

**UNITED
NATIONS**

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-95-5/18-PT

Date: 9 April 2009

IN THE TRIAL CHAMBER

Before: Judge Iain Bonomy, Presiding
Judge Christoph Flügge
Judge Michèle Picard

Acting Registrar: Mr. John Hocking

THE PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

**PROSECUTION RESPONSE TO PRELIMINARY MOTION ON
LACK OF JURISDICTION: SUPERIOR RESPONSIBILITY**

The Office of the Prosecutor:

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

The Accused:

Mr. Radovan Karadžić

**THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA**

Case No. IT-95-5/18-PT

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**PROSECUTION RESPONSE TO PRELIMINARY MOTION ON LACK OF
JURISDICTION: SUPERIOR RESPONSIBILITY**

I. OVERVIEW

1. Karadžić's preliminary motion on superior responsibility ("Motion")¹ should be rejected for two reasons:

- It fails to raise a jurisdictional issue within the meaning of Rule 72(A)(i). A challenge to the scope of "committing" under Article 7(3) raises issues concerning the contours of a mode of liability under the Statute and is a matter for trial; and
- Even if the Chamber considers the substantive issues in the Motion, a superior can be held liable under Article 7(3) for a subordinate's violation of Article 7(3). Karadžić seeks to avoid responsibility for subordinates' criminal conduct

¹ Preliminary Motion on Lack of Jurisdiction: Superior Responsibility, 30 March 2009 (Motion).

based solely on the classification of that conduct. Such an outcome is contrary to the rationale underpinning superior responsibility.

II. KARADŽIĆ CHALLENGES ONLY THE CONTOURS OF SUPERIOR RESPONSIBILITY, WHICH IS NOT A VALID JURISDICTIONAL CHALLENGE

2. Karadžić wrongly asserts that he challenges jurisdiction within the meaning of Rule 72(A)(i).² In truth, he is challenging the elements and application of a mode of responsibility, which is a matter for trial.

3. A jurisdictional challenge is valid when it focuses on whether a form of responsibility *in toto* comes within the Tribunal's jurisdiction.³ An argument regarding the contours of a form of responsibility is not a jurisdictional challenge.⁴ One such example is when an accused disputes the definition or interpretation of a term underpinning a mode of liability.⁵

4. Thus, in *Perišić*, the Trial Chamber rejected a preliminary motion brought by the Accused arguing that the term "committing" under Article 7(3) is limited to physical commission. The Trial Chamber held that "whether responsibility pursuant to Article 7(3) may in effect arise from[...] [the acts or omissions of the subordinates, including those not amounting to physical commission] is a matter to be resolved at trial."⁶

5. Given that Karadžić similarly challenges the definition of "committing" for the purposes of Article 7(3),⁷ the Motion should be rejected as failing to raise a jurisdictional challenge.

² Motion, paras.2-3, 20.

³ See, e.g., *Tadić* Jurisdiction AD, para.71 (whether Tribunal has jurisdiction over IHL violations in internal armed conflicts); *Odžanić* JCE AD (whether JCE falls within the Tribunal's jurisdiction); *Karemera* JCE AD, para.22 (whether Tribunal has jurisdiction over complicity in genocide under JCE III).

⁴ *Odžanić* Jurisdiction TD, para.23 ("like challenges relating to the contours of a substantive crime, challenges concerning the contours of a form of responsibility are matters to be addressed at trial").

⁵ See *Gotovina* Jurisdiction AD, paras.15, 18.

⁶ *Perišić* Preliminary Motion TD, para.31. But see *Boškoski* Jurisdiction AD, Partially Dissenting Opinion of Judge Pocar, paras.1-4.

⁷ See Motion, paras.1, 12, 14, 16-17.

III. ALTERNATIVELY A SUPERIOR CAN BE HELD LIABLE UNDER ARTICLE 7(3) FOR A SUBORDINATE'S VIOLATION OF ARTICLE 7(3)

6. If the Chamber addresses the Motion's merits, it should reject Karadžić's challenge as inconsistent with Tribunal case-law and the principle of superior responsibility.

A. Tribunal case-law confirms that Article 7(3) covers subordinate criminality based on modes of liability beyond physical commission – superior responsibility is one such mode of liability

7. Article 7(3) states in relevant part that “[t]he fact that any of the acts referred to in articles 2 to 5 of the present Statute was *committed* by a subordinate does not relieve his superior of criminal responsibility.”⁸

8. The Appeals Chamber has confirmed that the term “committed” in Article 7(3) is not limited to the physical commission of crimes by subordinates. A superior can be held responsible for subordinate criminality based on other modes of liability in the Statute.⁹ Although to date the Appeals Chamber has only expressly ruled that Article 7(3) covers subordinate criminality based on the modes of liability in Article 7(1) of the Statute, there is no reason to exclude Article 7(3). As Karadžić acknowledges,¹⁰ superior responsibility as set out in Article 7(3), is a mode of liability just like those set out in Article 7(1).¹¹

9. The Appeals Chamber has left open the prospect of Article 7(3) liability based on a subordinate's violation of Article 7(3). In the *Orić* case, the Appeals Chamber determined that the Trial Chamber had not made the factual findings required to hold Orić responsible under Article 7(3) for his subordinate's violation of Article 7(3).¹² The Appeals Chamber did not state that such responsibility was theoretically

⁸ Emphasis added.

⁹ *Blagojević* AJ, para.280; *Orić* AJ, para.21. See also *Nahimana* AJ, paras.485-486; *Orić* TJ, para.301; *Boškoski* Indictment TD, paras.22-46; *Boškoski* Jurisdiction TD, para.16.

¹⁰ Motion, paras.2.1, 4-5, 8-11.

¹¹ *Kordić* AJ, para.1030; *Blaškić* AJ, paras.93, 647; *Naletilić* AJ, para.369; *Brdanin* TJ, para.284; *Krnjelac* TJ, para.173; *Naletilić* TJ, paras.79, 81; *Galić* TJ, para.177. But see *Krnjelac* AJ, para.171; *Orić* TJ, para.293; *Hadžihasanović* TJ, paras.74-75; *Halilović* TJ, para.54.

¹² *Orić* AJ, para.39.

impermissible. If it was, there would have been no need to determine whether or not the Trial Chamber had made the necessary factual findings. Furthermore, the Appeals Chamber has used general terms such as “criminal activity” to describe the subordinate’s conduct covered by Article 7(3).¹³ This term is broad enough to encompass criminal responsibility incurred through any mode of liability under the Statute, including superior responsibility.

10. Consistent with this approach, the *Boskoški* Trial Chamber held that “‘commit’ [in Article 7(3)] refers to any criminal conduct by a subordinate perpetrated through *any of the modes of liability that are provided for under the Statute.*”¹⁴

B. Principles of statutory interpretation support the conclusion that “committed” in Article 7(3) covers all modes of liability in the Statute

11. The Appeals and Trial Chambers have confirmed that Article 7(3) should be interpreted broadly in light of the object and purpose of superior responsibility:¹⁵

[S]uperior responsibility is the method by which responsible command can be enforced. [...] It imposes a duty on a commander to ensure that those under his command do not commit violations of international humanitarian law and is, therefore, central to the enforcement of international humanitarian law itself. To view ‘commit’ in Article 7(3) narrowly [...] would drastically reduce the types of situations in which superior responsibility could be found to the extent that the form of liability would have minimal impact on the enforcement of either responsible command or international humanitarian law.¹⁶

12. Likewise, the purpose of superior responsibility “would be impaired to an inconceivable degree if a superior had to prevent subordinates only from killing or maltreating [...] [but] could look the other way if he observed that subordinates [engaged in another mode of liability] in procuring the same evil.”¹⁷

¹³ E.g. *Orić* AJ, para.60. See also *Blaškić* AJ, para.214 (referring to crimes being “committed” pursuant to Article 7(3)).

¹⁴ *Boškoski* Indictment TD, para.22 (emphasis added). See also para.46.

¹⁵ *Blagojević* AJ, paras.281-282. See further, *Orić* TJ, para.300; *Boškoski* Indictment TD, para.26.

¹⁶ *Boškoski* Indictment TD, para.26.

¹⁷ *Orić* TJ, para.300.

13. Further, interpreting “committed” in Article 7(3) of the Statute to include all modes of liability under the Statute is consistent with the use of the term “committed” in other articles of the Statute. For example, Article 9 refers to the Tribunal’s concurrent jurisdiction “to prosecute persons for serious violations of international humanitarian law *committed* in the territory of the former Yugoslavia.” Article 29 requires states to co-operate with the Tribunal “in the investigation and prosecution of persons accused of *committing* serious violations of international humanitarian law.” Logically, both of these provisions must cover the crimes in Articles 2-5 of the Statute carried out through the modes of liability in both Articles 7(1) and 7(3) of the Statute. As the *Boskoški* Trial Chamber held:

to interpret ‘committed’ [...] [in these Articles] to mean only one particular mode of liability would have absurd results; for example, the Tribunal’s mandate would be limited in a manner that would prevent the judicial determination of many of the cases that have been decided to date and the Prosecutor would have no authority to investigate and prosecute any cases where the mode of liability was anything other than ‘commission’ in person.¹⁸

14. The Report of the Secretary-General pursuant to Paragraph 2 of Security Council Resolution 808 (“Report”) also supports the conclusion that Article 7(3) covers subordinate criminality based on all modes of liability in the Statute.¹⁹ According to the Report, superiors should be held responsible “for failure to prevent a crime or to deter the unlawful behaviour of his subordinates.”²⁰ As the *Boskoški* Trial Chamber stated, “[The Report’s reference to]‘[u]nlawful behaviour’ encompasses all forms of unlawful conduct, namely, acts and omissions that fall within *all modes of liability under the Statute*.”²¹ Because superior responsibility is a mode of liability under the Statute, it too falls within the contours of “unlawful behaviour.”

C. The superior responsibility doctrine reasonably encompasses responsibility for subordinate criminality based on all modes of liability

15. The customary law doctrine of superior responsibility reasonably encompasses subordinate criminal activity based on all modes of liability. It is not necessary to identify previous instances where superiors have been held liable for subordinate

¹⁸ *Boškoški* Indictment TD, para.24.

¹⁹ *Blagojević* AJ, para.281.

²⁰ Secretary-General Report, para. 56.

criminality based on each and every form of liability. As the Appeals Chamber has confirmed, “it is not an objection to the application of the principle to a particular situation to say that the situation is new if it reasonably falls within the application of the principle.”²²

1. Protocol I envisages superior responsibility for subordinates’ omissions

16. As Karadžić acknowledges,²³ “criminal responsibility under Article 7(3) is based primarily on Article 86(2) of Protocol I.”²⁴ Reading this provision together with Article 86(1) of Protocol I supports the conclusion that a superior can be held liable for a subordinate’s violation of the superior responsibility doctrine.

17. In particular, Article 86(2) of Protocol I refers to superior responsibility for subordinates who have committed a “breach of the Conventions or [...] Protocol [I].” Article 86(1) of the Protocol notes that breaches of the Conventions or the Protocol may “result from a failure to act when under a duty to do so.” Given that superior responsibility is itself a failure to act while under a duty to do so,²⁵ Article 86 (2) must logically encompass liability for subordinates who have themselves violated the superior responsibility doctrine.

2. Other sources confirm that superiors are required to address all forms of unlawful subordinate conduct

18. State military manuals and scholarly literature offer additional support for the Prosecution’s position. The military manuals use general phrases, such as “illegal acts,” “unlawful conduct,” or “violations of the law,” to describe a subordinate’s criminal conduct for purposes of superior responsibility.²⁶ Scholars commenting on

²¹ *Bošković* Indictment TD, para.28 (emphasis added).

²² *Hadžihasanović* Superior Responsibility AD, para.12.

²³ Motion, para.4.

²⁴ *Blagojević* AJ, para.281. *See also Hadžihasanović* Superior Responsibility AD, para.48.

²⁵ *Halilović* TJ, para.38. *See also Milutinović* TJ, Vol.I, para.79.

²⁶ Australian Defence Force Manual, 1994, para.1204 (referring to the duty of a commander to intervene to prevent a subordinate’s “breach” of the law of armed conflict); Canada’s LOAC Manual, 1999, p.15-1 § 7 (“Commanders may be held personally and criminally liable in respect of illegal acts committed by those under their command...”); New Zealand’s Military Manual 1992 § 1603(2) (“The commander is personally liable in respect of illegal acts committed by those under his command...”) and § 1706(1) (The commander “is also liable to punishment if he knew or had information which should have enabled him to conclude, in the circumstances at the time, that a subordinate was committing or going to commit a breach of the law, and failed to take all feasible steps to prevent or

superior responsibility use similar language.²⁷ Because superior responsibility gives rise to a form of “unlawful conduct,” these sources further demonstrate that a superior can be held liable for a subordinate’s violation of Article 7(3).²⁸

19. The scholarly opinion that Karadžić cites in support of his position²⁹ in fact argues in favour of the opposite conclusion.

[W]hy should an accused escape superior responsibility where he has omitted to punish a subordinate for that subordinate’s failure to prevent or punish the criminal conduct of his own subordinates? [...] [A] failure to recognise superior responsibility where the subordinate criminal conduct at issue is an omission under Article 7(3) would appear to be at odds with [...] [the principle] that superiors are responsible for guarding against the criminal omissions of subordinates and not only their acts.³⁰

D. Karadžić’s Arguments Lack Merit

20. Karadžić raises several arguments in his Motion, none of which are meritorious.

21. First, Karadžić wrongly asserts that a superior cannot be held liable under Article 7(3) for a subordinate’s omissions of any kind.³¹ Tribunal case-law confirms that a superior’s criminal responsibility encompasses not only subordinates’ active participation but also their omissions.³² This outcome falls reasonably within the

repress that breach.”); US Air Force Pamphlet, 1976, § 15-2(d) (referring to the responsibility of a commander for “violations by members of his command,” “wrongful acts” and “criminal violations”); France’s LOAC Manual, 2001, p.113, cited in ICRC Study, Vol.II Part 2, p.3740, para.594 (extending superior responsibility to “breaches which they allow their subordinates to perform”); YPA Military Manual of the SFRY, (1988) § 20, cited in ICRC Study, Vol.II Part 2, p.3745, para.620 (extending superior responsibility to acts of subordinates that would violate certain norms); Report on the Practice of Bosnia and Herzegovina, 2000, Chapter 6.1, cited in ICRC Study, Vol.II Part 2, p.3761, para.667 (“the superior officer is obliged to instigate proceedings [...] against the persons violating the rules of the international law of war”).

²⁷ See Bassiouni and Manikas, pp.345, 350 (referring to the “unlawful conduct” and “violative acts” of subordinates); Greenwood, p.35 (referring to the “unlawful behaviour” of subordinates); Parks, p.77 (referring to the “illegal acts” of subordinates); and Paust, pp.81-82 (referring to the “illegal activity” and “illegal conduct” of subordinates).

²⁸ Above, para.15.

²⁹ Motion, para.16, fn.13.

³⁰ Boas, p.248. See also p.252 (“It may be advisable for future chambers of the *ad hoc* Tribunals to endorse an interpretation [...] that does not restrict [‘commit’ in Article 7(3)] to those forms of responsibility that appear in Article 7(1) of the ICTY Statute....”).

³¹ Motion, para.15.

³² See *Orić* AJ, paras.41-46; *Milutinović* TJ, Vol.I, para.114; *Orić* TJ, paras.302-305; *Boškoski* Indictment TD, paras.29-35; *Krnjelac* TJ, paras.172, 318.

superior responsibility principle.³³ Karadžić offers no cogent reasons to depart from this jurisprudence.

22. Despite these clear precedents, Karadžić contests this point because he recognizes the negative implications of this principle for his argument. Given that superiors are generally responsible for subordinate criminality based on omissions, they must be responsible for subordinate criminality based on superior responsibility – a specific type of omission liability.³⁴ As noted above, the scholarly treatise Karadžić cites makes this very argument.³⁵

23. Next, Karadžić argues that the focus of superior responsibility should be on a superior's relationship to the subordinate who perpetrated the crime, rather than on the superior's relationship to the subordinate who failed to prevent or punish the crime in question.³⁶ To the contrary, Article 7(3) imposes liability on the superior for both subordinates' conduct as long as the elements of Article 7(3) are met in relation to both.

24. In some circumstances, however, liability under Article 7(3) will only arise in respect of the subordinate who has violated his own duties as a commander and not in respect of the subordinate who has physically committed the crime. For example, under current case-law, a superior may not be liable for a subordinate-perpetrator's crime because the crime predated the superior's assumption of command.³⁷ However, the superior would still be liable for a second subordinate's failure to punish this crime, when such failure occurred or continued after the superior took over. In this scenario, the criminality of the second subordinate would have occurred after the accused assumed command.

25. Karadžić proposes that superior responsibility covering all modes of liability in the Statute is unworkable because it could impose liability on a superior for multiple levels of subordinate commanders who each failed to prevent or punish the crimes of a subordinate.³⁸ Yet, as acknowledged elsewhere in his Motion,³⁹ superior

³³ See above, para.18 (discussing Article 86 of Protocol I).

³⁴ *Milutinović* TJ, Vol.I, para.79; *Halilović* TJ, para.38.

³⁵ Boas, p.248 (cited in Motion, para.16, fn.13).

³⁶ Motion, para.2.2.

³⁷ *Hadžihasanović* Superior Responsibility AD, para.51.

³⁸ Motion, para.12.

³⁹ Motion, paras.2.2, 13.

responsibility extends to direct and *indirect* subordinates.⁴⁰ Thus, existing case-law already imposes liability on a superior for multiple levels of subordinates.

26. Neither does Karadžić's discussion of the elements of superior responsibility, including effective control and knowledge,⁴¹ advance his argument. It is undisputed that the Prosecution would be required to prove these elements in a case of superior responsibility based on a subordinate's own omissions as a superior. If the evidence was insufficient to establish these elements, then no criminal responsibility would arise. Thus, the existing elements of Article 7(3) already ensure proof of a sufficiently close link between the superior and the subordinate.

27. Finally, despite Karadžić's suggestion,⁴² the practice of certain Chambers to declare that "commit" in Article 7(3) encompasses all modes of responsibility in Article 7(1),⁴³ without simultaneously declaring that it includes Article 7(3) as well, is neither dispositive nor surprising. In these cases, the Chambers were only confronted with whether a superior should be held liable for a subordinate engaging in a mode of liability under Article 7(1). Because these Chambers had no reason to do so, they did not explore whether the term "commit" also covers the mode of liability in Article 7(3) of the Statute. In contrast, when the issue was specifically raised in *Orić*, the Appeals Chamber left open this type of liability.⁴⁴

⁴⁰ *Orić* AJ, para.20.

⁴¹ Motion, paras.6-8.

⁴² Motion, para.16.

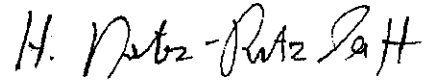
⁴³ *Orić* AJ, para.21; *Blagojević* AJ, para.280; *Milutinović* TJ, Vol.I, para.114; *Delić* TJ, para.56; *Orić* TJ, para.301. *See also Nahimana* AJ, paras.485-486.

⁴⁴ *Orić* AJ, para.39.

IV. CONCLUSION

28. For the reasons given above, the Chamber should reject the Motion.

Word Count: 2,946



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Dated this 9th day of April 2009
At The Hague, The Netherlands

Prosecution's Glossary

ICTY authorities

Abbreviation used in Response	Full citation
<i>Blagojević</i> AJ	<i>Prosecutor v. Vidoje Blagojević & Dragan Jokić</i> , Case No. IT-02-60-A, App.Ch., Judgement, 9 May 2007
<i>Blaškić</i> AJ	<i>Prosecutor v. Tihomir Blaškić</i> , Case No. IT-95-14-A, App.Ch., Judgement, 29 July 2004
<i>Boškoski</i> Jurisdiction AD	<i>Prosecutor v. Ljube Boškoski and Johan Tarčulovski</i> , Case No. IT-04-82-AR72.2, App.Ch., Decision on Ljube Boškoski's Appeal on Jurisdiction, 9 January 2007
<i>Boškoski</i> Indictment TD	<i>Prosecutor v. Ljube Boškoski and Johan Tarčulovski</i> , Case No. IT-04-82-PT, Decision on Prosecution's Motion to Amend the Indictment and Submission of Proposed Second Amended Indictment and Submission of Amended Pre-Trial Brief, 26 May 2006
<i>Boškoski</i> Jurisdiction TD	<i>Prosecutor v. Ljube Boškoski and Johan Tarčulovski</i> , Case No. IT-04-82-PT, Decision on Assigned Pro Bono Counsel Motion Challenging Jurisdiction, 8 September 2006
<i>Brđanin</i> TJ	<i>Prosecutor v. Radoslav Brđanin</i> , Case No. IT-99-36-T, T.Ch., Judgement, 1 September 2004
<i>Delić</i> TJ	<i>Prosecutor v. Rasim Delić</i> , Case No. IT-04-83-T, T.Ch., Judgement, 15 September 2008
<i>Galić</i> TJ	<i>Prosecutor v. Stanislav Galić</i> , Case No. IT-98-29-T, T.Ch., Judgement, 5 December 2003
<i>Gotovina</i> Jurisdiction AD	<i>Prosecutor v. Gotovina</i> , Case No. IT-06-90-AR72.1, App.Ch., Decision on Ante Gotovina's Interlocutory Appeal against Decision on Several Motions Challenging Jurisdiction, 6 June 2007
<i>Hadžihasanović</i> Superior Responsibility AD	<i>Prosecutor v. Enver Hadžihasanović & Amir Kubura</i> , Case No. IT-01-47-AR72, App.Ch., Decision on Interlocutory Appeal Challenging Jurisdiction in Relation to Command Responsibility, 16 July 2003
<i>Hadžihasanović</i> TJ	<i>Prosecutor v. Enver Hadžihasanović & Amir Kubura</i> , Case No. IT-01-47-T, T.Ch. Judgement, 15 March 2006
<i>Halilović</i> TJ	<i>Prosecutor v. Sefer Halilović</i> , Case No. IT-01-48-T, T.Ch., Judgement, 16 November 2005

<i>Kordić</i> AJ	<i>Prosecutor v. Dario Kordić & Mario Čerkez</i> , Case No. IT-95-14/2-A, App.Ch., Judgement, 17 December 2004
<i>Krnojelac</i> AJ	<i>Prosecutor v. Milorad Krnojelac</i> , Case No. IT-97-25-A, App.Ch., Judgement, 17 September 2003
<i>Krnojelac</i> TJ	<i>Prosecutor v. Milorad Krnojelac</i> , Case No. IT-97-25-T, T.Ch., Judgement, 15 March 2002
<i>Milutinović</i> TJ	<i>Prosecutor v. Milan Milutinović, Nikola Šainović, Dragoljub Ojdanić, Nebojša Pavković, Vladimir Lazarević and Sreten Lukić</i> , Case No.IT-05-87-T, Judgement, 26 February 2009
<i>Naletilić</i> AJ	<i>Prosecutor v. Mladen Naletilić & Vinko Martinović</i> , Case No. IT-98-34- A, App.Ch., Judgement, 3 May 2006
<i>Naletilić</i> TJ	<i>Prosecutor v. Mladen Naletilić & Vinko Martinović</i> , Case No. IT-98-34-T, T.Ch., Judgement, 31 March 2003
<i>Ojdanić</i> JCE AD	<i>Prosecutor v. Dragoljub Ojdanić et al.</i> , Case No. IT-99-37-AR72, App.Ch., Decision on Dragoljub Ojdanić's Motion challenging Jurisdiction-Joint Criminal Enterprise, 21 May 2003
<i>Ojdanić</i> Jurisdiction TD	<i>Prosecutor v. Dragoljub Ojdanić et al.</i> , Case No. IT-05-87-T, Decision on Ojdanić's Motion Challenging Jurisdiction: Indirect Coperpetration, 22 March 2006
<i>Orić</i> AJ	<i>Prosecutor v. Naser Orić</i> , Case No. IT-03-68-A, App.Ch., Judgement, 3 July 2008
<i>Orić</i> TJ	<i>Prosecutor v. Naser Orić</i> , Case No. IT-03-68-T, T.Ch., Judgement, 30 June 2006
<i>Perišić</i> Preliminary Motion TD	<i>Prosecutor v. Momčilo Perišić</i> , Case No. IT-04-81-PT, Decision on Preliminary Motions, 29 August 2005
<i>Tadić</i> Jurisdiction AD	<i>Prosecutor v. Tadić</i> , Case No. IT-94-1-AR72, App.Ch., Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995

ICTR authorities

Abbreviation used in Response	Full citation
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	Appeals: Joint Criminal Enterprise, 12 April 2006
<i>Nahimana AJ</i>	<i>Prosecutor v. Ferdinand Nahimana, Jean-Bosco Barayagwiza & Hassan Ngeze</i> , Case No. ICTR-99-52-A, App.Ch., Judgement, 28 November 2007

General Sources

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Australian Defence Force Manual 1994	<i>Australian Defence Force Law of Armed Conflict Training</i> (1994)
Bassiouni and Manikas	M. Cherif Bassiouni and Peter Manikas, <i>The Law of the International Criminal Tribunal for the Former Yugoslavia</i> (Irrington-on-Hudson: Transnational Publishers, 1996)
Boas	Gideon Boas <i>et al.</i> , <i>Forms of Responsibility in International Criminal Law</i> (2007)
Canada's LOAC Manual 1999	Office of the Judge Advocate General, <i>The Law of Armed Conflict at the Operational and Tactical Level</i> , 1999
Greenwood	Christopher Greenwood, <i>Command and the Laws of Armed Conflict</i> (Camberley: Strategic and Combat Studies Institute, 1993)
ICRC Study	Henckaerts J-M., Doswald-Beck L. (eds.), <i>Customary International Humanitarian Law</i> . International Committee of the Red Cross, (Cambridge: Cambridge University Press, 2005)
New Zealand's Military Manual 1992	Directorate of Legal Services, New Zealand Defence Force, <i>DM 112: Interim Law of Armed Conflict Manual</i> (1992)
Parks	William Parks, "Command Responsibility for War Crimes," 62 <i>Military Law Review</i> 1 (1973)
Paust	Jordan Paust, "Superior Orders and Command Responsibility," in M. Cherif Bassiouni, ed., <i>International Criminal Law</i> , 2nd edition (Dobbs Ferry: Transnational Publishers, 1999)
Protocol I	Additional Protocol I to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I) of 8 June 1977
Secretary-General Report	Report of the Secretary-General Pursuant to Paragraph 2 of the Security Council Resolution 808 (3 May 1993), UN DOC. S/25704

US Air Force Pamphlet (1976)	United States Air Force, <i>International Law - the Conduct of Armed Conflict and Air Operations</i> (1976)
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Other Abbreviations

Abbreviation used in Response	Full citation
fn.	Footnote
para.	paragraph
paras.	paragraphs
p.	page
pp.	pages
Rules	Rules of Procedure and Evidence
Statute	Statute of the International Criminal Tribunal for the Former Yugoslavia established by the Security Council Resolution 827 (1993)