



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: 20 June 2006  
Original: English

**IN TRIAL CHAMBER II**

**Before:** Judge Carmel Agius, Presiding  
Judge Kevin Parker  
Judge O-Gon Kwon

**Registrar:** Mr. Hans Holthuis

**Decision of:** 20 June 2006

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

**DECISION ON JOINT DEFENCE MOTION FOR VARIATION OF  
THE ORDER SUSPENDING PROVISIONAL RELEASE ISSUED ON  
6 JUNE 2006**

**The Office of the Prosecutor:**

Peter McCloskey

**Counsel for the Accused:**

Zoran Živanović for Vujadin Popović  
John Ostojić and Christopher Meek for Ljubiša Beara  
Jelena Nikolić and Stephane Bourgon for Drago Nikolić  
Aleksandar Lazarević and Miodrag Stojanović for Ljubomir Borovčanin  
Natacha Fauveau Ivanović for Radivoje Miletić  
Dragan Krgović for Milan Gvero  
Peter Haynes and Đorđe Sarapa for Vinko Pandurević  
Stephane Piletta-Zanin for Milorad Trbić

**Government of Serbia and Montenegro**

**Government of the Republic of Serbia**

**Government of the Netherlands**

**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”);

**BEING SEISED OF** the “Joint Defence Motion by the Accused Radivoje Miletić and Milan Gvero for Variation of the Order Suspending Provisional Release Issued on 6 June 2006” (“Motion”), filed on 8 June 2006;

**NOTING** the Decisions granting provisional release for Milan Gvero<sup>1</sup> and Radivoje Miletić<sup>2</sup> (collectively the “Accused”), and the Trial Chamber’s “Order Suspending Provisional Release” (“Order”), issued on 6 June 2006, in which the provisional release of the Accused was suspended effective 29 June 2006;

**NOTING** the “Prosecution’s Response to Joint Defence Motions by the Accused Radivoje Miletić and Milan Gvero for Variation of Provisional Release and Temporary Provisional Release”, filed on 9 June 2006, in which the Prosecution takes no position on the Motion;

**NOTING** that the Defence requests the Trial Chamber to modify the Order by postponing the return of the Accused to the United Nations Detention Unit (“Detention Unit”) until 10 July 2006;

**NOTING** that, due to being on provisional release, the Accused have not yet entered a plea to the Consolidated Amended Indictment, filed 11 November 2005;

**NOTING** the Trial Chamber’s “Decision on Motions Challenging the Indictment Pursuant to Rule 72 of the Rules”, issued 31 May 2006, in which the Prosecution was ordered to file a Second Consolidated Amended Indictment;

**CONSIDERING** that the pre-trial Judge has scheduled a status conference in this case for 6 July 2006,<sup>3</sup> at which the Accused will be required to enter a plea to the Second Consolidated Amended Indictment, filed by the Prosecution on 14 June 2006, and that, therefore, the presence of the Accused at the 6 July 2006 status conference is necessary;

**CONSIDERING** that the proper administration of the Detention Unit requires that the Accused return at least one week prior to the start of trial, and that the Detention Unit has communicated that

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<sup>1</sup> *Prosecutor v. Tolimir et al.*, Case No. IT-04-80-PT, Decision Concerning Motion for Provisional Release of Milan Gvero, 19 July 2005.

<sup>2</sup> *Prosecutor v. Tolimir et al.*, Case No. IT-04-80-PT, Decision Concerning Motion for Provisional Release of Radivoje Miletić, 19 July 2005.

<sup>3</sup> *Prosecutor v. Popović et al.*, Case No. IT-05-88-PT, Scheduling Order for a Status Conference and for Start of Trial, 6 June 2006.

4 July 2006 would be an acceptable date for the return of the Accused given the scheduled proceedings in this case, and that such a return date would secure the presence of the Accused at the 6 July 2006 status conference;

**PURSUANT TO** Article 29 of the Statute of the Tribunal and Rules 54 and 65 of the Rules of Procedure and Evidence;

**HEREBY GRANTS THE MOTION IN PART, MODIFIES** the earlier Order, **SUSPENDS** the provisional release of the Accused, effective 4 July 2006, and **ORDERS** as follows:

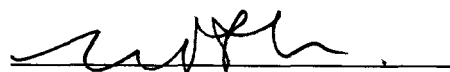
- (1) the Accused shall return to the United Nations Detention Unit no later than Tuesday, 4 July 2006;
- (2) the Government of Serbia and Montenegro and the Government of the Republic of Serbia shall ensure that the Accused are transported, under guard, from the municipality of Belgrade to Schiphol Airport;
- (3) the Government of the Netherlands shall ensure that the Accused are transported, under guard, from Schiphol Airport to the United Nations Detention Unit;
- (4) the Government of Serbia and Montenegro, the Government of the Republic of Serbia, the Government of the Netherlands and the Registry of the International Tribunal shall communicate with each other to facilitate the orderly return of the Accused to the United Nations Detention Unit;
- (5) this suspension of provisional release shall remain in effect until modified by the Trial Chamber.

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

Dated this twentieth day of June 2006

At The Hague

The Netherlands



**Judge Carmel Agius**

**Presiding**

**[Seal of the Tribunal]**