

**UNITED  
NATIONS**



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-95-14/2-AR73.8

Date: 5 December 2000

Original: English

**BEFORE A BENCH OF THE APPEALS CHAMBER**

**Before:** Judge Rafael Nieto-Navia, Presiding  
Judge Lal Chand Vohrah  
Judge Fausto Pocar

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

**Decision of:** 5 December 2000

**PROSECUTOR**

v.

**DARIO KORDIĆ  
MARIO ČERKEZ**

**DECISION ON APPLICATION FOR LEAVE TO APPEAL**

**Counsel for the Prosecutor:**

Mr. Geoffrey Nice  
Mr. Kenneth Scott

**Counsel for Dario Kordić:**

Mr. Mitko Naumovski  
Mr. Turner T. Smith, Jr.  
Mr. Robert A. Stein  
Mr. Stephen M. Sayers

**Counsel for Mario Čerkez:**

Mr. Božidar Kovačić  
Mr. Goran Mikuličić

**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 (“the Bench” and “the International Tribunal” respectively),

**BEING SEIZED OF** the “Accused Mario Čerkez’s Application for Leave to Pursue an Interlocutory Appeal of Trial Chamber III’s A [sic] November 20, 2000, Scheduling Order [sic]”, filed on 24 November 2000 (“the Defence” and “the Application for Leave to Appeal” respectively);

**NOTING** the oral decision of Trial Chamber III rendered on 20 November 2000 (“the Impugned Decision”) whereby the Defence was granted some additional time and 13 December 2000 was confirmed as the date for the submission of the final trial briefs;

**NOTING** the “Prosecutor’s Response to Accused Mario Čerkez’s Application for Leave to Pursue an Interlocutory Appeal of Trial Chamber III’s November 20, 2000, Scheduling Order”, filed by the Prosecutor on 29 November 2000 (“the Response”);

**CONSIDERING** that the Application for Leave to Appeal is filed pursuant to Rule 73 of the Rules of Procedure and Evidence of the International Tribunal (“the Rules”) which provides, *inter alia*, that applications “for leave to appeal shall be filed within seven days of the filing of the impugned decision” and allows for interlocutory appeals in the following two instances:

- (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;

**NOTING** that the Application for Leave to Appeal was filed within time;

**NOTING** that the Application for Leave to Appeal argues, *inter alia*: i) the Trial Chamber’s failure to balance the Defence’s right to a fair trial pursuant to Article 21(4)(d) and the Defence’s right to an expeditious trial, ii) the Trial Chamber’s failure to consider the large number of newly

submitted documents, iii) the Trial Chamber's failure to consider the limited resources available to the Defence in comparison to the Prosecutor, and iv) the Trial Chamber's departure from the practice of other Trial Chambers with regard to the granting of time for the preparation of the final trial brief and closing arguments;

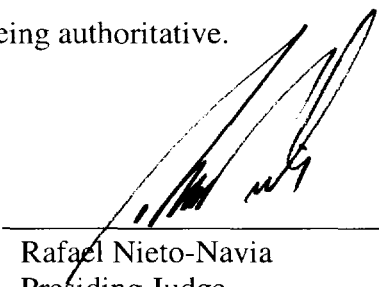
**CONSIDERING** that the Application for Leave to Appeal was filed pursuant to Rule 73 of the Rules, without specifying whether the interlocutory appeals falls within the criteria of Rule 73 (B)(i) or (ii);

**CONSIDERING** that it is for the Defence to show the Bench either that the Impugned Decision would cause such prejudice to its case as could not be cured by the final disposal of the trial including post-judgement appeal, or that the issue in the proposed appeal is of general importance to proceedings before the International Tribunal or in international law generally;

**FINDING** that there has been no showing either that there is such prejudice or that the issue in the proposed appeal is of general importance to proceedings before the International Tribunal or in international law generally;

**HEREBY DISMISSES** the Application for Leave to Appeal.

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



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Rafael Nieto-Navia  
Presiding Judge

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

**[Seal of the Tribunal]**