JUDICIAL SUPPLEMENT

FEBRUARY 2003

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TRIAL CHAMBERS

The Prosecutor v. Stanislav Galic - Case No. IT-98-29-T

Trial Chamber I (Judges Orie [Presiding], El Madhi and Nieto-Navia)

"DECISION ON THE EXPERT WITNESS STATEMENTS SUBMITTED BY THE DEFENCE"

27 JANUARY 2003

Rule 94* bis *- The probative value of expert witness statements under Rule 89(C) - The degree of specificity and the accessibility to the sources used in support of expert witness statements

The probative value of expert witness statements under Rule 89(C): a minimum degree of transparency in the sources and methods used is required at the stage of admission in order for the Chamber to determine whether it deems the statements to have probative value within the meaning of Rule 89. In determining whether the minimum degree of transparency required at the stage of admission is met, the Trial Chamber takes into consideration the subject matter of the statement, the type of expertise concerned, as well as whether the statement refers to specific events explicitly charged in the Indictment, or to background information.

The degree of specificity and the accessibility to the sources used in support of expert witness statements: the sources must be indicated with the degree of specificity that is required to permit the Prosecution to properly prepare its cross-examination and the Trial Chamber to assess the witness expert statement. The sources in support of any expert witness statement must be clearly indicated and easily accessible to the other party upon request, preferably in one of the official languages of the Tribunal. The parties should cooperate if the tasks of translation are too cumbersome for the Defence. The Trial Chamber will provide further instructions if the parties cannot solve the problems of access and translation on their own.

Procedural Background

- On 20 November 2002, the Defence filed seven expert witness statements pursuant to Rule 94 *bis* of the Rules of Procedure and Evidence.[1]

- On 10 December 2002, the Trial Chamber provided oral comments and guidelines in respect of expert reports.[2]

- On 17 December 2002, the Prosecution filed its "Prosecution's Submission Concerning the Expert Statements Filed by the Defence".

- On 25 December 2002, the Defence filed its "Response on Prosecution's Submission Concerning the Expert Statements Filed by the Defence".

- On 10 January 2003, the Prosecution filed its "Reply to Defence Motion Regarding Expert Witnesses".

- On 14 January 2003, the Defence filed additional submissions.

The Decision

The Trial Chamber admitted all the expert witness statements submitted by the Defence, requested the Defence to provide more details on some sources relied upon in a statement and invited the parties to co-operate on issues of translation of annexes.

The Reasoning

The arguments of the Parties

The Prosecution opposed admission of six expert witness statements on the ground that they do not meet the guidelines with respect to expert witnesses set by the Trial Chamber that there should be transparency of the established and the assumed facts on which the expert relies and that the methods used when applying his or her knowledge, experience or skills to form the opinion of the expert should also be transparent.[3] Furthermore it requested access to the notes referred to in the remaining expert statement. The Defence opposed both Prosecution requests.

The probative value of expert witness statements within the meaning of Rule 89(C)

The Trial Chamber stated that the Rule 94 *bis* procedure does not affect the general power of the Trial Chamber to exclude evidence under Rule 89.[4] It ruled that "an expert witness statement must relate to an issue in dispute at trial in order to constitute relevant evidence that may have probative value within the meaning of Rule 89(C)" and that "a determination on admissibility of evidence pursuant to Rule 89 must also take into account the specific nature of the evidence concerned". In this respect it held that "a minimum degree of transparency in the sources and methods used is [...] required at the stage of admission in order for the Chamber to determine whether it deems the statements to have probative value within the meaning of Rule 89". It further held that "in determining whether the minimum degree of transparency required at the stage of admission is met, the Trial Chamber takes into consideration the subject matter of the statement, the type of expertise concerned, as well as whether the statement refers to specific events explicitly charged in the Indictment, or to background information".

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[1] Rule 94 *bis* (Testimony of Expert Witnesses)
(A) The full statement of any expert witness to be called by a party shall be disclosed within the time-limit prescribed by the Trial Chamber or by the pre-trial Judge.
(B) Within thirty days of filing of the statement of the expert witness, or such other time prescribed by the Trial Chamber or pre-trial Judge, the opposing party shall file a notice indicating whether:
(i) it accepts the expert witness statement; or
(ii)it wishes to cross-examine the expert witness.
(C) If the opposing party accepts the statement of the expert witness, the statement may be admitted into evidence by the Trial Chamber without calling the witness to testify in person.

[2] T. 17058 to 17061.

[3] *Ibid.* See also *Galic*, IT-98-29-T, Decision Concerning the Expert Witnesses Ewa Tableau and Richard Philipps, 3 July 2002. This Decision gives the following definition of an expert: "a person who by virtue of some specialised knowledge, skill or training, can assist the trier of fact to understand or determine an issue in dispute" (p. 2). It also makes clear that it is for the Defence to submit the information necessary for the Trial Chamber to appreciate whether the proposed expert meets the definition.

[4] Rule 89 (C) states: "A Chamber may admit any relevant evidence which it deems to have probative value."

The Trial Chamber then categorised the expert witness statements proposed by the Defence (three on the background of the conflict, three in ballistics and forensic medicine, and one military expert statement) to assess whether they met the degree of transparency required at the stage of admission.

The degree of specificity and the accessibility to the sources used in support of expert witness statements

In respect of one expert witness statement the Trial Chamber found that the sources were "not indicated with the degree of specificity that is required to permit the Prosecution to properly prepare its cross-examination and the Trial Chamber to assess the witness expert statement". On a more general level it stated that "the sources in support of any expert witness statement must be clearly indicated and easily accessible to the other party upon request, preferably in one of the official languages of the Tribunal". It declared that "the parties should co-operate if the tasks of translation are too cumbersome for the Defence" and that "the Trial Chamber will provide further instructions if the parties cannot solve the problems of access and translation on their own". ▪

The Prosecutor v. Pasko Ljubicic - Case No. IT-00-41-PT

Trial Chamber I (Judges Liu [Presiding], El Mahdi and Orie)

"DECISION ON PROSECUTION'S MOTION FOR JUDICIAL NOTICE OF ADJUDICATED FACTS"

23 JANUARY 2003

Rule 94(B) - Adjudicated Facts and Appellate Proceedings

Adjudicated facts and appellate proceedings: whether an adjudicated fact is taken from a Judgement under appeal or from a Judgement confirmed on appeal, it may be open to refutation or qualification. Judicial notice of an adjudicated fact means only that the proposing party (Prosecution or Defence) does not have to prove that fact at trial, not that that fact cannot be challenged, refuted, or qualified by evidence at trial. Judicial notice of adjudicated facts should generally not be taken of facts which are themselves being appealed.

Procedural Background

▪ On 19 December 2002, the Prosecution requested the Trial Chamber, pursuant to Rule 94(B) of the Rules of Procedure and Evidence,[1] to take judicial notice of adjudicated facts derived from the Judgements of the Trial Chambers in the *Furundzija*, *Aleksovski*, *Kupreskic* et al., *Blaskic* and *Kordic & Cerkez* cases.[2]

▪ On 22 January 2003, the Defence requested the Trial Chamber to deny the Motion.[3]

The Decision

The Trial Chamber allowed the Motion in respect of the facts listed in the annex to its Decision, which consists of the facts the Prosecution derived from the *Furundzija*, *Aleksovski* and *Kupreskic* et al. Judgements. It denied the Motion in all other respects.

The Reasoning

The Trial Chamber considered the finding of the Appeals Chamber in the *Kupreskic* et al. case on 8 May 2001, according to which "[o]nly facts in a Judgement, from which there has been no appeal, or as to which any appellate proceedings have concluded, can truly be deemed 'adjudicated facts' within the meaning of Rule 94(B)".[4] It noted that "that statement was made in the context of a request to the Appeals Chamber to take judicial notice of *an entire Judgement* which at the time was before the Appeals Chamber".[5] The Trial Chamber also considered the statement of Trial Chamber III that the "Trial Chamber is willing to consider the admission of truly adjudicated facts, *particularly* where such facts are extracted from cases for which the Appeals Chamber has ruled on the merits or has not been called upon to do so".[6]

The Trial Chamber, having considered the above-mentioned case-law of the Tribunal, found that whether or not "an adjudicated fact is taken from a Judgement under appeal or from a Judgement confirmed on appeal, it may, in either case, be open to refutation or qualification, and that judicial notice of an adjudicated fact means only that the proposing party (Prosecution or Defence) does not have to prove that fact at trial, not that that fact cannot be challenged, refuted, or qualified by evidence led at trial". It added that "judicial notice of adjudicated facts should generally not be taken of facts which are *themselves* being appealed".[7]

In the present case the Trial Chamber was "*not* persuaded that the proposed adjudicated facts derived from the *Blaskic* and *Kordic & Cerkez* cases are not *themselves* currently being appealed"[8] and therefore solely allowed the facts derived from the *Furundzija*, *Aleksovski*, and *Kupreskic* et al. Judgements. ▪

[1] Rule 94 (Judicial Notice)
(B) At the request of a party or *proprio motu,* a Trial Chamber, after hearing the parties, may decide to take judicial notice of adjudicated facts or documentary evidence from other proceedings of the Tribunal relating to matters at issue in the current proceedings.

[2] Prosecution's Motion for Judicial Notice of Adjudicated Facts (hereinafter the "Motion"), 19 December 2002. The Prosecution principally sought the judicial notice of adjudicated facts so as to reduce the number of Prosecution witnesses in the trial and thereby shorten the trial and ensure judicial economy.

[3] Defence Response to Prosecution's Motion for Judicial Notice of Adjudicated facts, 22 January 2003. The Defence requested the denial of the request on the ground, *inter alia*, that one source of the fact (the *Kupreskic* et al. Judgement) was corrected on appeal, when three accused were freed, and that two other sources (the *Blaskic* and *Kordic & Cerkez* Judgements) presently are under appeal, which makes the proposed facts totally uncertain.

[4] *Kupreskic* et al., IT-95-16-A, Decision on the Motions of Drago Josipovic, Zoran Kupreskic and Vlatko Kupreskic to Admit Additional Evidence Pursuant to Rule 115 and for Judicial Notice to be Taken Pursuant to Rule 94(B), 8 May 2001, *Judicial Supplement* No. 24.

[5] Italics by the Trial Chamber.

[6] *Milosevic*, IT-02-54-T, Decision on the Prosecution's Motion for Judicial Notice of Adjudicated Relevant to the Municipality of Brcko, 5 June 2002, *Judicial Supplement* No. 34.

[7] Italics by the Trial Chamber.

[8] *Ibid.*

SINGLE JUDGE

The Prosecutor v. Momcilo Krajisnik - Case No. IT-00-39-PT

Judge Liu

"DECISION ON THE DEFENCE APPLICATION FOR WITHDRAWAL OF A JUDGE FROM THE TRIAL"

22 JANUARY 2003

Rule 15 of the Rules of Procedure and Evidence - Impartiality of a Judge - The notion of "an association" - The definition of an "actual bias" - The "hypothetical fair-minded observer" - Impartiality and adjudicated facts

The notion of "an association": it would be erroneous to assume from the outset that every possible association, however remote, between the Judge and the Accused or for that matter a witness or the facts relating to another case against a witness automatically qualifies as "an association" within the meaning of Rule 15. A party challenging the Judge's impartiality must demonstrate that the Judge entertains a personal interest in or particular concerns for any of the Parties, the witnesses or the facts of the case. Such personal interest or particular concern is certainly different from a lawyer's professional interest in the subject matter of the case.

The definition of an "actual bias": a Judge would certainly host an actual bias and thus be disqualified as a Judge when it is proved that there is an association which involves the Judge's personal interest in the outcome of the case.

The "hypothetical fair-minded observer": the hypothetical fair-minded observer is by implication someone from the outside, who, as an observer (and not a party) recognises and understands the circumstances well enough to tell whether or not the public sense of Justice would be challenged by the presence of a particular Judge on the Bench in the case at end.

Impartiality and adjudicated facts: the Judges are frequently, and increasingly so as the trials devolve, faced with parts of the ever-growing body of adjudicated facts before this Tribunal. This is exactly the background for the provision in Rule 94(B) and there is no ground for turning this development into an argument for disqualification of Judges.

Procedural Background

- In November 2002, the case against *Momcilo Krajisnik* was assigned by the President of the Tribunal to Trial Chamber I, composed of Judges Liu (President), El Madhi and Orie.

- On 14 January 2003 the Accused Momcilo Krajisnik applied to Judge Liu, pursuant to Rule 15,[1] for the withdrawal of Judge Orie, by virtue of his previous function as Co-counsel for Mr. Dusko Tadic, as the Accused confirmed that he will call Mr. Tadic as a witness for the Defence.[2]

The Decision

Judge Liu denied the Application.

The Reasoning

Judge Liu linked Rule 15(B), under which the Accused brought his Application, to Rule 15(A) which spells out the grounds for disqualification of a Judge and which refers to "an association which might affect his impartiality". He applied the following two-prong test:

(1) Is there an association between Judge Orie and the present case? and, in the affirmative,
(2) May this association affect Judge Orie's impartiality?

Is there an association between Judge Orie and the present case?

The notion of "an association"

Judge Liu considered the notion of "an association", stating that "[i]t would be erroneous to assume from the outset that every possible association, however remote, between the Judge and the Accused or for that matter a witness or the facts relating to another case against a witness automatically qualifies as 'an association' within the meaning of Rule 15".[3] In his view a party challenging the Judge's impartiality must demonstrate that the Judge entertains "a personal interest in or particular concerns for any of the Parties, the witnesses or the facts of the case", making clear that [s]uch personal interest or particular concern is certainly different from a lawyer's professional interest in the subject-matter of the case".[4]

May this association affect Judge Orie's impartiality?

The definition of an "actual bias"

In Judge Liu's view, a Judge would certainly host an *actual bias* and thus be disqualified as a Judge when it is proved that there is an association which "involves the Judge's personal interest in the outcome of the case".[5]

An appearance of bias and the "hypothetical fair-minded observer"

Judge Liu noted that there was nothing in the case suggesting

[1] Rule 15 (Disqualification of Judges)
(A) Judge may not sit on a trial or appeal in any case in which the Judge has a personal interest or concerning which the Judge has or has had any association which might affect his or her impartiality. The Judge shall in any such circumstance withdraw, and the President shall assign another Judge to the case.
(B) Any party may apply to the Presiding Judge of a Chamber for the disqualification and withdrawal of a Judge of that Chamber from a trial or appeal upon the above grounds. The Presiding Judge shall confer with the Judge in question, and if necessary the Bureau shall determine the matter. If the Bureau upholds the application, the President shall assign another Judge to sit in place of the disqualified Judge.
(…)

[2] Application of 14 January 2003 to the Presiding Judge Pursuant to Rule 15(B) for the Withdrawal of a Judge (hereinafter the "Application").

[3] Para. 8.
[4] *Ibid.*
[5] Para. 11.

that Judge Orie was biased by personal interest in the outcome of the case. He therefore relied upon the Tribunal's practice that a Judge should not only be free from bias but that there should be nothing in the surrounding circumstances which objectively gives rise to an appearance of bias.[6] He then turned to the person in charge of ascertaining a Judge's impartiality, in keeping with the commonly applied model in the Tribunal's case-law, namely the "hypothetical fair-minded observer",[7] who is "by implication [...] someone from the outside, who, as an *observer* (and not a party) recognises and understands the circumstances well enough to tell whether or not the public sense of Justice would be challenged by the presence of a particular Judge on the Bench in the case at end".[8]

Judge Liu applied the above-mentioned principles to the case. He stated that the fair-minded observer "would know that a Defence Counsel's actual performance during a case is determined by the overall strategy adopted in agreement with the client, but that the Defence Counsel is certainly not committed to uphold these views as his or her personal opinion".[9] He also stated that the same observer would know that the Judges, considering the mandate of the Tribunal to hear cases related to the same conflict, will often know of evidence which relate to the same facts which, as "highly qualified professional Judges, will not affect their impartiality".[10]

Judge Liu could not find that "the hypothetical fair-minded observer with sufficient knowledge of the circumstances could or indeed would sustain any reasonable apprehension of bias or prejudice on the part of Judge Orie based on his association to a previous case in which he acted as Co-counsel for a person who is now to be called as a witness in the present case".[11] Furthermore he found that, after a thorough review of the Application, there was "no ground for challenging the fact that Judge Orie is fully capable of applying his mind to the merits of this case in a completely unprejudiced and impartial manner".[12]

Impartiality and adjudicated facts

Judge Liu, while noting that this question was premature since the Trial Chamber had not yet taken any position on judicial notice of adjudicated facts in the present case,[13] added that many of the facts adjudicated in the *Tadic* Judgement and identified for judicial notice are of "a purely descriptive nature without any bearing on or implication of the guilt of the Accused, such as the geographical location of camps or the physical destruction of a number of buildings dedicated to religious purposes".[14] On a more general level he noted that "the Judges are frequently, and increasingly so as the trials devolve, faced with parts of the ever growing body of adjudicated facts before this Tribunal" and stated that "this is exactly the background for the provision in Rule 94(B)[15] and there is no ground for turning this development into an argument for disqualification of Judges".[16]

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[6] See *Kordic & Cerkez*, IT-95-14, Bureau, Order on Accused's Application Requesting Disqualification of Judges Jorda and Riad, 4 May 1998, whereby the Bureau stated that "the Tribunal is guided by the principle that the requirement of impartiality prohibits not only actual bias or prejudice, but also the appearance of partiality. Thus, where the circumstances create a reasonable or legitimate suspicion of prejudice, there may be a basis for disqualification though no actual bias or prejudice exists". See also, following this approach, *Brdjanin & Talic*, IT-99-36-PT, Decision on Application by Momir Talic for the Disqualification and Withdrawal of a Judge (hereinafter Judge Hunt's pre-trial Decision), 18 May 2000, para. 8, *Judicial Supplement* No. 15: "Rule 15(A) was intended to reflect the wider basis for disqualification uniformly recognised in both the common law and civil law systems and under the European Convention on Human Rights where [...]a judge is disqualified not only if there is an actual bias but also if there is a reasonable apprehension by the parties that such bias exists".

[7] See Judge Hunt's pre-trial Decision, para. 10: "What is to be considered is not the actual reaction of the particular complainant but the hypothetical reaction of the fair-minded observer with sufficient knowledge of the actual circumstances to make a reasonable judgement".

[8] Para. 14. The test applied in *Furundzija*, IT-95-17/1-A, Judgement (hereinafter "*Furundzija* Appeal Judgement"), 21 July 2000, para. 19, *Judicial Supplement* No. 18, is as follows: "Having consulted this jurisprudence, the Appeals Chamber finds that there is a general rule that a Judge should not only be subjectively free from bias, but also that there should be nothing in the surrounding circumstances which objectively gives rise to an appearance of bias. On this basis, the Appeals Chamber considers that the following principles should direct it in interpreting and applying the impartiality requirement of the Statute:

A. A Judge is not impartial if it is shown that actual bias exists.
B. There is an unacceptable appearance of bias if:
   i) a Judge is a party to the case, or has a financial or proprietary interest in the outcome of a case, or if the Judge's decision will lead to the promotion of a cause in which he or she is involved, together with one of the parties. Under these circumstances, a Judge's disqualification from the case is automatic; or
   ii) the circumstances would lead a reasonable observer, properly informed, to reasonably apprehend bias."

[9] Para. 15.

[10] *Ibid.* In fact the Judges are presumed to be impartial. In its Decision of 4 May 1998 in the *Kordic et al.* Case (IT-95-14/2-PT), the Bureau had already held that a Judge is "presumed to be impartial" (p. 2). In the *Furundzija* Appeal Judgement, para. 196, the Appeals Chamber held that "there is a presumption of impartiality which attaches to a Judge."

[11] Para. 16.

[12] Para. 18. Pursuant to his obligation under Rule 15, Judge Liu discussed the Application with Judge Orie but did not find it necessary to refer the matter to the Bureau.

[13] On 7 November 2002, the Prosecution filed the "Prosecution's Motion for Judicial Notice of Adjudicated Facts".

[14] Para. 17.

[15] Rule 94 (Judicial Notice)

(C) At the request of a party or *proprio motu,* a Trial Chamber, after hearing the parties, may decide to take judicial notice of adjudicated facts or documentary evidence from other proceedings of the Tribunal relating to matters at issue in the current proceedings.

[16] Para. 17.

Miscellaneous 4 - Case No. IT-02-55-Misc 4

Before the Duty Judge: Judge Hunt

"RECONSIDERATION OF ORDER OF 9 MAY 2002"

17 JULY 2002[1]

The power of seizure of the Office of the Prosecutor - Orders in relation to the issue of a warrant to seize documents - Non-compliance with this type of order

The power of seizure of the Office of the Prosecutor: the power of seizure of the Office of the Prosecutor ("OTP") is a very powerful weapon in its hands. By seizing material, the OTP denies the Accused access to that material. Experience has demonstrated that the results can be deleterious to the rights of those accused.

Orders in relation to the issue of a warrant to seize documents: if the OTP is not prepared to institute its own system to protect the rights of accused persons, the only way the rights of those accused persons adversely affected by the warrants can be protected is to keep making orders of this type.[2]

Non-compliance with this type of order: non-compliance could not invalidate the search but would constitute a contempt of court.

Procedural Background

▪ On 9 May 2002 Judge Hunt granted to the Prosecution warrants for search and seizure of potential evidence.[3] The Prosecution sought a reconsideration of the terms of the Order, objecting to what it considered to be "conditions"[4] imposed upon those warrants. The "conditions" were as follows:

> "**AND FURTHERS ORDERS**
>
> (5) that the OTP is to-
> (a) notify me (or, if I am not available, a Judge nominated by the President) within seven days of the receipt of the material seized once the warrants have been executed or of the fact that no material was found and,
> (b) to produce to me, or to such other Judge as appropriate, within the same period an undertaking from the Team Leader of the Investigation Team investigating Case OTP-INV-08-2000 (the "*[REDACTED]* investigation"), or any other person into whose charge any such material is given, that notice of such receipt will be given to the Senior Trial Attorney in each case being conducted by the OTP which arises out of events associated with or related to the events which are the subject of the *[REDACTED]* Investigation; and
>
> (6) that such Senior Trial Attorneys are to bring to the attention of the relevant Trial Chambers (on an *ex parte* basis) the receipt of such documents and to seek directions as to the disclosure, if any, of those to the Defence in that case."

The Decision

Judge Hunt, after reconsideration, did not alter his Order.

The Reasoning

The Prosecution complained that these conditions extend beyond the supervision necessary to enforce the lawful execution of the warrant and that "accidental" non-compliance could invalidate the search and hence preclude the admission into evidence of any material seized.[5]

Judge Hunt expressed his willingness to "reconsider [his] decision in the light of these two complaints"[6] but, as regards the second complaint, did not agree that (5) and (6) of his Order are "conditions" upon the execution of warrants. He pointed out that (5) and (6) are "merely expressed as further orders". He did "not accept that non-compliance with them could invalidate the search", but stated that non-compliance "would constitute a contempt of court". He remained "satisfied that such orders are necessary in order to protect the rights of any accused person to whom the document may be relevant".

The power of seizure of the OTP: a very powerful weapon in its hands

In Judge Hunt's opinion, the "power of seizure" of the Office of the Prosecutor (hereinafter "OTP") is "a very powerful weapon in its hands". He explained that, by seizing material, the OTP "denies" the Accused access to it and that "experience has demonstrated that the results can be deleterious to the rights of those accused". In his review of the Tribunal's experience, he referred to one case whereby it took the OTP "over six months to provide the Accused with a copy of the documents".[7] He referred to another case in which an Accused – not being aware of the seizure by the OTP - obtained a binding order to the relevant authorities to produce the document[8] which was not respected. In this latter case, after the trial had concluded, it was discovered that the documents had been in the possession of the OTP during the course of the trial.[9]

Orders in relation to the issue of a warrant to seize documents

Judge Hunt noted that, after a similar order had been made earlier,[10] which "excited no complaint from the Prosecution [and] unfortunately [...] no reaction at all, the OTP has "apparently taken no steps to ensure that the same thing will not happen again". He considered that "the only way 'the rights of those accused persons adversely affected by the warrants'[11] can be protected is to keep making orders of this type". He stated that, "if the Prosecution is not prepared to institute its own system to protect the right of accused persons, orders of this type are necessary". ▪

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[1] The present Decision, filed on 15 January 2003, is the redacted public version of a Decision originally filed on a confidential and *ex parte* basis.

[2] See *infra*, under (5) and (6).

[3] IT-02-55-Misc 4, Order Granting Warrants for Search and Seizure of Potential Evidence (hereinafter the "Order"), 9 May 2002.

[4] Quote marks from the text of the present Decision.

[5] A Motion Seeking Reconsideration of the Terms of the Orders of Judge David Hunt of 9 May 2002 Granting Warrants for Search and Seizure of Potential Evidence (hereinafter the "Motion"), paras. 3 and 32.

[6] In the text: "I am prepared to".

[7] *Brdjanin & Talic*, IT-99-36, Status Conference, 2 February 2001, T. 268-269 and 271-275.

[8] *Kordic & Cerkez*, IT-95-14/2, Order to Bosnia and Herzegovina for the Production of Documents, 18 July 2000; Application for Issuance of an Order to Bosnia and Herzegovina and to the Federation of Bosnia-Herzegovina Compelling the Production of Documents and Other Materials, 20 June 2001.

[9] *Kordic & Cerkez*, IT-95-14/2, Status Conference, 22 June 2001, T. 28522-28523, 28525-28528.

[10] *In Re Prosecutor's Application for an Order and Warrants Authorising the Search of Various Sites Located in [REDACTED], and to the Inspection and Seizure of Evidence Found Therein*, IT-01-49-Misc 1, (Confidential and *Ex Parte*) Order Issuing Search Warrant and Authorising the Seizure of Evidence, 31 August 2001, p. 3.

[11] Judge Hunt used the terminology of para. 7 of the Motion.

JUDICIAL SUPPLEMENT

FEBRUARY 2003

SUMMARIES OF ICTY CASE-LAW IN JANUARY 2003

N°39

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- JANUARY 2003 -

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29/01/03	VASILJEVIC	IT-98-32-A	VASILJEVIC	DECISION ON PROSECUTION MOTION CONCERNING DEFECTS IN THE DEFENCE NOTICE OF APPEAL AND ON DEFENCE MOTION FOR EXTENSION OF TIME	