



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-96-21-~~AR~~724  
Date: 15 June 1998  
Original: English

**BEFORE A BENCH OF THE APPEALS CHAMBER**

**Before:** Judge Lal Chand Vohrah, Presiding  
Judge Wang Tieya  
Judge Rafael Nieto-Navia

**Registrar:** Mrs. Dorothee de Sampayo Garrido-Nijgh

**Decision of:** 15 June 1998

**PROSECUTOR**

v.

**ZEJNIL DELALIĆ  
ZDRAVKO MUCIĆ a/k/a "PAVO"  
HAZIM DELIĆ  
ESAD LANDŽO a/k/a "ZENGA"**

**DECISION ON THE APPLICATION FOR LEAVE TO APPEAL PURSUANT TO  
RULE 73 BY THE ACCUSED ZEJNIL DELALIĆ**

**The Office of the Prosecutor:**

Mr. Grant Niemann  
Mr. Giuliano Turone  
Ms. Teresa McHenry

**Counsel for the Appellant:**

Ms. Edina Rešidović and Mr. Eugene O'Sullivan for Zejnir Delalić  
Mr. Željko Olujić and Mr. Tomislav Kuzmanović for Zdravko Mucić  
Mr. Salih Karabdić and Mr. Thomas Moran for Hazim Delić  
Ms. Cynthia McMurrey and Ms. Nancy Boler for Esad Landžo

**THE BENCH OF THE APPEALS CHAMBER**

**PURSUANT** to Rule 73(B) of the Rules of Procedure and Evidence (“the Rules”);

**NOTING** the oral decision rendered by Trial Chamber II on 2 June 1998 (“the oral decision”) which denied the granting of an adjournment necessary to allow testimony to be given in the defence of the accused, Zejnil Delalić, by seven witnesses, who for professional and personal reasons are unable to be present in the Hague before 22 June 1998;

**NOTING** that the oral decision therefore required the defence for the accused to close its case upon completion of the testimony of witnesses giving evidence between 2 and 12 June 1998;

**NOTING** the application of the accused, Zejnil Delalić, filed pursuant to Rule 73 on 3 June 1998, for leave to appeal against the oral decision;

**NOTING** Rule 73(B), which provides that:

Decisions on such motions are without interlocutory appeal save with the leave of a bench of three Judges of the Appeals Chamber which may grant such leave-

- (i) if the decision impugned would cause such prejudice to the case of the party seeking leave as could not be cured by the final disposal of the trial including post-judgement appeal;
- (ii) if the issue in the proposed appeal is of general importance to proceedings before the Tribunal or in international law generally.

**CONSIDERING** that, as to Rule 73(B)(i), if a denial of an adjournment for the purpose of calling further witnesses can cause prejudice to the case of a party, such prejudice can be cured by post-judgement appeal;

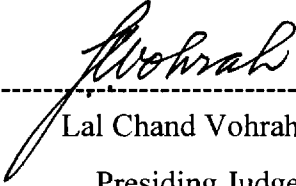
**AND CONSIDERING** that, as to Rule 73(B)(ii),

- (1) what is of general importance to proceedings before the Tribunal or in international law generally is the principle that decisions whether or not to grant an adjournment for the purpose of calling further witnesses should be made bearing in mind the right of accused persons to a fair trial under Article 20(1) of the Statute;
- (2) that the issue raised in the application for leave to appeal is not that principle but the correctness of its application to a particular decision in the specific circumstances in which the decision was made; and
- (3) that an appeal in such a case is best left for the post-judgement stage;

**DECIDES**, without needing to call on the Prosecutor for a response, to refuse to grant leave to appeal;

**RECOGNISING**, however, that this decision is without prejudice to the competence of the Trial Chamber, if it sees fit, either to review the oral decision, or to permit any further witnesses to testify on behalf of the accused at any later stage in the proceedings, inclusive of any time subsequent to the commencement of the defences of any of the other accused, subject to such conditions as justice may require.

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

  
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Lal Chand Vohrah  
Presiding Judge

Dated this fifteenth day of June 1998  
At The Hague  
The Netherlands.

**[Seal of the Tribunal]**