



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-08-91-A
Date: 04 June 2013
Original: English

IN THE APPEALS CHAMBER

Before: Judge Theodor Meron, Pre-Appeal Judge
Registrar: Mr. John Hocking
Decision of: 04 June 2013

PROSECUTOR

v.

**MIĆO STANIŠIĆ
STOJAN ŽUPLJANIN**

PUBLIC

**DECISION ON MIĆO STANIŠIĆ'S AND STOJAN
ŽUPLJANIN'S MOTIONS SEEKING VARIATION OF TIME
AND WORD LIMITS TO FILE APPEAL BRIEFS**

The Office of the Prosecutor

Ms. Helen Brady

Counsel for Mićo Stanišić

Mr. Slobodan Zečević and Mr. Stéphane Bourgon

Counsel for Stojan Župljanin

Mr. Dragan Krgović

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 (“Tribunal”) and Pre-Appeal Judge in this case;¹

NOTING the judgement rendered by Trial Chamber II on 27 March 2013;²

NOTING the respective notices of appeal filed by Mićo Stanišić (“Stanišić”), Stojan Župljanin (“Župljanin”), and the Office of the Prosecutor of the Tribunal (“Prosecution”) on 13 May 2013;³

BEING SEISED OF the “Expedited Motion on Behalf of Mićo Stanišić Seeking a Variation of Time and Word Limits to File Appellant’s Brief”, filed by Stanišić on 21 May 2013 (“Stanišić Motion”), by which Stanišić seeks: (i) leave to exceed the word limit for his appeal brief by 10,000 words; (ii) an extension of the time limit for submission of the appeal brief by 40 days; and (iii) an extension of the time limit for submission of his reply brief, if any, by 5 days;⁴

BEING SEISED OF the “[Župljanin Request for Extension of Time to File Appeal Brief”, filed by Župljanin on 21 May 2013 (“Župljanin Motion”), by which Župljanin seeks an extension of the time limit for submission of his appeal brief by 45 days, and in the alternative joins Stanišić’s request for a time limit extension of 40 days and a word limit extension of 10,000 words;⁵

NOTING the “Consolidated Prosecution Response to Stanišić and Župljanin Motions for Extensions of Time and Variation of Word Limits and Prosecution Request for Leave Regarding Word Limit for Response Briefs”, filed by the Prosecution on 28 May 2013 (“Response”), in which the Prosecution: (i) does not oppose Stanišić’s word limit extension request; (ii) submits that neither Stanišić nor Župljanin (collectively, “Appellants”) has shown good cause for a substantial extension of time, but requests that if any extension is granted, the extension also be granted to the Prosecution for the filing of both its own appeal brief and its response brief; and (iii) seeks leave to file an individual brief responding to each Appellant’s appeal brief, of the same length as the appeal briefs;⁶

NOTING the “Reply on Behalf of Mićo Stanišić to Prosecution Response to Motions for Extensions of Time and Word Limits”, filed by Stanišić on 29 May 2013 (“Stanišić Reply”), in

¹ Order Designating a Pre-Appeal Judge, 15 April 2013, p. 1

² *Prosecutor v. Mićo Stanišić and Stojan Župljanin*, Case No. IT-08-91-T, Judgement, 27 March 2013 (“Judgement”).

³ Notice of Appeal on Behalf of Mićo Stanišić, 13 May 2013; Notice of Appeal on Behalf of Stojan Župljanin, 13 May 2013, Prosecution Notice of Appeal, 13 May 2013.

⁴ Stanišić Motion, para. 1

⁵ Župljanin Motion, paras 1-2.

⁶ Response, paras 1-2

which he submits, *inter alia*, that: (i) the complexity of the Judgement and of Stanišić's grounds of appeal is greater than acknowledged by the Prosecution; (ii) the Prosecution has not presented adequate reason it should receive the same time extension as Appellants receive; and (iii) the Practice Direction on the Length of Briefs and Motions ("Practice Direction")⁷ does not permit the Prosecution to file separate response briefs of lengths equal to the appeal briefs:⁸

NOTING the "Reply to Prosecution Response Regarding [Ž]upljanin Request for Extension of Time to File Appeal Brief, and Response to Prosecution Request for Additional Words", filed by Župljanin on 31 May 2013 ("Župljanin Reply"), in which he submits, *inter alia*, that the complexity of the Appellants' task on appeal is greater than acknowledged by the Prosecution, and that the Practice Direction does not permit the Prosecution to file separate response briefs of lengths equal to the appeal briefs:⁹

RECALLING that, pursuant to Rules 111, 112, and 113 of the Rules of Procedure and Evidence of the Tribunal ("Rules"), an appellant's brief shall be filed within 75 days of the filing of the notice of appeal; a respondent's brief within 40 days of the filing of the appellant's brief; and an appellant's reply brief, if any, within 15 days of the filing of the respondent's brief;

NOTING that, pursuant to Rules 127(A)(i) and 127(B) of the Rules, the Pre-Appeal Judge retains discretion, on good cause being shown, to enlarge these prescribed time limits;

NOTING the Appellants' respective submissions that such good cause exists, constituted by, *inter alia*, the length and complexity of the Judgement and the number and complexity of the grounds raised by Appellants in their respective notices of appeal;¹⁰

RECALLING that a Chamber must ensure the proceedings before it are fair and expeditious pursuant to Article 20(1) of the Statute;

CONSIDERING that it is in the interests of justice to ensure that Appellants have sufficient time to prepare appeal briefs in full conformity with the applicable provisions;¹¹

CONSIDERING that the length and complexity of the Judgement¹² justify enlargement of the prescribed time limits;

⁷ IT/184 Rev. 2, 16 September 2005.

⁸ Stanišić Reply, paras 3-7, 9, 13, 15.

⁹ Župljanin Reply, paras 2-4

¹⁰ Stanišić Motion, paras 6-9, 12-15, 29-32, 34, Župljanin Motion, paras 1, 3-6

¹¹ *Prosecutor v Nikola Šainović et al.*, Case No IT-05-87-A. Decision on Joint Defence Motion Seeking Extension of Time to File Appeal Briefs, 29 June 2009, p. 4

CONSIDERING, however, that the extensions of time requested are excessive, and that an extension of 21 days is sufficient to ensure that Appellants have adequate time to prepare appeal briefs;

CONSIDERING that the length and complexity of the Judgement also constitute good cause for granting the Prosecution an extension of 21 days in which to file its brief in response to Appellants' respective appeal briefs;

CONSIDERING that the length and complexity of the Judgement also constitute good cause for granting each of the Appellants an extension of 5 days in which to file his brief in reply, if any;¹³

CONSIDERING that it is in the interests of effective case management to synchronise the briefing schedule by granting: (i) the Prosecution an extension of 21 days in which to file its own appeal brief; (ii) Appellants an extension of 21 days in which to file their respective briefs in response to the Prosecution's appeal brief; and (iii) the Prosecution an extension of 5 days in which to file a brief in reply, if any;¹⁴

RECALLING that, pursuant to Section (C)(1)(a) of the Practice Direction, an appellant's brief on appeal from a final judgement of a Trial Chamber will not exceed 30,000 words;

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;

NOTING Stanišić's submission that exceptional circumstances exist for granting leave to exceed the prescribed word limit in light of, *inter alia*: (i) the size and complexity of the Judgement and the record upon which it is based; and (ii) the number, complexity, and all-encompassing nature of the grounds raised by Stanišić in his notice of appeal;¹⁵

NOTING Župljanin's request to join Stanišić's motion for extension of word limit should Župljanin's requested 45-day time limit extension not be granted;¹⁶

¹² See Decision on Joint Defence Motion Seeking Extension of Time to File Notice of Appeal, 16 April 2013, pp. 2-3
See generally Judgement

¹³ Župljanin's extension of time in which to file a brief in reply, while not explicitly requested by him, is justified by the length and complexity of the Judgement and is granted in order to harmonise the Appellants' briefing schedule in the interests of effective case management *See generally* Župljanin Motion, Župljanin Reply.

¹⁴ The Appellants and the Prosecution each submit that the briefing schedules for the Prosecution and Defence appeals should be harmonised. Stanišić Motion, para 19, Župljanin Motion, para 8, Response, para 1.

CONSIDERING that the quality and effectiveness of an appellant's 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;¹⁷

CONSIDERING that the number of grounds and sub-grounds of appeal does not in itself provide sufficient reason to enlarge the prescribed word limits;¹⁸

CONSIDERING, however, that it is in the interests of justice to ensure that Appellants have sufficient space to prepare meaningful appeal briefs in full conformity with the relevant provisions;¹⁹

CONSIDERING the length and complexity of the Judgement;

CONSIDERING, therefore, that exceptional circumstances exist which justify increasing the word limit for the Appellants' respective appeal briefs by 10,000 words;

CONSIDERING that the Practice Direction permits the respondent to file a brief of the same length as the appellant's brief,²⁰ and that the Prosecution is thereby entitled to an increase of 10,000 words in the word limit for its response brief;

CONSIDERING that the Prosecution may be granted leave to file separate response briefs where two defence appellants raise distinct issues on appeal, with each response brief of a length equal to the appeal brief to which it responds;²¹

PURSUANT to Rules 111, 112, 113, 127 of the Rules and Sections (C)(1) and (C)(7) of the Practice Direction;

HEREBY GRANT the Stanišić Motion **IN PART**, and the Župljanin Motion, **IN PART**, and

ALLOW:

¹⁵ Stanišić Motion, paras 6-12, 29-31, 33-34

¹⁶ Župljanin Motion, para. 2

¹⁷ *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.

¹⁸ *See, e.g., 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.

¹⁹ *Tolimir Appeal Decision*, p. 3

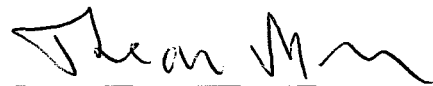
²⁰ Practice Direction, § (C)(1)(b).

²¹ *See Prosecutor v. Ante Gotovina and Mladen Markač*, Case No. IT-06-90-A, Decision on Ante Gotovina's and Mladen Markač's Motions for Leave to Exceed the Word Limit, 20 July 2011, p. 3; *Prosecutor v. Ante Gotovina and Mladen Markač*, Case No. IT-06-90-A, Decision on Motion to Strike the Respondent's Briefs, 14 September 2011, p. 1

- (1) Each of the Appellants to file an appeal brief of a length no more than 10,000 words beyond the word limit otherwise prescribed by the Practice Direction;
- (2) The Prosecution to file an individual brief in response to each of the Appellants' appeal briefs, of the same length as the appeal briefs;
- (3) Each of the Appellants to file his appeal brief no later than 21 days after the deadline otherwise prescribed by the Rules;
- (4) The Prosecution to file its brief in response to each of the Appellants' respective appeal briefs no later than 21 days after the deadline otherwise prescribed by the Rules;
- (5) Each of the Appellants to file a brief in reply, if any, no later than 5 days after the deadline otherwise prescribed by the Rules;
- (6) The Prosecution to file its own appeal brief no later than 21 days after the deadline otherwise prescribed by the Rules;
- (7) Each of the Appellants to file a brief in response to the Prosecution's appeal brief no later than 21 days after the deadline otherwise prescribed by the Rules;
- (8) The Prosecution to file a brief in reply, if any, no later than 5 days after the deadline otherwise prescribed by the Rules.

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

Done this fourth day of June 2013,
At The Hague.
The Netherlands.



Judge Theodor Meron
Pre-Appeal Judge

[Seal of the Tribunal]