



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-05-88-T
Date: 9 November 2007
Original: English

THE PRESIDENT OF THE INTERNATIONAL TRIBUNAL

Before: Judge Fausto Pocar, President
Registrar: Mr. Hans Holthuis
Decision: 9 November 2007

PROSECUTOR

v.

**VUJADIN POPOVIĆ
LJUBIŠA BEARA
DRAGO NIKOLIĆ
LJUBOMIR BOROVIČANIN
RADIVOJE MILETIĆ
MILAN GVERO
VINKO PANDUREVIĆ**

- PUBLIC REDACTED VERSION -

DECISION ON MOTION PURSUANT TO RULE 75(H)

Applicant:

REDACTED

RM

I, JUDGE FAUSTO POCAR, President 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 (“International Tribunal”),

NOTING the “Motion to Rescind or Vary Protective Measures and Obtain Audio Recordings of Protected Witnesses Testimonies Pursuant to Rule 75(H)” of REDACTED, Defence Attorney in REDACTED (“Applicant”), dated REDACTED and filed on REDACTED (“Motion”);

CONSIDERING that the Applicant is Defence Attorney and is filing the Motion on behalf of his client, REDACTED, who is currently accused before the War Crimes Section of the Court of Bosnia-Herzegovina, in the case number REDACTED;

CONSIDERING that the Applicant requests the disclosure in BCS of audio-recordings of three protected witnesses (“Witnesses”) in the *Popović et al.* case (IT-05-88);

CONSIDERING that the Applicant indicates that he wants to include these audio-recordings as Defence evidence in the current proceedings before the Court of Bosnia-Herzegovina;

CONSIDERING that Rule 75(H), as introduced in the Rules of Procedure and Evidence of the International Tribunal (“Rules”) by its last revision of 12 July 2007,¹ provides as follows:

- (H) A Judge or Bench in another jurisdiction or parties in another jurisdiction authorised by an appropriate judicial authority may seek to rescind, vary, or augment protective measures ordered in proceedings before the Tribunal by applying to the President of the Tribunal, who shall refer the application:
- (i) to any Chamber, however constituted, remaining seised of the first proceedings;
 - (ii) if no Chamber remains seised of the first proceedings, to a Chamber seised of second proceedings; or,
 - (iii) if no Chamber remains seised, to a newly constituted Chamber.

CONSIDERING that the Applicant is a party in another jurisdiction, namely the War Crimes Section of the Court of Bosnia-Herzegovina and the appropriate judicial authority in this case, within the meaning of Rule 75(H);

¹ IT/32/Rev.40, 12 July 2007.

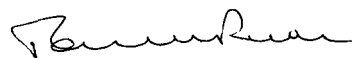
CONSIDERING that it does not appear that the Applicant has been authorized by the War Crimes Section of the Court of Bosnia-Herzegovina, to move the International Tribunal in order to obtain variation of protective measures with respect to the witnesses pursuant to Rule 75(H);

CONSEQUENTLY DISMISS the Application,

INVITE the Applicant to reapply if authorised to do so by the War Crimes Section of the Court of Bosnia-Herzegovina.

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

Done this 9 November 2007,
At The Hague,
The Netherlands.



Fausto Pocar
President of the International Tribunal

[Seal of the International Tribunal]