

**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: 1 March 2017
Original: English

IN THE APPEALS CHAMBER

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

Registrar: Mr. John Hocking

Order of: 1 March 2017

PROSECUTOR

v.

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

PUBLIC

**ORDER FOR THE PREPARATION OF THE
APPEAL HEARING**

The Office of the Prosecutor:

Mr. Douglas Stringer
Ms. Barbara Goy
Ms. Laurel Baig

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. Davor Lazić 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);

BEING SEISED of the appeals lodged by Jadranko Prlić (“Prlić”),¹ Bruno Stojić (“Stojić”),² Slobodan Praljak (“Praljak”),³ Milivoj Petković (“Petković”),⁴ Valentin Ćorić (“Ćorić”),⁵ Berislav Pušić (“Pušić”),⁶ and the Office of the Prosecutor (“Prosecution”)⁷ (jointly, “Appeals”) against the judgement rendered in this case by Trial Chamber III of the Tribunal (“Trial Chamber”) on 29 May 2013;⁸

NOTING the “Scheduling Order for Appeal Hearing”, issued on 15 December 2016, which ordered that the appeal hearing in this case take place on 20-24 and 27-28 March 2017 in Courtroom I;⁹

RECALLING that in the Scheduling Order, the Appeals Chamber informed the parties that a timetable for the hearing would be provided in due course and that other modalities of the appeal hearing, including any questions the parties may be invited to address, would be specified by further order;¹⁰

INFORMS the parties that the timetable for the appeal hearing shall be as follows, subject to adjustments as appropriate:

Monday, 20 March 2017

09:30-09:45 Introductory Statement by the Presiding Judge (15 minutes)

¹ Jadranko Prlić’s Notice of Appeal, 5 August 2014; Jadranko Prlić’s Corrigendum to His Notice of Appeal, 13 January 2015; Jadranko Prlić’s Appeal Brief, 12 January 2015 (confidential; public redacted version filed on 29 July 2015); Jadranko Prlić’s Corrigendum to His Appeal Brief, 6 March 2015 (confidential).

² Bruno Stojić’s Notice of Appeal, 4 August 2014; Bruno Stojić’s Appellant’s Brief, 12 January 2015 (confidential; public redacted version filed on 28 July 2015).

³ Slobodan Praljak’s Notice of Appeal, 28 June 2013; Corrigendum to Slobodan Praljak’s Notice of Appeal with Annex, 29 July 2013; Slobodan Praljak’s Appeal Brief with Annexes, 12 January 2015 (confidential; public redacted version filed on 29 July 2015); Corrigendum to Slobodan Praljak’s Appeal Brief, 5 February 2015 (confidential).

⁴ Milivoj Petković’s Notice of Appeal, 5 August 2014; Milivoj Petković’s Appeal Brief, 12 January 2015 (confidential; public redacted version filed on 29 July 2015); Corrigendum to Milivoj Petković’s Appeal Brief, 30 January 2015 (confidential).

⁵ Re-Filed Notice of Appeal Filed on Behalf of Mr. Valentin Ćorić, 23 December 2014; Appellant’s Brief of Valentin Ćorić, 12 January 2015 (confidential; public redacted version filed on 23 March 2016); Corrigendum to Appellant’s Brief of Valentin Ćorić, 12 January 2015 (confidential).

⁶ Re-Filing of the Notice of Appeal on Behalf of Berislav Pušić, 13 March 2014; Appeal Brief of Berislav Pušić, 12 January 2015 (confidential; public redacted version filed on 28 July 2015).

⁷ Prosecution’s Notice of Appeal, 27 August 2013; Prosecution’s Appeal Brief, 12 January 2015 (confidential; public redacted version filed on 29 July 2015).

⁸ *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-T, Judgement, 29 May 2013.

⁹ Scheduling Order for Appeal Hearing, 15 December 2016 (“Scheduling Order”), p. 1.

¹⁰ Scheduling Order, p. 1.

Appeal of Jadranko Prlić

09:45-10:45 Submissions of Jadranko Prlić (1 hour)

10:45-11:00 *Pause (15 minutes)*

11:00-12:00 Resumed Submissions of Jadranko Prlić (1 hour)

12:00-13:00 Response of the Prosecution (1 hour)

13:00-14:30 *Pause (1 hour, 30 minutes)*

14:30-15:30 Resumed Response of the Prosecution (1 hour)

15:30-16:00 Reply of Jadranko Prlić (30 minutes)

Tuesday, 21 March 2017***Appeal of Bruno Stojić***

09:30-11:30 Submissions of Bruno Stojić (2 hours)

11:30-12:00 *Pause (30 minutes)*

12:00-13:00 Response of the Prosecution (1 hour)

13:00-14:30 *Pause (1 hour, 30 minutes)*

14:30-15:30 Resumed Response of the Prosecution (1 hour)

15:30-16:00 Reply of Bruno Stojić (30 minutes)

Wednesday, 22 March 2017***Appeal of Slobodan Praljak***

09:30-11:30 Submissions of Slobodan Praljak (2 hours)

11:30-12:00 *Pause (30 minutes)*

12:00-13:00 Response of the Prosecution (1 hour)

13:00-14:30 *Pause (1 hour, 30 minutes)*

14:30-15:30 Resumed Response of the Prosecution (1 hour)

15:30-16:00 Reply of Slobodan Praljak (30 minutes)

Thursday, 23 March 2017

Appeal of Milivoj Petković

09:30-11:30 Submissions of Milivoj Petković (2 hours)

11:30-12:00 *Pause (30 minutes)*

12:00-13:00 Response of the Prosecution (1 hour)

13:00-14:30 *Pause (1 hour, 30 minutes)*

14:30-15:30 Resumed Response of the Prosecution (1 hour)

15:30-16:00 Reply of Milivoj Petković (30 minutes)

Friday, 24 March 2017

Appeal of Valentin Ćorić

09:30-11:30 Submissions of Valentin Ćorić (2 hours)

11:30-12:00 *Pause (30 minutes)*

12:00-13:00 Response of the Prosecution (1 hour)

13:00-14:30 *Pause (1 hour, 30 minutes)*

14:30-15:30 Resumed Response of the Prosecution (1 hour)

15:30-16:00 Reply of Valentin Ćorić (30 minutes)

Monday, 27 March 2017

Appeal of Berislav Pušić

09:30-11:30 Submissions of Berislav Pušić (2 hours)

11:30-12:00 *Pause (30 minutes)*

12:00-13:00 Response of the Prosecution (1 hour)

13:00-14:30 *Pause (1 hour, 30 minutes)*

14:30-15:30 Resumed Response of the Prosecution (1 hour)

15:30-16:00 Reply of Berislav Pušić (30 minutes)

Tuesday, 28 March 2017

Appeal of the Prosecution

09:00-11:00 Submissions of the Prosecution (2 hours)

11:00-11:30 Pause (30 minutes)

11:30-12:00 Response of Jadranko Prlić (30 minutes)

12:00-12:30 Response of Bruno Stojić (30 minutes)

12:30-13:00 Response of Slobodan Praljak (30 minutes)

13:00-14:00 Pause (1 hour)

14:00-14:30 Response of Milivoj Petković (30 minutes)

14:30-15:00 Response of Valentin Ćorić (30 minutes)

15:00-15:30 Response of Berislav Pušić (30 minutes)

15:30-16:00 Pause (30 minutes)

16:00-16:30 Reply of the Prosecution (30 minutes)

16:30-16:40 Personal address by Jadranko Prlić (10 minutes) *(optional)*

16:40-16:50 Personal address by Bruno Stojić (10 minutes) *(optional)*

16:50-17:00 Personal address by Slobodan Praljak (10 minutes) *(optional)*

17:00-17:10 Personal address by Milivoj Petković (10 minutes) *(optional)*

17:10-17:20 Personal address by Valentin Ćorić (10 minutes) *(optional)*

17:20-17:30 Personal address by Berislav Pušić (10 minutes) *(optional)*

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

RECALLING that the parties are expected to focus their oral arguments on the grounds of appeal raised in their briefs and that an appeal hearing is not the occasion for presenting new arguments on the merits of the case;¹¹

EMPHASISING that the present order in no way expresses the Appeals Chamber's views on the merits of the Appeals or limits its discretion to raise further questions in writing prior to the hearing, or orally during the hearing, as the case may require;

HEREBY INFORMS the parties that, during the course of the appeal hearing, in addition to other matters advanced in their submissions or that the Appeals Chamber may wish to raise, they, as indicated below, are invited, with references to the Trial Chamber's findings and the evidence on the record, where relevant, to discuss:

1. (Prlić, Stojić, Praljak, Petković, Čorić, Pušić, and the Prosecution) as a legal matter, whether the Trial Chamber erred in inquiring into the existence of a state of occupation on the basis that there was no armed conflict in some places and on some dates,¹² or whether such inquiry was necessary on the basis that people in and property on occupied territory are afforded additional or other protection under the Geneva Conventions;¹³
2. (Stojić, Praljak, and the Prosecution) any impact that the alleged errors regarding the Trial Chamber's legal findings on the destruction of the Old Bridge of Mostar as a crime of wanton destruction of property (Count 20)¹⁴ may have on its findings that the destruction also constituted the crimes of persecution (Count 1)¹⁵ and unlawful infliction of terror on civilians (Count 25);¹⁶
3. (Stojić, Praljak, and the Prosecution) the basis for the Trial Chamber's finding that during the attack on Duša on 18 January 1993, HVO forces intended to cause serious bodily harm to the civilians who had taken refuge in Enver Šljivo's house, harm which they could reasonably have

¹¹ *Prosecutor v. Vujadin Popović et al.*, Order for the Preparation of the Appeal Hearing, 6 November 2013, p. 1; *Prosecutor v. Nikola Šainović et al.*, Order for the Preparation of the Appeal Hearing, 20 February 2013, p. 1.

¹² See Trial Judgement, Vol. 3, para. 575.

¹³ See Trial Judgement, Vol. 1, paras 106-107, Vol. 3, para. 576.

¹⁴ See Praljak's Appeal Brief, paras 290-296; Stojić's Response Brief, paras 154-163; Praljak's Response Brief, paras 153-154; Trial Judgement, Vol. 3, paras 1581-1587.

¹⁵ See Praljak's Appeal Brief, para. 280; Trial Judgement, Vol. 3, paras 1711-1713.

¹⁶ See Prosecution's Reply Brief, paras 144, 147, 150; Trial Judgement, Vol. 3, paras 1690, 1692.

foreseen could cause their deaths, and indicate the specific nature of the alleged error, if any, as well as its impact, if any, on this finding;¹⁷

4. (Prlić, Stojić, Praljak, Petković, Čorić, Pušić, and the Prosecution) if the Trial Chamber's finding on the intent of HVO forces with regard to the deaths of the civilians who had taken refuge in Enver Šljivo's house in Duša is overturned, and if its finding that this incident constituted the crimes of murder and wilful killing are consequently reversed,¹⁸ the impact on the following:

(a) the scope of the common criminal plan of the joint criminal enterprise in this case;

(b) the *mens rea* of Prlić, Stojić, Praljak, Petković, Čorić, and Pušić for murder under the first category of joint criminal enterprise; and

(c) the *mens rea* of Prlić, Stojić, Praljak, Petković, Čorić, and Pušić for murder under the third category of joint criminal enterprise (*i.e.* the *mens rea* of Prlić and Čorić as found by the Trial Chamber¹⁹ as well as the *mens rea* of Prlić, Stojić, Praljak, Petković, Čorić, and Pušić as alleged by the Prosecution under its first ground of appeal²⁰). In relation to this:

(i) Prlić, Stojić, Praljak, Petković, and the Prosecution are further invited to discuss, along with other relevant evidence on the trial record, if any, the significance of Željko Šiljeg's report of 28/29 January 1993 (Exhibit P01351) in relation to the assessment of Prlić's, Stojić's, Praljak's, and Petković's ability to foresee murder and wilful killing under the third category of joint criminal enterprise, taking into account all the information it contains regarding killings and mistreatment, as well as the issue of who was privy to its contents; and

(ii) Čorić and the Prosecution are further invited to discuss, along with other relevant evidence on the trial record, if any, the significance of Exhibits P01414 and P01393 in relation to the assessment of Čorić's ability to foresee murder under the third category of joint criminal enterprise;

5. (Prlić, Stojić, Praljak, Petković, Čorić, and the Prosecution) the basis for the Trial Chamber's finding that the property destruction caused during the attacks on the villages of Duša,

¹⁷ See Stojić's Appeal Brief, paras 393-397; Praljak's Appeal Brief, paras 185-199; Prosecution's Response Brief (Stojić), paras 359-363; Prosecution's Response Brief (Praljak), paras 125-131; Stojić's Reply Brief, paras 77-78; Praljak's Reply Brief, paras 65-66; Trial Judgement, Vol. 3, paras 663, 711 and references cited therein. See also Prosecution's Appeal Brief, paras 325-330; Stojić's Response Brief, paras 149-153; Praljak's Response Brief, paras 146-151; Prosecution's Reply Brief, paras 138-142.

¹⁸ Trial Judgement, Vol. 3, paras 663, 711.

¹⁹ Trial Judgement, Vol. 3, paras 283-284, 288, 1020-1021.

Hrasnica, Ždrimci, and Uzričje was wanton and not justified by military necessity,²¹ and whether there would be any effect, if this finding were overturned, on the finding that the property destruction caused during attacks on several localities in Gornji Vakuf Municipality was "extensive";²²

6. (Praljak and the Prosecution) whether the evidence (with particular reference to Exhibits P06068 and P06073) establishes that Praljak knew that UNPROFOR was seeking access to Stupni Do between 23 and 25 October 1993 and that he sought to prevent such access;²³

7. (Praljak and the Prosecution) whether Praljak was aware of the bad conditions of confinement of such serious nature that they amounted to crimes at Dretelj Prison and Gabela Prison from the date of his appointment as Commander of the Main Staff;²⁴

8. (Stojić, Praljak, Petković, and the Prosecution) whether, in convicting Stojić, Praljak, and Petković of the crime of unlawful infliction of terror on civilians under Count 25 of the Indictment, the Trial Chamber made the necessary findings in relation to their specific intent to spread terror among the civilian population, and what the impact would be if the Appeals Chamber found that the Trial Chamber failed to provide a reasoned opinion in this regard;²⁵

9. (Pušić and the Prosecution) the basis for the Trial Chamber's findings that Pušić had the power to resolve problems related to conditions of confinement and mistreatment of detainees in the network of HVO detention centres;²⁶ and

10. (Prlić, Stojić, Praljak, Petković, Ćorić, and the Prosecution) what the effect would be, if any, on the appeals of Prlić, Stojić, Praljak, Petković, and Ćorić, respectively, regarding their convictions pursuant to the third category of joint criminal enterprise,²⁷ if the Appeals Chamber

²⁰ See, in particular, Prosecution's Appeal Brief, paras 60-66, 68-71, 81-84, 103-108, 119-122, 140-145, 156-159, 173-175, 177, 179-184, 191-194, 208-214, 219-222, 226-229, 236-242, 250-259, 268-276.

²¹ See Prosecution's Appeal Brief, paras 325-330; Stojić's Response Brief, paras 149-153; Praljak's Response Brief, paras 146-151; Prosecution's Reply Brief, paras 138-142; Trial Judgement, Vol. 3, paras 1569-1570 and references cited therein.

²² See Trial Judgement, Vol. 3, para. 1568 and references cited therein.

²³ See Praljak's Appeal Brief, paras 507-509; Prosecution's Response Brief (Praljak), paras 250-251; Trial Judgement, Vol. 4, para. 621.

²⁴ See Praljak's Appeal Brief, paras 516-517; Trial Judgement, Vol. 4, paras 599-614.

²⁵ See Stojić's Appeal Brief, para. 214; Praljak's Appeal Brief, paras 277-279; Prosecution's Response Brief (Stojić), paras 184-185; Prosecution's Response Brief (Praljak), para. 198; Trial Judgement, Vol. 4, paras 431, 630.

²⁶ Trial Judgement, Vol. 4, para. 1056.

²⁷ See Prlić's Appeal Brief, paras 630-641; Stojić's Appeal Brief, paras 370-385; Praljak's Appeal Brief, paras 346-357, 523-534; Petković's Appeal Brief, paras 365-409; Ćorić's Appeal Brief, paras 186-210.

were to grant the Prosecution's sub-ground of appeal 1(A) regarding the *mens rea* standard for the third category of joint criminal enterprise.²⁸

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

Dated this 1st day of March 2017,
At The Hague,
The Netherlands.



Judge Carmel Agius
Presiding Judge

[Seal of the Tribunal]

²⁸ See Prosecution's Appeal Brief, paras 26-32, Prosecution's JCE III Table (Stojić), incidents 20, 23, 27, 29-30, Prosecution's JCE III Table (Praljak), incidents 19-21, 31-32, Prosecution's JCE III Table (Petković), incident 21, Prosecution's JCE III Table (Ćorić), incidents 5, 7-11, 27-29, Prosecution's JCE III Table (Pušić), incidents 1-35.