



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-04-83-T

Date: 21 April 2008

Original: English

**IN TRIAL CHAMBER I**

**Before:** Judge Bakone Justice Moloto, Presiding  
Judge Frederik Harhoff  
Judge Flavia Lattanzi

**Registrar:** Mr. Hans Holthuis

**Decision of:** 21 April 2008

**PROSECUTOR**

v.

**RASIM DELIĆ**

***PUBLIC***

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**DECISION ON URGENT DEFENCE MOTION TO  
WITHDRAW RULE 92 *bis* WITNESS**

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**The Office of the Prosecutor**

Mr. Daryl A. Mundis  
Ms. Laurie Sartorio  
Mr. Matthias Neuner  
Mr. Kyle Wood  
Mr. Aditya Menon

**Counsel for the Accused**

Ms. Vasvija Vidović  
Mr. Nicholas David Robson

**TRIAL CHAMBER I** (“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 (“Tribunal”);

**BEING SEISED** of the “Urgent Defence Notice About Remainder of the Case and Motion to Withdraw Rule 92 *bis* Witness” filed on 15 April 2008 (“Motion”), whereby the Defence, *inter alia*, requests leave to withdraw 92 *bis* witness Hasan Zukanović and to expunge Exhibit 1372 (the 92 *bis* Statement of Hasan Zukanović dated 23 February 2005), from the record;<sup>1</sup>

**RECALLING** the Trial Chamber “Decision on Defence Motion for Admission of Evidence Pursuant to Rule 92 *bis*” issued on 8 April 2008 (“Decision”), whereby the Trial Chamber admitted into evidence the statement of Hasan Zukanović and ordered the witness to appear for cross-examination by the Prosecution;<sup>2</sup>

**NOTING** that it was the clear intention of the Trial Chamber to admit the statement of Hasan Zukanović into evidence, under the condition that the witness appear in court for cross-examination;<sup>3</sup>

**FURTHER NOTING** that the statement of Hasan Zukanović has been assigned an exhibit number, namely 1372, before the appearance of the witness for cross-examination;

**CONSIDERING** the Defence submission that “following the review, the Defence considers that there is no longer any need for this witness’ evidence and that it would not wish for the court time to be taken up unnecessarily;”<sup>4</sup>

**CONSIDERING** that the Prosecution does not intend to file a response to the Defence Motion and states it takes “no position on the issues set forth” in the Motion;<sup>5</sup>

**RECALLING** Rule 89(B) of the Tribunal’s Rules of Procedure and Evidence (“Rules”), which provides that “in cases not otherwise provided for in this Section, a Chamber shall apply rules of evidence which will best favour a fair determination of the matter before it and are consonant with the spirit of the Statute and the general principles of law;”

**FINDING** it is appropriate to grant the Defence Motion, as well as in the interests of justice and judicial economy;

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<sup>1</sup> Motion, para. 9.

<sup>2</sup> Decision, p. 5.

<sup>3</sup> Decision, p. 4.

<sup>4</sup> Motion, para. 4.

<sup>5</sup> T. 8714.

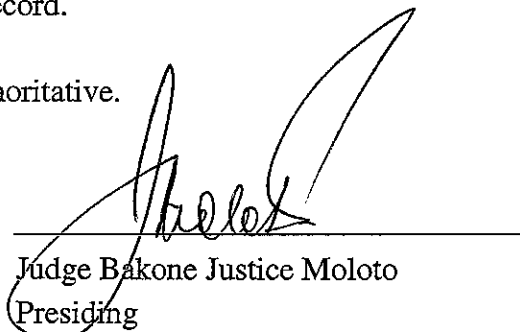
**PURSUANT** to Rules 54 and 89(B) of the Rules;

**HEREBY GRANTS** the Defence Motion to withdraw 92 *bis* witness Hasan Zukanović;

**DECIDES** that the statement of Hasan Zukanović shall not form part of the trial record; and

**DIRECTS** the Registry to remove exhibit 1372 from the record.

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



Judge Bakone Justice Moloto  
Presiding

Dated this twenty-first day of April 2008

At The Hague

The Netherlands

[Seal of the Tribunal]