



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-98-29-A
Date: 14 August 2006
Original: English

IN THE APPEALS CHAMBER

Before: Judge Fausto Pocar, Presiding
Judge Mohammed Shahabuddeen
Judge Mehmet Güney
Judge Theodor Meron
Judge Wolfgang Schomburg

Registrar: Mr. Hans Holthuis

Order of: 14 August 2006

PROSECUTOR

v.

STANISLAV GALIĆ

SCHEDULING ORDER FOR APPEAL HEARING

The Office of the Prosecutor:

Ms. Helen Brady
Ms. Michelle Jarvis
Ms. Shelagh McCall

Counsel for the Appellant:

Ms. Mara Pilipović
Mr. Stéphane Piletta-Zanin

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”),

NOTING the “Scheduling Order for Appeal Hearing”, filed on 21 June 2006, which ordered that “the hearing of the Appeals shall take place on Tuesday 29 August 2006 in Courtroom 1” and informed “the parties that a timetable for the hearing will be established in a subsequent scheduling order”;¹

HEREBY INFORMS the parties that the timetable for the hearing will be as follows:

09:00 – 09:10 Introductory Statement by the Presiding Judge (10 minutes)

The Defence Appeal:

9:10 – 10:55 Submissions of the Defence (1 hour 45 minutes)

10:55 – 11:25 *Pause (30 minutes)*

11:25 – 12:25 Response of the Prosecution (1 hour)

12:25 – 14:15 *Pause (1 hour and 50 minutes)*

14:15 – 15:00 Continued Response of the Prosecution (45 minutes)

15:00 – 15:45 Reply by the Defence (45 minutes)

15:45 – 16:15 *Pause (30 minutes)*

The Prosecution Appeal:

16:15 – 16:35 Submissions of the Prosecution (20 minutes)

16:35 – 16:55 Response of the Defence (20 minutes)

16:55 – 17:05 Reply by the Prosecution (10 minutes)

17:05 – 17:20 Personal Address by Stanislav Galić (15 minutes) (optional)

AND FURTHER INFORMS the Prosecution and Defence that, though they remain free to use their allotted argument time as they see fit, they will be invited to address the following questions during the hearing:

For the Defence:

¹ Scheduling Order for Appeal Hearing, p.1.

1) Can the crime of terror² be committed through acts of violence that do not discriminate between soldiers and civilians, or must the acts of violence in question be directed specifically at civilians? If you believe that indiscriminate attacks do not suffice, could you please provide legal support for your position. For the purposes of this question, please assume that, contrary to what you assert in your Notice of Appeal, the crime of terror does in fact exist.³

2) You argue⁴ that the Trial Chamber erred in law in holding that “indiscriminate attacks, that is to say, attacks which strike civilians or civilian objects and military objectives without distinction, may qualify as direct attacks against civilians.”⁵ You also assert⁶ that the Trial Chamber erred in law when it held that “certain apparently disproportionate attacks may give rise to the inference that civilians were actually the object of attack.”⁷ Would you please explain which direct attacks found by the Trial Chamber were erroneously categorized as direct attacks as a result of these legal errors.

3) In situations where a hospital may be considered a legitimate military target because troops have been fired upon from the hospital, how long after military activity at the hospital stops does the hospital remain a legitimate military target? If possible, please provide jurisprudential support for your answer.

4) In ascertaining the angle of descent of the shell that hit Markale Market, why was it unreasonable for the Trial Chamber to disregard the outlying calculations of Major Russell⁸ when neither the Trial Chamber nor UNPROFOR had been informed about the methods by which those calculations were produced?

5) You argue that “later developments at ... trial demonstrated that the decision [not to travel to Sarajevo] was erroneous”.⁹ Could you please explain what specific developments you are referring to, or point to specific issues that the Trial Judgment would have handled differently had there been a site visit?

For the Prosecution:

² Like the Trial Judgement, *see, e.g.*, para. 597, this Scheduling Order uses the term “crime of terror” to refer to the crime consisting of acts or threats of violence the primary purpose of which is to spread terror among the civilian population.

³ See Defence Notice of Appeal, para. 25 (asserting that “there exists no international crime of terror”).

⁴ See Defence Appeal Brief, para. 50.

⁵ Trial Judgement, para. 57.

⁶ See Defence Appeal Brief, para. 50.

⁷ Trial Judgement, para. 60.

⁸ See Defence Appeal Brief, para. 424 fn. 353 (challenging, *inter alia*, the Trial Chamber’s failure to rely on these calculations).

⁹ Defence Appeal Brief, para. 26.

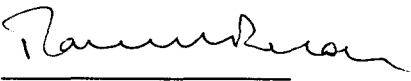
1) You argue¹⁰ that the Tribunal has jurisdiction over crimes established by clearly applicable treaty regardless of whether those crimes are also clearly established in customary international law. Yet how do you explain the fact that the Secretary General, in a report addressing the ICTR's Statute, said: "The Security Council has elected to take a more expansive approach to the choice of the applicable law than the one underlying the statute of the Yugoslav Tribunal, and included within the subject matter jurisdiction of the Rwanda Tribunal international instruments regardless of whether they were considered part of customary international law".¹¹

2) You seem to suggest¹² that the crime of terror can be committed through acts of violence that do not distinguish between soldiers and civilians – not just by acts of violence directed specifically at civilians? If you believe that indiscriminate attacks also qualify, could you please provide legal support for your position.

3) In situations where a hospital may be considered a legitimate military target because troops have been fired upon from the hospital, how long after military activity at the hospital stops does the hospital remain a legitimate military target? If possible, please provide jurisprudential support for your answer.

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

Done this 14th day of August 2006,
At The Hague,
The Netherlands.



Judge Fausto Pocar
Presiding

[Seal of the Tribunal]

¹⁰ Prosecution Response, para. 7.1.

¹¹ Report of the Secretary-General Pursuant to Paragraph 5 of Security Council Resolution 955, UN Doc. S/1995/134 (1995), para. 12.

¹² See Prosecution Response, para. 7.81.