



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: 25 January 2013

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

Order of: 25 January 2013

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

ORDER FOR SAFE CONDUCT

Office of the Prosecutor

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

The Government of the Kingdom of the Netherlands

via the Ministry of Foreign Affairs
Ambassador for International Organisations

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”),

BEING SEISED of the Accused’s “Motion for Safe Conduct Order: Witness Aleksandar Vasiljević”, filed on 14 January 2013 (“Motion”), in which the Accused moves for an order, pursuant to Rule 54 of the Tribunal’s Rules of Procedure and Evidence (“Rules”), for the safe conduct of defence witness Aleksandar Vasiljević (“Witness”), who is currently scheduled to testify in these proceedings in February 2013;¹

NOTING that the Witness served as head of the Department of Security for the Yugoslav People’s Army from 15 June 1991 to 8 May 1992;²

NOTING that the Witness is expected to testify about the events which led to preparations for the war in Bosnia and Herzegovina, which the Prosecution alleges, in the Third Amended Indictment (“Indictment”), constituted an overarching joint criminal enterprise to expel Bosnian Muslims from Bosnian Serb-controlled areas in which the Accused participated;³

NOTING that the Witness was indicted in Croatia in April 2011 and the indictment is still pending against him;⁴

NOTING that, according to the Accused, an order for safe conduct is necessary to secure the presence of the Witness and that the Witness’s testimony is relevant and of probative value to his defence case;⁵

NOTING that on 14 January 2013, the Office of the Prosecutor (“Prosecution”) informed the Chamber *via* email that it would not respond to the Motion;

RECALLING that orders for safe conduct are a common device in the practice of the Tribunal for granting witnesses limited immunity under specific circumstances to “secure the attendance

¹ Motion, paras. 1, 6. On 22 January 2013, the Accused’s legal adviser orally informed the Chamber that the Witness currently resides in the Republic of Serbia (“Serbia”). T. 32456–32457 (22 January 2013).

² Motion, para. 2.

³ Motion, para. 2.

⁴ Motion, para. 5.

⁵ Motion, para. 5.

of witnesses from areas beyond” the Tribunal’s jurisdiction⁶ and that such orders are issued by Trial Chambers when deemed in the interests of justice;⁷

CONSIDERING that the Chamber is satisfied that: (i) the expected testimony of the Witness is of relevance and probative value to the charges in the Indictment; and (ii) in light of the circumstances as set out in the Motion, it is in the interests of justice to issue an order for safe conduct for the Witness to ensure his appearance before the Tribunal;

FOR THE FOREGOING REASONS,

PURSUANT TO Rules Articles 29 and 30(4) of the Tribunal’s Statute and Rule 54 of the Rules:

GRANTS the Motion;

ORDERS the safe conduct for the Witness such that, while in or travelling to The Netherlands for the sole purpose of his testimony in the present case, and while returning to Serbia thereafter, the Witness shall not be arrested, detained, prosecuted, or subjected to any other restriction, whether physical or legal, of his personal liberty, in respect of alleged acts or convictions prior to his departure from Serbia;

ORDERS that the safe conduct order shall apply prior to the Witness’s departure from Serbia to The Netherlands, during his transit between Serbia and The Netherlands, upon his arrival at and during his entire stay in The Netherlands, and during his return transit from The Netherlands to Serbia; and

⁶ *Prosecutor v. Duško Tadić*, Case No. IT-94-1-T, Decision on the Defence Motions to Summon and Protect Defence Witnesses, and on the Giving of Evidence by Video-Link, 26 June 1996 (“*Tadić Decision*”), para. 10. *See also, e.g.*, Decision on the Prosecution’s Motion for Safe Conduct for Witness Momčilo Mandić, 16 June 2010; *Prosecutor v. Zejnil Delalić et al.*, Case No. IT-96-21-T, Order Granting Safe Conduct to Defence Witnesses, 25 June 1998; *Prosecutor v. Mile Mrkšić et al.*, Case No. IT-95-13a-T, Order on Defence Motion for Safe Conduct, 12 June 1998. Furthermore, states are generally familiar with the administration of safe conduct provisions, as they “have been included in nearly all treaties of mutual assistance and several multilateral agreements.” *Tadić Decision*, para. 9.

⁷ *See Prosecutor v. Vojislav Šešelj*, Case No. IT-03-67-R77.3, Decision on Request for the Safe Transfer of Defence Witness Zoran Dražilović, 1 June 2011, p. 2; *Prosecutor v. Ante Gotovina et al.*, Case No. IT-06-90-T, Order for Safe Conduct, 3 November 2008, p. 2; *Tadić Decision*, para. 12.

REQUESTS the Registrar of the Tribunal to take all necessary measures for the implementation of the order for safe conduct.

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



Judge O-Gon Kwon
Presiding

Dated this twenty-fifth day of January 2013
At The Hague
The Netherlands

[Seal of the Tribunal]