



International Tribunal for the  
Prosecution of Persons  
Responsible for Serious Violations of  
International Humanitarian Law  
Committed in the Territory of  
Former Yugoslavia since 1991

Case No. IT-94-1-T  
Date: 3 May 1996  
Original: ENGLISH AND  
FRENCH

**IN THE TRIAL CHAMBER**

**Before:** Judge Gabrielle Kirk McDonald, Presiding  
Judge Ninian Stephen  
Judge Lal C. Vohrah

**Registrar:** Mrs. Dorothee de Sampayo Garrido-Nijgh

**Decision of:** 3 May 1996

**PROSECUTOR**

v.

**DUŠKO TADIĆ a/k/a "DULE"**

**DECISION ON DEFENCE MOTION TO PREVENT THE  
CONTAMINATION OF TESTIMONY**

**The Office of the Prosecutor:**

Mr. Grant Niemann  
Ms. Brenda Hollis

Mr. Alan Tieger  
Mr. Michael Keegan

**Counsel for the Accused:**

Mr. Michail Wladimiroff  
Mr. Alphons Orié

Mr. Steven Kay

THE TRIAL CHAMBER

HAVING CONSIDERED the Motion to prevent the contamination of testimony filed by the Defence on 10 April 1996 and the Prosecution Response filed on 19 April 1996,

NOTING that on 26 April and 11 May 1995 Orders were entered by the Trial Chamber pursuant to Rule 81 (D) of the Rules of Procedure and Evidence of the International Tribunal ("the Rules") authorising the release of the audio-visual record provided by the Registry of all proceedings in this matter to the media and that no objection was raised by the Defence at this time,

CONSIDERING that these Orders were motivated by a decision of the Judges of the International Tribunal in plenary session to ensure that the proceedings of the International Tribunal be made widely available both in the region of the former Yugoslavia and elsewhere in order to satisfy the pedagogical role of the International Tribunal and that the most appropriate means of achieving this would be by providing its own broadcast of the proceedings to the media,

CONSIDERING that Rule 90 (D) of the Rules requires that a witness, other than an expert, who has not yet testified shall not be present when the testimony of another witness is given,

CONSIDERING the need to balance the right of the accused to a public trial with the right to a fair trial and the right to be presumed innocent until proved guilty,

NOTING that images of the accused are already in the public domain and that the International Tribunal cannot control the use of such images by the media,

For the foregoing reasons, THE TRIAL CHAMBER, being seized of the Motion filed by the Defence and

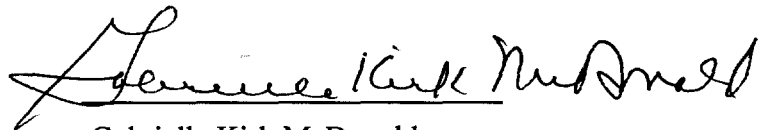
PURSUANT TO RULES 54 and 81 (D)

HEREBY DENIES the requests in prayers (i), (ii) and (iii).

THE TRIAL CHAMBER HEREBY GRANTS the following relief under alternative prayer (iv):

- (1) The Trial Chamber attaches to this Decision a notice concerning the practical implementation of Rule 90 (D) of the Rules (“the Rule 90 (D) notice”);
- (2) Counsel for both parties and the Victims and Witnesses Unit shall use their best efforts to ensure that the provisions of Rule 90 (D) of the Rules are complied with in full. In particular, counsel for both parties shall provide all potential witnesses with a copy of the Rule 90 (D) notice and shall discuss its implementation with all witnesses both before the commencement of the trial and during their presence in The Hague to give evidence.

Done in English and French, the English text being authoritative.



Gabrielle Kirk McDonald  
Presiding Judge

Dated this third day of May 1996  
At The Hague  
The Netherlands

[Seal of the Tribunal]