



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-95-14 &  
14/2-R77-A  
Date: 29 September 2006  
Original: English

**IN THE APPEALS CHAMBER**

**Before:** Judge Mohamed Shahabuddeen  
Judge Mehmet Güney  
Judge Andrésia Vaz  
Judge Theodor Meron  
Judge Wolfgang Schomburg

**Registrar:** Mr. Hans Holthuis

**Decision:** 29 September 2006

**PROSECUTOR**

v.

**Josip JOVIĆ**

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**DECISION ON PROSECUTION MOTION FOR ORDER STRIKING NOTICE  
OF APPEAL AND REQUIRING REFILE**

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**The Office of the Prosecutor:**

Mr. Peter Kremer, QC

**Counsel for the Appellant:**

Mr. Krešimir Krsnik

**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 “Judgement” rendered in this case by Trial Chamber III on 30 August 2006;

**NOTING** the “Accused Josip Jović’s Notice of Appeal” (“Notice of Appeal”) filed by the Appellant Josip Jović (“Appellant”) on 14 September 2006;

**BEING SEIZED** of the “Prosecution Motion for Order Striking Notice of Appeal and Requiring Refiling” (“Motion”), filed on 18 September 2006, in which the Prosecution requests that the Appellant be required to re-file the Notice of Appeal in accordance with Rule 108 of the Rules of Procedure and Evidence (“Rules”) and paragraph 1 of the Practice Direction on Formal Requirements for Appeals from Judgement (IT/201) (“Practice Direction on Formal Requirements”);

**NOTING** that the Appellant has not filed a response to the Prosecution’s Motion;

**NOTING** that Rule 108 of the Rules provides that an appellant shall set forth the grounds of appeal; identify the challenged order, decision or ruling; and indicate the substance of the alleged errors and the relief sought;

**NOTING** further that pursuant to the Practice Direction on Formal Requirements, a Notice of Appeal must contain, *inter alia*, the grounds of appeal and must specify in respect of each ground of appeal:

- “(i) any alleged error on a question of law invalidating the decision, and/or
- (ii) any alleged error of fact which has occasioned a miscarriage of justice;
- (iii) an identification of the finding or ruling challenged in the judgement, with specific reference to the page number a paragraph number;
- (iv) an identification of any other order, decision or ruling challenged, with specific reference to the date of its filing
- (v) the precise relief sought”;<sup>1</sup>

**CONSIDERING** that the Practice Direction on Formal Requirements was issued to address detailed aspects of the conduct of proceedings before the International Tribunal and to regulate the form and content of written submissions before the Appeals Chamber;<sup>2</sup>

**CONSIDERING** that the Notice of Appeal improperly alleges that the Appellant “appeals all the matters in the Judgement, including but not limited to” a list of generalized issues, without setting forth each ground of appeal with adequate specificity and indicating the substance of the alleged errors and the relief sought;

**CONSIDERING**, in particular, that the Notice of Appeal fails to specify the precise nature of the errors it asserts; to identify the challenged finding or ruling with specific reference to the page and paragraph number; or to specify the precise relief sought for each ground and the overall relief sought;

**FINDING**, therefore, that because the Notice of Appeal does not conform to the requirements of Rule 108 of the Rules and, in particular, to paragraph 1 of the Practice Direction on Formal Requirements, it is necessary in the circumstances of this case for the Appellant to re-file his Notice of Appeal;

**CONSIDERING**, further, that although the time limit for filing the Appeal Brief in this case will begin to run from the re-filing of the Appellant’s Notice of Appeal, a variance of that time limit is warranted in light of the time that has already been afforded to the Appellant to prepare his brief from the time of the original filing of the Notice of Appeal;

**FOR THE FOREGOING REASONS,**

**GRANTS** the Motion and **ORDERS** the Appellant to re-file a Notice of Appeal within 10 days of the filing of this decision, in accordance with the requirements of Rule 108 of the Rules and paragraph 1 of the Practice Direction on Formal Requirements, and, in particular, to

- 1) indicate clearly the grounds of appeal upon which he intends to rely;
- 2) indicate with sufficient precision, the alleged errors and the exact nature of each error;
- 3) indicate for each alleged error of law or fact whether it is alleged to have resulted in invalidating the decision or occasioning a miscarriage of justice respectively;

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<sup>1</sup> Practice Direction on Formal Requirements, para. 1(c). See also *ibid.*, para. 1(d) (providing that a Notice of Appeal must also contain, if relevant, the overall relief sought).

<sup>2</sup> See, e.g., *Prosecutor v. Vasiljević*, IT-98-32-A, Decision on Prosecution Motion Concerning Defects in the Defence Notice of Appeal and on Defence Motion for Extension of Time, 29 January 2003, p. 3.

- 4) reference each alleged error of fact or law to the passage or passages of the decision or Judgement containing the error;
- 5) indicate the precise relief sought for each ground of appeal; and
- 6) indicate the overall relief sought;

**ORDERS** the Appellant to file his Appeal Brief within one week of the re-filing of the Notice of Appeal.

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

29 September 2006

The Hague

The Netherlands.



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Mohamed Shahabuddeen  
Presiding Judge

**[Seal of the International Tribunal]**