



International Tribunal for the  
Prosecution of Persons  
Responsible for Serious Violations of  
International Humanitarian Law  
Committed in the Territory of  
Former Yugoslavia since 1991

Case No. IT-95-11-A  
Date: 29 May 2008  
Original: English

**IN THE APPEALS CHAMBER**

**Before:** Judge Fausto Pocar, Presiding  
Judge Mohamed Shahabuddeen  
Judge Mehmet Güney  
Judge Andrézia Vaz  
Judge Wolfgang Schomburg

**Registrar:** Mr. Hans Holthuis

**Order of:** 29 May 2008

**PROSECUTOR**

**v.**

**MILAN MARTIĆ**

**PUBLIC**

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**ORDER FOR PREPARATION OF APPEAL HEARING**

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**The Office of the Prosecutor:**

Ms. Michelle Jarvis

**Counsel for Milan Martić:**

Mr. Predrag Milovančević  
Mr. Nikola Perović

**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);

**RECALLING** the Scheduling Order issued by the Appeals Chamber on 15 May 2008, which set the dates for the hearing of the merits of the appeals in this case as Wednesday, 25 June and Thursday, 26 June 2008 including the timetable for the hearing;<sup>1</sup>

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

**EMPHASISING** that the present order in no way expresses the Appeals Chamber’s views on the merits of the appeal, which will be set forth in the Appeal Judgement;

**HEREBY INFORMS** the parties that, during the course of the appeal hearing and without prejudice to any other matter which the parties or the Appeals Chamber may wish to address, they are invited to develop their submissions with regard, *inter alia*, to the following issues:

**(1) Issue of victims of crimes under Article 5 of the Statute (Crimes against humanity)**

As an alternative to its submissions under Ground 1, the Prosecution argues that, even if the Appeals Chamber were to find that *hors de combat* victims do not constitute civilians for the purposes of Article 5 of the Statute, it should nevertheless find that persons *hors de combat* are covered by that Article (Prosecution Appeal Brief, para. 60 and Prosecution Reply Brief, paras 6-11). The Appeals Chamber invites the parties to elaborate on this issue, especially in light of the *chapeau* of Article 5 of the Statute and the relevant jurisprudence.

**(2) JCE: Martić’s link to the principal perpetrators under Joint criminal enterprise (JCE)**

Martić alleges that the Trial Chamber erred on various occasions in reaching the conclusion that crimes were attributable to him, because no connection with him can be established (see, for example, Defence Appeal Brief, paras 188, 190, 199). Taking into account the legal findings in paras 442-455 of the Trial Judgement, the Appeals Chamber invites the parties to elaborate in law on the required connection, if any, between Martić and the principal perpetrators of the crimes (paras 173-301 of the Trial Judgement) in light of the discussion in the *Brđanin* Appeal Judgement (in particular, paras 413, 418 and 430) on the requisite link in a joint criminal enterprise.

**(3) Crimes of Deportation and Forcible Transfer**

Martić argues in his Appeal Brief (para. 203) that the Trial Chamber erred in finding that he was aware of the forcible removal of the non-Serb population and that, in fact, he actively promoted the

<sup>1</sup> Scheduling Order for Appeals Hearing, 15 May 2008.

coexistence of Croats and Serbs in the RSK and took measures to that effect. The Appeals Chamber invites the parties to elaborate on this assertion.

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



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Judge Fausto Pocar  
Presiding Judge

Dated this 29th day of May 2008,  
At The Hague,  
The Netherlands

**[Seal of the Tribunal]**