



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-03-69-A
Date: 31 October 2013
Original: English

IN THE APPEALS CHAMBER

Before: Judge Theodor Meron, Pre-Appeal Judge
Registrar: Mr. John Hocking
Decision of: 31 October 2013

PROSECUTOR

v.

**JOVICA STANIŠIĆ
FRANKO SIMATOVIĆ**

PUBLIC

**DECISION ON STANIŠIĆ'S URGENT REQUEST FOR
EXTENSION OF WORD LIMIT**

The Office of the Prosecutor:

Mr. Peter Kremer QC
Mr. Mathias Marcussen

Counsel for the Defence:

Mr. Wayne Jordash and Mr. Scott Martin for Mr. Jovica Stanišić
Mr. Mihajlo Bakrač and Mr. Vladimir Petrović for Mr. Franko Simatović

I, THEODOR MERON, Judge of 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), and Pre-Appeal Judge in this case;¹

NOTING the Judgement rendered in the present case by Trial Chamber I on 30 May 2013;²

NOTING the notice of appeal filed by the Office of the Prosecutor (“Prosecution”) on 28 June 2013;³

BEING SEISED OF the “Stanišić Defence Urgent Request for Extension of Word Limit” filed by Jovica Stanišić (“Stanišić”) on 23 October 2013 (“Stanišić Motion”) by which Stanišić seeks leave to exceed the word limit for his response brief by 10,000 words;⁴

NOTING the “Prosecution’s Response to Stanišić’s Urgent Request for Extension of Word Limit” filed by the Prosecution on 25 October 2013 (“Prosecution Response to Stanišić Motion”), in which the Prosecution opposes the Stanišić Motion, but requests that if the motion is granted, the Prosecution be granted a proportional extension of the word limit for its reply brief;⁵

NOTING the “Simatović Defence Response to Stanišić Defence Urgent Request for Extension of Word Limit” filed by Franko Simatović (“Simatović”) on 25 October 2013 (“Simatović Response”), in which Simatović requests that if the Stanišić Motion is granted, the Appeals Chamber grant Simatović a similar extension of the word limit for his response brief;⁶

NOTING the “Prosecution’s Response Regarding Simatović’s Response to Stanišić’s Urgent Request for Extension of Word Limit” filed by the Prosecution on 28 October 2013 (“Prosecution Response Regarding Simatović Response”), by which the Prosecution opposes the Simatović Response, but requests that if Simatović’s request is granted, the Prosecution be granted a proportional increase of the word limit prescribed by the Practice Direction on the Length of Briefs and Motions⁷ for its reply brief;⁸

¹ Order Designating a Pre-Appeal Judge, 9 October 2013.

² *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-T, Judgement, 30 May 2013 (with confidential Appendix C) (“Trial Judgement”).

³ Prosecution’s Notice of Appeal, 28 June 2013. *See also* Prosecution Appeal Brief, 11 September 2013 (confidential). A public redacted version was filed on 25 September 2013 (“Appeal Brief”). Notice of Filing of Public Redacted Version of Prosecution Appeal Brief and Corrigendum, 25 September 2013.

⁴ Stanišić Motion, paras 3, 17.

⁵ Prosecution Response to Stanišić Motion, paras 2, 6-7.

⁶ Simatović Response, para. 2.

⁷ IT/184 Rev. 2, 16 September 2005 (“Practice Direction”).

⁸ Prosecution Response Regarding Simatović Response, para. 2.

NOTING Stanišić's submission that exceptional circumstances exist for granting leave to exceed the prescribed word limit in light of, *inter alia*, the size and complexity of both the grounds of appeal and the trial record, as well as the nature of the analysis required to respond to the second ground of appeal;⁹

NOTING that the Prosecution submits that Stanišić failed to show exceptional circumstances warranting a 10,000 word increase of the word limit for his response brief, arguing in particular that: (1) neither the size nor the complexity of the grounds of appeal and the trial record, nor the nature of the analysis required to respond to the second ground of appeal, are exceptional; and (2) the Appeal Brief developed all three grounds of appeal within the word limit prescribed;¹⁰

NOTING that the Prosecution submits that Simatović has not demonstrated any exceptional circumstances justifying an increase in the word limit for his response brief;¹¹

RECALLING that, pursuant to Sections (C)(1)(b) and (C)(1)(c)(i) of the Practice Direction, the response of an appellee on an appeal from a final judgement of a Trial Chamber will not exceed 30,000 words, and the reply brief of an appellant will not exceed 9,000 words in respect of one appellee and a further 3,000 words in respect of each additional appellee;

RECALLING that, pursuant to Section C(7) of the Practice Direction, a party must seek authorization in advance from the Chamber to exceed the word limits in the Practice Direction and must provide an explanation of the exceptional circumstances that necessitate the oversized filing;

CONSIDERING that the quality and effectiveness of an appeal brief do not depend on its length, but on the clarity and cogency of the arguments presented and that, therefore, excessively long briefs do not necessarily facilitate the efficient administration of justice;¹²

CONSIDERING that the size and extent of the grounds of appeal, the extensiveness of the trial record and the length of the trial are not *per se* factors that constitute exceptional circumstances which justify an enlargement of the word limits prescribed by the Practice Direction;¹³

⁹ Stanišić Motion, paras 3, 7-16.

¹⁰ Prosecution Response to Stanišić Motion, paras 1, 3-5.

¹¹ Prosecution Response Regarding Simatović Response, para. 2.

¹² *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-A, Decision on Motions for Extension of Time to File Appeal Briefs and for Authorisation to Exceed Word Limit, 22 August 2013, para. 16; *Prosecutor v. Mićo Stanišić and Stojan Župljanin*, Case No. IT-08-91-A, Decision on Mićo Stanišić's and Stojan Župljanin's Motions Seeking Variation of Time and Word Limits to File Appeal Briefs, 4 June 2013 ("*Stanišić and Župljanin Decision*"), p. 4 and reference cited therein.

¹³ *In the Case Against Florence Hartmann*, Case No. IT-02-54-R77.5-A, Decision on Motions to Strike and Requests to Exceed Word Limit, 6 November 2009, para. 23 and references cited therein.

CONSIDERING, however, that it is in the interests of justice to ensure that parties have sufficient space to prepare meaningful appeal briefs in full conformity with the relevant provisions;¹⁴

CONSIDERING the length and complexity of the Trial Judgement and the scope and nature of the grounds of appeal;

FINDING that in the context of this case, these factors constitute exceptional circumstances which justify increasing the word limit for Stanišić's response brief, not exceeding 5,000 words;

CONSIDERING that the word limit for reply briefs imposed by the Practice Direction is relative to that prescribed for the length of the appeal and response briefs, and that related requests for extensions should be assessed accordingly;¹⁵

FINDING that it is in the interests of justice to grant Simatović an equivalent increase for his response brief, not exceeding 5,000 words, and to grant the Prosecution a proportionate increase for its reply brief, not exceeding 2,000 words;

PURSUANT TO Sections C(1) and (C)(7) of the Practice Direction,

HEREBY GRANT the Stanišić Motion **IN PART**; and

ALLOW:

- (1) Stanišić to file a response brief totalling no more than 35,000 words;
- (2) Simatović to file a response brief totalling no more than 35,000 words;
- (3) The Prosecution to file its reply brief totalling no more than 14,000 words.

¹⁴ *Stanišić and Župljanin* 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* Decision"), p. 3.

¹⁵ *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, p. 4. *Cf.* Practice Direction, Section C(1). *See also Tolimir* Decision, p. 3; *Prosecutor v. Momčilo Perišić*, Case No. IT-04-81-A, Decision on Momčilo Perišić's Motion for Leave to Exceed the Word Limit for the Appeal Brief, 30 January 2012, p. 2.

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



Judge Theodor Meron
Pre-Appeal Judge

Dated this thirty-first day of October 2013,
At The Hague,
The Netherlands.

[Seal of the Tribunal]