

Press Release . Communiqué de presse

(Exclusively for the use of the media. Not an official document)
(Exclusivement à l'usage des médias. Document non officiel)

REGISTRY
GREFFE

CC/PIO/116-E
The Hague, 15 October 1996

DEFENCE WITNESSES GIVE TESTIMONY BY A LIVE SATELLITE LINK

As of today, Tuesday 15 October 1996, about ten witnesses called by the Defence of Defendant TADIĆ will be giving their testimony by a live video-conference link between Banja Luka and The Hague.

"BECAUSE OF EXTRAORDINARY CIRCUMSTANCES..."

In a motion filed on 20 March 1996, the Defence had requested "*that the Trial Chamber allow the giving of testimony by video-link*" on the basis that potential defence witnesses "*will refuse to come to The Hague voluntarily*" or have indicated "*their unwillingness (...) or great reluctance to come to The Hague*".

In its response filed on 27 March, the Prosecutor had opposed this motion based "*on reasons (...) which are vague and speculative*".

Trial Chamber II ruled on this issue in a decision of 25 June 1996. The Judges stated that the only relevant provision (Rule 71(D)) in the Rules of Procedure and Evidence "*is concerned with the admission of evidence taken by deposition for subsequent use at trial*" **but that** "*because of the extraordinary circumstances attendant upon conducting a trial while a conflict is ongoing or recently ended, it is in the interests of justice for the Trial Chamber to be flexible and endeavour to provide the Parties with the opportunity to give evidence by video-link*".

"ONLY IF CERTAIN CRITERIA ARE MET WITH..."

Trial Chamber II stressed that this opportunity, only justified by extraordinary circumstances, must remain an exception. Its decision emphasizes that "*the general rule is that a witness must physically be present at the seat of the International Tribunal*".

The Judges specified: "*the evidentiary value of testimony provided by video-link, although weightier than that of testimony given by deposition, is not as weighty as testimony given in the courtroom*". According to the Trial Chamber, "*the physical presence of a witness (...) enables the Judges to evaluate the credibility of a person giving evidence (...). Moreover, the physical presence (...) may help discourage the witness from giving false testimony*".

.../...

As an exception to the general rule of the physical presence of the witness, the Trial Chamber *“will only allow video-link testimony if certain criteria are met with, namely that the testimony of a witness is shown to be sufficiently important to make it unfair to proceed without it and that the witness is unable or unwilling to come to the International Tribunal”*.

Concretely, the Judges considered affidavits concerning several defence witnesses, establishing a link between each of them and the time-frame in which the alleged crimes took place and stating their fear or their unwillingness to come to the Hague. Eventually, the Judges were satisfied that the witnesses were *“ sufficiently important to the accused’s defence of alibi”*.

LEGAL, PRACTICAL AND TECHNICAL PROVISIONS.

Instructed by the Judges and constantly coordinating with both the Defence and the Prosecutor, the Registry made over the past months the following provisions:

- It identified BANJA LUKA as the main city in the area of residence of the witnesses.
- It identified a safe location in Banja Luka as the appropriate place where the testimonies would be given.
- It organised a satellite-link between this location and the seat of the Tribunal, using the United Nations global satellite system via IntelSat 602.
- The witnesses will be seen and heard, live, by the members of the Court on their built-in screen; the witnesses will receive live pictures and sound from the courtroom on a monitor screen in the testimony-room.
- The transportation of the witnesses to and from the location will be taken care of by the Registry (Witnesses and Victims Unit).
- On site, a Presiding Officer will make sure that the testimony is given freely and voluntarily. He will check the identity of the witnesses and explain the nature of the proceedings and the obligation to speak the truth. He will inform the witnesses that they are liable to prosecution for perjury in case of false testimony, he will administer the taking of the oath and will keep the Trial Chamber informed at all times of the conditions at the location.

This Presiding Officer will be M.Dominique MARRO, Deputy-Registrar of the International Tribunal.

Two silent observers will be present, one for each of the Parties: M. Michail WLADIMIROFF for the Defence team, and M.Michael KEEGAN for the Prosecutor.

- This exceptional session is expected to last about one week.
