



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-98-30/1-ES
Date: 31 May 2006
Original: English

THE PRESIDENT OF THE INTERNATIONAL TRIBUNAL

Before: Judge Fausto Pocar, President
Registrar: Mr. Hans Holthuis
Decision of: 31 May 2006

THE PROSECUTOR

v.

**MIROSLAV KVOČKA
MLADO RADIĆ
ZORAN ŽIGIĆ
AND
DRAGOLJUB PRCAĆ**

CONFIDENTIAL

DECISION ON REQUEST OF ZORAN ŽIGIĆ

Office of the Prosecutor:

Mr. Anthony Carmona
Ms. Helen Brady
Ms. Norul Rashid
Mr. David Re
Ms. Kelly Howick

Counsel for the Defence:

Mr. Slobodan Stojanović for Zoran Žigić

SM

1. On 19 May 2006, Zoran Žigić (“Žigić”) filed a Request¹ before me in response to my Order of 12 May 2006² designating Austria as the State in which he should serve his sentence. In his Request, Žigić says that it is only now that he has received notification that he was supposed to have submitted a request to me proposing a possible State in which he would serve his sentence immediately after the rendering of his appeal judgment. He says that it has come to his knowledge “that convicted persons who submitted such request have in most cases been sent to the country of their choice”.³ Žigić then proposes a number of reasons for seeking to be sent to a State other than Austria, primarily related to his desire to maintain close contact with his family.⁴

2. While Žigić claims to have learnt of a practice at this Tribunal of allowing convicted persons to nominate the State in which to serve their sentence, he is misinformed. Article 27 of the Statute of the Tribunal provides that the International Tribunal designates the State in which imprisonment should be served, and Rule 103 of the Rules of Evidence and Procedure confers on the President the authority to designate that State from a list of States who have indicated their willingness to accept convicted persons. The President’s decision to designate a State is guided by the Practice Direction on the Procedure for the International Tribunal’s Designation of the State in which a Convicted Person is to Serve His/Her Sentence of Imprisonment⁵ (“Practice Direction”). Paragraph three of the Practice Direction provides that the President shall designate a State following advice by the Registrar as to which States have indicated a willingness to enforce a sentence of an individual accused. In exercising my discretion, paragraph four of the Practice Direction directs me to give particular consideration to the proximity of the convicted person’s relations, and I did so in this case. Paragraph four of the Practice Direction allows me, if I so wish, to request the opinion of the convicted person or the Office of the Prosecutor. In the circumstances of this case, I did not consider it necessary to do so in the exercise of my discretion. In any event, as the Statute, Rules and Practice Direction make clear, there is no right conferred on a convicted person to be heard on this issue.

3. Accordingly, Žigić has no right to directly petition me with respect to the State in which he will serve his imprisonment and his Request is **DISMISSED**.

¹ Request Submitted to the President of the Tribunal Regarding the Serving of the Remainder of the Sentence of Zoran Žigić, Case No: IT-98-30/1-A, In a Different Country, 19 May 2006 (“Request”).

² Order Designating the State in Which Zoran Žigić is to Serve his Prison Sentence, 12 May 2006 (“Order”).

³ Request, p. 2.

⁴ *Ibid.*, paras 1-7.

⁵ IT/137, 9 July 1998.

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

Done this 31st day of May 2006,
At The Hague,
The Netherlands.



Judge Fausto Pocar
President

[Seal of the International Tribunal]