THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA

CASE No. IT-95-5/18-T

IN TRIAL CHAMBER No. 3

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

Registrar: Mr. John Hocking

Date: 28 July 2011

THE PROSECUTOR

v.

RADOVAN KARADZIC

Public

SUPPLEMENTAL RESPONSE TO PROSECUTION'S REQUEST FOR FURTHER ORDERS: DNA TESTING

The Office of the Prosecutor:
Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

The Accused:
Radovan Karadzic

1. On 22 July 2011, the Trial Chamber requested that Dr. Karadzic clarify the position taken in paragraphs 8 and 9 of his *Response to Prosecution's Request for Further Orders: DNA Testing* (28 June 2011).[1]

In his *Response*, Dr. Karadzic stated:

> 8. The testing procedure set forth by the Trial Chamber is its *proprio motu* order has one fatal flaw. It allows the ICMP to, without detection, substitute the electropherograms of other persons for those who the accused selected as part of his sample and for whom the results have been wrong or forged.
>
> 9. For example, if one of the samples selected for testing is victim A, and the ICMP learns that there is a problem with Victim A's identification (i.e. he is alive, or died in some other place), the ICMP can provide the DNA for Victim B instead. Under the procedure set forth in the Chamber's *proprio motu* order, this substitution can never be detected. Therefore, the results of any testing by the defence could not definitively determine whether the ICMP's results are confirmed or contradicted.

2. Dr. Karadzic has been provided by the ICMP with a list of missing persons whose remains have been identified from the 1995 Srebrenica events. The list includes the name of the missing person, date of birth, and the site at which the remains were found.[2]

3. Dr. Karadzic proposes to select 5 names from this list. His selection will be of persons he has reason to believe did not die during the Srebrenica events. He will also select another 295 names through a random sampling method. His expert, Dr. Oliver Stojkovic, will then examine the underlying material to determine whether the DNA analysis conducted by the ICMP for those persons is accurate.

4. This will thus constitute a scientific and definitive verification of the work of the ICMP and will provide Dr. Karadzic with the means to challenge the testimony of the prosecution's DNA experts.

5. It is essential that the testing process be scientific from the outset and preclude the possibility of cheating or manipulation. A step in the process that allows for undetected cheating or manipulation will make the entire process flawed and prevent any confidence in the result.

[1] Transcript of 22 July 2011, pp. 17196-97
[2] A copy of one page of the list is attached as Annex "A".

6. That is why Dr. Karadzic insists that before he makes his selection of the 5 names and the random sampling method, the complete collection of unique DNA bone profiles and electropherograms of all of the missing persons needs to be provided to him.

7. Otherwise, the scenario described in paragraphs 8 and 9 of Dr. Karadzic's *Response* can take place. Here is what he means:

First, he provides ICMP with the name of a victim—victim A.

Second, someone at the ICMP realizes that there is a problem with the identification of victim A and does not want this problem to be exposed.

Third, the person at ICMP solves this problem by providing the defence with the DNA data for victim B, and his brother, representing it to be the DNA data for victim A and his brother.

Fourth, Dr. Stojkovic examines the DNA data and confirms that it is a correct match—the DNA of the victim matches the DNA of his brother.

8. In this way, the substitution of the DNA data remains undetected. Through this method, the results can be cheated or manipulated.

9. To prevent this, Dr. Karadzic requires the DNA data of all of the missing persons to be provided in advance. Then, he is able to add one more step to the testing process. After Dr. Stojkovic verifies the match between the Victim A and his brother, he will compare the DNA data of Victim A with the DNA data of Victim A from the database provided at the outset to verify that it is indeed Victim A's DNA that has been tested.

10. Without the ability to take this last step, there is no way for Dr. Karadzic to be sure that the DNA data provided for Victim A is indeed that of Victim A, and not Victim B.

11. That is why Dr. Karadzic insists on being provided with the unique DNA bone profiles and electropherograms of all of the missing persons before he makes his selection.

12. At the time of the Trial Chamber's *proprio motu* Order, Dr. Karadzic was insisting on receiving the unique DNA bone profiles and electropherograms of victims **and their families**. The ICMP took the position that it would require consent from each

of the family members. Therefore, providing the entire database in advance was almost unworkable.

13. However, Dr. Karadzic has since proposed that he be provided only with the unique DNA bone profiles and electropherograms of the victims and not their family members—thereby avoiding the consent requirement while nevertheless providing him with a method to detect substitutions. This procedure is quite workable, and essential to a valid result in which the parties and Chamber can have confidence.

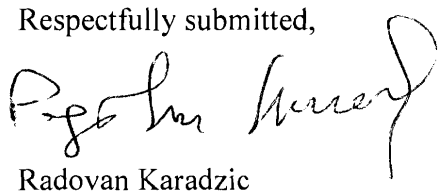
14. This is not simply a theoretical problem. Many questions have been raised over the identifications of persons alleged to have been killed in the 1995 Srebrenica events. Persons claimed to have been killed at Srebrenica in 1995 have been found alive, or have been found to have died in earlier years at different places. A high percentage of the population of Republika Srpska believes that the number of deaths from the 1995 Srebrenica events has been greatly exaggerated.

15. There is no point in doing this testing if it is not scientific and if the results can be manipulated. Neither the prosecution nor the ICMP have contested that the results can be manipulated in that way, although they profess that it is unlikely that such manipulation would occur. However, belief in the good faith of the ICMP employees, as the prosecution contends, would destroy the scientific nature of this exercise and place it in the realm of an act of trust. The provision of the unique DNA bone profiles and electropherograms of all missing persons, before the samples are selected, is essential to the scientific process and the integrity of the results.

16. Dr. Karadzic hopes that this explanation clarifies his reasons for insisting on receiving the unique DNA bone profiles and electropherograms of the victims before making his selection of the samples.

Word count: 1150

Respectfully submitted,



Radovan Karadzic

ANNEX “A”

M.P.	Date of Birth	Protocol ID	Case ID	ID ICMP	Site Name	Site Coordinates	Jurisdiction	Date of Submission	Date of Dissapeara	Place of Dissapearance	Type of Report	ICMP Comment
Ahmic (Avdo) Nazif 1	1/31/1966	4698/04	RV02-164B	4	Ravnice	CP5965097908	BiH/Federation Commission	7/26/2005	7/11/1995	Forest	Main Case	
Ahmic (Avdo) Nazif	1/31/1966	4698/04R	RV02-246BP-T.MAN	4	Ravnice	CP5965097908	BiH/Federation Commission	1/31/2004	7/11/1995	Forest	Reassociation	
Omerovic (Habib) Aziz 2	5/14/1965	8560/05	TIS-4	5	Tisova Kosa	N/A	BiH/Federation Commission	1/19/2006	7/11/1995	Forest	Main Case	
Omerovic (Habib) Azmir	5/26/1968	691/02	ZJ5B-328	6	Zeleni Jadar	CP641788	BiH/Federation Commission	11/11/2002	7/11/1995	Forest	Main Case	
Mehmedovic (Huso) Fikret	1/9/1961	2630/03	I-113	9	Kravica	CP5462797301	BiH/Federation Commission	10/22/2003	7/11/1995	Forest	Main Case	
Begic (Bego) Sabahudin	9/17/1972	1684/03R	BR.BLJE-01/100	10	Bijeceva-Bratunac	CP6186392913	BiH/Federation Commission	8/17/2006	7/11/1995	Forest	Reassociation	
Begic (Bego) Sabahudin	9/17/1972	1684/03R	BR.BLJE-02/376BP	10	Bijeceva-Bratunac	CP6187492986	BiH/Federation Commission	10/30/2006	7/11/1995	Forest	Reassociation	
Begic (Bego) Sabahudin	9/17/1972	1684/03	GL06-011BPZ	10	Glogova	CP6163895564	BiH/Federation Commission	4/18/2003	7/11/1995	Forest	Main Case	
Gabeljic (Hasib) Secan	4/30/1940	10175/07	LP04-140BP-LT3-M	11	Liplje	N/A	BiH/Federation Commission	12/28/2007	7/11/1995	Forest	Main Case	
Dedic (Saban) Sacir	5/12/1960	1936/03	GL02-030BPF	12	Glogova	CP615964	BiH/Federation Commission	2/23/2004	7/11/1995	Forest	Reassociation	
Dedic (Saban) Sacir	5/12/1960	1936/03	GL2-040BPF	12	Glogova	CP615964	BiH/Federation Commission	7/1/2003	7/11/1995	Forest	Main Case	
Ademovic (Abid) Samil	7/8/1974	653/02	GL5-084B	13	Glogova	CP615964	BiH/Federation Commission	9/6/2002	7/11/1995	Forest	Main Case	
Ademovic (Ramo) Abid	8/3/1938	12093/09	KAM04ZVO254T (DF)	14	Kamenica-Zvornik	CQ 46312 10368	BiH/Federation Commission	6/18/2009	7/11/1995	Potocari	Main Case	
Celebic (Selim) Ermin 10	1/8/1977	11905/09	KAM04ZVO277D (DF)	15	Kamenica-Zvornik	N/A	BiH/Federation Commission	3/30/2009	7/11/1995	Forest	Main Case	
Celebic (Selim) Ermin	1/8/1977	11905/09R	KAM04ZVO111T (LF)	15	Kamenica-Zvornik	N/A	BiH/Federation Commission	3/30/2009	7/11/1995	Forest	Reassociation	
Celebic (Selim) Ermin	1/8/1977	11905/09R	KAM04ZVO040D (LT)	15	Kamenica-Zvornik	CQ 46312 10368	BiH/Federation Commission	6/18/2009	7/11/1995	Forest	Reassociation	
Fejzic (Fadil) Mustafa	11/29/1969	11492/08	SNA03ZVO156T-III (DF)	17	Snagovo-Zvornik	CQ4341516290	BiH/Federation Commission	9/10/2008	7/11/1995	Forest	Main Case	
Fejzic (Fadil) Mustafa	11/29/1969	11492/08R	SNA03ZVO156T-III-MNT	17	Snagovo-Zvornik	CQ4341516290	BiH/Federation Commission	2/25/2009	7/11/1995	Forest	Reassociation	
Velic (Meho) Saban	8/16/1941	12024/09	KAM04ZVO224T (LF)	20	Kamenica-Zvornik	CQ 46312 10368	BiH/Federation Commission	4/10/2009	7/11/1995	Forest	Main Case	
Fejzic (Nurija) Hasan	1/1/1922	11364/08	KAM09ZVO609D (Lob)	21	Kamenica	N/A	BiH/Federation Commission	7/22/2008	7/11/1995	Potocari	Main Case	
Fejzic (Nurija) Hasan	1/1/1922	11364/08R	KAM09ZVO476T (LF)	21	Kamenica-Zvornik	CP6187492986	BiH/Federation Commission	12/24/2008	7/11/1995	Potocari	Reassociation	
Malic (Mesa) Mujo	7/10/1951	569/02	B.COV-1	43	Covrci	N/A	BiH/Federation Commission	3/19/2003	7/11/1995	Forest	Main Case	
Malic (Mesa) Mujo	7/10/1951	569/02	B.COV-1	43	Covrci	CP6187492986	BiH/Federation Commission	8/20/2002	7/11/1995	Forest	Reassociation	
Divovic (Ramo) Hakija	2/20/1946	988/02	KK3-901BK	44	Kozluk	CQ508302	BiH/Federation Commission	12/16/2002	7/11/1995	Potocari	Reassociation	
Divovic (Ramo) Hakija	2/20/1946	988/02	KK3-901BZ	44	Kozluk	CQ508302	BiH/Federation Commission	12/16/2002	7/11/1995	Potocari	Main Case	
Salihovic (Sevko) Dzevad	8/8/1969	2204/03	GL09-010BGZ	54	Glogova	N/A	BiH/Federation Commission	7/7/2003	7/11/1995	Forest	Main Case	
Salihovic (Murat) Safet	12/1/1942	10734/07	B.KAM.BR-22	56	Kamenica-Bratunac	N/A	BiH/Federation Commission	4/4/2008	7/11/1995	Forest	Main Case	
Salihovic (Murat) Hajrudin	1/1/1940	2588/03	CR12B-189	57	Cancari	CQ410101	BiH/Federation Commission	12/23/2003	7/11/1995	Forest	Main Case	
Karamujic (Camil) Ibrahim	2/26/1962	469/02	B-60	59	Kravica	CP5462797301	BiH/Federation Commission	7/29/2002	7/11/1995	Forest	Main Case	
Karamujic (Camil) Ibrahim	2/26/1962	469/02	B-60(FK)	59	Kravica	CP5462797301	BiH/Federation Commission	12/6/2003	7/11/1995	Forest	Reassociation	
Karamujic (Camil) Ibrahim	2/26/1962	469/02R	B-60-RH2	59	Kravica	CP5462797301	BiH/Federation Commission	2/15/2006	7/11/1995	Forest	Reassociation	
Karamujic (Camil) Ibrahim	2/26/1962	469/02R	B-61XT	59	Kravica	CP5462797301	BiH/Federation Commission	2/22/2005	7/11/1995	Forest	Reassociation	
Karamujic (Ramo) Camil 20	1/1/1934	9241/07	KAM10ZVO122T-LF	60	Kamenica	CQ4199809505	BiH/Federation Commission	4/26/2007	7/11/1995	Potocari	Main Case	
Karamujic (Ramo) Camil	1/1/1934	9241/07R	KAM10ZVO293D-TMN	60	Kamenica	CQ4199809505	BiH/Federation Commission	8/21/2007	7/11/1995	Potocari	Reassociation	
Hasanovic (Bego) Asim	2/5/1964	4848/04	RV01-080BP-T	61	Ravnice	CP5965097806	BiH/Federation Commission	12/30/2004	7/11/1995	Forest	Main Case	
Hasanovic (Bego) Asim	2/5/1964	4848/04R	RV02-054BP-L.INN	61	Ravnice	CP673826	BiH/Federation Commission	11/29/2007	7/11/1995	Forest	Reassociation	
Hasanovic (Bego) Asim	2/5/1964	4848/04R	RV02-092B-II-LMN	61	Ravnice	CP5965097806	BiH/Federation Commission	8/1/2008	7/11/1995	Forest	Reassociation	
Hasanovic (Bego) Asim	2/5/1964	4848/04R	RV02-061BP-LF	61	Ravnice	CP5965097806	BiH/Federation Commission	8/29/2008	7/11/1995	Forest	Reassociation	
Mehic (Osmo) Aziz	7/15/1962	1641/03	LP02B-124F	62	Liplje	CQ461135	BiH/Federation Commission	4/11/2003	7/11/1995	Forest	Main Case	
Sabanovic (Emin) Idriz	1/15/1969	4642/04	LP01-28-I	66	Liplje	CQ4678712925	BiH/Federation Commission	11/17/2004	7/11/1995	Forest	Main Case	
Sabanovic (Emin) Idriz	1/15/1969	4642/04R	LP01-025-LF2-M2	66	Liplje	CQ4678712925	BiH/Federation Commission	8/29/2008	7/11/1995	Forest	Reassociation	
Sabanovic (Emin) Idriz	1/15/1969	4642/04R	LP01-195-MNT1-M	66	Liplje	CQ4678712925	BiH/Federation Commission	8/29/2008	7/11/1995	Forest	Reassociation	
Sabanovic (Emin) Idriz	1/15/1969	4642/04R	LP01-175-LH1-M	66	Liplje	CQ4678712925	BiH/Federation Commission	8/29/2008	7/11/1995	Forest	Reassociation	
Alic (Semso) Sabahudin	7/16/1969	9763/07	B.KAM.BR-32	67	Kamenica-Bratunac	CP5387295601	BiH/Federation Commission	8/22/2007	7/11/1995	Forest	Main Case	