



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: 26th February 2003
Original: English

IN TRIAL CHAMBER I

Before: Judge Liu Daqun, Presiding
Judge Amin El Mahdi
Judge Alphons Orie

Registrar: Mr. Hans Holthuis

Decision of: 26th February 2003

THE PROSECUTOR

v.

STANISLAV GALIĆ

**DECISION ON THE DEFENCE REQUEST FOR CERTIFICATION TO APPEAL THE
PRESIDING JUDGE'S DECISION ON WITHDRAWAL OF JUDGE ORIE**

The Office of the Prosecutor:

Mr. Mark Ierace

Defence Counsel:

**Ms. Mara Pilipović
Mr. Stéphane Piletta-Zanin**

TRIAL CHAMBER I (“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 SEIZED OF the Defence Request filed on 10th February 2003 for Certification to Appeal against Judge Liu Daqun’s Decision on the Request for the Withdrawal of Judge Alphons Orié Rendered on 3 February but Delivered on 4 February 2003 (“the Request”);

CONSIDERING the Presiding Judge’s “Decision on the Request for the Withdrawal of Judge Alphons Orié” dated 3 February 2003 (“the Decision”);

CONSIDERING the statement in the Decision that “there is nothing to support that Judge Orié is unable to apply his mind in an unprejudiced and impartial manner to the merits of this case, or that any reasonable fear about his impartiality could be maintained.”¹

CONSIDERING that the Tribunal’s Rules of Procedure and Evidence (“the Rules”) do not specify a procedure for appeal of decisions taken by a Presiding Judge under Rule 15(B) of the Rules;

CONSIDERING that the general regime available to appeals of motions other than preliminary motions in Rule 73 of the Rules seems to be inapplicable to appeals of decisions rendered by a Presiding Judge under Rule 15(B) of the Rules since it would not be appropriate for the Judge who is the object of the dispute to take part in the decision to grant or deny certification to appeal the impugned decision;

CONSIDERING, that, under these circumstances, in the interests of Justice and in order to ensure a fair trial for the Accused and to save time and resources, the Chamber should refer the matter directly to the Appeals Chamber;

¹ See Decision of 3rd February 2003, at par. 10.

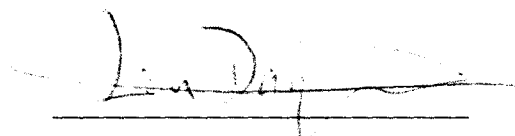
PURSUANT to Rule 54 of the Rules;

HEREBY refers the matter to the Appeals Chamber.

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

Dated this twenty sixth day of February 2003

At The Hague,
The Netherlands

A handwritten signature in dark ink, appearing to read 'Liu Daqun', is written over a horizontal line.

Liu Daqun, Presiding Judge

[Seal of the Tribunal]