



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-96-23 & 23/1-A

Date: 30 November 2001

English
Original: French

IN THE APPEALS CHAMBER

Before: Judge Claude Jorda, President
Judge Mohamed Shahabuddeen
Judge Wolfgang Schomburg
Judge Mehmet Güney
Judge Theodor Meron

Registrar: Mr. Hans Holthuis

Order of: 30 November 2001

THE PROSECUTOR

v.

**DRAGOLJUB KUNARAC
RADOMIR KOVAČ
ZORAN VUKOVIĆ**

**DECISION ON THE MOTION OF THE DEFENCE
OF THE ACCUSED ZORAN VUKOVIĆ
FOR PRESENTATION OF ADDITIONAL EVIDENCE**

The Office of the Prosecutor:
Mr. Norman Farrell

Defence Counsel:
Mr. Slaviša Prodanović and Mr. Dejan Savatić for Dragoljub Kunarac
Mr. Momir Kolesar and Mr. Vladimir Rajić for Radomir Kovač
Mr. Goran Jovanović and Ms. Jelena Lopičić for Zoran Vuković

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 (hereinafter “the International Tribunal”);

NOTING the Motion of the Defence of the accused Zoran Vuković for presentation of additional evidence, filed on 6 November 2001 (hereinafter “the Motion”), in which the Appellant seeks authorisation from the Appeals Chamber to present additional evidence in the form of “the birth certificate of Marijana Vuković, the accused Zoran Vuković’s daughter,” pursuant to Rule 115 of the Rules of Procedure and Evidence (hereinafter “the Rules”),

NOTING the Prosecution's response to the motion of the defence of the accused Zoran Vuković for presentation of additional evidence, filed on 16 November 2001 (hereinafter “the Prosecution’s Response), in which the Prosecution asserts that the Motion is groundless and should be rejected,

CONSIDERING that Zoran Vuković did not file a reply to the Prosecution’s Response in the time-limit set out by the Practice Direction regarding the procedure for filing written appeals before the International Tribunal (IT/155),

CONSIDERING that Rule 115 sets out that a party may apply by motion to present before the Appeals Chamber additional evidence which was not available to it at the trial, and that the Appeals Chamber shall authorise the presentation of such evidence if it considers that the interests of justice so require,

CONSIDERING that the interests of justice require additional evidence to be presented if it is relevant to a material issue, if it is credible and if it is likely¹ to demonstrate that the finding of guilt or the sentence was unjustified,

CONSIDERING that the Appellant has not demonstrated that the evidence in question was not available to him at the trial, and that in any case, the interests of justice do not require that its presentation be authorised,

¹ The Prosecutor v. Kupreskić, IT-95-16-A, Appeals Judgement of 23 October 2001, paragraph 68.

V1039 bis

REJECTS the Motion.

Done in French and in English, the French version being authoritative.

Done this thirtieth day of November 2001
At The Hague
The Netherlands

(Signed)

Claude Jorda