



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 Edin Garaplija”, filed on 18 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 Edin Garaplija (“Witness”), who is currently scheduled to testify in these proceedings on 6 February 2013;<sup>1</sup>

**RECALLING** the “Decision on Second Motion for Subpoena: Edin Garaplija”, issued on 18 December 2012 (“Subpoena Decision”), in which the Chamber granted the Accused’s request to subpoena the Witness for purposes of testimony in the Accused’s defence case;<sup>2</sup>

**RECALLING** that the Witness served as an operative of the Ministry of the Interior of Bosnia and Herzegovina (“BiH”),<sup>3</sup> and is expected to testify that, *inter alia*, Bosnian Muslim special units carried out a sniper attack which killed a French UNPROFOR member in Sarajevo and, on a separate occasion, detonated an explosive at the residence of the Chief of Staff of the ABiH, and that on both occasions the Bosnian Muslims made it appear that Serbs had been responsible;<sup>4</sup>

**NOTING** that the Witness has been banned from travel to countries in the Schengen area;<sup>5</sup>

**NOTING** that, according to the Accused, an order for safe conduct is thus necessary to secure the presence of the Witness and that the Witness’s testimony is relevant and of probative value to his defence case;<sup>6</sup>

**NOTING** that on 18 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

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<sup>1</sup> Motion, paras. 1, 6; List of Exhibits: Witness Edin Garaplija, 22 January 2013, para. 2.

<sup>2</sup> Subpoena Decision, para. 17.

<sup>3</sup> Subpoena Decision, para. 1.

<sup>4</sup> Subpoena Decision, para. 3.

<sup>5</sup> Motion, para. 2, Confidential Annex A pp. 6, 9–15, Confidential Annex B.

<sup>6</sup> Motion, para. 5.

of witnesses from areas beyond” the Tribunal’s jurisdiction<sup>7</sup> and that such orders are issued by Trial Chambers when deemed in the interests of justice;<sup>8</sup>

**CONSIDERING** that the Chamber is satisfied that: (i) the expected testimony of the Witness is relevant and of 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 BiH thereafter, he 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 BiH;

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

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<sup>7</sup> *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.

<sup>8</sup> 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.



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Judge O-Gon Kwon  
Presiding

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

**[Seal of the Tribunal]**