

**UNITED
NATIONS**



International Tribunal for the
Prosecution of Persons
Responsible for Serious Violations of
International Humanitarian Law
Committed in the Territory of
Former Yugoslavia since 1991

Case No. IT/201

Date: 7 March 2002

Original: French

**PRACTICE DIRECTION ON FORMAL REQUIREMENTS FOR
APPEALS FROM JUDGEMENT**

(IT/201)

PRACTICE DIRECTION ON FORMAL REQUIREMENTS FOR APPEALS FROM JUDGEMENT

I. INTRODUCTION

In accordance with Rule 19(B) of the Rules of Procedure and Evidence 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 (“Rules” and “International Tribunal”, respectively) and having consulted with the Bureau, the Registrar, the Prosecutor and the Appeals Chamber, I issue this Practice Direction in order to establish the formal requirements for appeals from judgement (“Practice Direction”) before the International Tribunal:

II. FORMAL REQUIREMENTS

The Appellant’s Notice of Appeal

1. A party seeking to appeal from a judgement of a Trial Chamber (“Appellant”) shall file, in accordance with the Statute of the International Criminal Tribunal for the Former Yugoslavia (“Statute”), in particular Article 25 of the Statute, and the Rules, a Notice of Appeal containing, in the following order:

- (a) the date of the judgement;
- (b) the specific provision of the Rules pursuant to which the Notice of Appeal is filed;
- (c) the grounds of appeal, clearly specifying in respect of each ground of appeal:
 - (i) any alleged error on a question of law invalidating the decision, and/or
 - (ii) any alleged error of fact which has occasioned a miscarriage of justice;
 - (iii) an identification of the finding or ruling challenged in the judgement, with specific reference to the page number and paragraph number;
 - (iv) an identification of any other order, decision or ruling challenged, with specific reference to the date of its filing, and/or transcript page;

- (v) the precise relief sought;
- (d) if relevant, the overall relief sought.

Variation of the Grounds of Appeal

2. Any party applying to vary the grounds of appeal must do so by way of motion in accordance with the Rules, setting out :
 - (a) the specific Rule under which the variation is sought; and
 - (b) the arguments in support of the request to vary the grounds of appeal as required by that Rule.
3. If leave is granted to vary the grounds of appeal then the varied grounds of appeal shall comply with the requirements of this Practice Direction *mutatis mutandis*.

The Appellant's Brief

4. After having filed a Notice of Appeal, the Appellant shall file, in accordance with the Statute and the Rules, an Appellant's Brief containing, in the following order:
 - (a) an introduction with a concise summary of the relevant procedural history including the date of the judgement as well as the case number and date of any interlocutory filing or decision relevant to the appeal;
 - (b) the arguments in support of each ground of appeal, including, but not limited to:
 - (i) legal arguments, giving clear and precise references to relevant provisions of the Statute, the Rules, the jurisprudence of the International Tribunal or other legal authorities relied upon;
 - (ii) factual arguments and, if applicable, arguments in support of any objections as to whether a fact has been sufficiently proven or not, with precise reference to any relevant exhibit, transcript page, decision or paragraph number in the judgement;
 - (iii) arguments in support of the submitted causal link between any alleged error on a question of law invalidating the decision and/or any alleged error of fact which has occasioned a miscarriage of justice;
 - (iv) the precise relief sought;
 - (c) the arguments in support of any overall relief sought.

The grounds of appeal and the arguments must be set out and numbered in the same

order as in the Appellant's Notice of Appeal, unless otherwise varied with leave of the Appeals Chamber.

The Respondent's Brief

5. The opposite party ("Respondent") shall file, in accordance with the Statute and the Rules, a Respondent's Brief, containing for each ground of appeal, in the following order:

- (a) a statement on whether or not the relief sought by the Appellant is opposed;
- (b) a statement on whether or not the ground of appeal is opposed;
- (c) arguments in support of these statements, containing:
 - (i) legal arguments, including clear and precise references to the relevant provisions of the Statute, the Rules, the jurisprudence of the International Tribunal or other legal authorities relied upon;
 - (ii) factual arguments including, if applicable, the arguments in support of the assertion that a fact has been sufficiently proven or not, with precise reference to any relevant exhibit, transcript page, decision or paragraph number in the judgement;
 - (iii) arguments pertaining to the submitted causal link between any alleged error on a question of law invalidating the decision and/or any alleged error of fact which has occasioned a miscarriage of justice.

The statements and the arguments must be set out and numbered in the same order as in the Appellant's Brief and shall be limited to arguments made in response to that brief. However, if an Appellant relies on a particular ground to reverse an acquittal, the Respondent may support the acquittal on additional grounds.

The Appellant's Brief in Reply

6. An Appellant may file, in accordance with the Statute and the Rules, an Appellant's Brief in Reply, limited to arguments in reply to the Respondent's Brief, set out and numbered in the same order as in previous briefs.

The Book of Authorities

7. A Book of Authorities must be attached to the Appellant's Brief and the Respondent's Brief, in accordance with the Rules, containing a separate compilation setting out clearly all authorities relied upon.
8. The Book of Authorities shall include a table of contents describing each document and exhibit including the date and reference.
9. Authorities of the International Tribunal and the International Criminal Tribunal for Rwanda (together "International Tribunals") need not be provided. All other authorities shall be provided in an authorised version of the authority in question, complete with an English or French translation, if the original is not in one of the languages of the International Tribunals.
10. A party may object to a translation by filing a motion no later than fifteen days from the filing of the Book of Authorities containing the translation challenged.

Additional Evidence

11. Any party applying to present additional evidence shall do so by way of motion filed, in accordance with the Statute and the Rules, such motion containing, in the following order:
 - (a) a precise list of the evidence the party is seeking to have presented;
 - (b) an identification of each ground of appeal to which the evidence relates and, where applicable, a request to submit any additional grounds of appeal based on such evidence;
 - (c) arguments in relation to the requirement of non-availability at trial;
 - (d) arguments in relation to the requirement that the admission of the evidence is in the interests of justice;

The relevant documents and exhibits, where applicable, shall be translated into one of the languages of the International Tribunal.

12. If a party is authorised to present additional evidence then the requirements of this

Practice Direction apply *mutatis mutandis*.

III. GENERAL REQUIREMENTS

13. Where filings of the parties refer to passages in a judgement, decision, transcripts, exhibits or other authorities, they shall indicate precisely the date, exhibit number, page number and paragraph number of the text or exhibit referred to.

14. Any abbreviations or designations used by the parties in their filings shall be uniform throughout. Pages and paragraphs shall be numbered consecutively from the beginning to the end.

15. Any time limits prescribed under this Practice Direction shall run from, but shall not include, the day upon which the relevant document is filed. Should the last day of a time prescribed fall upon a non-working day of the International Tribunal it shall be considered as falling on the first working day thereafter.

16. The provisions of this Practice Direction are without prejudice to any such orders or decisions that may be made by a designated Pre-Appeal Judge or the Appeals Chamber. In particular a Pre-Appeal Judge or the Appeals Chamber may vary any time limit or recognise, as validly done any act done after the expiration of a time limit prescribed in this Practice Direction.

IV. NON-COMPLIANCE WITH THE REQUIREMENTS

17. Where a party fails to comply with the requirements laid down in this Practice Direction, or where the wording of a filing is unclear or ambiguous, a designated Pre-Appeal Judge or the Appeals Chamber may, within its discretion, decide upon an appropriate sanction, which can include an order for clarification or re-filing. The Appeals Chamber may also reject a filing or dismiss submissions therein.

Signed

Claude Jorda

President