

**UNITED
NATIONS**



Mechanism for International Criminal Tribunals

Case No: MICT-13-56-A

Date: 22 March 2018

Original: English

BEFORE THE APPEALS CHAMBER

Before:

**Judge Theodor Meron, Presiding
Judge Carmel Agius
Judge Liu Daqun
Judge Prisca Matimba Nyambe
Judge Seymour Panton**

Registrar:

Mr. Olufemi Elias

THE PROSECUTOR

v.

RATKO MLADIĆ

PUBLIC

PROSECUTION'S NOTICE OF APPEAL

The Office of the Prosecutor:

Mr. Serge Brammertz

Counsel for Ratko Mladić:

Mr. Branko Lukić
Mr. Dragan Ivetić

PROSECUTION'S NOTICE OF APPEAL

1. Pursuant to Article 23 of the Statute of the International Residual Mechanism for Criminal Tribunals (“MICT”) and Rule 133 of the MICT’s Rules of Procedure and Evidence, the Prosecution files this Notice of Appeal setting out its grounds of appeal against the Judgement of Trial Chamber I of the International Criminal Tribunal for the former Yugoslavia in the case of *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-T, dated 22 November 2017 (“Judgement”), and the relief sought.

2. Whenever this Notice of Appeal refers to an error of law, it is one that invalidates the verdict. Whenever reference is made to an error of fact, it is one that occasions a miscarriage of justice.

I. GROUND 1: THE TRIAL CHAMBER ERRED BY FINDING THAT THE BOSNIAN MUSLIMS IN THE FIVE COUNT 1 MUNICIPALITIES DID NOT CONSTITUTE SUBSTANTIAL PARTS OF THE PROTECTED GROUP

3. The Trial Chamber erred in fact by finding in paragraphs 3530 to 3536 of the Judgement that the Bosnian Muslims in Foča, Kotor Varoš, Prijedor, Sanski Most and Vlasenica (the “Five Count 1 Municipalities”) did not each constitute a substantial part of the Bosnian Muslims of Bosnia and Herzegovina (“Bosnian Muslim Group”).

REMEDY

4. The Prosecution requests that the Appeals Chamber:
- a. correct the Trial Chamber’s errors;
 - b. find that the Bosnian Muslims in each of the Five Count 1 Municipalities constituted a substantial part of the Bosnian Muslim Group;
 - c. find that the perpetrators identified in paragraphs 3511, 3513, 3515, 3519 and 3524 of the Judgement who were found to have participated in prohibited acts against the Bosnian Muslims in the Five Count 1 Municipalities with the intent to destroy the Bosnian Muslims in their respective Municipalities possessed genocidal intent; and
 - d. re-evaluate Mladić’s responsibility for genocide with respect to Count 1 together with the re-evaluation requested under Ground 2, and accordingly convict Mladić of genocide under Count 1 pursuant to the first form of joint criminal enterprise

(“JCE”) liability under Article 7(1) of the Statute based on his participation in and contributions to the Overarching JCE.

Alternatively, find that the elements of other modes of liability charged in the Indictment are met and convict Mladić of genocide under Count 1 pursuant to Articles 7(1) or 7(3) of the Statute.

II. GROUND 2: THE TRIAL CHAMBER ERRED IN FINDING THAT MLADIĆ AND OTHER JCE MEMBERS DID NOT POSSESS DESTRUCTIVE INTENT

5. The Trial Chamber erred in law and/or in fact by finding in paragraphs 4235 to 4237 that Mladić and other JCE members did not possess the intent to destroy the Bosnian Muslims in the Five Count 1 Municipalities, and in consequently concluding that genocide did not form part of the common purpose of the Overarching JCE as charged under Count 1.

6. This error occurred as a result of the following sub-errors, individually and/or cumulatively:

A. Sub-ground 2(A): The Trial Chamber erred in law by applying a heightened standard

7. The Trial Chamber erred in law in paragraphs 4235 to 4237 by applying a heightened standard when finding that Mladić and other JCE members did not possess the intent to destroy the Bosnian Muslims in the Five Count 1 Municipalities, and in consequently concluding that genocide did not form part of the common purpose of the Overarching JCE as charged under Count 1.

B. Sub-ground 2(B): The Trial Chamber erred in fact

8. The Trial Chamber erred in fact in paragraphs 4235 to 4237 by finding that Mladić and other JCE members did not possess the intent to destroy the Bosnian Muslims in the Five Count 1 Municipalities, and in consequently concluding that genocide did not form part of the common purpose of the Overarching JCE as charged under Count 1.

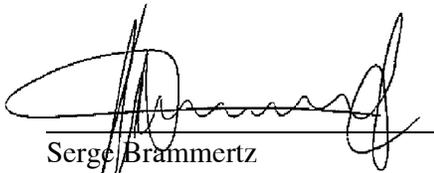
REMEDY

9. The Prosecution requests that the Appeals Chamber:
- a. correct the Trial Chamber’s errors;
 - b. find that Mladić and other JCE members possessed the intent to destroy the Bosnian Muslims in the Five Count 1 Municipalities;

- c. find, together with the remedy under Ground 1, that Mladić and other JCE members possessed genocidal intent in relation to the Bosnian Muslims in one or more of the Five Count 1 Municipalities considered individually.

Alternatively, find that the part of the Bosnian Muslim Group in one or more of the Five Count 1 Municipalities considered collectively constituted a substantial part of the Bosnian Muslim Group and that Mladić and other JCE members possessed genocidal intent in relation to this part of the Bosnian Muslim Group;

- d. find that the crime of genocide formed part of the common purpose of the Overarching JCE; and
- e. convict Mladić of genocide under Count 1 pursuant to the first form of JCE liability under Article 7(1) of the Statute based on his participation in and contributions to the Overarching JCE.



Serge Brammertz
Prosecutor

Dated this 22nd day of March 2018
At The Hague, The Netherlands



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Case Name/ Affaire :	MLADIC	Case Number/ Affaire n° :	MICT-13-56-A		
Date Created/ Daté du :	22 March 2018	Date transmitted/ Transmis le :	22 March 2018	No. of Pages/ Nombre de pages :	4
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