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TADIĆ CASE: THE JUDGEMENT PROCEDURE

On Wednesday 7 May 1997, the International Tribunal for the former Yugoslavia hands down its first judgement, in the case of Dusko Tadić.

Under the Tribunal's Statute and Rules, the judgement and sentencing procedures are entirely separate phases.

Judgement procedure

Judgements of the International Tribunal are governed by **Article 23 of the Statute** and **Rule 88 of the Rules** of Procedure and Evidence (Rules).

Article 23 (1) empowers the Trial Chambers to pronounce judgements and impose sentences on persons convicted of serious violations of international humanitarian law.

Article 23 (2) provides that judgements, that is, the verdict, shall be pronounced in public. They must be a majority decision. The judgement "*shall be accompanied by a reasoned opinion in writing, to which separate or dissenting opinions may be appended*".

Rule 88 supplements Article 23. Its sub-paragraph (B) provides that: "*If the Trial Chamber finds the accused guilty of a crime and concludes from the evidence that unlawful taking of property by the accused was associated with it, it shall make a specific finding to that effect in its judgement. The Trial Chamber may order restitution as provided in Rule 105.*"

After the verdict is pronounced, Rule 99 (A) provides that "*In case of acquittal, the accused shall be released immediately.*" Rule 99 (B) provides that "*If, at the time the judgement is pronounced, the Prosecutor advises the Trial Chamber in open court of his intention to file notice of appeal pursuant to Rule 108, the Trial Chamber may, at the request of the Prosecutor, issue a warrant for the arrest of the accused to take effect immediately.*"

Where an accused is found guilty on one or several counts, sentencing does not immediately follow. If either party files an appeal, the sentencing hearing is stayed until after the decision on appeal.

Appeals Procedure

Appellate proceedings are governed by Article 25 of the Statute and Part Seven of the Rules (Rules 107 - 117).

According to Article 25, the Appeals Chamber may hear an appeal from a person convicted by the Tribunal in the case of: (a) an error of law, invalidating a decision; (b) an error of fact, which has occasioned a miscarriage of justice.

Under Rule 108, any party seeking leave to appeal a judgement (or sentence) shall file a notice of appeal with the Registrar, no later than 30 days after the judgement is rendered.
