

**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 Flüge

**Registrar:** Mr. John Hocking

**Date Filed:** 29 August 2014

**THE PROSECUTOR**

**v.**

**RATKO MLADIĆ**

***PUBLIC***  
***WITH PUBLIC ANNEX A***

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**DEFENCE MOTION PURSUANT TO RULE 92TER TO ADMIT THE WRITTEN  
TESTIMONY OF SEVTOZAR PETKOVIC**

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***The Office of the Prosecutor:***

Mr. Dermot Groome  
Mr. Peter McCloskey

***Counsel for the Accused:***

Mr. Branko Lukić  
Mr. Miodrag Stojanović

**THE INTERNATIONAL CRIMINAL TRIBUNAL  
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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 Svetozar Petkovic is currently scheduled to testify approximately within 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.<sup>1</sup>

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.<sup>2</sup>

## III. DISCUSSION OF ARGUMENTS

### **a) The Chamber Should Admit the Witness Statement**

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<sup>1</sup> Rule 92*ter* of the Rules of Procedure and Evidence.

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

6. The Defence seeks leave of the Chamber to call Svetozar Petkovic as a witness pursuant to Rule 92*ter*. The Defence submits that the proffered statement, (attached hereto as Annex A) with 65ter 1D01693 meets the requirements of Rule 92*ter*, and thus should be admitted under that Rule.

7. Witness Petkovic's statement is relevant, reliable and probative, as set forth in greater detail herein below.

8. 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.

9. 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.

10. Witness Petkovic was a teacher at the secondary school centre in Foča and later a professor at the Faculty of Dental Medicine.<sup>3</sup> In the beginning of the conflict, the Crisis Staff tasked Petkovic with activities concerning the supply of equipment and food to the population and units in Foča.<sup>4</sup> After the commencement of a brigade at Preljuća, Petkovic was appointed commander and reserve captain of Headquarters Administration.

11. Witness Petkovic's 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:

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<sup>3</sup> Statement, para. 1

<sup>4</sup> Statement, para. 2

- a.* Serbs in Foča were beaten by the special police forces.<sup>5</sup>
- b.* Muslims left Foča because of misinformation on the radio: journalist Tucaković incorrectly stated that 5000 Chetniks were coming to Foča from Montenegro.<sup>6</sup>
- c.* There were “guardsmen” in Foča, which were armed groups without command structures. The Crisis Staff had no possibility to control these self-proclaimed commanders.<sup>7</sup>
- d.* The Crisis Staff moved to an empty facility that previously accommodated female prisoners.<sup>8</sup>
- e.* The Brigade of Preljuća was supplying and collecting equipment and food of the population regarding their ethnicity.<sup>9</sup>
- f.* The Brigade of Preljuća was faced with paramilitary formations, not part of the VRS, who considered themselves ‘untouchable’. The Commander of the military unit in Foča did not manage to dissolve these units.<sup>10</sup>

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<sup>5</sup> Statement, para. 3

<sup>6</sup> Statement, para. 3

<sup>7</sup> Statement, para. 4

<sup>8</sup> Statement, para. 5

<sup>9</sup> Statement, para. 7

<sup>10</sup> Statement, para. 8

### III. CONCLUSION

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

- a. Granting the Defense leave to call Svetozar Petkovic 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: 788*

**RESPECTFULLY SUBMITTED BY:**



Branko Lukić  
*Lead Counsel for Ratko Mladić*



Miodrag Stojanović  
*Co-Counsel for Ratko Mladić*

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**ANNEX A**

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**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: PETKOVIĆ

Name: Svetozar

Father's name: *Ilija*

Date of birth: 27 January 1947

Ethnicity: Serb

Date(s) of interview(s): 9 March 2014

Interview(s) conducted by: Milenko Dunder, Boris Zorko

Language used during the interview: Serbian

Signature of the Witness: \_\_\_\_\_/signature/\_\_\_\_\_

### WITNESS STATEMENT

1. I was born on 27 January 1947 in Montenegro, the Municipality of Plužine. By profession, I was a teacher at the secondary school centre in Foča and later, from 1993, a professor at the Faculty of Dental Medicine. I am currently retired.
2. At the beginning of the conflict, the Crisis Staff tasked me with activities concerning the supply of equipment and food to the population and units in Foča.
3. As far as I remember, the incident at *Foča Trans* was followed by a serious revolt of the Serbs because they lost their jobs one after another and they were at the same time beaten by the special police forces. I know that when the conflict broke out in Foča, on 8 and 9 April 1992, there was misinformation on the radio when the journalist Šemso TUCAKOVIĆ put forward a series of inaccurate information to such an extent that he said 5,000 Chetniks were coming to Foča from the direction of Montenegro, which was not true. As a result, the majority of the Muslim population, fearing what they heard, left the town. That was the main reason why the Muslims left the town of Foča.
4. In April, May and June 1992 there were armed groups and individuals in the territory of the town and Municipality of Foča, which did not have a unique command, and I also know that the then Chairman of the Crisis Staff Miro STANIĆ did not have any control over them. I can say that there was a complete anarchy. The Crisis Staff had no possibility or strength to stop the self-will of individuals or individual groups, the so-called “guardsmen” from Serbia and the self-proclaimed commanders from the town of Foča and the surrounding areas.
5. The Crisis Staff at one point moved to a facility that accommodated the women’s prison in Velečevo, around 20 April 1992. The facility was empty. The manager of the prison before this was TEŠEVIĆ. The few female prisoners had left and I know that the facility was empty when the Crisis Staff was accommodated there.
6. There was no communication with either civilian or military authorities outside Foča for several months after its liberation. It was only after we got a small radio station, which was installed at Kmur, that we managed to establish connection with Tornik and it was not until this period that telephone lines could be established.

7. I personally know that around 20 June 1992 a group of the JNA */Yugoslav People's Army/* officers arrived in Foča, who originated from the area of the Municipality of Foča. The group was led by Marko Kovač, who also held the highest rank among them. They put themselves at the disposal of the Crisis Staff and reported to the then Chairman of the Crisis Staff Miroslav Stanić. Based on the decision of the Crisis Staff, Marko Kovač was appointed Commander of the unit that was to be formed and to join the VRS */Army of Republika Srpska/*. Soon afterwards, at the end of June or beginning of July 1992, a brigade was formally established at Preljuća. I joined this brigade and was appointed commander of the Headquarters Administration */Komanda stana/*; I was at the same time told that I would be engaged in the organisation of supply and collection of equipment and food for the population of Foča, regardless of their ethnicity, as well as in the humanitarian aid activities. I held the rank of reserve captain at the time.

8. Immediately after the formation of this military unit Commander Marko Kovač – apart from regular combat tasks concerning the consolidation and linking of the units on the front line – faced with a situation in which his regular military unit was confronted with various paramilitary formations, armed groups and individuals who considered themselves the authorities and “untouchable”. These groups were not part of the VRS forces and they would not accept orders through the system of subordination and single command */jednostarješinstvo/*. I am certain that Marko Kovač, as the Commander of the military unit in Foča, throughout 1992 did not manage to completely dissolve these units and oust them from the Municipality of Foča. This inability was understandable given the engagement of the best VRS units on the front lines and the resources that were available to Marko Kovač as the unit Commander.

**WITNESS CONFIRMATION**

I have read this statement comprising 3 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 1991, and that I may be called to testify publicly before the Tribunal.

Signature:           /signature/          

Date:           8 June 2014

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

IZJAVA SVEDOKA

PODACI O SVEDOKU:

Prezime: PETKOVIĆ

Ime: Svetozar

Ime oca: ILIJA

Datum rođenja: 27.01.1947.

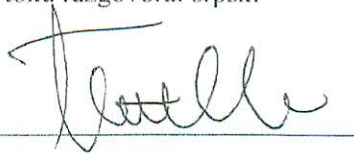
Nacionalnost: srpska

Datum(i) razgovora: 09.03.2014.

Razgovor (e) vodili: Milenko Dunder, Boris Zorko

Jezici korišćeni u toku razgovora: srpski

Potpis svedoka:



### IZJAVA SVEDOKA

1. Rođen sam 27.01.1947. godine u Crnoj Gori, opština Plužine. Po zanimanju sam bio profesor u srednjoškolskom centru u Foči, a kasnije profesor na Medicinsko-stomatološkom fakultetu od 1993. godine. Trenutno sam u penziji.

2. Početkom izbijanja sukoba, ja sam bio zadužen od strane Kriznog štaba na poslovima obezbjeđenja opreme i hrane za stanovništvo i jedinice u Foči.

3. Po mom sjećanju, posle incidenta u „Foča transu“, došlo je do ozbiljnog revolta Srba, jer su oni redom ostali bez posla, i istovremeno su bili pretučeni od strane specijalnih jedinica policije. Poznato mi je da je sa izbijanjem sukoba u Foči, 8. i 9. Aprila 1992. godine bilo dezinformacija preko radija, gdje je novinar Šemso TUCAKOVIĆ iznosio niz neistinitih podataka koji su išli u pravcu da u Foču dolazi 5.000 četnika iz Crne Gore, što nije bilo tačno. Ovo je dovelo do toga da je većina muslimanskog stanovništva, u strahu od toga, napustilo grad. To je glavni razlog napuštanja grada Foče od strane Muslimana.

4. U aprilu, maju i junu mjesecu 1992. godine su postojale naoružane grupe i pojedinci na teritoriji grada i opštine Foča, koje nisu imale jedinstvenu komandu, a poznato mi je da i tadašnji predsjednik Kriznog štaba, Miro STANIĆ nije nad njima imao kontrolu. Mogu reći da je postojalo totalno bezvlašće. Krizni štab nije imao ni mogućnosti ni snage da zaustavi samovolju pojedinaca ili tih pojedinih grupa, nekakvih „gardista“ iz Srbije, i tih samozvanih komandanata iz grada i okoline Foče.

5. Krizni štab je jedno vrijeme bio prešao u objekat gdje je bio ženski zatvor u Velečevu, približno 20.04.1992. godine. Objekat je bio prazan. Upravnik tog zatvora je prethodno bio TEŠEVIĆ. Malobrojne zatvorenice su otišle, znam samo da je objekat bio prazan kad je tu smješten Krizni štab.

6. Nikakve komunikacije nije bilo sa civilnim ili vojnim vlastima izvan Foče, i to više mjeseci po oslobađanju Foče. Tek nakon što smo dobili neku malu radio-stanicu, koja je

instalirana na Kmuru, mogli smo ostvariti vezu sa Tornikom, i tek u tom periodu su mogle biti uspostavljene telefonske veze.

7. Lično mi je poznato da je oko 20.06.1992. godine u Foču došla grupa oficira JNA koji su porjeklom sa prostora opštine Foča. Na čelu ove grupe i najstariji po činu bio je Marko Kovač. Stavili su se na raspolaganje Kriznom štabu i javili se tadašnjem predsjedniku Kriznog štaba Miroslavu Staniću. Po odluci Kriznog štaba, Marko Kovač je imenovan za komandanta jedinice koja je trebala da se formira i uđe u sastav VRS-a. Ubrzo nakon toga, krajem juna ili početka jula 1992. godine i formalno je konstituisana brigada na Preljući. U sastav ove brigade ušao sam i ja i dobio sam zaduženje komandira Komande stana i ujedno mi je rečeno da treba da se bavim na oraganizovanju snadbevanja i prikupljanja opreme i hrane za stanovništvo Foče, bez obzira na nacionalnu pripadnost kao i na poslovima humanitarne pomoći. Tada sam bio u činu rezervnog kapetana.

8. Odmah po formiranju ove vojne jedinice, komandant Marko Kovač, sem stalnih borbenih zadataka na konsolidaciji i uvezivanju jedinica na liniji fronta došao je u situaciju da se kao regularna vojna jedinica konfrontira sa raznim paravojnim formacijama, naoružanim grupama i pojedincima koje su sebe smatrale vlašću i "nedodirljivim". Ove grupe nisu bile u sastavu VRS i nisu željele da prihvataju naređenja kroz sistem subordinacije i jednostarješinstva. Siguran sam da Marko Kovač kao komandant vojne jedinice u Foči, tokom cijele 1992. godine, nije uspio u potpunosti rasformirati ove jedinice i izbaciti ih iz opštine Foča. Ova nemogućnost bila je razumljiva s obzirom na angažovanost najboljih jedinica VRS na linijama fronta i na resurse sa kojim je raspolagao Marko Kovač kao komandant jedinice.

## POTVRDA SVEDOKA

Pročitao sam ovu izjavu od 3 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: 0.8.6. 2014

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**RATKO MLADIĆ**

***PUBLIC***

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**ANNEX B**

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<b>PETKOVIC Svetozar</b>			
<b>Witness Statement to be admitted pursuant Rule 92ter</b>			
<b>Statement</b>	<b>Date</b>	<b>65ter Number</b>	<b>Closed Session / Under seal</b>
Witness Statement of <b>PETKOVIC Svetozar</b>	8 June 2014	<b>1D01693</b>	/
<b>NO Associated Exhibits wich the Defence seeks to tender pursuant to Rule 92ter</b>			