In the Trial Chamber II

Case No. Date:

IT-05-88-T 18 January 2008 14870 RK

Before:

Judge Carmel Agius, Presiding Judge O-Gon Kwon Judge Kimberly Prost 1F05-88-T D14870-D14867 18 JANUARY 2008

Registrar:

Mr. Hans Holthuis, Registrar

Public Order

The Prosecutor v.
Vujadin Popovic et al.

Order to redact the public transcript and the public broadcast of a hearing

The Trial Chamber

(At the request of the Prosecutor / Defence and with the agreement of the parties)

ORDERS that the following blacked-out text be omitted from the public transcript of the hearing dated 18 January 2008 and be edited from the public broadcast of this hearing.

LiveNote SR - [18/01/2008 Day 239 + LiveNote, Inc.] Since his testimony is not based on his technical knowledge, 18 13:00:32 on specific information he derived from the investigation conducted by the Prosecution, I would like you to decide that this witness should not 19 13:00:38 20 13:00:41 21 13:00:46 be treated as an expert witness, but as a fact witness, as an investigator from the OTP.

JUDGE AGIUS: Thank you, Madame Fauveau. 22 13:00:49 JUDGE AGIUS: Thank you, Madame rauveau.

Yes, Mr. McCloskey.

MR. McCloskey: I, of course, have faith that the Chamber will treat this witness however you see fit, as according to your prior rulings, but I think it's very fair for Mr. Butler to talk to an officer and get his perspective on how horrible it was to see the casualties that they had at Baljkovica to help him interpret documents. Here, it was absolutely essential. And I think it's 23 13:00:51 24 13:00:56 25 13:01:00 77:1 13:01:08 3 13:01:18 4 13:01:22 documents. Here, it was absolutely essential. And I think it's 5 13:01:26 absolutely fair. You can imagine how much affect it had on the case of General Krstic, perhaps 10 years' worth, so this type of information is absolutely critical for this Court to see. 6 13:01:29 7 13:01:35 8 13:01:39 9 13:01:42 JUDGE AGIUS: Thank you, Mr. McCloskey. 10 13:01:44 11 13:01:45 Mr. Bourgon. MR. BOURGON: Thank you, Mr. President. I would just like to support the information provided by my colleague, but also to highlight the fact that this is -- the point that she's making is not what Mr. McCloskey responded to right away. The issue is that all of the testimony of this witness is based on investigative work, investigative work which is one-sided and which 12 13:01:45 13 13:01:49 14 13:01:55 15 13:02:00 16 13:02:06 makes him not an expert but a fact witness, as an investigator, and that his testimony should be treated in this respect.

Thank you, Mr. President.

JUDGE AGIUS: Don't you both think that this can eventually form part -- take the form of a submission? 17 13:02:08 18 13:02:14 143 19 13:02:18 20 13:02:20 21 13:02:24 MR. BOURGON: Indeed it will, Mr. President, and we will also be raising it in cross-examination, but my colleague decided to raise it 22 13:02:31 23 13:02:35 at this time because we have made a number of objections and it is our 24 13:02:38 [77:2]

The blacked-out text, as identified by the passages prior and subsequent thereto, is confidential. Any person or organization, including media organizations, which has possession of the public recording of all or the relevant portion of the proceeding containing the confidential information is hereby enjoined from disclosing it to any other person(s) or organization(s) as of the date and time this order is received. The failure to conform may result in contempt charges being issued by the Tribunal against the disclosing person or organization.

Carmel Agius Presiding Judge