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BLAŠKIĆ CASE: JUDGE SUSPENDS ORDER AGAINST CROATIA TO ALLOW INFORMAL RESOLUTION OF EVIDENCE ISSUE

- An Order issued by Judge McDonald directing the Republic of Croatia to comply fully with a Subpoena directing it to provide evidence to the Prosecutor was today suspended to allow the Parties to resolve the matter informally.

In a public hearing today at 2 p.m., Judge McDonald (sitting alone, as the confirming Judge), ruled that Croatia should report back to the Tribunal by **Monday 24 February 1997** with a date for a meeting in Zagreb between the Prosecutor and representatives of Croatia, at which the production of evidence would be discussed. Judge McDonald suggested that such a meeting take place during the week beginning 24 February.

In her order suspending the Order of 14 February, Judge McDonald noted Croatia's challenge to the legality of the Order and Subpoena but its willingness to cooperate informally with the Prosecutor. (For background, see PR156.)

- Regarding Bosnia and Herzegovina, which has also been ordered to hand over evidence to the Prosecutor, the Judge ordered the Minister of Defence of the Federation, Mr. Ante Jelavić, or a competent representative, to appear before her on **Monday 24 February at 10 a.m.** Mr. Jelavić, as the person with effective control over the Central Archives wherein the requested documents are believed to lie, must then explain his compliance with the Order of 14 February and indicate a schedule of compliance.

Today's Hearing

Present at today's public hearing were the Croatian Ambassador to the Netherlands, His Excellency, Branko Salaj, and Croatia's liaison with the Tribunal, First Secretary Mr. Oršat Miljenić, who appeared further to an Order of 14 February, to explain why Croatia has thus far failed to hand over to the Prosecutor the 13 groups of evidentiary material requested in the Subpoena of 15 January 1997. .../...

Minister Counsellor, Mrs. Vasvija Vidović, Bosnia and Herzegovina's liaison with the Tribunal, appeared on behalf of that State.

Reading from a prepared statement explaining Croatia's official position, Mr. Salaj informed the Judge that Croatia does not recognise the power of the International Tribunal to subpoena State Officials. Croatia maintains that neither International Law nor the Statute and Rules of the Tribunal empower it to subpoena State Officials. Had the UN Security Council intended to convey such a power, it would have stated so expressly. The Ambassador added that this question should be brought before the Security Council for resolution.

The Ambassador said that the Prosecutor had not attempted to obtain the requested evidence in any other way before requesting the Subpoena, and stated that Croatia cannot accept the Subpoena as a mode of communication between it and the Tribunal. Noting, however, Croatia's willingness to cooperate with the Tribunal (of which his appearance was an expression, as well as a mark of respect to the Judge), Ambassador Salaj said that Croatia was prepared to offer a compromise: If the Prosecutor does not insist on the Subpoena, Croatia will endeavour as soon as possible to meet his request.

The Prosecutor noted that since the Subpoena was issued on 15 January, he received no communication from Croatia prior to receiving a letter from that State dated 13 February 1997. He has received none of the documents requested in the Subpoena.

He told the Judge that it is the Prosecutor's position that the Tribunal has the power to subpoena State Officials, and that if it is Croatia's view that the Tribunal has no such power, that the matter be litigated.

In an attempt to reach a compromise solution, Judge McDonald offered to suspend the Order of 14 February to provide an opportunity to allow Croatia's good faith to motivate this issue. She expressed confidence that Croatia would cooperate in handing over the documents requested.
