



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: 21 June 2013
Original: English

IN THE APPEALS CHAMBER

Before: Judge Theodor Meron, Pre-Appeal Judge
Registrar: Mr. John Hocking
Decision of: 21 June 2013

PROSECUTOR

v.

**MIĆO STANIŠIĆ
STOJAN ŽUPLJANIN**

PUBLIC

**DECISION ON MIĆO STANIŠIĆ'S MOTION SEEKING
RECONSIDERATION OF DECISION ON VARIATION OF
TIME AND WORD LIMITS TO FILE APPELLANT'S BRIEF**

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 and Mr. Aleksander Aleksić

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

RECALLING the “Decision on Mićo Stanišić’s and Stojan Župljanin’s Motions Seeking Variation of Time and Word Limits to File Appeal Briefs” rendered on 4 June 2013 (“Impugned Decision”), in which I, *inter alia*, granted the Office of the Prosecutor of the Tribunal (“Prosecution”) leave to file two separate response briefs each of a length of no more than 40,000 words, equal to the word limit of the appeal briefs of Mićo Stanišić (“Stanišić”) and Stojan Župljanin (“Župljanin”, collectively “Appellants”);²

BEING SEISED OF the “Motion on Behalf of Mićo Stanišić Seeking Reconsideration of Decision on Variation of Time and Word Limits to File Appellant’s Brief”, filed by Stanišić on 6 June 2013 (“Motion”), by which Stanišić seeks a reduction of the Prosecution’s word limit to no more than 53,333 words in sum, whether in a consolidated brief or two separate briefs;³

NOTING the Motion’s submission that the Impugned Decision: (i) is based on an incorrect interpretation of governing law in that it departs from current Appeals Chamber jurisprudence and misinterprets the applicable provisions of the Practice Direction on the Length of Briefs and Motions (“Practice Direction”);⁴ and (ii) is so unfair and unreasonable as to constitute an abuse of discretion;⁵

NOTING the “Prosecution Response to Motion on Behalf of Mićo Stanišić Seeking Reconsideration of Decision on Variation of Time and Word Limits to File Appellant’s Brief”, filed by the Prosecution on 11 June 2013 (“Response”), in which the Prosecution submits that the Motion should be dismissed because it fails to meet the test for reconsideration;⁶

RECALLING that a Chamber of the Tribunal retains discretion to reconsider a previous interlocutory decision in exceptional cases if a clear error of reasoning has been demonstrated or if it is necessary to do so to prevent an injustice;⁷

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

² Impugned Decision, p. 5.

³ Motion, paras 17-18

⁴ IT/184 Rev 2, 16 September 2005

⁵ Motion, paras 2-3, 5-17.

⁶ Response, para. 1.

⁷ *Prosecutor v. Jadranko Prlić et al*, Case No. IT-04-74-AR73 16, Decision on Jadranko Prlić’s Interlocutory Appeal Against the Decision on Prlić Defence Motion for Reconsideration of the Decision on Admission of Documentary Evidence, 3 November 2009 (“Prlić Reconsideration Decision”), para. 6.

RECALLING that a Chamber will reconsider a prior decision only where that decision is found to be: (i) based on an incorrect interpretation of governing law; (ii) based on a patently incorrect conclusion of fact; or (iii) so unfair or unreasonable as to constitute an abuse of discretion;⁸

NOTING that Stanišić contends that the Impugned Decision should be amended to conform with the approach used in recent decisions in the Appeals Chamber of the International Criminal Tribunal for Rwanda (“ICTR”);⁹

CONSIDERING, however, that variations to the Practice Direction’s prescribed word limits are granted on the basis of individual circumstances presented in a given case;¹⁰

CONSIDERING that the factual context in Stanišić’s case is different from the factual context of the ICTR cases to which he cites;

RECALLING that the Pre-Appeal Judge retains discretion under the Practice Direction to vary the word limits prescribed therein, upon exceptional circumstances being shown;¹¹

CONSIDERING that each of the Appellants raises issues distinct from those raised by his co-Appellant, including, *inter alia*: the individual liability of each Appellant for different forms of Joint Criminal Enterprise and related sub-issues;¹² Župljanin’s liability for the crime of extermination;¹³ and the reasonableness of each Appellant’s sentence;¹⁴

CONSIDERING that these circumstances are sufficiently exceptional as to justify granting the Prosecution leave to file two separate response briefs, each of the same length as the appeal briefs;

CONSIDERING that in this context Stanišić does not demonstrate that the Impugned Decision is inconsistent with Tribunal jurisprudence, is based on a patently incorrect conclusion of fact, or represents an unreasonable exercise of the Pre-Appeal Judge’s discretion;

HEREBY DENY the Motion.

⁸ *Prlić* Reconsideration Decision, para 6

⁹ Motion, paras 8-9, *citing Augustin Ndindiliyimana et al. v The Prosecutor*, ICTR-00-56-A, Decision on Innocent Sagahutu’s Motion for Dismissal of the Prosecution’s Response Brief to Sagahutu’s Appeal, 17 May 2012, para. 6 *and Justin Mugenzi and Prosper Mugiraneza v The Prosecutor*, Case No ICTR-99-50-A, Decision on Motions for an Order Requiring the Prosecution to Re-file its Response Briefs, 16 April 2012, p 3

¹⁰ *Cf.* Practice Direction, para (C)(7)

¹¹ Practice Direction, para. (C)(7)

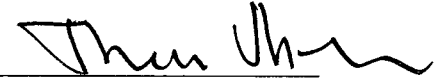
¹² *See* Notice of Appeal on Behalf of Mićo Stanišić, 13 May 2013 (“Stanišić Notice”), paras 21-67. Notice of Appeal on Behalf of Stojan [Ž]upljanin, 13 May 2013 (“Župljanin Notice”), paras 8-28

¹³ *See* Župljanin Notice, paras 29-36

¹⁴ *See* Stanišić Notice, paras 68-80; Župljanin Notice, paras 37-45.

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

Done this 21st day of June 2013,
At The Hague,
The Netherlands.



Judge Theodor Meron
Pre-Appeal Judge

[Seal of the Tribunal]