



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-T  
Date: 9 November 2007  
Original: English

**THE PRESIDENT OF THE INTERNATIONAL TRIBUNAL**

**Before:** Judge Fausto Pocar, President  
**Registrar:** Mr. Hans Holthuis  
**Decision:** 9 November 2007

**PROSECUTOR**

v.

**VUJADIN POPOVIĆ  
LJUBIŠA BEARA  
DRAGO NIKOLIĆ  
LJUBOMIR BOROVIČANIN  
RADIVOJE MILETIĆ  
MILAN GVERO  
VINKO PANDUREVIĆ**

**- PUBLIC REDACTED VERSION -**

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**DECISION ON MOTION PURSUANT TO RULE 75(H)**

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**Applicant:**

REDACTED

*PK*

**I, JUDGE FAUSTO POCAR**, President 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 (“International Tribunal”),

**NOTING** the “Motion to Rescind or Vary Protective Measures and Obtain Audio Recordings of Protected Witnesses Testimonies Pursuant to Rule 75(H)” of REDACTED, Defence Attorney in REDACTED (“Applicant”), dated REDACTED and filed on REDACTED (“Motion”);

**CONSIDERING** that the Applicant is Defence Attorney and is filing the Motion on behalf of his client, REDACTED, who is currently accused before the War Crimes Section of the Court of Bosnia-Herzegovina, in the case number REDACTED;

**CONSIDERING** that the Applicant requests the disclosure in BCS of audio-recordings of three protected witnesses (“Witnesses”) in the *Popović et al.* case (IT-05-88);

**CONSIDERING** that the Applicant indicates that he wants to include these audio-recordings as Defence evidence in the current proceedings before the Court of Bosnia-Herzegovina;

**CONSIDERING** that Rule 75(H), as introduced in the Rules of Procedure and Evidence of the International Tribunal (“Rules”) by its last revision of 12 July 2007,<sup>1</sup> provides as follows:

- (H) A Judge or Bench in another jurisdiction or parties in another jurisdiction authorised by an appropriate judicial authority may seek to rescind, vary, or augment protective measures ordered in proceedings before the Tribunal by applying to the President of the Tribunal, who shall refer the application:
- (i) to any Chamber, however constituted, remaining seised of the first proceedings;
  - (ii) if no Chamber remains seised of the first proceedings, to a Chamber seised of second proceedings; or,
  - (iii) if no Chamber remains seised, to a newly constituted Chamber.

**CONSIDERING** that the Applicant is a party in another jurisdiction, namely the War Crimes Section of the Court of Bosnia-Herzegovina and the appropriate judicial authority in this case, within the meaning of Rule 75(H);

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<sup>1</sup> IT/32/Rev.40, 12 July 2007.

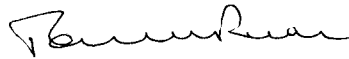
**CONSIDERING** that it does not appear that the Applicant has been authorized by the War Crimes Section of the Court of Bosnia-Herzegovina, to move the International Tribunal in order to obtain variation of protective measures with respect to the witnesses pursuant to Rule 75(H);

**CONSEQUENTLY DISMISS** the Application,

**INVITE** the Applicant to reapply if authorised to do so by the War Crimes Section of the Court of Bosnia-Herzegovina.

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

Done this 9 November 2007,  
At The Hague,  
The Netherlands.



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Fausto Pocar  
President of the International Tribunal

**[Seal of the International Tribunal]**