



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-04-83-A
Date: 15 December 2009
Original: English

IN THE APPEALS CHAMBER

Before: Judge Andréia Vaz, Presiding
Judge Mehmet Güney
Judge Fausto Pocar
Judge Liu Daqun
Judge Theodor Meron

Registrar: Mr. John Hocking

Order: 15 December 2009

PROSECUTOR

v.

RASIM DELIĆ

PUBLIC

***ADDENDUM TO THE ORDER SCHEDULING THE APPEAL
HEARING***

The Office of the Prosecutor:

Ms. Michelle Jarvis

Counsel for Rasim Delić:

Ms. Vasvija Vidović
Mr. John Jones

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”);

NOTING the appeals lodged by the Counsel for Rasim Delić (“Delić”)¹ and by the Office of the Prosecutor (“Prosecution”)² (jointly, “Appeals”) against the Trial Judgement rendered in this case by Trial Chamber I on 15 September 2008;³

NOTING the “Scheduling Order for Appeals Hearing” issued by the Appeals Chamber on 2 December 2009, ordering that the Appeals be heard on Tuesday, 19 January 2010 (“Appeals Hearing”), and informing the parties that another order specifying the exact time, courtroom, and modalities of the hearing will be issued in due course;

CONSIDERING the need to ensure that the time allotted for the Appeals Hearing is used as efficiently as possible;⁴

RECALLING that the parties are expected to focus their oral arguments on the grounds of appeal raised in their briefs and that an appeal hearing is not the occasion for presenting new arguments on the merits of the case;⁵

RECALLING further that, during the hearing of an appeal, the parties are expected “to prepare themselves in such a way as not simply to recount what has been set out in their written submission, but to confine their oral arguments to elaborating on points relevant to the appeal that they wish to bring to the Appeals Chamber’s attention”;⁶

RECALLING that, in principle, the parties may argue the grounds of appeal in the order they consider most suitable;⁷

HEREBY INFORMS the parties that, subject to adjustments where appropriate, the timetable for the Appeals Hearing in the present case shall be as follows:

¹ Defence Notice of Appeal, 14 October 2008; Defence Appellant’s Brief, 29 December 2008 (confidential); public redacted version filed on 7 January 2009; Defence Appellant’s Brief, 29 December 2008 (confidential), public redacted version filed on 7 January 2009.

² Prosecution’s Notice of Appeal, 15 October 2008; Prosecution’s Appeal Brief, 14 November 2008.

³ *Prosecutor v. Rasim Delić*, Case No. IT-04-83-T, Judgement, 15 September 2008 (“Trial Judgement”).

⁴ *Prosecutor v. Pavle Strugar*, Case No. IT-01-42-A, Scheduling Order for Appeals Hearing, 29 January 2008, p. 2.

⁵ *Prosecutor v. Dragomir Milošević*, Case No. IT-98-29/1-A, Addendum to the Order Scheduling the Appeals Hearing, 6 July 2009 (“Milošević Order”), p. 1, citing *Prosecutor v. Naser Orić*, Case No. IT-03-68-A, Addendum to Order Scheduling Appeal Hearing 10 March 2008 (“Orić Order”), p. 1.

⁶ *Orić Order*, p. 1, referring to *Ferdinand Nahimana et al. v. The Prosecutor*, Case No. ICTR-99-52-A, Decision on the Appellant Jean-Bosco Barayagwiza’s Motion Concerning the Scheduling Order for the Appeals Hearing, 5 December 2006, p. 4; *Prosecutor v. Blagoje Simić*, Case No. IT-95-9-A, Order Re-Scheduling Appeal Hearing, 5 May 2006, p. 6.

9:30 a.m. – 9:40 a.m.	Introductory Statement by the Presiding Judge (10 minutes)
9:40 a.m. – 10:55 a.m.	Submissions in support of Delić's Appeal (1 hour and 15 minutes)
10:55 a.m. – 11:25 a.m.	<i>Pause (30 minutes)</i>
11:25 a.m. – 12:15 p.m.	Response of the Prosecution (50 minutes)
12:15 p.m. – 12:35 p.m.	Delić's Reply (20 minutes)
12:35 p.m. – 1:35 p.m.	<i>Lunch break (1 hour)</i>
1:35 p.m. – 2:35 p.m.	Submissions in support of the Prosecution's Appeal (1 hour)
2:35 p.m. – 3:25 p.m.	Delić's Response (50 minutes)
3:25 p.m. – 3:45 p.m.	Prosecution's Reply (20 minutes)
3:45 p.m. – 3:55 p.m.	Brief personal address by Delić (10 minutes) (<i>optional</i>)

INFORMS the parties that, although they remain free to use their allotted argument time as they see fit, they will be invited in due course to address questions from the bench during the hearing;

EMPHASIZING that the present *Addendum* in no way expresses the Appeals Chamber's views on the merits of the Appeals;

HEREBY INVITES the parties, without prejudice to any other matter which they or the Appeals Chamber may wish to address, to develop their written submissions during the time allotted for their oral arguments as above with regard to the followings issues:

1. Under his first ground of appeal, Delić raises challenges to the Trial Chamber's finding that he had effective control over the El Mujahedin Detachment ("EMD") in the period between July and December 1995. In relation to this ground of Delić's appeal, the Appeals Chamber invites the parties to elaborate on indicators of effective control identified in the jurisprudence as relevant to the determination of whether a superior exercised effective control over his subordinates.⁸
2. The Appeals Chamber further invites the parties to address the two following questions:
 - a. whether the Trial Chamber erred by failing to consider one or more of the indicators of effective control discussed in the Trial Judgement to be incompatible with the notion of effective control; and
 - b. whether the Trial Chamber erred by concluding, on the basis of the identified indicators of effective control examined collectively, that Delić had effective control over the EMD in the period between July and December 1995.

⁷ *Milošević* Order, p. 1, citing *Orić* Order, p. 1.

⁸ The Trial Chamber listed such indicators of effective control in the Trial Judgement, paras 62, 367-368.

FURTHER INFORMS the parties that the Appeals Hearing will take place in Courtroom I.

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

Dated this 15th day of December 2009,

At The Hague, The Netherlands.



Judge Andrézia Vaz,
Presiding

[Seal of the Tribunal]