

IT-95-5/18-T
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05 APRIL 2012

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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 Nos. IT-05-88-A &
IT-95-5/18-T
Date: 5 April 2012
Original: English

IN THE APPEALS CHAMBER

Before: Judge Patrick Robinson, Presiding
Judge Mehmet Güney
Judge Fausto Pocar
Judge Andréia Vaz
Judge Khalida Rachid Khan

Registrar: Mr. John Hocking

Decision of: 5 April 2012

PROSECUTOR
v.
VUJADIN POPOVIĆ
LJUBIŠA BEARA
DRAGO NIKOLIĆ
RADIOVOJE MILETIĆ
MILAN GVERO
VINKO PANDUREVIĆ

PUBLIC

**DECISION ON STANDBY COUNSEL'S MOTION FOR
ACCESS TO CONFIDENTIAL FILINGS PROVIDED TO
RADOVAN KARADŽIĆ**

The Office of the Prosecutor:

Mr. Peter Kremer QC

The Applicant

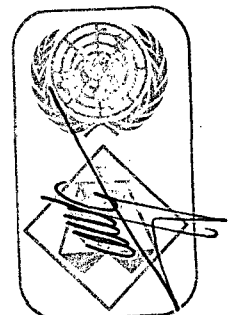
Mr. Richard J. Harvey, *standby
counsel*

The Accused:

Mr. Radovan Karadžić *pro se*

Counsel for the Defence:

Mr. Žoran Živanović and Ms. Mira Tapušević for Mr. Vujadin Popović
Mr. John Ostojić and Mr. Theodor Scudder for Mr. Ljubiša Beara
Ms. Jelena Nikolić and Mr. Stéphane Bourgon for Mr. Drago Nikolić
Ms. Natacha Fauveau Ivanović and Mr. Nenad Petrušić for Mr. Radivoje Miletić
Mr. Dragan Krgović and Mr. David Josse for Mr. Milan Gvero
Mr. Peter Haynes and Mr. Simon Davis for Mr. Vinko Pandurević



THE APPEALS 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 (“Appeals Chamber” and “Tribunal”, respectively);

BEING SEISED OF the “Standby Counsel’s Motion for Access to Confidential Filings Provided to Radovan Karadžić”, filed by Mr. Richard J. Harvey (“Standby Counsel”) on 1 March 2012 (“Motion”);

NOTING that Standby Counsel files this Motion in his capacity as the appointed standby counsel for Radovan Karadžić (“Karadžić”)¹ and that his duties include “to receive copies of all court documents, filings, and disclosed materials generated by or sent to [Karadžić]”;²

NOTING the “Decision on Motion by Radovan Karadžić for Access to Confidential Filings” rendered by the Appeals Chamber on 15 February 2012 (“15 February 2012 Decision”), giving Karadžić, his legal associates and any employees who have been instructed or authorised by them access to *inter partes* confidential filings in the *Popović et. al.* appellate proceedings;

NOTING that Standby Counsel requests that he, his legal associates and any employees who have been instructed or authorised by him, have access to the identical *inter partes* confidential materials, under the same conditions and restrictions, ordered to be disclosed to Karadžić, by the Appeals Chamber in its 15 February 2012 Decision (“Requested Access”);³

NOTING the submission by Standby Counsel that the Requested Access is necessary in order to enable him to discharge his duties and responsibilities;⁴

NOTING the “Prosecution Response to Standby Counsel’s Motion for Access to Confidential Filings Provided to Radovan Karadžić”, filed by the Office of the Prosecutor (“Prosecution”) on 6 March 2012 (“Response”), in which the Prosecution does not oppose the Motion, subject to the imposition of the same limitations and conditions as those ordered in the 15 February 2012 Decision;⁵

¹ *Prosecutor v Radovan Karadžić*, Case No. IT-95-5/18-T, Decision of the Registrar, 19 November 2009. See also *Prosecutor v Radovan Karadžić*, Case No. IT-95-5/18-AR73.6, Decision on Radovan Karadžić’s Appeal from Decision on Motion to Vacate Appointment of Richard Harvey, 12 February 2010, para. 36.

² *Prosecutor v Radovan Karadžić*, Case No. IT-95-5/18-T, Decision on Designation of Standby Counsel, 15 April 2010, para. 9(a).

³ Motion, paras 10-11.

⁴ Motion, paras 9-10.

⁵ Response, p. 1.

NOTING that the Defendants in the *Popović et al.* case herein, namely, Vujadin Popović, Ljubiša Beara, Drago Nikolić, Radivoje Miletić, Milan Gvero and Vinko Pandurević have not filed responses to the Motion;

CONSIDERING that the Requested Access is identical to, and on the same terms and conditions as, the access granted in the 15 February 2012 Decision, and that by including Standby Counsel within the ambit of those to whom access is granted would not result in prejudice to any party to the *Popović et al.* appellate proceedings;

FINDING that the Requested Access is necessary for Standby Counsel to fulfil his duties and responsibilities;

HEREBY GRANTS the Motion; and

ORDERS that Standby Counsel, his legal associates and any employees who have been instructed or authorised by him, have access to the same *inter partes* confidential materials as identified in the 15 February 2012 Decision with the same terms, conditions and restrictions ordered in that decision applying in their entirety.

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

Judge Patrick Robinson
Presiding

Dated this fifth day of April 2012,
At The Hague,
The Netherlands.

[Seal of the Tribunal]

