



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-PT
Date: 12 October 2005
Original: English

IN TRIAL CHAMBER II

Before: Judge Carmel Agius, Presiding
Judge Jean-Claude Antonetti
Judge Kevin Parker

Registrar: Mr. Hans Holthuis

Decision of: 12 October 2005

THE PROSECUTOR
v.
VUJADIN POPOVIĆ
LJUBIŠA BEARA
DRAGO NIKOLIĆ
LJUBOMIR BOROVIČANIN
ZDRAVKO TOLIMIR
RADIVOJE MILETIĆ
MILAN GVERO
VINKO PANDUREVIĆ
MILORAD TRBIĆ

**DECISION ON MOTION FOR CERTIFICATION OF JOINDER
DECISION FOR INTERLOCUTORY APPEAL**

The Office of the Prosecutor:

Mr. Peter McCloskey

Counsel for the Accused:

Zoran Živanović for Vujadin Popović
John Ostojic for Ljubiša Beara
Jelena Nikolić for Drago Nikolić
Alan Newman and Miodrag Stojanović for Ljubomir Borovčanin
Natacha Fauveau Ivanović for Radivoje Miletić
Dragan Krgović for Milan Gvero
Đorđe Sarapa for Vinko Pandurević
Colleen Rohan for Milorad Trbić

TRIAL CHAMBER II 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”);

NOTING the “Motion for Joinder of Accused” filed by the Office of the Prosecutor (“Prosecution”) on 10 June 2005 (“Motion”), in which the Prosecution sought to join six cases involving nine accused together in one indictment;¹

NOTING that, on 29 June 2005, the President of the Tribunal (“President”) issued an order appointing Judges Patrick Robinson, Carmel Agius and Liu Daqun to constitute Trial Chamber III for the purpose of determining the Motion;

NOTING the “Decision on the Motion for Joinder” issued by Trial Chamber III on 21 September 2005, in which the Trial Chamber granted the Motion pursuant to Rule 48 of the Rules of Procedure and Evidence of the Tribunal (“Rules”) and joined the aforementioned cases into a single case of *Prosecutor v. Vujadin Popović, Ljubiša Beara, Drago Nikolić, Ljubomir Borovčanin, Zdravko Tolimir, Radivoje Miletić, Milan Gvero, Vinko Pandurević and Milorad Trbić*;²

NOTING the order of 26 September 2005 in which the President of the Tribunal assigned the case to Trial Chamber II pursuant to Rule 19 of the Rules;

NOTING further the separate motions for certification of the Trial Chamber’s Decision for interlocutory appeal filed by the Accused Vinko Pandurević and Radivoje Miletić concurrently before Trial Chamber III and Trial Chamber II on 27 September 2005 (“Motions for Certification”);

NOTING finally, the “Decision on Motion for Certification of Joinder Decision for Interlocutory Appeal” rendered by Trial Chamber III on 6 October 2005, in which Trial Chamber III granted the Motions for Certification pursuant to Rule 73(B) of the Rules;

CONSIDERING that the Motions for Certification pending before Trial Chamber II are thus moot;

¹ The Motion concerns the cases of *Prosecutor v. Vujadin Popović*, Case No. IT-02-57-PT; *Prosecutor v. Ljubisa Beara*, Case No. IT-02-58-PT; *Prosecutor v. Drago Nikolić*, Case No. IT-02-63-PT; *Prosecutor v. Ljubomir Borovčanin*, Case No. IT-02-64-PT; *Prosecutor v. Zdravko Tolimir, Radivoje Miletić and Milan Gvero*, Case No. IT-04-80-PT; *Prosecutor v. Vinko Pandurević and Milorad Trbić*, Case No. IT-05-86-PT.

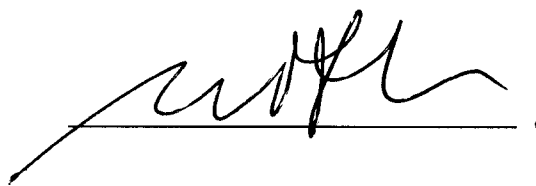
² The cases joined by the decision of Trial Chamber III of 21 September 2005 shall be referred as the single case of *Prosecutor v. Vujadin Popović, Ljubiša Beara, Drago Nikolić, Ljubomir Borovčanin, Zdravko Tolimir, Radivoje Miletić, Vinko Pandurević and Milorad Trbić*, Case No. IT-05-88-PT.

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

Dated this twelfth day of October 2005

At The Hague

The Netherlands

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned above a solid horizontal line.

Judge Carmel Agius

Presiding

[Seal of the Tribunal]