

IT-03-68-A  
A2579-A2577  
14 MAY 2007

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**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-03-68-A  
Date: 14 May 2007  
Original: English

**IN THE APPEALS CHAMBER**

**Before:** Judge Fausto Pocar, Presiding  
Judge Liu Daqun  
Judge Andrézia Vaz  
Judge Theodor Meron  
Judge Wolfgang Schomburg

**Registrar:** Hans Holthuis

**Decision of:** 14 May 2007

**PROSECUTOR**

**v.**

**NASER ORIĆ**

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**DECISION ON PROSECUTION'S "NOTICE OF  
SUPPLEMENTAL AUTHORITY"**

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**The Office of the Prosecutor:**

Ms. Christine Dahl

**Counsel for Naser Orić:**

Ms. Vasvija Vidović  
Mr. John Jones

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**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”),

**RECALLING** that it is seized with the “Prosecution’s Notice of Appeal” filed on 31 July 2006 (“Notice of Appeal”) from the Judgement of Trial Chamber II rendered on 30 June 2006 in *Prosecutor v. Naser Orić*;<sup>1</sup>

**NOTING** “[t]he Prosecution’s Appeal Brief” filed on 16 October 2006 as amended by the “Prosecution’s Corrigendum to Appeal Brief” filed on 18 October 2006 and by the “Prosecution’s Motion for Variance Concerning Order and Numbering of the Arguments on Appeal” of the same date,<sup>2</sup> the “Defence Response Brief” filed on 27 November 2006, and “[t]he Prosecution’s Reply Brief” filed on 12 December 2006;

**NOTING** the Prosecution’s “Notice of Supplemental Authority”, filed on 25 April 2007 (“Notice”), in which the Prosecution submits that the *Bralo* Sentencing Judgement<sup>3</sup> contains findings that are relevant to the Prosecution’s appeal in the present case;<sup>4</sup>

**NOTING** the “Defence Response to Prosecution ‘Notice of Supplemental Authority’” filed on 1 May 2007 (“Response”), in which Naser Orić (“Orić”) objects to the filing of the Notice and submits that it should be struck;<sup>5</sup>

**NOTING** the “Prosecution’s Reply to Defence Response to the Notice of Supplemental Authority” filed on 7 May 2007 (“Reply”), in which the Prosecution submits that it filed the Notice in order to give Orić fair notice that the Prosecution intends to rely on the *Bralo* Sentencing Judgement in its appeal;<sup>6</sup>

**CONSIDERING** the provisions of the “Practice Direction on Formal Requirements for Appeals from Judgement”<sup>7</sup>;

**CONSIDERING** that with the filing of the Prosecution’s Reply Brief on 12 December 2006, the briefing for its appeal was completed;

<sup>1</sup> Case No. IT-03-68-T.

<sup>2</sup> Decision on the Prosecution’s Motion for Variance Concerning Order and Numbering of the Arguments on Appeal and on the Prosecution’s Corrigendum to Appeal Brief, 3 May 2007, p. 3.

<sup>3</sup> *Prosecutor v. Miroslav Bralo*, Case No. IT-95-17-A, Judgement on Sentencing Appeal, 2 April 2007 (“*Bralo* Sentencing Judgement”).

<sup>4</sup> Notice, paras 1-3.

<sup>5</sup> Response, para. 3.

<sup>6</sup> Reply, para. 1.

<sup>7</sup> IT/201 of 7 March 2002, paras. 7-10.

**CONSIDERING** that a party may file “supplementary authorities [which] may be pertinent to an issue to be decided in [the] case” to bring its briefs up-to-date, provided that the issue has already been raised in the party’s briefs and the supplemental authorities became available only after the filing of the briefs;<sup>8</sup>

**CONSIDERING** that the *Bralo* Sentencing Judgement was rendered after the briefing of the Prosecution’s appeal in the present case was completed;

**REMINDS** the Prosecution that supplemental authorities to an appeal may be filed only with leave of the Appeals Chamber<sup>9</sup> but, nevertheless, considers that it is in the interests of justice to accept the Notice as filed;

**INVITES** the parties, if they so wish, to elaborate on the relevance of the *Bralo* Sentencing Judgement during the hearing of the appeals;

**FOR THE FOREGOING REASONS,**

**ACCEPTS** the Notice as validly filed.

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



Judge Fausto Pocar  
Presiding

Dated this day of 14th May 2007,  
at The Hague,  
The Netherlands.

**[Seal of the International Tribunal]**

<sup>8</sup> *Prosecutor v. Nikola Šainović and Dragoljub Ojdanić*, Case No. IT-99-37-AR65, Order Granting Leave to File Supplemental Authorities, 16 October 2002, (“*Šainović & Ojdanić* Order”), p. 3.

<sup>9</sup> *Cf. Šainović & Ojdanić* Order, p. 3; *Prosecutor v. Radislav Krstić*, Case No. IT-98-33-A, Decision on the Prosecution’s Motion Seeking Leave to File a Supplementary Book of Authorities, 19 November 2003, p. 2.