

UNITED
NATIONS

IT-02-54-R77.5-A
A1092 - A1079
06 November 2009

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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-02-54-R77.5-A
Date: 6 November 2009
Original: English

IN THE APPEALS CHAMBER

Before: Judge Patrick Robinson, Presiding
Judge Andréia Vaz
Judge Theodor Meron
Judge Burton Hall
Judge Howard Morrison

Registrar: Mr. John Hocking

Decision: 6 November 2009

IN THE CASE AGAINST FLORENCE HARTMANN

PUBLIC

**DECISION ON MOTIONS TO STRIKE AND REQUESTS TO
EXCEED WORD LIMIT**

Amicus Curiae Prosecutor

Mr. Bruce Mac Farlane

Counsel for the Appellant

Mr. Karim A. A. Kahn, Lead Counsel
Mr. Guénaél Mettraux, Co-Counsel

(1087)

Trial Chamber. Furthermore, the Notice of Appeal sometimes lacks precise references to the Judgement or relevant impugned decisions.

13. At paragraphs 5 and 136 of the Notice of Appeal, the Appellant states that each of the alleged errors of the Trial Chamber, if granted by the Appeals Chamber, would lead to a reversal of her conviction. In this regard, the Appellant complies with paragraph 1(c)(v) of the Practice Direction, which requires an appellant to specify with respect to each ground of appeal the precise relief sought. However, the Appeals Chamber considers that the Appellant's persistent and pervasive use of alternative formulations for alleged errors of law and alleged errors of fact throughout the Notice of Appeal leads to imprecision and confusion and does not give the *Amicus* Prosecutor sufficient notification of the scope of the appeal. If the Appellant is of the view that an issue is one of law, then this should be stated. If it is one of fact, then it should be stated as such. Only where there is a genuine issue of mixed law and fact, or where there is a real uncertainty, should an alternative formulation be used.

14. Finally, the Appeals Chamber recalls that "[t]he only formal requirement under the Rules is that the notice of appeal contains a list of the grounds of appeal; it does not need to detail the arguments that the parties intend to use in support of the grounds of appeal, the place for detailed arguments being in the Appellant's brief."²³ The Appeals Chamber notes that the Notice of Appeal is so long and complex that it is difficult for the Appeals Chamber to separate out the grounds and sub-grounds of appeal therein from what might be argumentation. Moreover, the Notice of Appeal contains sections that are clearly argumentation, such as paragraphs 95 to 99. The Appellant is reminded that a notice of appeal requires her to clearly specify the alleged error in question and then identify the challenged finding or ruling in the judgement or decision. Detailed argumentation is to be included in the appeal brief. In light of the foregoing, the Appellant is instructed to re-file the Notice of Appeal in conformity with the above requirements.

IV. Appellant's Motion

15. The Appellant moves the Appeals Chamber to strike the *Amicus* Motion.²⁴ The Appellant argues that the *Amicus* Prosecutor lacks standing to move the Appeals Chamber to strike her Notice of Appeal due to the fact that his mandate lapsed on 14 September 2004 at the end of the trial proceedings.²⁵ The Appeals Chamber considers that the assignment of an *Amicus* Prosecutor to a trial proceeding necessarily continues until the close of all related proceedings. The Appeals

²³ *Mrkšić* Decision, para. 8.

²⁴ Appellant's Motion, para. 21.

²⁵ *Id.*, para. 9.