



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-08-91-T  
Date: 17 December 2010  
Original: English

**IN TRIAL CHAMBER II**

**Before:** Judge Burton Hall, Presiding  
Judge Guy Delvoie  
Judge Frederik Harhoff

**Registrar:** Mr. John Hocking

**Order of:** 17 December 2010

**PROSECUTOR**

**v.**

**MIĆO STANIŠIĆ AND STOJAN ŽUPLJANIN**

***PUBLIC***

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**DIRECTIONS TO THE PROSECUTION WITH REGARD  
TO ITS MOTION TO ADD PROOF OF DEATH  
DATABASE**

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**The Office of the Prosecutor**

Ms. Joanna Korner  
Mr. Thomas Hannis

**Counsel for the Accused**

Mr. Slobodan Zečević and Mr. Slobodan Cvijetić for Mićo Stanišić  
Mr. Dragan Krgović and Mr. Igor Pantelić for Stojan Župljanin

**TRIAL CHAMBER II** (“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”);

**RECALLING** that on 23 July 2010, the Prosecution publicly filed “Prosecution’s motion to add proof of death database to its 65 *ter* list and to tender it into evidence with confidential annexes A and B” (“Motion”, “Annex A” and “Annex B”), whereby it seeks leave to add Annex A and Annex B to its Rule 65 *ter* exhibit list as Rule 65 *ter* 3620 and 3621, respectively, and to tender them into evidence;<sup>1</sup>

**NOTING** that in the Motion the Prosecution submitted that it “is able to provide to the Trial Chamber and the Defence all of the supporting documents listed in the Annex B spreadsheet” (“Underlying Material”);<sup>2</sup>

**NOTING** that on 4 August 2010, the Stanišić Defence and the Župljanin Defence (collectively, “Defence”) responded jointly opposing the Motion;<sup>3</sup>

**NOTING** that on 10 August 2010, the Prosecution sought leave to reply and replied to the Joint Response (“Reply”);<sup>4</sup>

**NOTING** that on 17 September 2010 and 2 December 2010, the parties orally made further submissions on the matter;<sup>5</sup>

**NOTING** that on 17 September 2010 the Defence informed the Trial Chamber that it “has notified the Prosecution that it would demand from the Prosecution to disclose to the Defence the minimum necessary information that would enable the Defence to identify each and every person listed in the schedules to the indictment, in a way which will make it possible for the Defence to challenge the allegation that the victims listed there are in fact [...] the victims of the crimes that the accused are charged with” (“Request for Underlying Material”);<sup>6</sup>

**NOTING** that at the status conference on 15 December 2010 (“Status Conference”) the Defence indicated that as a result of their Request for Underlying Material the Prosecution provided the

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<sup>1</sup> Motion, p. 5.

<sup>2</sup> Motion, para. 7.

<sup>3</sup> Joint Defence Response to Prosecution’s Motion to add proof of death database to its 65 *ter* exhibit list and to tender it into evidence with confidential annexes A and B, 4 Aug 2010.

<sup>4</sup> Prosecution’s motion for leave to reply and reply to Joint Defence Response to Prosecution’s Motion to add proof of death database to its 65 *ter* exhibit list and to tender it into evidence with confidential annexes A and B, 10 Aug 2010, para. 2.

<sup>5</sup> Transcript of 17 September 2010, from T. 14824 and transcript of 2 December 2010, from T. 18091.

<sup>6</sup> Hearing of 17 September 2010, T. 14831.

Defence with a “spreadsheet with the hyperlinks to the alleged underlying documents” (“Hyperlinked Spreadsheet”);<sup>7</sup>

**CONSIDERING** that in order to be able to decide on the merits of the Motion, pursuant to Rule 89(C) of the Rules of Procedure and Evidence (“Rules”), the Trial Chamber requires access to the Underlying Material and therefore, at the Status Conference, it requested the Prosecution to also provide the Trial Chamber with the Hyperlinked Spreadsheet,<sup>8</sup> which the Prosecution did on 15 December 2010 through its Senior Legal Officer;

**CONSIDERING** however, that the Hyperlinked Spreadsheet is in a format that does not allow the Trial Chamber to process the large amount of information contained therein;

**CONSIDERING** further that for a significant number of items that constitute the Underlying Material found on the Hyperlinked Spreadsheet, the Prosecution has provided no translation into a working language of the Tribunal and that the Underlying Material concerning a number of alleged victims has been provided only in BCS;

**CONSIDERING** that while the Trial Chamber requires access to all relevant documents for each victim in the current case, including those identified in the indictment as well as the newly identified, it does not determine at this stage whether it will grant the Motion;

**PURSUANT TO** Rules 3 and 54;

**DIRECTS** the Prosecution to provide by 3 January 2011 a Consolidated Hyperlinked Spreadsheet, in accordance with the following criteria:

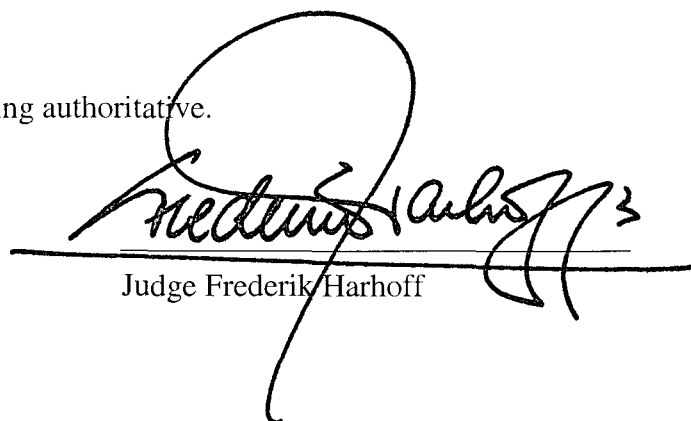
1. it should contain a worksheet with one single list that consolidates the different categories of the information contained in Annex A and Annex B, following the pattern “one victim-one row”;
2. it should be a document that does not contain merged cells;
3. it should only refer to alleged victims of incidents mentioned in the schedules of the indictment so that for each alleged victim the Prosecution should provide in separate columns the relevant indictment code and an indication of whether the alleged victim was already identified in the indictment or is a newly identified victim;

<sup>7</sup> Status Conference, 15 Dec 2010, T. 14486-14487.

<sup>8</sup> Status Conference, 15 Dec 2010, T. 18499.

4. it should not include alleged victims of incidents removed from the indictment;
5. it should contain hyperlinks to the relevant documents, so that if several documents are available for a victim, each document should be contained in a separate cell respecting the pattern "one victim-one row";
6. if the hyperlink leads to a database, the Prosecution should also provide the relevant document or reference in that database pertaining to each alleged victim;
7. it should contain, for each document or item, a brief description of its contents;
8. it should, finally, include an indication of whether the document is not yet available in a working language of the Tribunal;

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



Judge Frederik Harhoff

Dated this seventeenth day of December 2010

At The Hague

The Netherlands

**[Seal of the Tribunal]**