



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-95-17/1-A

Date: 5 May 2000

Original: ENGLISH

IN THE APPEALS CHAMBER

Before: Judge Mohamed Shahabuddeen, Presiding
Judge Lal Chand Vohrah
Judge Rafael Nieto-Navia
Judge Patrick Robinson
Judge Fausto Pocar

Registrar: Mrs. Dorothee de Sampayo Garrido-Nijgh

Decision of: 5 May 2000

THE PROSECUTOR

v.

ANTO FURUNDŽIJA

**DECISION ON DEFENCE FILINGS SUBSEQUENT TO THE
CLOSE OF THE APPEAL HEARING**

Counsel for the Prosecutor:

**Mr. Upawansa Yapa
Ms. Brenda Hollis
Mr. Norman Farrell**

Counsel for the Appellant:

**Mr. Luka S. Mišetić
Mr. Sheldon Davidson**

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 (“the International Tribunal”),

NOTING the Judgement in *The Prosecutor v. Anto Furundžija*, IT-95-17/1-T, rendered on 10 December 1998;

NOTING the “Defendant’s Notice of Appeal Pursuant to Rule 108”, filed on 22 December 1998, the “Defendant’s Amended Appellate Brief”, filed on 14 September 1999, the “Respondent’s Brief of the Prosecution”, filed on 30 September 1999, and the “Defendant’s Reply Brief”, filed on 8 November 1999;

NOTING that, after the expiry of time-limits for the filing of briefs and pursuant to Rule 114 of the Rules of Procedure and Evidence (“the Rules”), hearings on appeal in this case were held on 2 March 2000;

BEING SEISED OF the “Appellant’s Response to Inquiry of Judge Vohrah re: Application of Opinion and Judgement in *Prosecutor v. Tadić* to Oral Argument of Appellant’s Counsel” filed on 7 March 2000, (“the Appellant’s Response”), and the Appellant’s “Conviction of Anto Furundžija based upon alleged Torture of Witness D is void as being (1) Outside the Scope of the Jurisdiction of the ICTY and (2) Based upon an Alleged Crime not charged in the Indictment”, filed on 8 March 2000 (“Appellant’s Challenge to Jurisdiction”);

NOTING the “Prosecution Response to Appellant’s Filings Subsequent to the Close of the Hearing of the Appeal”, filed on 10 March 2000;

CONSIDERING that sub-Rule 127(B) of the Rules permits the Appeals Chamber, on good cause being shown by motion, to recognise as validly done any act done after the expiration of a prescribed time-limit;

TREATING the Appellant’s Response as implying a motion to recognise the late filing as validly done;

CONSIDERING with respect to the Appellant's Response that Judge Vohrah's request for information during oral hearings constitutes good cause for its admission;

CONSIDERING with respect to the Appellant's Challenge to Jurisdiction that, in all the circumstances of the case, including the fact that written and oral arguments have now closed, good cause has not been shown to justify its late admission;

HEREBY ORDERS that:

1. The Appellant's Response shall be admitted as validly filed;
2. The Appellant's Challenge to Jurisdiction is rejected as having been filed out of time.

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



Mohamed Shahabuddeen
Presiding

Dated this fifth day of May 2000
At The Hague,
The Netherlands.

[Seal of the Tribunal]