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DEFENCE MOTION ON DISMISSAL OF CHARGES TO BE DISCUSSED AT RESUMPTION OF TADIC TRIAL

International
Criminal Tribunal
for the Former
Yugoslavia

Tribunal Pénal
International pour
l'ex-Yougoslavie

A motion by counsel for Dusan Tadic to have some of the charges against the accused dropped, and the Prosecutor's response to that motion, will be argued before Trial Chamber II when the trial resumes tomorrow **Tuesday 10 September at 10 a.m.** Following oral arguments by both sides on the motion, the Defence case-in-chief will commence.

The Defence motion, filed under Rule 54 of the Tribunal's Rules of Procedure and Evidence (General Rule), argues that the Prosecution has failed to establish a *prima facie* case on 21 out of the total of 31 counts with which Mr. Tadic is charged, due to what it claims are contradictions between witness accounts; inconsistencies between witness testimony and their statements; contamination of witness testimony; and the unreliability of witnesses.

The motion by the Defence, which was filed on 20 August 1996, seeks to have the following counts dropped: 5 - 11, except in so far as they relate to the beating of Emir Beganovic and Senad Muslimovic; 12 - 14; 15 - 17; 18 - 20; and 24 - 28. These counts relate to, respectively, the beating of Emir Karabasic, Jasmin Hrnica, Enver Alic, Fikret Harambasic and Emir Beganovic in Omarska camp and the forced sexual mutilation of Fikret Harambasic by G. and H.; the cruel and inhuman treatment of Sekif Sevac at Omarska camp; the beatings of Salih Elezovic, Sejad Sivic, Hakija Elezovic and other unnamed prisoners at Omarska; the cruel and inhuman treatment of various unnamed prisoners at Omarska; and the removal of Ekrem Karabasic, Ismet Karabasic, Seido Karabasic and Redo Foric from a column in Kozarac and their murder.

Should the Trial Chamber support the Defence motion in full, Mr. Tadic would continue to be charged under a persecution count (count 1), with the beating of Hase Icic (counts 21 - 23) and with the beating and killing of various named men in the villages of Jaskici and Sivci (counts 29 - 34).

The Prosecution's response, which was filed on Thursday 5 September 1996, urges the Trial Chamber to dismiss the Defence's motion on the grounds that "*the Rules of the International Tribunal (. . .) do not allow for a motion of 'no case to answer' or 'motion for judgement of acquittal' in the trial process, and, further, that even if it can be construed to fall within the authority of the Trial Chamber to entertain such a motion, the Defence position fails under the review that would be applied by the Trial Chamber, and accordingly, should be denied*".

Following oral arguments on the motion by the Defence and Prosecution, the Defence will call its first witness, a constitutional expert, who is expected to testify for up to two days.
