



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-95-5/18-T

Date: 19 March 2010

Original: English

IN THE TRIAL CHAMBER

Before: Judge O-Gon Kwon, Presiding Judge
Judge Howard Morrison
Judge Melville Baird
Judge Flavia Lattanzi, Reserve Judge

Registrar: Mr. John Hocking

Order of: 19 March 2010

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

ORDER ON SELECTION OF CASES FOR DNA ANALYSIS

Office of the Prosecutor

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

The Accused

Mr. Radovan Karadžić

Appointed Counsel

Mr. Richard Harvey

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 (“Tribunal”),

proprio motu;

NOTING its Decision on Accused’s Motion for Postponement of Trial, issued on 26 February 2010, in which it stated that it would address separately the issue of the provision to the Accused of DNA profile information held by the International Commission on Missing Persons (“ICMP”);

NOTING that the Accused’s wish to challenge the conclusions reached by the ICMP, and the Office of the Prosecutor’s (“Prosecution”) expert witness Thomas Parsons, as to the identification through DNA analysis of Srebrenica victims has been a subject of considerable discussion throughout the pre-trial phase of this case, that the Accused engaged his own DNA expert to examine these conclusions and conduct his own analysis, and that the former pre-trial Judge concurred that the Accused should be able to run tests similar to those performed by the ICMP on a representative sample of the DNA material held by the ICMP, with a view to checking the accuracy of the ICMP’s identification of Srebrenica victims;

NOTING that there has been ongoing communication between the Prosecution, the Accused’s legal advisor, the Accused’s expert, and the ICMP, about the selection by the Accused of 300 cases from the ICMP’s list of identified Srebrenica victims in relation to which the Accused’s expert could conduct his own analysis;

NOTING that the ICMP has stated that it cannot provide its entire database of genetic profiles obtained from blood samples taken from family members of missing persons to the Accused without obtaining the consent of each family member who provided such a sample, and that this process would take significant time in view of the volume of samples taken;

NOTING FURTHER that the ICMP has agreed to obtain the consent of the approximately 1,200 family members who provided samples relevant to the 300 cases selected by the Accused, so that the Accused’s expert can then conduct the necessary analysis;

NOTING the clarifications provided by the Prosecution and the Accused in correspondence to the Chamber concerning the current status of the discussions between the parties and the ICMP on this issue;

NOTING also the Accused's insistence that he should be provided with the entire family DNA database before he reveals to the ICMP the 300 cases he has selected because of his concerns about the ICMP's impartiality and suspicion that it would adjust the database in some way in order ensure matches in the 300 selected cases;

CONSIDERING that the Accused has not established any basis for his concern that the ICMP would manipulate the database to strengthen its own conclusions, and that his concerns can most appropriately be raised during cross-examination of Mr. Parsons or, indeed, during the examination of any other ICMP officials who the Accused calls to give evidence;

CONSIDERING that it is imperative for the Accused to proceed with his selection of the 300 cases, and to inform the ICMP accordingly, so that the ICMP can begin the process of contacting the relevant family members and obtaining their consent;

CONSIDERING that should the Accused choose not to select 300 cases for analysis at this stage, it would be futile for the Prosecution to do so;

CONSIDERING that any further delay on the part of the Accused may result in his expert being unable to do the necessary analysis that the Accused has indicated he wishes to be undertaken in time for his cross-examination of Mr. Parsons so that the Accused would then have to conduct his cross-examination of Mr. Parsons without the benefit of his expert's results;

PURSUANT TO Rule 54 of the Tribunal's Rules of Procedure and Evidence,

HEREBY ORDERS the Accused to immediately complete his selection of 300 cases for further DNA analysis and provide the details of his selection to the ICMP, who will, upon obtaining the necessary consents, be in a position to supply the relevant data from the family database, including both positive and negative results obtained from within a single family group.

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



Judge O-Gon Kwon, Presiding

Dated this nineteenth day of March 2010
At The Hague
The Netherlands

[Seal of the Tribunal]