

**THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA**

Case No. IT-09-92-T

IN THE TRIAL CHAMBER

Before: Judge Alphons Orie, Presiding
Judge Bakone Justice Moloto
Judge Christoph Flügge

Registrar: Mr. John Hocking

Date Filed: 18 June 2014

THE PROSECUTOR

v.

RATKO MLADIĆ

PUBLIC

**DEFENCE MOTION PURSUANT TO RULE 92TER TO ADMIT THE WRITTEN
TESTIMONY OF ŽARKO CVIJIĆ (GRM040)**

The Office of the Prosecutor:

Mr. Dermot Groome
Mr. Peter McCloskey

Counsel for the Accused:

Mr. Branko Lukić
Mr. Miodrag Stojanović

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The Accused, **RATKO MLADIĆ**, by and through his counsel of record, respectfully submits the instant Motion pursuant to Rule 92ter of the Rules of Procedure and Evidence, and in support thereof states as follows:

I. INTRODUCTION

1. Pursuant to the Guidance previously expressed by the Trial Chamber, motions offering written statements under Rule 92ter of the Rules of Procedure and Evidence are to be filed at least 30 days before the anticipated testimony of a given witness. Witness Žarko Cvijić is currently scheduled to testify within approximately 30 days and thus the Defense hereby files the instant motion in compliance with the Chamber's guidance, and applying for the evidence of this witness to be heard pursuant to Rule 92ter. This Motion is filed publicly, as the witness does not require protective measures.

2. Herein this application is made to tender one written witness statement of the witness, without associated exhibits. At this time the Defense estimates that the evidence-in-chief of this witness will last up to 30 minutes.

3. The Defense does not otherwise seek to deviate from the Chamber's Guidelines in tendering this witness' evidence.

II. APPLICABLE LAW

4. Under Rule 92*ter* of the Rules of Procedure and Evidence (hereinafter "Rules") a Trial Chamber is permitted to admit the evidence in whole or in part in the form of a witness statement or transcripts of a proceeding before the Tribunal, under the following conditions: i) the witness is present in court; ii) the witness is available for cross-examination and any questioning by the Judges; and iii) the witness attests that the written statement or transcript accurately reflects the witness's declaration and what the witness would say if examined.¹

5. A party calling a witness pursuant to Rule 92*ter* may seek to admit into evidence documents that have been discussed by the witness in his or her witness statement of previous testimony.²

III. DISCUSSION OF ARGUMENTS

The Chamber Should Admit the Witness Statement

6. Witness Cvijić statement is relevant, reliable and probative, as set forth in greater detail herein below.

¹ Rule 92*ter* of the Rules of Procedure and Evidence.

² *Prosecutor v. Karadzic*, Case No. IT-95-5/18-T, "Decision on Prosecution's Submission regarding Additional Transcript Pages from Momcilo Mandić's Stanisic and Zupljanin Testimony for Admission into Evidence." 8 September 2010, para.5.

7. The witness will be present at trial, and thus will be able to attest to the evidence and will be available to be cross-examined by the Prosecution. Thereby the requirements of Rule 92*ter* will be fulfilled, and fairness to the Prosecution will be observed.

8. The Defense submits that due to the nature of the Witness's testimony 30 minutes will be necessary in order to conduct a limited and focused direct examination of the witness to clarify, expand on, and contextualize aspects of his evidence directly relevant to the Defense case.

9. On 3 July 1992, witness Cvijić was conscripted for military service in the VRS. After one and a half months of training he was transferred to the Military Police Battalion of the 65th Protection Regiment in Crna Rijeka where he was selected by General Manojlo Milovanović to serve as part of the escort personnel for General Ratko Mladić. The witness served as close protection for General Mladić for over one year.

10. Witness Cvijić testimony is relevant to and probative of salient and material issues pertaining to the Indictment. The Defense is confident in that it will, among other things, establish the following:

- a. Composition, command structure, and procedures of the escort personnel unit of General Mladić.³
- b. General Mladić's treatment of the civilian population of Srebrenica and Žepa during their departure in the convoy to Tuzla in 1993.⁴
- c. The training received at the Officer School at the Military School Centre in Banja Luka.⁵
- d. General Mladić never accepted money or weapons as gifts, and did not gain personal profit during the war.⁶

³ Statement, paras.8-9,15,18.

⁴ Statement, paras.10-11.

⁵ Statement, para.14.

⁶ Statement, para.17.

III. CONCLUSION

WHEREFORE, for the foregoing arguments, the Defense respectfully requests that the Chamber issue an order:

- a. Granting the Defense leave to call Žarko Cvijić as a witness pursuant to Rule 92*ter*.
- b. Granting the Defense leave to admit the proffered statement, (attached hereto as Annex A) under Rule 92*ter*.

Word Count: 660

RESPECTFULLY SUBMITTED BY:



Branko Lukić
Lead Counsel for Ratko Mladić
Mladić



Miodrag Stojanović
Co-Counsel for Ratko

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ANNEX A

**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**

WITNESS STATEMENT

WITNESS INFORMATION:

Surname: CVIJIC

Name: Žarko

Father's name: Ostoja

Date of birth: 19 February 1974

Ethnicity: Serb

Date of interview: 3 March 2014

Interview conducted by: Mikajlo Mitrović, Branko Lukić

Language used during the interview: Serbian

Signature of the Witness: _____

WITNESS STATEMENT BY ŽARKO CVIJIĆ

1. My name is Žarko CVIJIĆ (father's name Ostoja). I was born on 19 February 1974. I am a car mechanic by profession. I am married and a father of two. I live in Podbrdo village, the Municipality of Mrkonjić Grad. I currently work as an independent truck driver.
2. On 3 July 1992, I was conscripted for military service in the VRS, in the military police units at the Training Centre on Mountain Manjača. The training lasted one and a half months, whereupon I was transferred with a part of the unit to Crna Rijeka, to the 65th Protection Regiment.
3. I met the Regiment Commander Lieutenant-Colonel Milomir Savčić there. I was assigned to a military police battalion within the Protection Regiment, whose commander was Major Zoran Malinović.
4. One day, General Manojlo Milovanović came and picked me and Nenad Plotan, based on our appearance, to serve as General Mladić's close protection. Before that, we occasionally provided close protection to some colonels, e.g. Colonel Salapura.
5. After we were selected, we moved our belongings to the Javor Villa, which was at the Command Post. There were six of us there.
6. I served as General Mladić's close protection for a little over a year. General Ratko Mladić knew us by name and always spoke to us as if we were his children. He was surprised that I was selected to be his security detail because I was so young. After a while, he started calling me Žuti /Yellow/, which was a nickname I got in the army.
7. In the beginning, General Mladić seemed stern and serious. For the first month I did not feel comfortable. After the month, he called me to his table and asked me who I was, what I was, where I was from. He was particularly indulgent to me because of my age, as all the others in the close protection were about a decade older.
8. The tasks were issued by Branislav Puhalo, the security commander. Hence, he was superior to the six of us and the two drivers. I also knew Captain Pećanac, who worked in the

security service at the Main Staff. Also, I used to see Duško Todić, who would occasionally be in the General's escort.

9. I flew with General Mladić by helicopter only once, and we mostly escorted him when he was travelling by car. We provided security for General Mladić round the clock, i.e. even when he was working or sleeping at the Main Staff.

10. On one occasion I was in General Mladić's escort when a convoy was being organised to transport civilians from Srebrenica and Žepa to Tuzla. One of the soldiers saw an able-bodied man among the women, separated him from the group and took him to General Mladić. The man was terrified. General Mladić approached him and asked him some routine questions, who he was, where he was from, whether he had a family, what he did for a living. After that the man relaxed, and General Mladić told him not to be afraid and to return to the women and continue his journey freely.

11. The convoy was escorted by the Blue Helmets, and I think it was in 1993. I saw both buses and trucks in that convoy. There were about 20 trucks and buses. All of the vehicles were brimming with passengers.

12. All the members of the 65th Protection Regiment who were from the area of Krajina were allowed to return, i.e. they could be transferred to their parent unit. All of them left except me, because I got separated from my parent unit owing to the fact that I was in General Mladić's escort.

13. I approached Commander Savčić and asked him to let me return home with the unit, to one of the Krajina Corps. Savčić wrote an order for me, and I returned the weapons I had been issued. I went to say goodbye to General Mladić. He then told me that I was young, and that I could lose a leg or even life, that I could have problems because I had been his close protection.

14. He cancelled the order for my transfer and kept me in his escort. The entire time I was a plain soldier with no rank. I stayed there for another couple of months, after which I was dispatched to Banja Luka to the Military School Centre to attend the Officer School. There I stayed for 10 months, whereupon I was returned to the 65th Protection Regiment, to the position of a military police platoon commander, with the rank of second lieutenant. On my return I was no longer part of General Mladić's security detail.

15. We used to provide security for him in two *Puch* military off-road vehicles. The driver and the personal escort would be in the front, the General in the back seat, and two more escort personnel behind the General. In the second *Puch* there were the driver and additional four escort personnel.

16. I stayed in the 65th Protective Regiment until 13 September 1994, when I was wounded in the legs. I was wounded in combat at the Nišići Plateau, by a mortar bomb.

17. General Mladić never accepted any money or weapons as gifts. I am certain that General Mladić is an honest man who did not gain any personal profits during the war. He is a very gentle man with a clearly rough and stern appearance.

18. As his escort, we always stayed close to General Mladić, but at a polite distance so we would not overhear his conversations with others, when he had them.

WITNESS CONFIRMATION

I have read this statement comprising ____ pages, and it contains all that I said to the best of my knowledge and recollection. I have given this statement voluntarily, and I am aware that it can be used in the proceedings before 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 1992, and that I may be called to testify publicly before the Tribunal.

Signature: _____

Date: _____

**MEĐUNARODNI SUD ZA KRIVIČNO GONJENJE OSOBA ODGOVORNIH ZA
TEŠKA KRŠENJA MEĐUNARODNOG PRAVA NA TERITORIJI BIVŠE
JUGOSLAVIJE OD 1991**

IZJAVA SVEDOKA

PODACI O SVEDOKU:

Prezime: CVIJIC

Ime: Žarko

Ime oca: Ostoja

Datum rođenja: 19.02.1974.

Nacionalnost: Srbin

Datum(i) razgovora: 03.03.2014.

Razgovor(e) vodili: Mikajlo Mitrović, Branko Lukić

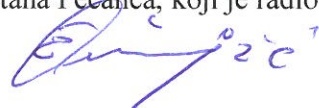
Jezici korišćeni u toku razgovora: Srpski

Potpis svedoka:



IZJAVA SVEDOKA – CVIJIĆ ŽARKO

1. Zovem se CVIJIĆ (Ostoje) Žarko ,rođen sam 19.02.1974. Po zanimanju sam automehaničar. Oženjen sam i imam dvoje dece. Živim u s. Podbrdo, opština Mrkonjić Grad. Danas radim kao samostalni prevoznik.
2. 3.7.1992. sam upućen na odsluženje vojnog roka u VRS u jedinice vojne policije u centar za obuku na Manjači. Obuka je trajala 1,5 mesec, a onda sam prekomandovan sa delom te jedinice u Crnu Rijeku, u 65. Zaštitni puk.
3. Tu sam upoznao komandanta puka potpukovnika Milomira Savčića. Raspoređen sam u bataljon vojne policije pri zaštitnom puku čiji komandant je bio major Malinović Zoran.
4. Jednog dana je došao general Manojlo Milovanović i odabrao nas dvojicu, mene i Nenada Plotana, na osnovu izgleda, da budemo pratioci gen.Mladića. Mi smo i pre, povremeno pratili neke pukovnike, kao npr. puk.Salapuru.
5. Nakon što smo odabrani, preneli smo stvari u vilu Javor ,koja se nalazila na komandnom mestu. Bilo nas je šestorica.
6. Gen.Ratka Mladića sam pratio nešto više od godinu dana. Gen.Ratko Mladić je znao naša imena i uvek nam se obraćao kao deci. Bio je začuđen što sam ja tako mlad određen za njegovog pratioca. Nakon nekog vremena počeo je da mi se obraća sa Žuti, koji nadimak sam dobio u vojsci.
7. Gen. Mladić mi u početku delovao strog i ozbiljan. Nisam se lagodno osećao prvih mesec dana. Nakon mesec dana me pozvao za sto i ispitao me ko sam , šta sam, odakle sam. Zbog godina koje sam imao bio je posebno naklonjen meni, pošto su svi drugi iz pratnje bili stariji od mene za oko desetak godina..
8. Zadatke nam je davao Branislav Puhalo, koji je bio komandir obezbeđenja. Dakle,bio je nadređen nama šestorici i dvojici vozača. Poznavao sam i kapetana Pećanca, koji je radio u



službi bezbednost u glavnom štabu. Viđao sam i Duška Todića, koji je povremeno bio u pratnji generala.

9. Samo jednom sam išao sa Gen. Mladićem helikopterom, a uglavnom smo ga pratili kada je išao automobilom. Mi smo obezbeđivali Gen. Mladića 24 časa dnevno, dakle i kada se nalazio u Glavnom Štabu na radu ili na spavanju.

10. Jednom prilikom sam bio u pratnji Gen. Mladića, kada je bio organizovan konvoj za prevoz civila iz Srebrenice i Žepe za Tuzlu. Neko od vojnika je uočio vojno sposobnog muškarca među ženama i izdvojio ga je i doveo pred Gen. Mladića. Ovaj čovek je bio izuzetno uplašen. Gen. Mladić mu se obratio i pitao ga svakodnevna pitanja, ko je, odakle je, ima li porodicu, šta radi. Nakon toga čovek se opustio i Gen. Mladić mu je rekao da se ne plaši i da se vrati kod žena i slobodno nastavi put.

11. Taj konvoj je bio u pratnji plavih šlemova i mislim da se radi o 1993. godini. U toj koloni sam video i kamione i autobuse. Bilo je oko 20 kamiona i autobusa. Sve je bilo dupke puno.

12. Svi pripadnici 65. Zaštitnog puka, koji su bili sa prostora Krajine mogli su da se vrate, odnosno da budu prekomandovani u matičnu jedinicu. Svi su i otišli osim mene. Razlog je bio taj što sam ja, samom činjenicom da sam bio u pratnji Gen. Mladića, bio odvojen od matične jedinice.

13. Ja sam se obratio komandnatu Savčiću i tražio da se i ja vratim sa jedinicom kući, u jedan od krajiških korpusa. Savčić mi je napisao naredbu, razdužio sam naoružanje. Ja sam otišao da se javim Gen. Mladiću. Tom prilikom mi je rekao da sam mlad i da mogu da izgubim nogu ili čak glavu, da ne bih imao problema zbog toga što sam bio u njegovoj pratnji.

14. On je poništio moju prekomandu i ostavio me kao svoga pratioca. Sve vreme sam bio u rangi običnog vojnika. Ostao sam tu još par meseci, kada sam upućen u Banja Luku u Centar vojnih škola, gde sam pohađao Školu za oficire. Tu sam ostao 10 meseci. Odatle sam ponovo vraćen u 65. Zaštitni puk, na dužnost komandira voda vojne policije, kao potporučnik. Nakon toga povratka više nisam bio u pratnji Gen. Mladića.

15. Pratnju smo uvek obavljali u dva vojna džipa, marke PUH. Napred vozač, lični pratilac, General na zadnjem sedištu, iza generala još dvojica pratilaca. U drugom PUH-u vozač i 4 pratioca.

16. U 65. Zaštitnom puku sam ostao do 13.09.1994. kada sam ranjen u noge. Ranjen sam u borbama na Nišićkoj visoravni, od minobacačke granate.

17. Gen. Mladić nikada nije prihvatao ni oružje ni novac, kao poklone. Siguran sam da je Gen. Mladić pošten čovek koji nije nikada imao ličnu korist u ratu. Radi se o izuzetno blagom čoveku sa vrlo grubom i strogom spoljašnošću.

18. Mi smo kao pratnja uvek bili u blizini Gen. Mladića, ali na pristojnoj razdaljini da ne čujemo šta je on razgovarao sa sagovornicima, ukoliko ih je imao.



POTVRDA SVEDOKA

Pročitao sam ovu izjavu od 4. strana i ona sadrži sve što sam rekao, po svom znanju i sećanju. Izjavu sam dao dobrovoljno i svestan sam da se može upotrebiti u sudskom postupku pred Međunarodnim sudom za krivično gonjenje osoba odgovornih za teška kršenja međunarodnog prava počinjena na teritoriji bivše Jugoslavije od 1991, kao i da mogu biti pozvan da javno svedočim pred Sudom.

Potpis: _____



Datum: _____

13.06.2014.

**THE INTERNATIONAL CRIMINAL TRIBUNAL
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ANNEX B

CVIJIC Žarko GRM040			
Witness Statement to be admitted pursuant Rule 92ter			
Statement	Date	65ter Number	Closed Session/Under seal
Witness Statement of CVIJIC Žarko	13 June 2014	RM 65ter 1D01677	/
NO Associated Exhibits wich the Defence seeks to tender pursuant to Rule 92ter			
Description	Paragraph Number/page in Statement	65ter Number	Doc ID (BCS/ENG)