



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: 31 October 2005
Original: English

IN TRIAL CHAMBER II

Before: Judge Carmel Agius, Pre-trial Judge

Registrar: Mr. Hans Holthuis

Order of: 31 October 2005

THE PROSECUTOR

v.

**VUJADIN POPOVIĆ
LJUBIŠA BEARA
DRAGO NIKOLIĆ
LJUBOMIR BOROVIČANIN
ZDRAVKO TOLIMIR
RADIVOJE MILETIĆ
MILAN GVERO
VINKO PANDUREVIĆ
MILORAD TRBIĆ**

**SCHEDULING ORDER FOR A STATUS CONFERENCE AND
FURTHER APPEARANCE OF THE ACCUSED**

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

I, Carmel Agius, Judge 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”);

HAVING DESIGNATED MYSELF pre-trial Judge in the case of *Prosecutor v. Vujadin Popović, Ljubiša Beara, Drago Nikolić, Ljubomir Borovčanin, Zdravko Tolimir, Radivoje Miletić, Milan Gvero, Vinko Pandurević and Milorad Trbić*, Case No. IT-05-88-PT;¹

NOTING the “Decision on Motion for Joinder” of 21 September 2005 in which Trial Chamber III granted the motion which the Office of the Prosecutor (“Prosecution”) filed on 10 June 2005, seeking to join the cases of *Prosecutor v. Vujadin Popović*², *Prosecutor v. Ljubiša Beara*³, *Prosecutor v. Drago Nikolić*⁴, *Prosecutor v. Ljubomir Borovčanin*⁵, *Prosecutor v. Zdravko Tolimir, Radivoje Miletić and Milan Gvero*⁶, *Prosecutor v. Vinko Pandurević and Milorad Trbić*⁷ (“Joinder Motion”);

NOTING the “Order Assigning a Case to a Trial Chamber” issued by the President of the Tribunal on 26 September 2005, assigning the case of *Prosecutor v. Vujadin Popović, Ljubiša Beara, Drago Nikolić, Ljubomir Borovčanin, Zdravko Tolimir, Radivoje Miletić, Milan Gvero, Vinko Pandurević and Milorad Trbić*, Case No. IT-05-88-PT, to Trial Chamber II;

NOTING Rule 65bis of the Rules of Procedure and Evidence of the Tribunal (“Rules”) which provides, *inter alia*, that a status conference shall be convened within one hundred and twenty days after the last status conference to i) organise exchanges between the parties so as to ensure expeditious preparation for trial; and ii) to review the status of his or her case and to allow the accused the opportunity to raise issues in relation thereto, including the mental and physical condition of the accused;

NOTING that the last Status Conferences for each of the eight Accused transferred to the Tribunal⁸ were held respectively on

- i) 22 July 2005 for Vujadin Popović;
- ii) 15 June 2005 for Ljubiša Beara;

¹ Order designating a pre-trial Judge, 5 October 2005.

² *Prosecutor v. Vujadin Popović*, Case No. IT-02-57.

³ *Prosecutor v. Ljubiša Beara*, Case No. IT-02-58.

⁴ *Prosecutor v. Drago Nikolić*, Case No. IT-02-63.

⁵ *Prosecutor v. Ljubomir Borovčanin*, Case No. IT-02-64.

⁶ *Prosecutor v. Radivoje Miletić and Milan Gvero*, Case No. IT-04-80.

⁷ *Prosecutor v. Vinko Pandurević and Milorad Trbić*, Case No. IT-05-86.

⁸ As of the date of signature of this Scheduling Order, the Accused Zdravko Tolimir is not yet within the custody of the Tribunal.

- iii) 24 August 2005 for Drago Nikolić;
- iv) 24 August 2005 for Ljubomir Borovčanin;
- v) 28 June 2005 for Radivoje Miletić and Milan Gvero;
- vi) 24 August 2005 for Vinko Pandurević and Milorad Trbić;

NOTING further that the next Status Conferences for Vujadin Popović and Ljubiša Beara scheduled for 21 September 2005⁹ were not held in light of the then pending Joinder Motion;

CONSIDERING that, in light of the specific circumstances of this case arising from the Joinder Motion, the fact that the last Status Conferences for Vujadin Popović and Ljubiša Beara were held more than 120 days prior to the Status Conference provided for in this Scheduling Order, does not prejudice the rights of the two Accused, Vujadin Popović and Ljubiša Beara;

NOTING in addition the “Decision concerning motion for provisional release of Radivoje Miletić” rendered by Trial Chamber II on 19 July 2005, the “Decision concerning motion for provisional release of Milan Gvero” also rendered by Trial Chamber II on 19 July 2005 and the “Decision on interlocutory appeal against Trial Chamber’s decision granting provisional release” issued by the Appeals Chamber on 19 October 2005, pursuant to which Radivoje Miletić and Milan Gvero are currently on provisional release;

NOTING the “Prosecution’s Motion for Amendments to the Indictments” filed by the Prosecution on 28 June 2005, in which the Prosecution seeks to add a number of charges against some of the Accused in this case, namely

- i) for Zdravko Tolimir: Count 1 (Genocide), Count 2 (Conspiracy to commit genocide) and Count 3 (Extermination as a crime against humanity) all pursuant to Article 7(1) of the Statute of the Tribunal (“Statute”);
- ii) for Vujadin Popović: Count 2 (Conspiracy to commit genocide) pursuant to Article 7(1) of the Statute of the Tribunal (“Statute”);
- iii) for Drago Nikolić: Count 2 (Conspiracy to commit genocide) pursuant to Article 7(1) of the Statute;

⁹ *Prosecutor v. Ljubiša Beara*, Case No. IT-02-58-PT, Order of the Pre-Trial Judge arising from the Status Conference, 17 June 2005; *Prosecutor v. Vujadin Popović*, Case No. IT-02-57-PT, Order of the Pre-Trial Judge arising from the Status Conference, 22 July 2005.

- iv) for Milorad Trbić: Count 1 (Genocide), Count 2 (Conspiracy to commit genocide) and Count 3 (Extermination as a crime against humanity) all pursuant to Article 7(1) of the Statute; and
- v) for Vujadin Popović, Ljubiša Beara, Drago Nikolić, Ljubomir Borovčanin, Vinko Pandurević and Milorad Trbić: Count 6 (Persecutions, including forcible transfer, as a crime against humanity), Count 7 (Inhumane Acts (forcible transfer) as a crime against humanity) and Count 8 (Deportation as a crime against humanity) are amended to include the Bosnian Muslim population of Žepa;

NOTING Rule 50(B) of the Rules which provides that, if the amended indictment includes new charges and the accused has already appeared before a Trial Chamber, a further appearance shall be held as soon as practicable to enable the accused to enter a plea on the new charges;

PURSUANT TO Rules 50 and 65*bis* of the Rules;

HEREBY ORDER

- i) that a Status Conference for the Accused Vujadin Popović, Ljubiša Beara, Drago Nikolić, Ljubomir Borovčanin, Radivoje Miletić, Milan Gvero, Vinko Pandurević and Milorad Trbić shall be held on Thursday 10 November 2005 at 14.15 in Courtroom III; and that
- ii) during the course of the Status Conference, the Accused Vujadin Popović, Ljubiša Beara, Drago Nikolić, Ljubomir Borovčanin, Vinko Pandurević and Milorad Trbić shall enter pleas of guilty or not guilty on the new charges sought to be included by the Prosecution in the Consolidated Amended Indictment, namely
 - for Vujadin Popović: Count 2 (Conspiracy to commit genocide) pursuant to Article 7(1) of the Statute of the Tribunal (“Statute”);
 - for Drago Nikolić: Count 2 (Conspiracy to commit genocide) pursuant to Article 7(1) of the Statute;
 - for Milorad Trbić: Count 1 (Genocide), Count 2 (Conspiracy to commit genocide) and Count 3 (Extermination as a crime against humanity) all pursuant to Article 7(1) of the Statute; and

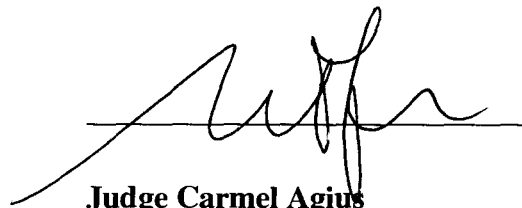
- for Vujadin Popović, Ljubiša Beara, Drago Nikolić, Ljubomir Borovčanin, Vinko Pandurević and Milorad Trbić: Count 6 (Persecutions, including forcible transfer, as a crime against humanity), Count 7 (Inhumane Acts (forcible transfer) as a crime against humanity) and Count 8 (Deportation as a crime against humanity) as amended to include the Bosnian Muslim population of Žepa.

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

Dated this thirty-first day of October 2005

At The Hague

The Netherlands



Judge Carmel Agius

Presiding

[Seal of the Tribunal]