

**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-02-54-R77.5-A
Date: 11 October 2011
Original: English

IN THE APPEALS CHAMBER

Before: Judge Patrick Robinson, Presiding
Judge Andréia Vaz
Judge Theodor Meron
Judge Burton Hall
Judge Howard Morrison

Registrar: Mr. John Hocking

Order: 11 October 2011

IN THE CASE AGAINST FLORENCE HARTMANN

PUBLIC

ORDER ON PAYMENT OF FINE PURSUANT TO RULE 77 *BIS*

Amicus Curiae Prosecutor

Mr. Bruce MacFarlane

Counsel for Ms. Florence Hartmann

Mr. Karim A. A. Kahn, Lead Counsel
Mr. Guénaél Mettraux, Co-Counsel

1. **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) is in receipt of a “Registry Notice Pursuant to Rule 33(B) Concerning Non-Receipt of Funds”, filed on 25 August 2011 (“First Registry Submission”) and a “Registry Notice Pursuant to Rule 33(B) Concerning Non-Receipt of Funds”, filed on 27 September 2011 (“Second Registry Submission”).

2. On 19 July 2011, the Appeals Chamber issued its Judgement in this case, in which it dismissed all the grounds of appeal advanced by Ms. Florence Hartmann and affirmed the imposition of a fine of €7,000, payable to the Registrar of the Tribunal in two instalments of €3,500 on 18 August 2011 and 19 September 2011.¹

3. On 16 August 2011, Ms. Hartmann sent a letter to Judge Patrick Robinson, in his capacity as the President of the Tribunal. This letter was not filed on the record of these proceedings, but was distributed to the Appeals Chamber by the President. In the letter, Ms. Hartmann informs that she is unable to pay the fine and recalls that she was determined indigent by the Registry on 13 November 2008. She also informs that “[p]ersons who have supported me throughout this proceeding have collected the funds required to pay this fine. To this end, they have deposited these funds in a French bank account”. She then provides details of the account. Ms. Hartmann states that a copy of her letter is being forwarded to the French authorities with jurisdiction to address this matter in order to alert them that the Tribunal may ask them to collect these funds for purposes of paying the fine. Ms. Hartmann copies the following on her letter: Mr. Alain Juppé, Minister of Foreign and European Affairs; Mr. Michel Mercier, Keeper of the Seals, Minister of Justice and Liberties; Mr. François Zimeray, Ambassador for Human Rights; and Mr. Jean-François Blarel, Ambassador of France to The Netherlands.

4. In the First Registry Submission, the Deputy Registrar confirms that Ms. Hartmann’s Counsel received the Judgement as of the date of its filing. The Deputy Registrar informs the Appeals Chamber that, by letter dated 28 July 2011, which attached a copy of the Judgement, the Registrar informed Ms. Hartmann of the appropriate manner in which to transfer the funds payable to the Tribunal as a result of her fine. The Deputy Registrar finally informs the Appeals Chamber that, as of 25 August 2011, the Tribunal’s Finance Department had not received the first instalment from Ms. Hartmann in accordance with the Judgement.²

¹ Judgement, 19 July 2011, para. 172.

² First Registry Submission, paras 3-4.

5. On 19 September 2011, Ms. Hartmann sent another letter to Judge Patrick Robinson, in his capacity as the President of the Tribunal. This letter was not filed on the record of these proceedings, but was distributed to the Appeals Chamber by the President. In the letter, Ms. Hartmann informs that “the funds corresponding to the fine that [she] was sentenced to pay ... were deposited within the deadline set by the judgement in a French bank account”. She provides details of the account. She further informs that the funds “were collected by persons who supported [her] throughout these proceedings” and “will remain at the Tribunal’s disposal”. Ms. Hartmann states that a copy of her letter is being forwarded to the “relevant French authorities”.

6. In the Second Registry Submission, the Acting Deputy Registrar confirms that, as of 26 September 2011, the Tribunal’s Finance Department has not received the first or second instalment from Ms. Hartmann in accordance with the Judgement.³

7. The Appeals Chamber notes that paragraph (B) of Rule 77 *bis* of the Rules of Procedure and Evidence of the Tribunal (“Rules”) provides that, “[w]here a fine imposed under Rule 77 or Rule 91 is not paid within the time specified, the Chamber imposing the fine may issue an order requiring the person on whom the fine is imposed to appear before, or to respond in writing to, the Tribunal to explain why the fine has not been paid.” Paragraph (C) of Rule 77 *bis* of the Rules provides that, “[a]fter affording the person on whom the fine is imposed an opportunity to be heard, the Chamber may make a decision that appropriate measures be taken, including: (i) extending the time for payment of the fine; (ii) requiring the payment of the fine to be made in instalments; ... (iv) converting the whole or part of the fine to a term of imprisonment not exceeding twelve months.” Paragraph (D) of the Rule provides that, “[i]n addition to a decision under paragraph (C), the Chamber may find the person in contempt of the Tribunal and impose a new penalty applying Rule 77 (G), if that person was able to pay the fine within the specified time and has wilfully failed to do so. This penalty for contempt of the Tribunal shall be additional to the original fine imposed.” Paragraph (E) provides that “[t]he Chamber may, if necessary, issue an arrest warrant to secure the person’s presence where he or she fails to appear before or respond in writing pursuant to an order under paragraph (B). A State or authority to whom such a warrant is addressed, in accordance with Article 29 of the Statute, shall act promptly and with all due diligence to ensure proper and effective execution thereof.”

8. Based upon the information contained within the Registry’s Submissions and according to the procedure laid out in Rule 77 *bis* of the Rules, the Appeals Chamber finds that the first and

³ Second Registry Submission, para. 4.

second instalments of the fine imposed under Rule 77 of the Rules have not been paid within the time specified.

9. Accordingly, the Appeals Chamber hereby
- (a) REITERATES Ms. Hartmann's obligation to pay the fine in the exact manner prescribed by the Registry;
 - (b) REQUIRES, recalling paragraphs (C)(iv) and (E) of Rule 77 *bis* of the Rules, that Ms. Hartmann, or an agent acting on her behalf, transfer the funds to pay the fine in the exact manner prescribed by the Registry no later than 25 October 2011; and
 - (c) ORDERS Ms. Hartmann to file, by no later than 26 October 2011, a written response under the procedure laid out in Rule 77 *bis* (B) of the Rules, in the event that the fine has not been paid in accordance with the foregoing paragraph.

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



Judge Patrick Robinson
Presiding

Dated this 11th day of October 2011,
At The Hague,
The Netherlands.

[Seal of the Tribunal]