



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-95-11-A
Date: 10 January 2008
Original: English

IN THE APPEALS CHAMBER

Before: Judge Wolfgang Schomburg, Pre-Appeal Judge
Registrar: Mr. Hans Holthuis
Decision of: 10 January 2008

PROSECUTOR

v.

MILAN MARTIĆ

PUBLIC

**DECISION ON DEFENCE MOTION FOR VARIATION OF THE
GROUNDS OF APPEAL**

The Office of the Prosecutor:

Ms. Michelle Jarvis

Counsel for the Accused:

Mr. Predrag Milovančević
Mr. Nikola Perović

I, WOLFGANG SCHOMBURG, a Judge of 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 (“International Tribunal”) and Pre-Appeal Judge in this case;¹

NOTING that the Trial Judgement was delivered on 12 June 2007;

NOTING the “Defence Notice of Appeal against the Trial Judgment of 12 June 2007” (“Original Notice of Appeal”) filed by Milan Martić (“Appellant”) on 12 July 2007;

BEING SEISED OF the “Motion for Variation of the Grounds of Appeal” (“Motion”) filed by the Appellant on 4 January 2008;

NOTING that the deadline for the Appellant to file his Appeal Brief expires on 14 January 2008;²

NOTING that, in the Motion, the Appellant requests that he be allowed to vary the grounds of appeal contained in his Original Notice of Appeal in order to be able to present all arguments within the prescribed word limit;³

NOTING that the Appellant further states that “[a]ll grounds of appeal remain the same”, but are reorganized in order to express more clearly the Defence position on the errors of law and fact;⁴

CONSIDERING that the Motion already contains a reorganization of the Original Notice of Appeal;⁵

NOTING the “Prosecution Response to Defence Motion for Variation of the Grounds of Appeal” (“Response”) filed on 9 January 2008, in which the Office of the Prosecutor (“Prosecution”) does not oppose the Motion in principle but submits that the Appellant should file this variation as a “superseding Notice of Appeal” in compliance with the applicable Practice Direction IT/201;⁶

CONSIDERING that, in its Response, the Prosecution notes that the Appellant solely requests one substantive variation of the Original Notice of Appeal, in which he additionally requests that, in the

¹ See Order Assigning Pre-Appeal Judge, 31 October 2007.

² T. 3-5 (Status Conference of 9 November 2007).

³ Motion, para. 2.

⁴ Motion, para. 3.

⁵ Motion, paras 5-83.

⁶ Response, para. 1.

alternative, the Appeals Chamber order that the accused be retried according to law (Rule 117 (C) of the Rules of Procedure and Evidence);⁷

CONSIDERING that the Prosecution does not oppose the suggested variation;

CONSIDERING that pursuant to Rules 108 and 65 *ter* of the Rules of Procedure and Evidence, the Appeals Chamber or the Pre-Appeal Judge may, on good cause being shown by motion, authorise a variation of the grounds of appeal;

FINDING that the Appellant has shown good cause for the requested variation of his grounds of appeal;

FOR THE FOREGOING REASONS


HEREBY GRANT the Motion,

ORDER that the new Notice of Appeal be filed as a separate document by the Appellant no later than 14 January 2008 prior to his Appeal Brief and in compliance with the applicable Practice Direction, and

REAFFIRM that the deadline for the filing of the Appellant's Appeal Brief, as well as of the Response to the Prosecution's Appeal Brief, is 14 January 2008.

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

Dated this 10th day of January 2008,
At The Hague, The Netherlands.


Wolfgang Schomburg
Pre-Appeal Judge

[Seal of the International Tribunal]

⁷ Response, para. 2; *cf.* Original Notice of Appeal, paras 89-90 with Motion, paras 82-83.