



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-98-34-AR73.6

Date: 6 June 2002

Original: English

**BEFORE A BENCH OF THE APPEALS CHAMBER**

**Before:** Judge Fausto Pocar, Presiding  
Judge Mehmet Güney  
Judge Asoka de Zoysa Gunawardana

**Registrar:** Mr. Hans Holthuis

**Decision of:** 6 June 2002

**PROSECUTOR**

v.

**MLADEN NALETILIĆ a/k/a "TUTA"  
and  
VINKO MARTINOVIĆ a/k/a "ŠTELA"**

**DECISION ON APPLICATION FOR LEAVE TO APPEAL**

**Counsel for the Prosecutor:**

Mr. Kenneth Scott  
Mr. Douglas Stringer  
Mr. Vassily Poriouvaev  
Mr. Roeland Bos

**Counsel for the Accused:**

Mr. Krešimir Krsnik and Mr. Christopher Y. Meek for Mladen Naletilić  
Mr. Branko Šerić and Mr. Zelimar Paar for Vinko Martinović

**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),

**NOTING** the oral decision rendered on 27 March 2002 by Trial Chamber I (“the Impugned Decision” and “the Trial Chamber” respectively);

**BEING SEISED OF** the “Accused Natetilić’s [*sic*] Request for Leave to Appeal Trial Chamber’s Oral Decision of 27 March 2002 Which Misconstrued Rule 67(A)(ii)(a)” filed by counsel for Mladen Naletilić (“the Applicant”) on 2 April 2002 (“the Application”);

**NOTING** the “Prosecution’s Response to Applicant Naletilić’s Request for Leave to Appeal Trial Chamber’s Oral Decision of 27 March 2002 Which Misconstrued Rule 67(A)(ii)(a)” filed by the Office of the Prosecutor (“the Prosecution”) on 9 April 2002;

**CONSIDERING** that the Trial Chamber ordered the Applicant to, pursuant to Rule 67(A)(ii)(a) of the Rules of Procedure and Evidence of the International Tribunal (“the Rules”), provide the Prosecution with specific information relating to proposed evidence which the Trial Chamber characterised as constituting an alibi defence;

**CONSIDERING** that, pursuant to Rule 73(D)(i) of the Rules, IT/32/Rev.22 (Incorporating IT/32/Rev.22/Corr.1) of 28 December 2001 (“the 22nd Revision of the Rules”), the Applicant is requesting that a Bench of the Appeals Chamber grant leave to appeal from the Impugned Decision;

**NOTING** that Rule 73(D) of the Rules has been amended as of 8 May 2002, but considering that the previous version of the Rule, Rule 73(D) of the 22nd Revision of the Rules, applies in the instant case;

**CONSIDERING** that the Application in effect constitutes a request for leave to appeal from a decision relating to issues involving the administration of evidence and procedure within the meaning of Rule 73(B) of the 22nd Revision of the Rules;

**CONSIDERING** that an interlocutory appeal may not be brought against the Impugned Decision unless the Trial Chamber has “certif[ied] that an interlocutory appeal [...] is appropriate for the continuation of the trial” in accordance with Rule 73(C) of the 22nd Revision of the Rules;

**CONSIDERING** that the Applicant did not request the Trial Chamber to certify the appropriateness of an interlocutory appeal from the Impugned Decision;

**FOR THE FOREGOING REASONS,**

**HEREBY REJECTS** the Application.

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

Done this 6<sup>th</sup> day of June 2002  
At The Hague,  
The Netherlands.



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Fausto Pocar  
Presiding Judge

**[Seal of the Tribunal]**