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### TADIĆ CASE: UPDATE

#### *Witness Opacić appeals against the order that he be returned to the custody of Bosnia and Herzegovina*

On Friday 30 May 1997, Mrs. Branislava Isailović, Defence Counsel for Witness Dragan OPACIĆ, filed an appeal against the Order of 27 May by Trial Chamber II, that he be returned to the custody of the Republic of Bosnia and Herzegovina.

The Appellant claims his basic right of appeal against any legal decision concerning him and alleges the fear of mistreatment in a Bosnian prison *"because of his nationality and of his failure as a prosecution witness offered by the Republic of Bosnia and Herzegovina in the Tadic case"*.

The Appellant requests:

- that *"the Decision of Trial Chamber II on 27 May 1997 be revised"*;
- that Dragan OPACIĆ remains in the custody of the International Tribunal *"at least until the relevant authorities of the Republic of Bosnia and Herzegovina have decided upon the revision of the judgement"* by which a Sarajevo court convicted Dragan OPACIĆ of genocide and war crimes, and sentenced him to 10 years.

#### Background on Witness OPACIĆ

Dragan Opacić was temporarily transferred at the Prosecutor's request into the jurisdiction and the custody of the International Criminal Tribunal for the former Yugoslavia in June 1995.

He was to be remanded to the authorities of Bosnia and Herzegovina *"upon completion of his participation as a witness in the Prosecutor's investigation and any proceedings before the International Tribunal"*.

#### The proceedings before the Tribunal

Dragan OPACIĆ testified for the Prosecution on 14 and 15 August and 20 September 1996 in the trial of Dusko TADIĆ.

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\* **unofficial translation from the original document in the French language**

On 25 October 1996, the Prosecutor informed the Trial Chamber that she no longer regarded Dragan OPACIĆ as a witness of truth and invited the Judges to disregard his testimony.

On 10 December 1996, the Trial Chamber directed the Prosecutor to investigate *“the matter of the presentation of false testimony by Dragan Opacić and evaluate the possibility of the preparation and submission of an indictment against him”*.

On 8 May 1997, the Prosecutor informed the Trial Chamber that she *“did not consider that the case of Dragan Opacić was an appropriate case for prosecution under Rule 91 [“False testimony under solemn declaration”] of the Rules of Procedure and Evidence”*. Accordingly the Prosecutor requested *“the return of Dragan Opacić to the custody of the Government of Bosnia-Herzegovina”*.

#### The grounds for the Order

The Order of 27 May 1997 is based on the following grounds:

- the decision as to whether to prosecute for false testimony *“rests solely with the Prosecutor and not with the Trial Chamber”*;
- a guarantee was given in June 1995 that Dragan OPACIĆ, being under a sentence of 10 years in Bosnia and Herzegovina, would be returned to the custody of Bosnia and Herzegovina upon completion of any proceedings before the International Tribunal;
- the denial of the request of the Counsel for Dragan OPACIĆ that the Prosecutor's Request for Return be rejected.

The Counsel alleged *“reasons to fear that Dragan Opacić will suffer mistreatment in Bosnian penal institutions”*. However, the Trial Chamber expressed its *“full confidence”* that the Republic of Bosnia and Herzegovina will observe at all times the principle that *“no person under any form of detention or imprisonment shall be subjected to torture or to cruel, inhumane or degrading treatment or punishment”* (Principle 6 of the Body of Principles for the Protection of all Persons under any Form of Detention or Imprisonment, adopted by the United Nations General Assembly on 9 December 1988).

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*The Order of 27 May by Trial Chamber II  
and the Notice of Appeal of 30 May by Mrs. Isailović  
are available upon request at the Press and Information Office.*