

**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-04-74-A
Date: 11 December 2014
Original: English

IN THE APPEALS CHAMBER

Before: Judge Theodor Meron, Presiding
Judge Carmel Agius
Judge Fausto Pocar
Judge Liu Daqun
Judge Bakone Justice Moloto

Registrar: Mr. John Hocking

Decision of: 11 December 2014

PROSECUTOR

v.

**JADRANKO PRLIĆ
BRUNO STOJIĆ
SLOBODAN PRALJAK
MILIVOJ PETKOVIĆ
VALENTIN ĆORIĆ
BERISLAV PUŠIĆ**

PUBLIC

**DECISION ON PROSECUTION MOTION
TO STRIKE GROUNDS 12 AND 14
OF VALENTIN ĆORIĆ'S NOTICE OF APPEAL**

The Office of the Prosecutor:

**Mr. Douglas Stringer
Mr. Mathias Marcussen**

Counsel for the Accused:

Mr. Michael G. Karnavas and Ms. Suzana Tomanović for Mr. Jadranko Prlić
Ms. Senka Nožica and Mr. Karim A. A. Khan for Mr. Bruno Stojić
Ms. Nika Pinter and Ms. Natacha Fauveau-Ivanović for Mr. Slobodan Praljak
Ms. Vesna Alaburić and Mr. Guénaél Mettraux for Mr. Milivoj Petković
Ms. Dijana Tomašegović-Tomić and Mr. Dražen Plavec for Mr. Valentin Ćorić
Mr. Fahrudin Ibrišimović and Mr. Roger Sahota for Mr. Berislav Pušić

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);

NOTING the judgement rendered in French by Trial Chamber III of the Tribunal on 29 May 2013 and the English translation filed on 6 June 2014;¹

NOTING the “Notice of Appeal Filed on Behalf of Mr. Valentin Ćorić”, filed by Valentin Ćorić (“Ćorić”) on 4 August 2014 (“Notice of Appeal”);

BEING SEISED of the “Prosecution Motion to Strike Grounds 12 and 14 of Valentin Ćorić’s Notice of Appeal”, filed by the Office of the Prosecutor (“Prosecution”) on 21 October 2014 (“Motion”), in which the Prosecution requests the Appeals Chamber to strike: (i) grounds 12 and 14 of the Notice of Appeal, on the ground that they do not comply with the requirements set out in Rule 108 of the Rules of Procedure and Evidence of the Tribunal (“Rules”) and paragraph 1(c)(iii) of the Practice Direction on Formal Requirements for Appeals from Judgement;² or alternatively (ii) ground 14 in its entirety and paragraph 80 under ground 12 of the Notice of Appeal;³

NOTING the “Response to Prosecution Motion to Strike Grounds 12 and 14 of Valentin Ćorić’s Appeal”, filed by Ćorić on 30 October 2014 (“Response”), in which Ćorić argues that the Motion should be denied;⁴

RECALLING that, pursuant to Rule 108 of the Rules, in the notice of appeal, the appellant should “identify the order, decision or ruling challenged with specific reference to the date of its filing, and/or the transcript page, and indicate the substance of the alleged errors and the relief sought”;

RECALLING that, pursuant to paragraph 1(c)(iii) of the Practice Direction, a party seeking to appeal from a trial judgement must file, in accordance with the Tribunal’s Statute and the Rules, a notice of appeal containing, *inter alia*, the grounds of appeal, clearly specifying in respect of each ground the challenged finding or ruling in the judgement, with specific reference to the relevant page number and paragraph number;

NOTING the Prosecution’s assertion that paragraph 80 under ground 12 and ground 14 in its entirety of the Notice of Appeal neither identify the precise legal and factual findings in the Trial

¹ *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-T, Judgement, 6 June 2014 (French original filed on 29 May 2013) (“Trial Judgement”).

² IT/201, 7 March 2002 (“Practice Direction”).

³ Motion, paras 1-3, 6.

⁴ Response, para. 4, pp. 2, 6.

Judgement that are being challenged nor include specific references to the relevant portions of the Trial Judgement, thus failing to provide the Prosecution with sufficient notice of the scope of the challenges raised under those grounds and placing it at a disadvantage in preparing its response to those challenges;⁵

NOTING Ćorić's response that: (i) the Motion is time-barred as the Prosecution could have raised such objections to the Notice of Appeal earlier; and (ii) there is no ultimate disadvantage to the Prosecution as a result of the relative lack of specificity in the Notice of Appeal given that Ćorić will set forth those arguments in greater detail in his appeal brief;⁶

NOTING Ćorić's submission that in ground 12 of the Notice of Appeal, he pointed to specific paragraphs of the Trial Judgement containing erroneous findings on unreliable documentary evidence, which affect and invalidate the Trial Judgement in its entirety;⁷

NOTING Ćorić's additional submission that ground 14 of the Notice of Appeal, which concerns the lack of citations and disregard of certain defence evidence in the Trial Judgement, complies with the requirements of Rule 108 of the Rules and the Practice Direction, and that he cannot "easily" identify relevant paragraphs as the error alleged under ground 14 is pervasive throughout the Trial Judgement;⁸

NOTING further Ćorić's submission that the remedy sought by the Prosecution is "too severe" and that, if the Appeals Chamber deems the challenged grounds of appeal to be inadequately pleaded, he should be given the opportunity to amend his Notice of Appeal;⁹

CONSIDERING that, while ground 12 of the Notice of Appeal provides exact references to the paragraphs of the Trial Judgement that are being challenged,¹⁰ paragraph 80 of the Notice of Appeal does not include any references to other findings in, or paragraphs of, the Trial Judgement that are affected by the Trial Chamber's alleged evidentiary errors;

⁵ Motion, paras 2–3, 5.

⁶ Response, paras 3, 5-7, 10. Ćorić also submits that the Prosecution Motion ignores the jurisprudence of the Tribunal and the International Criminal Tribunal for Rwanda ("ICTR") on the purpose of a notice of appeal. *See* Response, para. 8. Ćorić explains that, in the *Nahimana et al.* case, the ICTR Appeals Chamber had considered that the notice of appeal, together with the appeal brief, provided sufficient to the Prosecution of the grounds on which the appeal was based. *See* Response, para. 9, referring to *Prosecutor v. Ferdinand Nahimana et al.*, Case No. ICTR-99-52-A, Decision on Appellant Jean-Bosco Barayagwiza's Motions for Leave to Submit Additional Grounds of Appeal, to Amend the Notice of Appeal and to Correct His Appellant's Brief, 17 August 2006 ("*Nahimana et al.* Decision"), para. 50. The Appeals Chamber, however, observes that the circumstances in the *Nahimana et al.* case differ from those in this specific instance as the notice of appeal in that case was accepted as validly filed, even though it did not conform to the applicable ICTR rules and practice direction. The ICTR Appeals Chamber held, in particular, that the simultaneous filing of the notice of the appeal and the appeal brief allowed the Prosecution to sufficiently understand the appellant's grounds of appeal. *See Nahimana et al.* Decision, para. 50.

⁷ Response, para. 12.

⁸ Response, para. 13.

CONSIDERING FURTHER that in ground 14 of the Notice of Appeal, Ćorić merely states that the Trial Chamber's failure to consider and analyse certain defence evidence is such that it invalidates the entire Trial Judgement, without clearly specifying the challenged findings or providing specific reference to the relevant page and paragraph numbers;¹¹

FINDING that the Prosecution's objections to the specificity of the Notice of Appeal are justified and that ground 12, in part, and ground 14 of the Notice of Appeal fail to conform to the requirements of Rule 108 of the Rules and paragraph 1(c)(iii) of the Practice Direction and, therefore, also fail to provide the Prosecution with sufficient notice of the exact scope of Ćorić's appeal;

CONSIDERING, however, that the Prosecution will not be prejudiced if the Notice of Appeal is amended and further specified with regard to ground 12 in part and ground 14, as long as the substance of these grounds remains unmodified;

FINDING therefore that it is in the interests of justice to allow Ćorić to amend grounds 12 and 14 of his Notice of Appeal consistent with the relevant provisions of the Rules and the Practice Direction;

FOR THE FOREGOING REASONS,

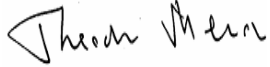
GRANTS the Motion in part;

ORDERS Ćorić to re-file his Notice of Appeal within 14 days of the filing of this decision, as directed above, and in accordance with the requirements set out in the relevant provisions of the Rules and the Practice Direction; and

DENIES the Motion in all other respects.

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

Done this 11th day of December 2014,
At The Hague,
The Netherlands.



Judge Theodor Meron
Presiding

[Seal of the Tribunal]

⁹ Response, paras 14, 17.

¹⁰ Notice of Appeal, paras 74-79.

¹¹ Notice of Appeal, paras 84-87, *referring to* Trial Judgement, Volumes 1-6.