



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-01-48-A
Date: 19 June 2007
Original: English

IN THE APPEALS CHAMBER

Before: Judge Mehmet Güney, Presiding
Judge Mohamed Shahabuddeen
Judge Andréia Vaz
Judge Theodor Meron
Judge Wolfgang Schomburg

Registrar: Mr. Hans Holthuis

Order of: 19 June 2007

PROSECUTOR

v.

Sefer HALILOVIĆ

**ADDENDUM TO SCHEDULING ORDER FOR APPEAL HEARING
(QUESTIONS TO THE PARTIES)**

The Office of the Prosecutor:

Mr. Peter Kremer
Ms. Christine Dahl

Counsel for Sefer Halilović:

Mr. Peter Morrissey
Mr. Guénaél Mettraux

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 “International Tribunal”, respectively);

RECALLING the Scheduling Order issued by the Appeals Chamber on 4 June 2007, which set the dates for the hearing of the merits of the appeal in this case as Tuesday 10 and Wednesday 11 July 2007, and which informed the parties of the timetable for the hearing;¹

CONSIDERING the need to ensure that the time allotted for the appeal hearing is used as efficiently as possible;

EMPHASISING that the present order in no way expresses the Appeals Chamber’s views on the merits of the appeal, which will be determined in the Appeal Judgement;

HEREBY INFORMS the parties that during the course of the appeal hearing, and without prejudice to any other matter which the parties or the Appeals Chamber may wish to address, the Appeals Chamber invites the parties to develop their submissions with regard, *inter alia*, to the following issues:

1. In its Notice of Appeal, the Prosecution alleges that “the Trial Chamber erred in law and in fact at paragraphs 372 and 752 [of the Trial Judgement] in finding that the Prosecution had failed to prove beyond reasonable doubt that Sefer Halilović was *de facto* commander of an operation called ‘Operation Neretva’”.² Given that it is not explicitly reiterated in the Prosecution Appeal Brief, could this claim be deemed as having been abandoned? If not, can the Prosecution point at specific paragraphs in its Appeal Brief where this claim is substantiated?

2. Can the Prosecution explain how the functions of the Inspection Team, as established in the Trial Judgement, could be an indicator of Sefer Halilović’s effective control over the perpetrators of the crimes committed in Grabovica in light of Sefer Halilović’s role as Team Leader of this Inspection Team?

3. How does the Prosecution suggest that a finding by the Trial Chamber that a forward command post (“IKM”) existed in Jablanica would have led to the conclusion that Sefer Halilović was at least the *de facto* superior of those who committed the crimes in Grabovica?

¹ Scheduling Order for Appeal Hearing, 4 June 2007 (“Scheduling Order”).

² Prosecution’s Notice of Appeal, 16 December 2005, paras 4(i), 4(ii) and 4(iii).

4. Considering that the Trial Chamber found that, on 12 September 1993, Rasim Delić sent Sefer Halilović an order to “[c]heck the accuracy of information regarding the genocide committed against the civilian population [...], isolate the perpetrators and take energetic measures”,³ how does Sefer Halilović respond to the Prosecution’s contention that, based on this order and on Sefer Halilović’s own instruction to Namik Džanković “to collect as much information as possible”,⁴ he had at least the *material ability* to carry forward an effective investigation and thereby had the material ability to punish the perpetrators of the crimes committed in Grabovica?⁵

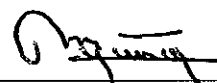
5. In relation to the allegedly erroneous application of the “beyond reasonable doubt” standard of proof by the Trial Chamber throughout the Trial Judgement, how does the Prosecution respond to Sefer Halilović’s assertion that the same ground of appeal, phrased in very similar terms, was dismissed by the ICTR Appeals Chamber in the *Ntagerura et al.* Appeal Judgement?⁶

6. How does Sefer Halilović respond to the Prosecution’s contention, based on the language in the *Čelebići* Appeal Judgement⁷ (para. 238: “a military commander who has received information that some of the soldiers under his command have a violent or unstable character, or have been drinking prior to being sent on a mission, may be considered as having the required knowledge”) that he should have known that soldiers of the 9th Brigade were going to commit murders in Grabovica?⁸

7. Assuming a reversal of Sefer Halilović’s acquittal, what are the relevant factors to which the parties would specifically like to draw the attention of the Appeals Chamber in relation to sentencing?

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

Dated this nineteenth day of June 2007,
At The Hague, The Netherlands.



Judge Mehmet Güney
Presiding Judge

[Seal of the International Tribunal]

³ *Prosecutor v. Sefer Halilović*, Case No. IT-01-48-T, Judgement, 16 November 2005 (“Trial Judgement”), para. 307.

⁴ Trial Judgement, para. 521.

⁵ The Prosecution’s Appeal Brief, paras 2.37, 2.111, attached to the Prosecution’s Corrigendum to Appeal Brief, 18 October 2006 (“Prosecution Appeal Brief”); The Prosecution’s Reply Brief, 12 December 2006 (“Prosecution Reply Brief”), paras 3.23-3.25.

⁶ Defence Respondent’s Brief, 27 November 2006, para. 192, referring to *Prosecutor v. Ntagerura et al.*, Case No. ICTR-99-46-A, Judgement, 7 July 2006, paras 166-175.

⁷ *Prosecutor v. Delalić et al.*, Case No. IT-96-21-A, Judgement, 20 February 2001.

⁸ Prosecution Appeal Brief, paras 3.21; Prosecution Reply Brief, para 4.7.