

**UNITED
NATIONS**



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-04-75-T
Date: 4 June 2013
Original: English

IN THE TRIAL CHAMBER

Before: Judge Guy Delvoie, Presiding
Judge Burton Hall
Judge Antoine Kesia-Mbe Mindua

Registrar: Mr. John Hocking

Decision: 4 June 2013

PROSECUTOR

v.

GORAN HADŽIĆ

CONFIDENTIAL

DECISION ON SITE VISIT

The Office of the Prosecutor:
Mr. Douglas Stringer

Counsel for Goran Hadžić:
Mr. Zoran Živanović
Mr. Christopher Gosnell

1. **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") *proprio motu* issues this decision in relation to a site visit to certain areas in eastern Croatia.

A. Background and submissions

2. At the Rule 65 *ter* conference held on 12 June 2012, the parties were informed that the Trial Chamber intended to conduct a site visit in the present case in 2013.¹ On 14 September 2012, the Trial Chamber ordered the parties to make submissions on certain aspects of the proposed site visit.²

3. On 31 October 2012, the Prosecution submitted its proposed list of locations for the site visit.³ It further submitted that the Trial Chamber should limit the site visit to Croatia only, as expanding it to locations in Serbia would necessitate significant additional logistical and security arrangements.⁴ The Prosecution designated Senior Trial Attorney Douglas Stringer and Investigator Rita Pradhan as its representatives on the site visit.⁵ As to the date of the site visit, the Prosecution proposed that the site visit take place at the conclusion of its case-in-chief and before the beginning of the Defence case.⁶

4. On 1 November 2012, the Defence submitted a list of locations for the site visit, including some in Serbia. It also requested that Lead Counsel Zoran Živanović and Co-counsel Christopher Gosnell attend the site visit and proposed that the site visit take place between May and July 2013.⁷

B. Applicable law

5. Rule 4 of the Rules of Procedure and Evidence of the Tribunal ("Rules") provides: "A Chamber may exercise its functions at a place other than the seat of the Tribunal, if so authorised by the President in the interests of justice."

¹ Rule 65 *ter* Conference of 12 June 2012, T. 72 (confidential); Email from Pre-Trial Judge to the Parties, 1 June 2012.

² Order for Submission on Site Visit, 14 September 2012, para. 4.

³ Prosecution Submission on Site Visit, 31 October 2012 ("Prosecution Submission"), para. 3 and Annex A.

⁴ Prosecution Submission, para. 2.

⁵ Prosecution Submission, para. 4.

⁶ Prosecution Submission, para. 5.

⁷ Defence Submissions on Site Visit, 1 November 2012, paras 1-3.

C. Discussion

6. The purpose of the site visit is for the Trial Chamber to observe certain locations referred to in the Indictment⁸ and for it to obtain a first-hand impression of those sites, including the topography of the relevant areas. This insight would significantly benefit the Trial Chamber in its analysis of the evidence and its ultimate determination of the charges against Hadžić. Considering that the majority of the evidence in this case concerns locations in Croatia, the Trial Chamber will limit the site visit to Croatia.

7. On 17 May 2013, the President of the Tribunal authorised the Chamber's request to conduct a site visit in these proceedings.

8. Considering that there will be no evidence gathering during the site visit and that Hadžić will not be present, the site visit will not breach Hadžić's right to be tried in his own presence as envisaged in Article 21(4)(d) of the Tribunal's Statute.

9. With regard to the participants in the site visit, the Trial Chamber accepts the parties' designations in this respect. The delegation will consist of persons as listed in the disposition.

10. The Trial Chamber considers that it is appropriate to request that a representative of the Registry's Court Management and Support Section ("CMSS") accompany the Trial Chamber to maintain a record of the site visit. The record will indicate the locations visited, the date, and the time at which the locations were viewed.

11. With regard to the organisation of the site visit, the Trial Chamber considers that, in order to ensure the adequate independence of the preparations and because such preparations necessitate liaising with all parties involved, including the Trial Chamber and the authorities of Croatia, the primary responsibility for the visit's preparations should be borne by a staff member employed by the Registry, who will liaise with the Trial Chamber and the parties as necessary.

12. The Trial Chamber reminds the parties of the necessity of maintaining the confidentiality of the preparations for the site visit. Given the security concerns in relation thereto, the Trial Chamber will not publicise any aspect of the site visit preparations, until the site visit commences. Upon completion of the site visit, the confidentiality of site visit related filings may be lifted.

⁸ Second Amended Indictment ("Indictment"), 22 March 2012.

D. Disposition

13. Accordingly, the Trial Chamber, pursuant to Rules 4 and 54 of the Rules, hereby **DECIDES** that a site visit to locations in eastern Croatia shall take place in these proceedings in the week of 23 September 2013, at precise dates to be later determined by the Chamber, and **ORDERS** as follows:

- (1) A precise itinerary will be prepared by the Trial Chamber with the assistance of a staff member of the Registry, on the basis of the parties' respective proposed itineraries and the relevant security and budgetary concerns;
- (2) During the site visit, the Trial Chamber will be accompanied by:
 - a. A staff member of the Registry;
 - b. Two representatives on behalf of each of the parties;
 - c. Two members of the Trial Chamber's legal support staff;
 - d. A representative from CMSS, whose role is limited to that described in paragraph 10 above and paragraphs 6 and 7 of the appended protocol;
 - e. The number of security personnel and drivers required for a delegation of this size;
- (3) The parties shall respect the confidential protocol appended to this decision;
- (4) The confidentiality of the preparations for site visit shall be maintained until further order of the Trial Chamber.

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

Done this fourth day of June 2013,
At The Hague,
The Netherlands.



Judge Guy Delvoie
Presiding

[Seal of the Tribunal]

CONFIDENTIAL ANNEX A

PROTOCOL ON CONDUCT DURING SITE VISIT

Procedure during Site Visit

- (1) The parties shall not seek the admission of evidence.
- (2) The parties shall not make submissions.
- (3) Upon the Judges' request, the parties may identify geographical locations, or features thereof, referred to in the Indictment or parties' pre-trial briefs.
- (4) Upon the Judges' request, the parties may make comments about the events alleged to have taken place in these locations only by reference to the Indictment or their pre-trial briefs.
- (5) The parties shall have no contact with the media.

Record of Site Visit

- (6) During the site visit, a representative of CMSS shall be present in order to maintain a written record of the visit and to prepare minutes of the visit.
- (7) After completion of the visit and upon approval by the Trial Chamber, the minutes of the visit referred to in paragraph 6 above shall be filed.