

**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: 21 December 2012

IN TRIAL CHAMBER II

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

Registrar: Mr. John Hocking

Date: 21 December 2012

THE PROSECUTOR

v.

GORAN HADŽIĆ

PUBLIC WITH PUBLIC ANNEX

**PROSECUTION MOTION FOR ADMISSION OF
EVIDENCE PURSUANT TO RULE 92*ter*
(GH-130)**

The Office of the Prosecutor:

Mr. Douglas Stringer

Counsel for Goran Hadžić:

Mr. Zoran Živanović
Mr. Christopher Gosnell

**THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA**

Case No. IT-04-75-T

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GORAN HADŽIĆ

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**PROSECUTION MOTION FOR ADMISSION OF
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(GH-130)**

I. INTRODUCTION

1. The Prosecution requests that the Chamber admit the evidence of Witness GH-130 pursuant to Rule 92*ter* of the Rules of Procedure and Evidence of the Tribunal (“Rules”). The evidence is probative, relevant and reliable and meets the requirements for admission under Rule 92*ter*. Granting this motion will enable the Prosecution to present its case-in-chief in an efficient and expeditious manner, without compromising the fairness of proceedings.

2. Confidential Annex A to this motion contains a table identifying and describing the proposed Rule 92*ter* statement and listing all associated exhibits of GH-130 (“Rule 92*ter* package”). The table also sets out the revised summary of the evidence of GH-130 and the relevant counts and paragraphs in the Indictment, the estimated time for examination-in-chief, and which parts of the witness’s evidence will be led *viva voce* and which parts will be tendered in written form. The material contained within the witness’s Rule 92*ter* package is available to the Trial Chamber on eCourt.

II. THE TRIAL CHAMBER SHOULD ADMIT THE EVIDENCE OF GH-130 PURSUANT TO RULE 92TER

3. Witness GH-130's written evidence meets the requirements for admissibility under Rule 92ter.¹ The witness will be present in court at trial, at which time he will attest to the accuracy of the written statement and will be available for cross-examination by the Defence and questioning by the Judges.

4. The Prosecution will tender GH-130's ICTY witness statement signed on 12 July 2012 as his proposed Rule 92ter statement.² The Prosecution also seeks to tender into evidence 35 associated exhibits on which GH-130 provides evidence in his proposed Rule 92ter statement, and therefore, form an integral and inseparable part of his written evidence. Annex A lists for each associated exhibit its Rule 65ter number, ERN, description, any applicable protective measures and where in the Rule 92ter statement the exhibit is addressed by the witness.

5. The evidence contained in GH-130's proposed Rule 92ter statement is relevant and probative to the charges set out in the Indictment. The witness served with the United Nations Protection Force (UNPROFOR) headquartered in Erdut as the Civil Affairs Coordinator of Sector East from March to June 1992. Sector East covered Slavonia, Baranja and Western Srem. He describes the role of UNPROFOR in Sector East as envisioned in the Vance Plan, which included ensuring the demilitarization of UN Protected Areas (UNPAs). He describes the deployment of UN personnel and his interactions with other members of UNPROFOR. He also describes his contacts with Serb and Croatian authorities. GH-130 witnessed various crimes, including beatings, damage to property, theft and other discriminatory acts, and prepared reports on those crimes. He describes communication between his office and local authorities during expulsions by paramilitaries, irregular forces, local police and the JNA.

6. The witness describes regular meetings with officials of the RSK government, local Serb authorities and the JNA about the commission, investigation and prosecution of crimes committed against non-Serbs. He describes how the authorities spoke of creating a

¹ The Prosecution incorporates by reference the applicable law section from its Rule 92ter Motion for Witness GH-102. See *Prosecutor v. Goran Hadžić*, Case No.IT-04-75-PT, Prosecution Motion for Admission of Evidence of GH-102 Pursuant to Rule 92ter, 4 September 2012, paras.4-6.

Greater Serbia incorporating areas covered by the UNPAs. This included re-populating the area with Serbs regardless of whether they were there before the war. The witness believes he may have met Goran Hadžić during his first reconnaissance mission.

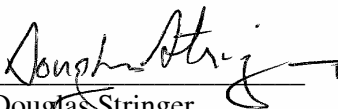
7. The Prosecution will require approximately 75 minutes to conduct the examination-in-chief of GH-130 during which time the witness will expand on his work in cooperation with the UN civilian police (UNCIVPOL) to investigate crimes and prepare files to facilitate prosecutions by relevant local authorities. The witness will also expand on issues relating to UNPROFOR's mission and its efforts to address widespread expulsions of non-Serbs from the SBWS and in other areas of the RSK. He will be asked about JNA and UNPROFOR documents and related materials in this regard.

III. CONCLUSION

8. For the foregoing reasons, the Prosecution respectfully requests that the Trial Chamber:

- a) Admit the Rule 92*ter* statement of GH-130 along with the associated exhibits pursuant to Rules 89 and 92*ter*, subject to compliance with the conditions stipulated in Rule 92*ter* when the witness is present in court;
- b) Allow the Prosecution to examine GH-130 for 75 minutes; and
- c) Take note of the revised summary for GH-025.

Word Count: 736


 Douglas Stringer
 Senior Trial Attorney

Dated this 21st day of December 2012
 At The Hague, The Netherlands

² 65*ter* number 05964.

PUBLIC

ANNEX A

to

**PROSECUTION MOTION FOR ADMISSION OF
EVIDENCE PURSUANT TO RULE 92^{ter} (GH-130)**

ANNEX A

Witness Name	GH-130
Witness Type	92ter
Time for Direct	75 minutes
Evidence Tendered for Admission	65ter number 05964 (ICTY witness statement of GH-130 dated 12 July 2012)
Associated Exhibits	See Annex A
Relevant Counts and Paragraphs in the Indictment	Deportation, Forcible Transfer (Counts 10-11), Paras.44-45, Persecution (Count 1), JCE, Para.13 JCE contribution of HADŽIĆGoran, Notice of Crimes and Failure to take Measures

Summary

The witness served with the United Nations Protection Force (UNPROFOR) as the Civil Affairs Coordinator of Sector East from March to June 1992. His headquarters were in Erdut. Sector East covered Slavonia, Baranja and Western Srem (SBWS).

The witness describes the role of UNPROFOR in Sector East and his responsibilities. He describes how the chief role of UNPROFOR was to ensure the UN Protected Areas (UNPAs) were demilitarized and local populations protected. The mandate included investigating and making prosecution recommendations to relevant local authorities. The witness's work involved coordinating with the Civil Affairs Department of the UN Civilian Police (CIVPOL) and others.

The witness describes reports from international observers and civilians of the forcible displacement of non-Serbs from Sector East, including expulsions from Aljmaš Bapska, Bokšić, Čakovci, Cerić, Dalj, Ernestinovo, Ilok, Lovas, Marinci, Mikluševci, Nijemci, Opatovac, Petrovci, Šarengrad, Sarvaš Tenja, Tompojevci and Tovarnik. He also describes reports of beatings, damage to property, theft and other discriminatory acts.

The witness describes expulsions from Erdut and Aljmaš of more than 100 non-Serbs which he witnessed on 11 April 1992. He reported the incident to General BIORČEVIĆ and Major SOTERARYA of the Yugoslav People's Army (JNA).

The witness describes the pattern of expulsions. Local authorities required non-Serbs to sign statements stating that they were leaving voluntarily and/or that they renounced their property. The same authorities drew up lists of non-Serbs to be expelled, often forcing the expellees to walk across mined areas to reach Croatia. The witness describes that the expulsions occurred at the hands of paramilitaries, irregular forces, local police and the JNA.

The witness also describes how he met regularly with officials from the Republic of Serbian Krajina and local Serb authorities as well as the JNA, and how he reported to them instances of expulsion. The witness believes he may have met Goran HADŽIĆ

during his first reconnaissance mission. He reports how the authorities spoke of creating a Greater Serbia incorporating areas covered by the UNPAs, including repopulating the area with Serbs regardless of whether they were there before the war.

The witness describes the actions taken by UNPROFOR to stop expulsions of, and discrimination against, non-Serbs and to assist the prosecution of physical perpetrators.

The witness describes further acts targeting non-Serbs in the SBWS.

Evidence to be led viva voce

The witness will expand on issues relating to his work with the UN civilian police (UNCIVPOL) to investigate crimes and prepare files to facilitate prosecutions by relevant local authorities as well as UNPROFOR's mission and its efforts to address widespread expulsions of non-Serbs from the SBWS and in other areas of the RSK. He will be asked to comment upon JNA, UNPROFOR, and other related materials in this regard.

Associated Exhibits
GH-130

Rule 65ter Number in Hadžić	Description	Under Seal – Yes or No	Paragraph in Rule 92ter Statement	ENG ERN	ERN BCS
01004	UNPROFOR report dated 28 March 1992 from Satish NAMBIAR to Marrack GOULDING Regarding Expulsion of Population	No	Paras. 22, 41	0079-6553- 0079-6555	0079-6553- 0079-6555- BCST
01052	Text of broadcast Zagreb Radio Croatia Network 26 April 1992 at 1500 GMT (titled "UNPROFOR Commander Defends Actions of Force")	No	Referenced in paras. 51, 56, 57 as ERN 0267-7206	0267-7206- 0267-7206	
01077	Article by Yigal Chazan (Belgrade) entitled "Peacekeepers Fail to Prevent Forced Expulsions in Croatia" published in The Guardian on 11 May 1992	No	Referenced in para. 58 as ERN 0263-7998	0263-7998- 0263-7998	
01120	Article by Richard Meares (Dalj) entitled "U.N. Force for Croatia Faces Daunting Problems" published by Reuters on 22 March 1992.	No	Para. 7	0268-4684- 0268-4684	
02809	Photograph of MALHERBEPaul and Dr. HADZICmladen	No	Referenced in para. 28 as ERN 0683-6401	0683-6401- 0683-6401	
02871	Hand-drawn map of United Nations Protected Areas UNPA	No	Referenced in para. 8 as ERN 0683-6402	0683-6402- 0683-6402	
02891	News article entitled "Serbs Drive Out People of Conquered Croatia" published in The Independent on 12 May 1992	No	Referenced in paras. 38, 58 as ERN 0683-6400	0683-6400- 0683-6400	
05143	List of UNPROFOR personnel attending briefing in UN HQ, New York "Force Commander's Group". Dated 6 March 1992	No	Paras. 3, 10	R106-7974- R106-7974	
05154	Report titled "Note to the Force Commander"; dated 21 April 1992 in Budapest, signed Cedric THORNBERRY (UNPROFOR Chief of Civil Affairs), addressed to Force Commander Satish NAMBIAR	No	Para. 54	R004-4343- R004-4347	R004-4343- R004-4347- BCST
05155	Memo from Civil Affairs Officer UNPROFOR Sector East James James LUBIN to CIVPOL Sector East Supt ANDERSSONKNG, dated 6-May-1992. Subject: Beli Manastir Problems	No	Referenced in para. 60 as ERN R068-4001	R068-4001- R068-4001	
05157	Message from James LUBIN, Civil Affairs Officer UNPROFOR Sector East to Director of Civil Affairs, Cedric THORNBERRY. Subject: SITREP. Dated 14 May 1992.	No	Referenced in para. 69 as ERN R068-4002	R068-4002- R068-4002	
05158	Message from James LUBIN, Civil Affairs Officer UNPROFOR Sector East to the Director of Civil Affairs, Cedric THORNBERRY dated 14-May-1992 attaching letter from James LUBIN to Mr Dragan SABLJAKOVIC, dated 14 May 1992	No	Paras. 70, 83	R068-4003- R068-4004	
05159	UNPROFOR Investigation File of expulsion of persons in Miklusevci, Cakovci and Ceric on 19 May 1992.	No	Paras. 79, 81, 83	R068-3758- R068-3785	
05160	Message from James LUBIN, Civil Affairs Officer UNPROFOR Sector East to L Yeoh, Acting Civil Affairs Coordinator. Subject: Urgent Logistic Support to USBAT, Sector East. Dated 20 May 1992	No	Para. 73	R068-4005- R068-4006	
05161	Message from James LUBIN, Civil Affairs Officer UNPROFOR Sector East to Director of Civil Affairs, Cedric THORNBERRY, dated 20-May-1992. Subject: SITREP 20 May 92	No	Para. 76	R068-4007- R068-4008	
05162	Message from James LUBIN, Civil Affairs Officer UNPROFOR Sector East to Director of Civil Affairs, Cedric THORNBERRY, dated 22 May 1992. Subject: SITREP 20 May	No	Reference in para. 77 as R068-4009-R068-4010	R068-4009- R068-4011	
05163	UNPROFOR Report from Satish NAMBIAR to Cedric THORNBERRY concerning expulsions in Sector East 30 May 1992	No	Para. 33; Reference in Para. 71 as ERN R042-5834-R042-5836; Referenced in para. 74 as ERN R042-5833	R042-5829- R042-5838	
05168	Message from James LUBIN, Civil Affairs Officer UNPROFOR Sector East sent to Director of Civil Affairs, Cedric THORNBERRY, dated 23-May-1992. Subject: SITREP	No	Para. 33	R068-4013- R068-4015	
05172	Outgoing Code Cable from Satish NAMBIAR, UNPROFOR Belgrade to Marrack GOULDING, New York, entitled "Expulsions from Sector East as a Result of Terrorism", attaching Press Briefing dated 21 May 1992, by Cedric THORNBERRY	No	Referenced in para. 89 as ERN R107-4090-R107-4094	R107-4090- R107-4097	
05278	UNPROFOR investigation file into the expulsion of 22 persons from Tovarnik on 23-24 May 1992 containing correspondence as well as UNCIVPOL reports and a list of and statements from expelled persons, dated 25 October 1992	No	Para. 90	R068-3674- R068-3757	
05890	Fax message dated 10/04/1992 re meeting on 9 April 1992	Yes	Para. 25	R012-4068- R012-4071	

Associated Exhibits
GH-130

Rule 65ter Number in Hadžić	Description	Under Seal – Yes or No	Paragraph in Rule 92ter Statement	ENG ERN	ERN BCS
05919	Telefax cover sheet of a message sent from Fred ECKHARD, UNPROFOR spokesman to all UNPROFOR sectors and Liaison Offices, Belgrade, Zagreb (date unknown, allegedly around 14 April 1992) with the following documents attached: UNPROFOR Press briefing Summary - UNPROFOR background information- background note on UN Peace-keeping operations UNPROFOR organizational chart, dated 14 April 1992	No	Referenced in Para. 8 as Attachment 1	R068-4460- R068-4470	
05924	Cable from UNPROFOR Civil Affairs Coordinator Sector East sent to the Director of Civil Affairs, Cedric THORNBERRY, entitled Situation report dated 17 April 1992.	No	Referenced in para. 60 as Attachment 8	R068-4451- R068-4451	
05928	Message from James LUBIN, Civil Affairs Coordinator from UNPROFOR Sector East sent to the Director of Civil Affairs, Cedric THORNBERRY, Sarajevo, sent at 11.19 hrs, entitled "Expulsions from Sector E," dated 19 April 1992.	No	Referenced in para. 50 as Attachment 3	R068-4479- R068-4480	
05929	Message from James LUBIN, Civil Affairs Coordinator from UNPROFOR Sector East sent to the Director of Civil Affairs, Cedric THORNBERRY, Sarajevo, sent at 19.07 hrs, entitled "Follow-up to 18 April expulsions from Dalj," dated 19 April 1992.	No	Referenced in para. 50 as Attachment 4	R068-4481- R068-4482	
05930	Fax message from Director of Civil Affairs, Cedric THORNBERRY, sent to UNPROFOR Civil Affairs Coordinator Sector East James LUBIN, entitled Dalj expulsions, dated 20 April 1992.	No	Referenced in para. 50 as Attachment 13	R068-4496- R068-4500	
05931	Cable from James LUBIN, UNPROFOR Civil Affairs Coordinator Sector East sent to the Director of Civil Affairs, Cedric THORNBERRY, entitled "Expulsions of civilians from Sector East," dated 20 April 1992.	No	Referenced in para. 51 as Attachment 5	R068-4501- R068-4501	
05932	Situation Report from James LUBIN, Civil Affairs Coordinator from UNPROFOR Sector East sent to the Director of Civil Affairs, Cedric THORNBERRY, Sarajevo, dated 21 April 1992.	No	Referenced in para. 51 as Attachment 6	R068-4477- R068-4478	
05933	Situation Report from James LUBIN, Civil Affairs Coordinator from UNPROFOR Sector East sent to the Director of Civil Affairs, THORNBERRY Cedric, Sarajevo, dated 22 April 1992.	No	Referenced in para. 60 as Attachment 9	R068-4473- R068-4475	
05938	Message number UNPROFOR 351 from AUGERYolanda UNPROFOR Sarajevo to THAROOR at the UN HQ, entitled Expulsions in Sector East, dated 27 April 1992.	No	Referenced in para. 57 as Attachment 7	R068-4507- R068-4510	
05939	Cable from James LUBIN, Civil Affairs Coordinator from UNPROFOR Sector East sent to the Deputy Director of Civil Affairs, Yolanda AUGER, Sarajevo, Situation report 29 April, dated 29 April 1992.	No	Referenced in para. 68 as Attachment 11	R068-4514- R068-4514	
05940	Message from James LUBIN, Civil Affairs Coordinator from UNPROFOR Sector East sent to the Deputy Director of Civil Affairs, AUGERYolanda, Sarajevo, Situation report 30 April, dated 30 April 1992.	No	Referenced in para. 68 as Attachment 10	R068-4512- R068-4513	
05944	Cable from the HQ of Sector East sent to UNPROFOR Sarajevo, entitled Assumption of responsibility, dated 13 May 1992.	No	Referenced in para. 12 as Attachment 2	R068-4518- R068-4518	
05948	Message from Natalia PRADO Civil Affairs Officer Sector East sent to the Director of Civil Affairs, Cedric THORNBERRY, Belgrade, entitled Expulsions from Tovarnik with attached report entitled Report on expulsions from Tovarnik, dated 25 May 1992.	No	Referenced in para. 87 as Attachment 12	R068-4523- R068-4525	
05960	Notes taken by secretary of James LUBIN from 16-20 March 1992.	No	Para. 15	0683-6526- 0683-6546	