

**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: 18 November 2014

THE PROSECUTOR

v.

RATKO MLADIĆ

PUBLIC

With PUBLIC Annexes A and B

**DEFENCE MOTION PURSUANT TO RULE 92TER TO ADMIT THE WRITTEN
TESTIMONY OF DRAGISA SERDAR**

The Office of the Prosecutor:

Mr. Peter McCloskey
Ms. Camille Bibiles

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 Dragisa Serdar is currently scheduled to testify sometime within the next 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

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 Mandic's Stanisic and Zupljanin Testimony for Admission into Evidence." 8 September 2010, para.5.

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

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 92ter 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. Dragisa Serdar was mobilized on or around 11th of June and assigned to the reserve police force, when he was tasked with conducting patrols in Vrbanjci village. Serdar was in this Muslim village almost all time during the war, except for occasional engagements in combat action in the zones of the first Kotor Varos Light Infantry Bridge (1pbr) and the 22nd Infantry Brigade (pbr).³

10. Witness Serdar'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:

- a. Murder of Radenko and Borivoje Serdar, members of Army of Republike Srpska at Oric Hill on the 9th of September
- b. Crimes by Muslim-Croat forces committed on the 17th of September 1992 in the village of Serdari.⁴
- c. The attack by 100 Muslim-Croat soldiers from Hrvacani, Plitska Hanifici and burning down of the Serdari village.⁵

³ Statement para 2

⁴ Statement paras 3 -6

- d. Murder of elderly members of the Serdar family.⁶
- e. Member of the Serdar family were burned while inside their houses.⁷
- f. Murder of 7 members of the Serdar family.⁸
- g. The identity of the attack leader, Besim Cehic, and one of the participants Fikret Plancic and the proceeding instituted against him.⁹
- h. The identity of all Serbs killed in the attack on the 17th of September 1992¹⁰
- i. The beginning of the war in the Kotor Varos Municipality in Hrvacani village from which the first attack on the Serb village of Novakovici came in the first half of June 1992.¹¹
- j. The Muslim- Croat units were well armed and well organized.¹²
- k. Increased ethnic tension and popular comparison of the Serdar murders to World War two crimes committed against the Serbs.¹³
- l. Serbs didn't attack anyone who didn't attack them first. Peaceful Croats in villages of Pobrdje and Zabrdje spent the entire war in these villages without any tensions of incidents.¹⁴

III. CONCLUSION

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

⁵ Statement paras 7-8

⁶ Statement para 9

⁷ Statement para 10

⁸ Statement para 11

⁹ Statement para 13

¹⁰ Statement para 14

¹¹ Statement para 15

¹² Statement para 16

¹³ Statement para 20

¹⁴ Statement para 21

- a. Granting the Defense leave to call Dragisa Serdar 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: 1,030

RESPECTFULLY SUBMITTED BY:



Branko Lukić
Lead Counsel for Ratko Mladić



Miodrag Stojanović
Co-Counsel for Ratko Mladić

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER
YUGOSLAVIA

Case No. IT-09-92-T

THE PROSECUTOR

v.

RATKO MLADIĆ

PUBLIC

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: SERDAR

Name: Dragiša

Father's name: Drago

Date of birth: 16 January 1969

Ethnicity: Serb

Date(s) of interview(s): 13 March 2014

Interview(s) conducted by: Branko Lukić, Mikajlo Mitrović

Language used during the interview: Serbian

Signature of the Witness: _____/signature/_____

WITNESS STATEMENT BY DRAGIŠA SERDAR

PERSONAL INFORMATION

1. My name is Dragiša SERDAR, son of Drago. I was born on 16 January 1969 in Kotor Varoš, SR BiH / *Socialist Republic of Bosnia-Herzegovina*/. I am married with three children. I have no criminal record. I am a mechanical technician employed by the MUP RS /*Ministry of Interior of Republika Srpska*/, at the police station at Kotor Varoš. I am a police officer – a shift leader, with permanent residence in Kotor Varoš.

2. I was mobilised on or about 11 June 1992 and assigned to the reserve police force, when I was tasked with conducting patrols in Vrbanjci village. I was in this Muslim village almost all the time during the war, except for occasional engagements in combat actions in the zones of the 1st Kotor-Varoš Light Infantry Brigade (lpbr) and the 22nd Infantry Brigade (pbr). The command of an infantry battalion of the 22nd Infantry Brigade was also based in Vrbanjci, at the primary school building.

THE PRELUDE TO THE CRIME AT SERDARI

3. I remember that the Muslim army killed Radenko and Borivoje Serdar on 9 September 1992, in the area of Orić Brdo /*Orić Hill*/, on the Serdari-Vrbanjci road. They were wearing uniforms and they were members of the VRS /*Army of Republika Srpska*/ when they were killed. These murders were an introduction into a crime that the Muslim-Croat forces, members of the Army of RBiH /*the Republic of BiH*/ committed on 17 September 1992 in my village of Serdari. The village had six houses inhabited by the Serdar families only, all of them Serbs.

4. The village is surrounded by the Muslim village of Hanifići, the Croat village of Plitska and the Muslim village of Hrváčani.

5. On that 17th September 1992, in the early morning hours, around 5:15 or 5:30, my cousin Svemir and I heard the burst fire from the direction of our village of Serdari. We were at Vrbanjci at the time so we went to the battalion command in order to find out if our forces were perhaps in action there. The evening before, an ambush was set up in the area of the village of Nikolići (Bilanovići), so we thought that those forces were in action. However, we were told that those

forces were withdrawn during the night. We then realised that the fire was coming from the direction of Serdari and so we headed towards our village.

THE KILLED AND BURNT SERBS IN SERDARI

6. On our way to Serdari, in the area of Sakan village, we met our cousin Dalibor Serdar who told us not to go to the village and that everyone and everything was killed and burned. We arrived in the village half an hour after the withdrawal of the Muslim-Croat units. A VRS unit with a tank had already arrived there.

7. The village had been defended by six villagers with semiautomatic rifles. Those who survived said that the village was attacked by around 100 Muslim-Croat soldiers, mostly from Hrvacani, Hanifići, Plitska, Večići and the town itself.

8. When I came to the village everything was still burning. My house was burnt down and still smouldering.

9. In the house yard, next to the outdoor faucet, I came across the dead body of my cousin Mirko Serdar. Ten meters further, there lied the dead body of my uncle Branko Serdar, and I was later told that he had been the first to be murdered. I found my father Drago's body on the way to the house. All these persons were about 50 to 60 years old.

10. My own younger brother Slaviša (born in 1971) and his wife were burned in the house so I did not see their bodies. My mother, who had also been in the house at that time, hiding in the bathroom, told me this. Their bodies were recovered only later, during the crime scene investigation, which I did not attend.

11. In addition to my uncle Branko, his wife Bosiljka, his daughter Radmila and son Jelenko, his sister and her two children – one four and the other nine years old, as well as Slavojka Bencuz, who had come to Branko's house the evening before to spend the night there, were also murdered.

12. Radmila Serdar, Jelenko's wife who was pregnant at the time, survived the massacre, as well as Dragiša's mother Stojanka and his youngest brother Aleksandar (he was ten at the time). They were all in the bathroom that did not catch fire.

13. The attack was led by Besim Čehić from Hanafići and one of the criminals was Fikret Planičić. Proceedings were instituted against him and the others for this crime before the Court of BiH. I was one of the witnesses in the proceedings in the course of 2012.

KILLED CHILDREN

14. Sixteen children, women and elderly persons were murdered in Serdari in the above describe event, and two soldiers were killed there on 9 September 1992.

1. Radenko Serdar, a cousin
2. Borivoje Serdar, a cousin

1. Drago Serdar, born in 1945, my father
2. Slaviša Serdar, born in 1971, my brother
3. Spomenka Serdar, maiden name Tešić, married for only 10 days, born in 1972?, my sister-in-law
4. Branko Serdar, my uncle, older than my father
5. Bosiljka Serdar, my aunt, Branko's wife
6. Jelenko Serdar, Branko's and Bosiljka's son, born in 1962?
7. Radmila Serdar, Branko's and Bosiljka's daughter
8. Slavko Serdar, my uncle, born in 193?
9. Danka Serdar, a cousin
10. Mirko Serdar, Danka's son, born in 196?
11. Slavko Bencuz
12. Slavojka Bencuz, Slavko's daughter, 1972?
13. Nikola Dukić, a cousin
14. Ljubica Tepić, my aunt
15. Slobodanka Tepić, nine or four years old, Ljubica's daughter
16. Snježana Tepić, nine or four years old, Ljubica's daughter

15. The war in the Municipality of Kotor Varoš started in Hrvaćani village, from which came the first attack on the Serb village of Novakovići. This conflict took place in the first half of June 1992.

16. I know that the members of the Muslim-Croat units were well armed and well organised.

20. Inter-ethnic tensions were all of a sudden so pronounced that it was no longer possible to discuss normal things with people. Everyone was enraged and scared at the same time.

I have to emphasise that the crime in Serdari preceded the incident in Grabovica. I know that after the Serbs had been murdered in Serdari people talked about the repetition of the crime committed against the Serbs in World War II and that the mood was very bad. People talked only about the murders that had been committed and compared them to the murders of Serbs in World War II. There was no other conversation topic. This contributed to the further growth of hatred. There was more and more talk of revenge for both the victims of World War II and the victims in Serdari. The revenge was also discussed in relation to other killings of the Serbs. It is interesting that women were more aggressive and more radical in their contemplations and judgement than men.

21. However, despite such mood, the Serbs did not attack anyone who did not fire at them or attack them first. I know that the residents of the Croat villages of Pobrđe and Zabrdje spent the entire war in these villages and that no one touched them.

22. Kotor Varoš was the second to last place to be liberated from Ustashes in World War II. The last place to be liberated was Odžak. Kotor Varoš was a powerful Ustahas' stronghold and that also determined the relations among the people who lived there.

WITNESS CONFIRMATION

I have read this statement comprising 5 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: 21 July 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: SERDAR

Ime: DRAGIŠA

Ime oca: DRAGO

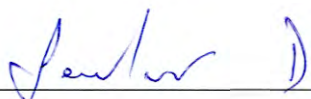
Datum rođenja: 16.01.1969.

Nacionalnost: Srbin

Datum(i) razgovora: 13.03.2014.

Razgovor(e) vodili: Lukić Branko, Mikajlo Mitrović

Jezici korišćeni u toku razgovora: Srpski

Potpis svedoka: .

IZJAVA SVEDOKA – DRAGIŠA SERDAR

LIČNI PODACI

1. Zovem se SERDAR DRAGIŠA, sin Draga. Roden sam 16.01.1969. godine u Kotor Varoši, SR BiH. Srbin sam, oženjen, otac tri deteta, neosuđivan sam, mašinski sam tehničar, zaposlen u MUP RS, policijska stanica Kotor Varoš. Policijski sam službenik, vođa smene, stalno nastanjen u Kotor Varoši.
2. Mobilisan sam negde oko 11. juna 1992. godine u rezervni sastav policije, te sam dobio zadatak da patroliram u selu Vrbanjci. U tom muslimanskom selu sam bio skoro sve vreme trajanja rata, s tim što sam povremeno bio angažovan i pri izvođenju borbenih dejstava u zoni 1. kotor-varoške lake pešadijske brigade (lpbr), kao i 22. pešadijske brigade (pbr). U Vrbanjcima je, u zgradi OŠ, bila smeštena i komanda jednog pešadijskog bataljona 22. pbr.

UVOD U ZLOČIN U SERDARIMA

3. Sećam se da je 09. septembra 1992. godine muslimanska vojska ubila Radenka i Borivoja Serdara u rejonu Orića brda, na putu Serdari-Vrbanjci. Ubijeni su bili u uniformi i bili su pripadnici VRS. Ova ubistva su bili uvod u zločin, koji su muslimansko – hrvatske jedinice, pripadnici Armije RBiH, učinile 17. septembra 1992. godine u mom selu Serdari. To selo je imalo 6 kuća u kojima su živeli samo Serdari, svi Srbi.
4. Oko tog sela se nalaze: muslimansko selo Hanifići, hrvatsko selo Plitska i muslimansko selo Hrvaćani.
5. Tog 17. septembra 1992. godine, moj rodak Svemir i ja smo u ranim jutarnjim časovima, negde oko 05:15 ili 05:30 časova, čuli rafalnu paljbu iz pravca našeg sela Serdara. Tada smo bili u Vrbanjcima, te smo otišli do komande bataljona da se raspitamo da li naše snage eventualno dejstvuju. Prethodno veče je u rejonu sela Nikolići (Bilanovići) bila postavljena zaseda, pa smo mislili da te snage dejstvuju. Međutim, rečeno nam je da su te



snage povučene još u toku noći. Tada smo shvatili da se pucnjava čuje iz Serdara i krenuli smo ka svom selu.

UBIJENI I SPALJENI SRBI U SERDARIMA

6. Na putu u Serdare, u rejonu sela Sakan, sreli smo svog rođaka Dalibora Serdara, koji nam je rekao da ne idemo u selo, da je sve popaljeno i pobijeno. Mi smo u selo stigli pola sata nakon povlačenja muslimansko-hrvatskih jedinica. U selo je već bila stigla i jedna jedinica VRS sa tenkom.

7. Selo je inače branilo 6 meštana naoružanih polu-automatskim puškama. Preživeli su rekli da je u napadu na selo bilo oko 100 muslimansko-hrvatskih bojovnika, većinom iz Hrvaćana, Hanifića, Plitske, Večića i samog grada.

8. Kad u sam stigao u selo, sve je još gorelo. Kuća mi je bila spaljena i još je dogorevala.

9. U dvorištu kuće, kod česme sam naišao na mrtvo telo svog rođaka Mirka Serdara. Desetak metara dalje je mrtav ležao moj stric Branko Serdar, za koga su mi kasnije rekli da su ga prvog ubili. Telo svog oca Drage sam našao na putu do kuće. Svi navedeni bili su stari oko 50-60 godina.

10. Moj rođeni mlađi brat Slaviša (rođ.1971.godine) i njegova žena bili su spaljeni u kući, te njihova tela nisam ni video. Ovo mi je rekla majka, koja je u to vreme takođe bila u kući, sakrivena u kupatilu. Njihova tela su kasnije pronađena, tokom vršenja uviđaja, kome ja nisam prisustvovao.

11. Pored strica Branka, ubijeni su njegova žena Bosiljka, kćerka Radmila, sin Jelenko, Brankova sestra i njeno dvoje dece, jedno staro 4, a drugo 9 godina, te Slavojka Bencuz, koja je prethodne večeri došla kod Branka na spavanje.

12. Tada je masakr preživela Jelenkova supruga Radmila Serdar, koja je tada bila trudna, te Dragišina majka Stojanka i najmlađi brat Aleksandar (tada imao 10 godina). Bili su u kupatilu koje nije izgorelo.

13. Vođa napada je bio Čehić Besim iz Hanifića, a jedan od zločinaca je bio i Planinčić Fikret. Protiv njega i drugih se pred sudom BiH vodio proces za ovaj zločin. Bio sam svedok u tom procesu u toku 2012. godine.

POBIJENA DECA

14. U Serdarima je tada ubijeno 16-oro dece, žena i starijih osoba, kao i dvojica vojnika koji su ubijeni 09. septembra.1992.

1. Serdar Radenko, rođak
2. Serdar Borivoje, rođak
1. Serdar Drago 1945 otac
2. Serdar Slaviša 1971 brat
3. Serdar Spomenka devojački Tepić, u braku samo 10 dana 1972? snaja
4. Serdar Branko stric stariji od oca
5. Serdar Bosiljka strina, supruga od Branka
6. Serdar Jelenko sin Branko i Bosiljke 1962?
7. Serdar Radmila kćerka Branka i Bosiljke.
8. Serdar Slavko stric, 193?
9. Serdar Danka, rođaka
10. Serdar Mirko, sin Dankin 196?
11. Bencuz Slavko,
12. Bencuz Slavojka, kćerka Slavka, 1972?
13. Dukić Nikola, rođak,
14. Tepić Ljubica, tetka
15. Tepić Slobodanka 9 ili 4 godine, kćerka Ljubicina
16. Tepić Snježana 9 ili 4 godine, Kćerka Ljubicina

15. Rat u opštini Kotor Varoš je krenuo iz sela Hrvaćani, odakle je izvršen prvi napad na srpsko selo Novakovići. Ovaj sukob se desio u prvoj polovini juna 1992. godine.

16. Poznato mi je da su pripadnici muslimanso hrvatskih jedinica bili dobro naoružani i dobro organizovani.

Jelenko J.

20. Međunacionalne tenzije su odjednom toliko bile izražene da jednostavno nije bilo više moguće raspravljati sa ljudima o normalnim stvarima. Svi su bili besni i uplašeni u isto vreme.

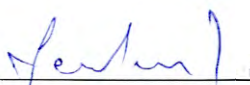
Moram da naglasim da je zločin u Serdarima prethodio incidentu u Grabovici. Znam da su ljudi, nakon ubistava Srba u Serdarima, govorili o ponavljanju zločina nad Srbima iz 2. svetskog rata i da je raspoloženje bilo jako loše. Samo se govorilo o počinjenim ubistvima i vršile se upoređenja sa ubistvima Srba u 2. svetskom ratu. Nije bilo druge teme razgovora. To je doprinosilo da je mržnja još više rasla. Sve više se pričalo o osveti, kako za žrtve iz 2. svetskog rata tako i za žrtve iz Serdara. O osveti se pričalo i pri drugim pogibijama Srba. Zanimljivo je da su žene bile agresivnije i radikalnije u svojim razmišljanjima i sudovima od muškaraca.

21. I pored ovakvog raspoloženja Srbi nisu napadali nikoga ko nije na njih pucao i ko nije prethodno njih napadao. Poznato mi je da su stanovnici hrvatskih sela Pobrđe i Zabrdje ceo rat bili tu i niko ih nije dirao.

22. Kotor Varoš je pretposlednje mesto koje je oslobođeno od ustaša u Drugom svetskom ratu. Poslednje mesto je bilo Odžak. Kotor Varoš je bila jako ustaško uporište, te je to određivalo i odnose među ljudima koji su ovde živeli.

POTVRDA SVEDOKA

Pročitao sam ovu izjavu od 5 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: 21.02.2014.

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER
YUGOSLAVIA

Case No. IT-09-92-T

THE PROSECUTOR

v.

RATKO MLADIĆ

PUBLIC

ANNEX B

SERDAR Dragisa			
Witness Statement to be admitted pursuant Rule 92ter			
Statement	Date	65ter Number	Closed Session / Under seal
Witness Statement of SERDAR Dragisa	21-Jul-2014	1D01737	/
Associated Exhibits wich the Defence seeks to tender pursuant to Rule 92ter			
Description	Paragraph Number	65ter Number	Doc ID (BCS/ENG)
Signed Witness Statement of SERDAR Dragisa	/	1D01737	1D18-2337 1D18-2342