



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 No.: IT-95-8/1-PT

Date: 28 May 2002

Original: ENGLISH

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**IN THE TRIAL CHAMBER**

**Before:** Judge Richard May, Presiding  
Judge Patrick Robinson  
Judge O-Gon Kwon

**Registrar:** Mr. Hans Holthuis

**Decision of:** 28 May 2002

**PROSECUTOR**

v.

**PREDRAG BANOVIĆ  
DUŠAN FUSTAR  
DUŠKO KNEŽEVIĆ**

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**DECISION ADMITTING TRANSCRIPTS PURSUANT TO RULE 92 *bis***

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**Office of the Prosecutor:**

Ms. Joanna Korner  
Ms. Jocelyn Bodson  
Ms. Camille Bibles  
Mr. Mark Vlasić

**Counsel for the Accused:**

Mr. Jovan Babić, for Predrag Banović  
Mr. Ted Scudder, for Dušan Fustar

**THIS TRIAL 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 (“International Tribunal”),

**BEING SEISED** of a “Prosecution Motion for the Admission of Transcripts in Lieu of *Viva Voce* Testimony Pursuant to Rule 92 *bis* (D)” filed by the Office of the Prosecutor (“Prosecution”) on 25 April 2002 (“the Motion”), seeking to admit the transcripts of the prior testimony of Hanne Sophie Greve in other proceedings before the International Tribunal, as specified in Annex A to the Motion (“the Transcripts”),

**NOTING** that the time permitted for the Defence to respond to such Motion pursuant to Rule 92 *bis* (E) of the Rules of Procedure and Evidence of the International Tribunal (“Rules”) has now expired, and that no objection to the Motion has been raised on the part of either accused,

**NOTING** that the Transcripts have previously been admitted in related proceedings, and that the evidence of this witness has been likened to that of an expert historian in this way:

It is our view that the witness should be treated as an expert in this sense, an expert who has made a study of material and is therefore qualified to give evidence about it. The position being analogous to that of the historian.<sup>1</sup>

**NOTING** also the assurance by the Prosecution that, to the extent that any information contained in the Transcripts may be viewed as relating to matters concerning the acts and conduct of the accused, it will not seek to rely on such information,

**CONSIDERING** that the Transcripts meet the requirements for admission pursuant to Rule 92 *bis* (A) and, in particular, sub-paragraph (i)(b) thereof, in that they provide relevant historical background,

**CONSIDERING** that, if the Defence seeks to challenge the conclusions of the witness based upon new information, such information may be presented for consideration by the Trial Chamber,

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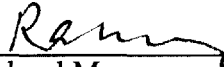
<sup>1</sup> Case No. IT-97-24, *Prosecutor v. Milan Kovačević*, Transcript, 6 July 1998 (T.75).

**CONSIDERING** also that none of the factors set out in Rule 92 *bis* (A)(ii) mitigating against admitting the evidence in written form are present,

**PURSUANT TO** Rule 92 *bis* (D) of the Rules

**HEREBY GRANTS** the Motion and admits the Transcripts in whole without cross-examination.

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

  
Richard May  
Presiding

Dated this twenty-eighth day of May 2002  
At The Hague  
The Netherlands

[Seal of the Tribunal]