

**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-05-88-A  
Date: 11 September 2013  
Original: English

**IN THE APPEALS CHAMBER**

**Before:** Judge Patrick Robinson, Pre-Appeal Judge  
**Registrar:** Mr. John Hocking  
**Order of:** 11 September 2013

**PROSECUTOR**

v.

**VUJADIN POPOVIĆ  
LJUBIŠA BEARA  
DRAGO NIKOLIĆ  
RADIVOJE MILETIĆ  
VINKO PANDUREVIĆ**

***PUBLIC***

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**ORDER REGARDING THE CONFIDENTIAL STATUS OF  
THE FILINGS OF THE PARTIES**

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**The Office of the Prosecutor:**

Mr. Peter Kremer QC

**Counsel for the Accused:**

**Mr. Zoran Živanović and Ms. Mira Tapušковиć for Mr. Vujadin Popović**  
Mr. John Ostojić 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. Peter Haynes and Mr. Simon Davis for Mr. Vinko Pandurević

**I, Patrick Robinson**, Judge of 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 (“Tribunal”), and Pre-Appeal Judge in the *Popović et al.* case;

**BEING SEISED OF** “Vujadin Popovic’s [*sic*] Fourth Motion Pursuant to Rule 115”, filed confidentially by Vujadin Popović (“Popović”) on 19 September 2011 (“Motion”);<sup>1</sup>

**NOTING** the response by the Office of the Prosecutor (“Prosecution”) to the Motion, filed confidentially on 18 October 2011 (“Response”),<sup>2</sup> and Popović’s reply to the Response, filed confidentially on 1 November 2011 (“Reply”);<sup>3</sup>

**NOTING** that Popović and the Prosecution filed the Motion, Response and Reply confidentially without providing a reason why the submissions contained therein or the proposed evidence warrant this classification;

**CONSIDERING** that by failing to provide reasons for applying confidential status to their submissions, the parties have effectively placed the onus on the *Popović et al.* Bench to speculate as to what content in their submissions, if any, may warrant confidentiality;

**RECALLING** that all submissions filed before the Tribunal shall be public unless there are exceptional reasons for keeping them confidential;<sup>4</sup>

**HEREBY ORDER**, pursuant to Rule 54 of the Tribunal’s Rules of Procedure and Evidence:

1. Popović to file a submission, no later than 18 September 2013, providing reasons for the confidential status of the Motion and Reply; and
2. The Prosecution to file a submission, no later than 18 September 2013, providing reasons for the confidential status of the Response.

<sup>1</sup> See also Addendum to Vujadin Popović’s Fourth Rule 115 Motion, 10 June 2013 (public with confidential annexes), in which Popović filed an English translation of some of the documents annexed to the Motion.

<sup>2</sup> Prosecution Response to Vujadin Popović’s Fourth Rule 115 Motion, 18 October 2011 (confidential).

<sup>3</sup> Vujadin Popović’s Reply to the Prosecution’s Response to the Fourth Rule 115 Motion, 1 November 2011 (confidential).

<sup>4</sup> Decision on Vujadin Popović’s Motion for Admission of Additional Evidence on Appeal Pursuant to Rule 115, 20 October 2011, para. 28, and references cited therein.

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



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Judge Patrick Robinson  
Pre-Appeal Judge

Dated this eleventh day of September 2013,  
At The Hague,  
The Netherlands.

**[Seal of the Tribunal]**