



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

IT-95-16-A
A5836-A5834
28 JUNE 2001

5836
sf

Case No.: IT-95-16-A
Date: 28 June 2001
Original: English

BEFORE THE APPEALS CHAMBER

Before: Judge Patricia Wald, Presiding
Judge Lal Chand Vohrah
Judge Rafael Nieto-Navia
Judge Fausto Pocar
Judge Liu Daqun

Registrar: Mr. Hans Holthuis

Decision of: 28 June 2001

PROSECUTOR

v.

**ZORAN KUPREŠKIĆ
MIRJAN KUPREŠKIĆ
VLATKO KUPREŠKIĆ
DRAGO JOSIPOVIĆ
VLADIMIR ŠANTIĆ**

**DECISION ON MOTION BY ZORAN KUPREŠKIĆ FOR
ADMISSION OF ADDITIONAL EVIDENCE**

Counsel for the Prosecutor:

Mr. Upawansa Yapa

Counsel for the Defence:

**Mr. Ranko Radović, Mr. Tomislav Pasarić for Zoran Kupreškić
Ms. Jadranka Sloković-Glumac, Ms. Desanka Vranjican for Mirjan Kupreškić
Mr. Anthony Abell, Mr. John Livingston for Vlatko Kupreškić
Mr. William Clegg Q.C., Ms. Goranka Herljević for Drago Josipović
Mr. Petar Pavković, Mr. Mirko Vrdoljak for Vladimir Šantić**

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 (“International Tribunal”),

BEING SEISED OF the “Motion of the Counsel of Zoran Kupreškić with which he Proposes the Derivation of Additional Proof Considering the Rule 115 of Procedure and Evidence”, filed confidentially on 6 June 2001, where the Appellant requests the Appeals Chamber to authorise the presentation of certain additional evidence relating to sentencing (“Motion”);

NOTING the “Prosecution’s Response to ‘Motion of the Counsel of Zoran Kupreškić with which he Proposes the Derivation of Additional Proof Considering the Rule 155 of Procedure and Evidence’”, filed confidentially on 18 June 2001, in which the Prosecution submits that the Motion is without merit and should be denied (“Prosecution’s Response”);

NOTING that Zoran Kupreškić has not filed a reply to the Prosecution’s Response within the time-limit stipulated by the “Practice Direction on Procedure for the Filing of Written Submissions in Appeal Proceedings Before the International Tribunal”, IT/155;

NOTING that Rule 115 of the Rules of Procedure and Evidence of the International Tribunal (“the Rules”) provides that a party may apply to present additional evidence which was not available at trial and that the Appeals Chamber shall authorise the presentation of such evidence if it considers it to be in the interest of justice;

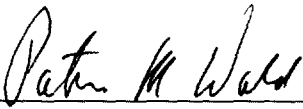
CONSIDERING that the presentation of additional evidence is in the interest of justice if the evidence is relevant to a material issue, credible and such that it would probably show that the conviction or sentence was unsafe;¹

FINDING that the Motion fails to demonstrate how the proposed additional evidence probably shows that Zoran Kupreškić’s sentence is unsafe and that, therefore, the criteria of Rule 115 of the Rules have not been met;

HEREBY DISMISSES the Motion.

¹ See previous decisions in this matter: “Decision on the Motions of Appellants Vlatko Kupreškić, Drago Josipović, Zoran Kupreškić and Mirjan Kupreškić to Admit Additional Evidence”, dated 26 February 2001, para. 6, and “Decision on the Admission of Additional Evidence following Hearing of 30 March 2001, dated 11 April 2001, paras 11-17.

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



Patricia M. Wald
Presiding Judge

Dated this 28th day of June 2001
At The Hague,
The Netherlands.

[Seal of the Tribunal]