

IT-95-5/18-T  
D61461-D61459  
05 APRIL 2012

~~IT-05-88-A~~  
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~~05 April 2012~~

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UNITED  
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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**  
**RADIVOJE 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**

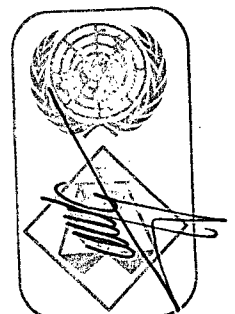
Mr. Richard J. Harvey, *standby  
counsel*

**The Accused:**

Mr. Radovan Karadžić *pro se*

**Counsel for the Defence:**

Mr. Žoran Živanović and Ms. Mira Tapušковиć 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”)<sup>1</sup> and that his duties include “to receive copies of all court documents, filings, and disclosed materials generated by or sent to [Karadžić]”;<sup>2</sup>

**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”);<sup>3</sup>

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

**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;<sup>5</sup>

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<sup>1</sup> *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.

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

<sup>3</sup> Motion, paras 10-11.

<sup>4</sup> Motion, paras 9-10.

<sup>5</sup> 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]

