



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-95-14/1-AR73
Date: 18 December 1998
Original: English

BEFORE A BENCH OF THE APPEALS CHAMBER

Before: Judge Gabrielle Kirk McDonald, Presiding
Judge Tieya Wang
Judge David Anthony Hunt

Registrar: Mrs. Dorothee de Sampayo Garrido-Nijgh

Decision of: 18 December 1998

PROSECUTOR

v.

ZLATKO ALEKSOVSKI

**DECISION ON APPLICATION OF THE PROSECUTION
FOR LEAVE TO APPEAL:**

- (1) THE TRIAL CHAMBER'S DECISION TO ADMIT
FURTHER DEFENCE EVIDENCE; AND
(2) THE TRIAL CHAMBER'S DECISION TO DENY
THE PROSECUTOR'S MOTION TO
ADMIT FURTHER EVIDENCE IN REPLY

The Office of the Prosecutor:

Mr. Grant Niemann
Mr. Anura Meddegoda

Counsel for the Accused:

Mr. Goran Mikuličić
Mr. Srdan Joka

THIS BENCH OF 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 ("Tribunal"),

NOTING the Prosecution's "Application for Leave to Appeal: (1) The Trial Chamber's Decision to Admit Further Defence Evidence; and (2) The Trial Chamber's Decision to Deny the Prosecutor's Motion to Admit Further Evidence in Reply," filed on 6 November 1998 ("Application");

NOTING the "Defence's Response to the Prosecutor's Application for Leave to Appeal," filed on 23 November 1998 ("Response");

FURTHER NOTING the "Prosecution's Submission Concerning Timeliness of Application for Leave to Appeal," filed on 26 November 1998;

FINDING that the Application was not timely with respect to the Trial Chamber's written decision of 22 October 1998;

RECOGNISING, however, the filing of the Application regarding the 22 October 1998 decision as having been validly done, in accordance with Sub-rule 127 (B);

CONSIDERING that the issues raised by the Trial Chamber decisions sought to be appealed are clearly related and that, therefore, the interests of justice demand that they be determined together;

CONSIDERING that the proposed appeal raises fundamental issues of equality of arms and the right to a fair trial for both the Prosecution and Defence;


CONSIDERING that these issues are of general importance to proceedings before the Tribunal within the meaning of Sub-rule 73 (B) (ii) of the Rules of Procedure and Evidence ("Rules");

WITHOUT PASSING ON whether sub-Rule 73 (B) (i) of the Rules is applicable;

HEREBY GRANTS the APPLICATION for leave to appeal; and

HEREBY ORDERS the parties to submit written briefs on the merits of the appeal by 9 January 1999.

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


Gabrielle Kirk McDonald
Presiding

Dated this eighteenth day of December 1998
At The Hague,
The Netherlands