



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: 27 October 2011

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

Decision of: 27 October 2011

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

**DECISION ON ACCUSED'S REQUEST FOR ASSISTANCE OF DEFENCE EXPERTS IN
THE COURTROOM DURING TESTIMONY OF SEVEN PROSECUTION EXPERT
WITNESSES**

Office of the Prosecutor

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

The Accused

Mr. Radovan Karadžić

Standby 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”) is seised of the “Request to Have Assistance of Defence Expert in Courtroom for Testimony of Expert Witnesses,” filed by the Accused on 18 October 2011 (“Request”), and the “Supplement to Request to Have Assistance of Defence Expert in Courtroom for Testimony of Expert Witnesses,” filed by the Accused on 26 October 2011 (“Supplemental Request”), and hereby issues its decision thereon.

1. In his Request, the Accused seeks leave from the Chamber for his forensic medical expert, Dr. Dušan Dunjić, to be present in the courtroom during the testimony of six expert witnesses for the Office of the Prosecutor (“Prosecution”), namely Richard Wright, John Clark, Christopher Lawrence, Freddy Peccerelli, Jose Baraybar, and William Haglund (“Prosecution Experts”).¹

2. The Accused submits that Dunjić’s presence in the courtroom is necessary, as he will be able to provide comments and suggestions to the Accused that will allow him to adequately cross-examine the Prosecution Experts.² He notes that the Chamber has previously allowed the presence of other experts to assist him in the cross-examination of expert witnesses called by the Prosecution.³

3. On 20 October 2011, the Prosecution filed the “Prosecution’s Response to Accused’s Request to Have Assistance of Defence Expert in the Courtroom for Testimony of Expert Witnesses” (“Response”), not opposing the Request.⁴

4. In his Supplemental Request, the Accused reiterates his request that Dunjić be present during Baraybar’s testimony.⁵ He also seeks leave from the Chamber for his DNA expert, Dr. Oliver Stojković, to be present in the courtroom during the testimony of Prosecution expert witness, Thomas Parsons.⁶

5. The Chamber recalls that it has been its practice to authorise the presence of the Accused’s experts in the courtroom when it has deemed it necessary to help the Accused understand testimony of a technical nature and to support his ongoing preparation for, and

¹ Request, para. 1.

² Request, para. 3.

³ Request, para. 3.

⁴ Response, para. 2.

⁵ Supplemental Request, para. 2.

⁶ Supplemental Request, para. 4.

conduct of, his cross-examination.⁷ To date, the Chamber has authorised such assistance for testimony related to ballistics, field investigation, as well as military and police structure in Bosnia and Herzegovina.

6. The Chamber notes that while Clark and Lawrence are forensic pathologists, Wright, Peccerelli, Baraybar, and Haglund have expertise in forensic archaeology and forensic anthropology. The Prosecution Experts have each submitted reports concerning exhumations carried out during the investigation into the events in Srebrenica and the surrounding area.⁸ The Chamber also notes that Dr. Dunjić is a forensic pathologist with extensive experience in exhumation, identification, and autopsy of bodies in investigations related to the conflicts in the former Yugoslavia. The Chamber is satisfied, in light of the highly technical nature of the evidence to be provided by the Prosecution Experts, that it would be of assistance to the Accused to have his own forensic expert present in the courtroom during their testimony. Such presence will assist the Accused in conducting an efficient cross-examination of the Prosecution Experts.

7. The Chamber notes that Parsons' expert report is titled "Methodology Report 2001-2008 DNA Process." The Chamber is satisfied, in light of the anticipated nature of Parsons' evidence, that it would be of assistance to the Accused to have his own DNA expert present in the courtroom during Parsons' testimony. The Chamber is of the view that such presence will serve to ensure that the Accused's cross-examination of Parsons is conducted in an efficient manner.

⁷ See Order on Funding of Defence Experts Authorised to be Present in the Courtroom, 11 June 2010; Decision on Accused's Request to Have Assistance of Defence Expert in Courtroom for Testimony of Expert Witnesses Treanor, Hanson, and Nielsen, 10 May 2011; Decision on Accused's Request to Have Assistance of Defence Expert in Courtroom for Testimony of Expert Witnesses Theunens, 14 June 2011.

⁸ Wright's expert report submitted on 1 April 2009 is broader and covers Brčko. See Prosecution's Notice of Disclosure of Expert Reports by Richard Wright and his Curriculum Vitae, 1 April 2009.

8. Accordingly, the Chamber hereby **GRANTS** the Request and permits Dr. Dušan Dunjić to be present in the courtroom during the testimony of Richard Wright, John Clark, Christopher Lawrence, Freddy Peccerelli, Jose Baraybar, and William Haglund. Furthermore, the Chamber **GRANTS** the Supplemental Request and permits Dr. Oliver Stojković to be present in the courtroom during the testimony of Thomas Parsons.

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



Judge O-Gon Kwon
Presiding

Dated this twenty-seventh day of October 2011
At The Hague
The Netherlands

[Seal of the Tribunal]