



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-02-65-PT
Date: 10 November 2005
Original: ENGLISH

IN THE TRIAL CHAMBER

Before: Judge Patrick Robinson, Presiding
Judge O-Gon Kwon
Judge Iain Bonomy

Registrar: Mr. Hans Holthuis

Decision of: 10 November 2005

PROSECUTOR

v.

**ŽELJKO MEJAKIĆ
MOMČILO GRUBAN
DUŠAN FUŠTAR
DUŠKO KNEŽEVIĆ**

**DECISION ON DEFENDANT DUŠAN FUŠTAR'S
EMERGENCY MOTION TO RECONSIDER**

Office of the Prosecutor:

Ms. Carla del Ponte
Ms. Ann Sutherland

Counsel for the Accused:

Mr. Jovan Simić and Mr. Zoran Živanović, for Željko Mejačić
Mr. Branko Lukić, for Momčilo Gruban
Mr. Theodore Scudder and Mr. Dragan Ivetić, for Dušan Fuštar
Ms. Slobodanka Nedić, for Duško Knežević

THIS TRIAL 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 SEIZED of a “Defendant, Dušan Fuštar’s Emergency Motion to Reconsider,” filed by the Defence of Dušan Fuštar (“the Accused”) on 9 November 2005 (“Motion”), requesting that the Trial Chamber reconsider its “Decision on Defendant Dušan Fuštar’s Emergency Motion seeking a Temporary Provisional Release” of 9 November 2005, and thereby allow the Accused be provisionally released from detention for a period of seven days in order to travel to Bosnia and Herzegovina for the funeral of his mother-in-law, which is scheduled for 10 November 2005,

NOTING that the Motion states that “Mr. Fustar spoke with Mr. Trivun Jovicic, Counsel with the Embassy of Bosnia & Herzegovina, who gave him verbal guarantees that the Government of Bosnia & Herzegovina will further assure the Tribunal of Mr. Fustar’s to return to custody [*sic*] after the conclusion of the provisional release,”

CONSIDERING that the Accused invites the Trial Chamber to confer with Mr. Jovicic about the guarantees, but that it is for the Accused to ensure that such guarantees are provided to the Trial Chamber,

CONSIDERING ALSO that the funeral which the Accused wishes to attend is taking place today and it is therefore impossible for the Accused to travel to Bosnia and Herzegovina in time,

PURSUANT TO Rules 54 and 65 of the Rules of Procedure and Evidence of the International Tribunal,

HEREBY DENIES the **MOTION**.

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



Patrick Robinson
Presiding

Dated this tenth day of November 2005
At The Hague,
The Netherlands

[Seal of the Tribunal]