



International Tribunal for the
Prosecution of Persons
Responsible for Serious Violations of
International Humanitarian Law
Committed in the Territory of
Former Yugoslavia since 1991

Case No. IT-05-88-T
Date: 24 August 2006
Original: English

IN TRIAL CHAMBER II

Before: Judge Carmel Agius, Presiding
Judge O-Gon Kwon
Judge Kimberly Prost

Registrar: Mr. Hans Holthuis

Order of: 24 August 2006

PROSECUTOR
v.
VUJADIN POPOVIĆ
LJUBIŠA BEARA
DRAGO NIKOLIĆ
LJUBOMIR BOROVČANIN
RADIVOJE MILETIĆ
MILAN GVERO
VINKO PANDUREVIĆ

**ORDER ON PRODUCTION OF DEFENCE DOCUMENTS
USED IN CROSS-EXAMINATION OF PROSECUTION
WITNESSES**

The Office of the Prosecutor:

Mr. Peter McCloskey

Counsel for the Accused:

Mr. Zoran Živanović and Ms. Julie Condon for Vujadin Popović
Mr. John Ostojić and Mr. Christopher Meek for Ljubiša Beara
Ms. Jelena Nikolić and Mr. Stéphane Bourgon for Drago Nikolić
Mr. Aleksandar Lazarević and Mr. Miodrag Stojanović for Ljubomir Borovčanin
Ms. Natacha Fauveau Ivanović for Radivoje Miletić
Mr. Dragan Krgović for Milan Gvero
Mr. Peter Haynes and Mr. Đorđe Sarapa for Vinko Pandurević

TRIAL CHAMBER II (“Trial 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 (“Tribunal”),

BEING SEISED OF an oral motion submitted on 21 August 2006 by counsel for Milan Gvero (“Gvero Defence” and together with counsel for Vujadin Popović, counsel for Ljubiša Beara, counsel for Drago Nikolić, counsel for Ljubomir Borovčanin, counsel for Radivoje Miletić, and counsel for Vinko Pandurević, “Defence”), in which the Gvero Defence requests to release documents to be used by the Defence when cross-examining a witness for the Office of the Prosecutor (“Prosecution”) upon completion of that witness’s solemn declaration, prior to the commencement of examination in chief, after which time the Prosecution can no longer contact that witness (“Oral Request”);¹

NOTING further that on 23 August 2006, the Prosecution agreed to the Oral Request;²

NOTING Article 20(1) of the Statute of the Tribunal (“Statute”) pursuant to which trial chambers shall ensure that a trial is fair and expeditious and that proceedings are conducted in accordance with the rules of procedure and evidence, with full respect for the rights of the accused and due regard for the protection of victims and witnesses;

NOTING that the proceedings in the present case are run through an eCourt system, which allows for the electronic presentation and management of evidence and ensures that all evidence introduced at trial is available to both parties in electronic form from the moment the evidence is used in court;

CONSIDERING that there is no reason for this Trial Chamber to depart from the procedure recently adopted in another multi-accused trial before the Tribunal, which is also using the eCourt system;³

¹ Hearing of 21 August 2006, T. 451-452.

² Hearing of 23 August 2006, T. 547.

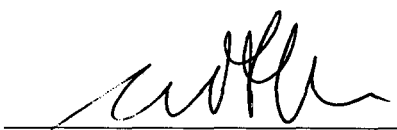
³ *Prosecutor v. Milan Milutinović, Nikola Šainović, Dragoljub Ojdanić, Nebojša Pavković, Vladimir Lazarević and Sreten Lukić*, Case No. IT-05-87-T, Decision on Joint Defence Motion for Modification of Order on Procedure and Evidence, 16 August 2006.

PURSUANT TO Article 20(1) of the Statute and Rule 54 of the Rules of Procedure and Evidence of the Tribunal,

HEREBY ORDERS that

- i) a list of documents or other material to be used by the Defence when cross-examining a Prosecution witness must be disclosed to the Prosecution at the commencement of the examination in chief of that witness, after the witness has made the solemn declaration pursuant to Rule 90(A) of the Rules;
- ii) concurrently, the Defence must release to the Prosecution, via the eCourt system, any documents or other material not already in the possession of the Prosecution that form part of the list of documents or material to be used during cross-examination;
- iii) should the Defence seek to use a document or material during cross-examination that has not been listed and disclosed, it may be permitted to do so on showing good cause for not listing and disclosing it; and
- iv) in such a case and if the need arises, the Prosecution may then request a short adjournment of the proceedings to examine the said document or material.

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



Carmel Agius
Presiding Judge

Dated this twenty-fourth day of August 2006,
At The Hague
The Netherlands

[Seal of the Tribunal]