

UNITED
NATIONS

IT-98-29-T
D 3589 - D 3587
25 APRIL 2002

3589
JK



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

Case: IT-98-29-T
Date: 25 April 2002
Original: English

IN THE TRIAL CHAMBER

Before: Judge Alphons Orie, Presiding
Judge Amin El Mahdi
Judge Rafael Nieto-Navia

Registrar: Mr. Hans Holthuis

Decision of: 25 April 2002

PROSECUTOR

v.

STANISLAV GALIĆ

**CERTIFICATION PURSUANT TO RULE 73(C) IN RESPECT OF DECISIONS OF THE
TRIAL CHAMBER ON THE ADMISSION INTO EVIDENCE OF WRITTEN
STATEMENTS PURSUANT TO RULE 92BIS(C)**

Office of the Prosecutor:

Mr. Mark Ierace

Counsel for the Defence:

Ms. Mara Pilipović
Mr. Stéphane Piletta-Zanin

TRIAL CHAMBER I Section B (“the Chamber”) of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (“the Tribunal”);

BEING SEISED of the Request of the Defence for certification of interlocutory appeals pursuant to Rule 73 (C) filed on 19 April 2002;

NOTING the Trial Chamber’s “Decision on the Prosecutor’s Motion for the Admission into Evidence of Written Statement by a Deceased Witness, and Related Report Pursuant to Rule 92 *bis* (C)” filed on 12 April 2002 (hereafter, “the First Trial Chamber’s Decision”);

NOTING the Trial Chamber’s “Decision on the Prosecutor’s Second Motion for the Admission into Evidence of Written Statement by Deceased Witness Bajram Šopi, Pursuant to Rule 92 *bis* (C)” filed on 18 April 2002 (hereafter, “the Second Trial Chamber’s Decision”);

CONSIDERING that pursuant to Rule 73 (C), the Trial Chamber may certify that an interlocutory appeal during trial from a decision involving evidence or procedure is appropriate for the continuation of the trial upon a request made within seven days of the issuing of the decision;

CONSIDERING that the First and Second Trial Chamber’s Decisions admitted into evidence the statement and the report of the deceased witness Hamdija Čavčić and the statement of the deceased witness Bajram Šopi respectively (“the Statements”) on the basis that the Statements of these witnesses are relevant, have probative value within the meaning of Rule 89 (C), present satisfactory indicia of reliability within the meaning of Rule 92 *bis* (C) (ii), and do not contain information related to the acts and conduct of the accused within the meaning of Rule 92 *bis* (A);

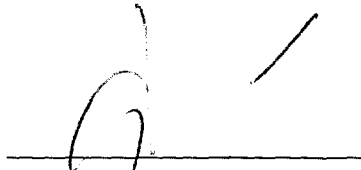
CONSIDERING that the Defence argues that the Trial Chamber mistakenly interpreted “the acts and conduct of the accused” under Rule 92 *bis* (A) as only covering the deeds and behaviour of the accused himself and not encompassing the acts and conduct of his co-perpetrators and/or subordinates; that the Appeals Chamber must pronounce on this issue, which is of general importance to proceedings before the Tribunal and in international law generally;

CONSIDERING that it is of general importance to the proceedings before this Trial Chamber that the Appeals Chamber gives guidance as to what constitute the acts and conduct of the accused under Rule 92 *bis* (A); that therefore it is appropriate for the continuation of the trial that such certification be granted to the Defence;

PURSUANT to Rule 73 (C) of the Rules of Procedure and Evidence;

HEREBY CERTIFIES that an interlocutory appeal on the Trial Chamber's Decisions is appropriate for the continuation of trial.

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



Alphons Orie
Presiding Judge, Trial Chamber 1

Dated this 25th Day of April 2002
At The Hague,
The Netherlands.

[Seal of the Tribunal]