

**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 Nos.: IT-05-88-A &
IT-95-5/18-T
Date: 24 July 2013
Original: English

IN THE APPEALS CHAMBER

Before: Judge Patrick Robinson, Presiding
Judge William H. Sekule
Judge Fausto Pocar
Judge Arlette Ramaroson
Judge Khalida Rachid Khan

Registrar: Mr. John Hocking

Decision of: 24 July 2013

PROSECUTOR

v.

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

PUBLIC

**DECISION ON RADOVAN KARADŽIĆ'S MOTION TO
RESCIND PROTECTIVE MEASURES: WITNESS
MILOMIR SAVČIĆ**

The Office of the Prosecutor:

Mr. Peter Kremer QC
Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

Applicant:

Mr. Radovan Karadžić *pro se*

Counsel for Appellants:

Mr. Zoran Živanović and Ms. Mira Tapušковиć for Vujadin Popović
Mr. John Ostojić for Ljubiša Beara
Ms. Jelena Nikolić and Mr. Stéphane Bourgon for Drago Nikolić
Ms. Natacha Fauveau Ivanović and Mr. Nenad Petrušić for Radivoje Miletić
Mr. Peter Haynes and Mr. Simon Davis for 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 “Motion to Rescind Protective Measures: Witness Milomir Savcic [*sic*]”, filed publicly by Radovan Karadžić (“Karadžić”) on 17 July 2013 (“Motion”);

NOTING that Karadžić requests that the Appeals Chamber rescind the protective measures granted by Trial Chamber II of the Tribunal in the *Popović et al.* case (“Trial Chamber”) to Witness Milomir Savčić (“Witness”), on the basis that the Witness no longer desires the protective measures to continue in the *Karadžić* case;¹

NOTING that the Trial Chamber orally granted the protective measure of image distortion to the Witness on 11 September 2007;²

NOTING that, on 18 July 2013, the Pre-Appeal Judge instructed the Victims and Witnesses Section of the Tribunal (“VWS”) to consult with the Witness for the purpose of determining whether he consents to the rescission of his protective measure of image distortion in the *Karadžić* case, to inform the Witness of the implications of rescinding this protective measure, and to report as soon as practicable to the Appeals Chamber on the outcome of the consultation;³

NOTING that, on 23 July 2012, the Registrar of the Tribunal filed a confidential and *ex parte* report of the VWS (“VWS Submission”);⁴

CONSIDERING that pursuant to Rule 75(F)(i) of the Rules of Procedure and Evidence of the Tribunal (“Rules”), protective measures that have been ordered in respect of a witness in any proceedings before the Tribunal (the “first proceedings”) shall continue to have effect *mutatis mutandis* in any other proceedings before the Tribunal (the “second proceedings”) unless and until they are rescinded, varied or augmented;

CONSIDERING that pursuant to Rule 75(G)(i) of the Rules, a party to the second proceedings seeking to rescind, vary, or augment protective measures ordered in the first proceedings must apply to any chamber remaining seised of the first proceedings;

¹ Motion, paras 1-2. Although the Prosecution and the Defendants in the *Popović et al.* case have not yet filed responses to the Motion, the Appeals Chamber finds that they will suffer no prejudice from the issuance of this Decision.

² *Prosecutor v. Vujadin Popović et al.*, Case No. IT-05-88-T, T. 15223-15225 (11 September 2007) (closed session).

³ Order Relating to Radovan Karadžić’s Motion to Rescind Protective Measures: Witness Milomir Savčić, 18 July 2013, p. 2.

⁴ Confidential and *Ex Parte* Report of the VWS dated 23 July 2013 on the “Order Relating to Radovan Karadžić’s Motion to Rescind Protective Measures: Witness Milomir Savčić, dated 23 July 2013 [*sic*]”, appended to Registrar’s

RECALLING that when the Appeals Chamber becomes seised of an appeal against a trial judgement, it becomes the chamber “seised of the first proceedings” within the meaning of Rule 75(G)(i) of the Rules;⁵

CONSIDERING that the Appeals Chamber is currently seised of the *Popović et al.* case and therefore has jurisdiction to rule on the Motion;

CONSIDERING that pursuant to Rule 75(J) of the Rules, the Appeals Chamber shall ensure through the VWS that the protected witness has given consent to the rescission, variation or augmentation of his/her protective measures;

CONSIDERING that the VWS has informed the Appeals Chamber that, after consultation, the Witness consents to the rescission of the protective measure of image distortion in the *Karadžić* case;⁶

FINDING that it is therefore appropriate to grant the Motion and to rescind the protective measures previously granted to the Witness in the *Popović et al.* case so as to lift the protective measure of image distortion in the *Karadžić* case only;

PURSUANT to Rules 54, 75 and 107 of the Rules,

HEREBY GRANTS the Motion; and

RESCINDS the protective measures granted to the Witness such that the protective measure of image distortion is lifted in the *Karadžić* case only.

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

Dated this twenty-fourth day of July 2013,
At The Hague,
The Netherlands.



Judge Patrick Robinson
Presiding

[Seal of the Tribunal]

Submission Pursuant to Rule 33(B) of the Rules in Compliance with the Appeals Chamber’s Order Dated 18 July 2013, 23 July 2013.

⁵ Decision on Radovan Karadžić’s Motion to Rescind Protective Measures: Witness KDZ122, 28 March 2012, p. 2 and reference cited therein.

⁶ VWS Submission, para. 2. The VWS has also informed the Appeals Chamber that the Witness also consents to the rescission of the protective measure as it relates to prior cases. See VWS Submission, para. 2. However, the Appeals Chamber notes that the Motion only requests rescission in relation to the *Karadžić* case and therefore will limit its consideration to this request.