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ICTY

TO: The Secretary-General

DATE: 21 February 2008

A:

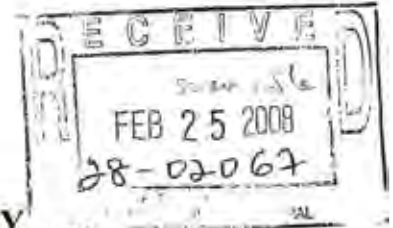
REFERENCE:

LK

THROUGH: Vijay Nambiar
S/C DE: Chef de Cabinet

FROM: Mr. Nicolas Michel
DE: Under Secretary-General for Legal Affairs

N. Michel



SUBJECT: Appointment of an *ad litem* judge to a trial before the ICTY
OBJET:

1. Judge Fausto Pocar, President of the ICTY, has requested, in his letter to you dated 15 February 2008, that you appoint an *ad litem* judge to a trial before the ICTY. Please find the request attached. (#28-01727)

2. The *ad litem* judge concerned is Judge Elizabeth Gwaunza.

3. Under the Tribunal's Statute, it is for the President of the Tribunal to assess whether there is a need for an *ad litem* judge to be appointed to the Tribunal in order to augment its capacity to conduct trials. If he considers that there is such a need, he then identifies the particular *ad litem* judge from the pool of *ad litem* judges.

5. In making this assessment, the President is required by the Statute to bear in mind:

- the desirability of achieving, both among the judges as a whole and within the particular teams of judges sitting in specific cases, an appropriate balance of expertise in the fields of criminal law, general international law, international humanitarian law and human rights law;
- the desirability of achieving on the bench adequate representation of the principal legal systems of the world;
- the desirability of achieving equitable geographical distribution on the bench;
- the importance of achieving a fair representation of female and male judges;
- the votes the *ad litem* judges obtained during the elections in the General Assembly.

6. Upon receiving a request from the President for the appointment of a particular *ad litem* judge to a specific trial, it is for the Secretary-General to decide

whether or not to accede to the President's request and to appoint the particular *ad litem* judge that he has requested.

7. Having reviewed the present request, it is our view that it complies with Article 13 *ter*, paragraph 2, of the ICTY's Statute and that you may therefore properly proceed to appoint Judge Elizabeth Gwaunza to serve in the ICTY for the trial concerned. Although this appointment will take the total number of *ad litem* judges above the maximum of twelve provided for in Article 12, paragraph 1 of the Statute, Security Council resolution 1800 (2008) of 20 February 2008 authorizes such appointment.

8. A letter appointing Judge Elizabeth Gwaunza to that trial is attached for your signature.

9. President Pocar has asked that Judge Gwaunza's appointment be made effective on 3 March 2008. The present request is, therefore, a matter of urgency. //



United Nations
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International
Criminal Tribunal
for the former Yugoslavia

Tribunal
Pénal International
pour l'ex-Yougoslavie

H.E. JUDGE FAUSTO POCAR
PRESIDENT

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S.E. JUGE FAUSTO POCAR
PRÉSIDENT

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The Hague, 15 February 2008

Excellency,

By the present letter, I have the honour to refer to the 116th plenary meeting of the fifty-ninth session of the General Assembly of 24 August 2005, at which 27 *ad litem* judges of the International Criminal Tribunal for the former Yugoslavia were elected for a mandate of 4 years. By virtue of that resolution, and in conformity with Security Council resolution 1329 (2000), I am writing to request the appointment of an *ad litem* judge to permit the Tribunal to begin a new trial.

In accordance with the terms of article 13 *ter*, paragraph 2, of the Statute of the Tribunal, and having duly considered the criteria established by that provision, I am requesting the appointment of *ad litem* judge Ms. Elizabeth Gwaunza to serve on the trial of Case No. IT-06-90, *Prosecutor v. Ante Gotovina et al.* The trial is expected to commence on 10 March 2008, and is expected to be completed within one year and a half. I would therefore appreciate you appointing *ad litem* judge Ms. Elizabeth Gwaunza to Case No: IT-06-90 as of 3 March 2008.

I remain at your disposal for any additional information you may require concerning the proposed appointment of Ms. Gwaunza. Thank you in advance for your action in this regard.

Please accept, Excellency, the assurances of my highest consideration.

Fausto Pocar

H.E. Mr. Ban Ki-moon
Secretary-General
United Nations
New York, NY 10017
United States of America

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.
Tribunal International Chargé de Poursuivre les Personnes Présumées Responsables de Violations Graves du Droit International Humanitaire
Commises sur le Territoire de l'ex-Yougoslavie depuis 1991.

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