity with the general modification of Rule 126bis by the Practice Direction, the accused Petković is granted 4 days from the date of this decision to file a reply to the Prosecution's response to the accused Valentin Corić's motion for reconsideration by the Appeals Chamber, of which he filed a notice of

¹ The Accused Milivoj Petković's Request for Leave to Reply to the Prosecutor's Response to Corić's Motion for Reconsideration of the Appeals Chamber's Order on the Prosecution Motion for Stay and Petković's Motion for Clarification of the Legal Status of the Accused in Respect of Various Decisions, 19 August 2004; The Accused Milivoj Petković's Request for Leave to Reply to the Prosecutor's Response to Milivoj Petković's Application for Leave to File an Interlocutory Appeal in Respect of the Order of the Duty Judge on Prosecutor's Motion to Stay Orders on Provisional Release, 19 August 2004 ("Motions").

² The Accused Milivoj Petković's Notice to Prosecutor's Reply to Oppositions to the Prosecutor's Application for Leave to Appeal Filed by Accused Slobodan Prajak and Milivoj Petković, 19 August 2004 ("Motion").

³ Practice Direction on Procedure for the Filing of Written Submissions in Appeal Proceedings Before the International Tribunal, (IT/155 Rev.1), 7 March 2002 ("Practice Direction").

⁴ Practice Direction, par 5.

⁵ Practice Direction, par 6.

joinder,⁶ and his motion for clarification of the legal status of the accused in this case.⁷ In light of this explanation of the correct procedure to be followed, Petković's notice of opposition to the reply filed by the Prosecution is moot.

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

Dated this 31st day of August 2004,

At The Hague

The Netherlands



Theodor Meron
Presiding Judge

[Seal of the Tribunal]

⁶ The Accused Milivoj Petković's Notice of Joinder to the Accused Valentin Ćorić's Motion for Reconsideration of the Appeals Chamber's Order on the Prosecution's Motion for Stay, Dated 10 August, 12 August 2004.

⁷ Motion for Clarification of the Legal Status of the Accused in Respect of the Trial Chamber Decision on Prosecution's Motion for Stay of Orders on Provisional Release of the Accused and the Appeals Chamber's Order on the Prosecution's Motion for Stay, 11 August 2004.

