



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-98-32/1-A
Date: 11 May 2012
Original: English

IT-98-32/1-A
A3036- A3036
11 May 2012

3036
MC

IN THE APPEALS CHAMBER

Before: Judge Mehmet Güney, Presiding
Judge Carmel Agius
Judge Fausto Pocar
Judge Liu Daqun
Judge Howard Morrison

Registrar: Mr. John Hocking

Order of: 11 May 2012

PROSECUTOR

v.

**MILAN LUKIĆ
SREDOJE LUKIĆ**

PUBLIC

**ORDER LIFTING CONFIDENTIALITY OF THE “DECISION
ON MILAN LUKIĆ’S MOTION FOR REMEDIES ARISING
OUT OF DISCLOSURE VIOLATIONS BY THE
PROSECUTION” ISSUED ON 12 MAY 2011**

The Office of the Prosecutor:

Mr. Peter Kremer, QC

Counsel for Milan Lukić:

Mr. Tomislav Višnjić
Mr. Dragan Ivetić

Counsel for Sredoje Lukić:

Mr. Đuro Čepić
Mr. Jens Dieckmann

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);

NOTING the “Decision on Milan Lukić’s Motion for Remedies Arising out of Disclosure Violations by the Prosecution” issued confidentially by the Appeals Chamber on 12 May 2011 (“Decision”) in which three reports from the International Commission on Missing Persons (“ICMP” and “ICMP Reports”, respectively) regarding bodies identified by way of DNA analysis were found to be *prima facie* exculpatory within the meaning of Rule 68 of the Tribunal’s Rules of Procedure and Evidence (“Rules”);¹

NOTING the “Prosecution Notice Regarding Confidential Information” filed confidentially by the Office of the Prosecutor on 13 April 2012, informing the Appeals Chamber that the ICMP consents to the lifting of the confidential status of the relevant information contained in the ICMP reports;

CONSIDERING that the Appeals Chamber has the discretion to decide whether the confidential status of a decision may be lifted in whole or in part;²

CONSIDERING that all decisions filed before the Tribunal shall be public unless there are exceptional reasons for keeping them confidential;³

FINDING *proprio motu* that no exceptional reasons exist for maintaining the confidentiality of the information contained in the Decision ;

HEREBY INSTRUCTS the Registry of the Tribunal to lift the confidential status of the Decision.

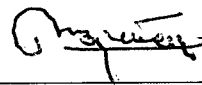
Done in English and French, the English text being authoritative.

¹ Decision, para. 20.

² *In the Case Against Florence Hartmann*, Case No. IT-02-54-R77.5-A, Judgement, 19 July 2011, para. 52.

³ The Appeals Chamber recalls that under Rules 78 and 107 of the Rules, all proceedings before the Appeals Chamber, including the Chamber’s orders and decisions, shall be public unless there are exceptional reasons for keeping them confidential. See *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-AR73.3, Order Lifting Confidentiality, 10 June 2011, p. 1; *Prosecutor v. Mile Mrkšić and Veselin Šljivančanin*, Case No. IT-95-13/1-A, Decision on Mile Mrkšić’s Second Rule 115 Motion, 13 February 2009, fn. 4. See also *Prosecutor v. Ramush Haradinaj et al.*, Case No. IT-04-84-A, Decision on Lahi Brahimaj’s Application for Provisional Release, 25 May 2009, para. 5; *Prosecutor v. Tihomir Blaškić*, Case No. IT-95-14-R, Order Withdrawing Confidential Status of Pre-Review Order and Decisions, 5 December 2005, p. 2.

Dated this eleventh day of May 2012,
At The Hague,
The Netherlands.



Judge Mehmet Güney
Presiding

[Seal of the Tribunal]