



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: 17 January 2007
Original: English

IN TRIAL CHAMBER II

Before: Judge Carmel Agius, Presiding
Judge O-Gon Kwon
Judge Kimberly Prost
Judge Ole Bjørn Støle – Reserve Judge

Registrar: Mr. Hans Holthuis

Order of: 17 January 2007

PROSECUTOR

v.

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

ORDER REGARDING INTERCEPTED COMMUNICATIONS

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 and Mr. David Josse for Milan Gvero
Mr. Peter Haynes and Mr. Đorđe Sarapa for Vinko Pandurević

THIS 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”):

RECALLING the “Decision on Prosecution’s *Confidential* Motion for Admission of Written Evidence in Lieu of *Viva Voce* Testimony Pursuant to Rule 92 *bis*”, filed on 12 September 2006 (“12 September 2006 Rule 92 *bis* Decision”), and that the Trial Chamber decided “to defer any ruling on the admissibility of intercepted communications until such time as the issue can be addressed in a comprehensive fashion”;¹

RECALLING that, as reiterated by the Trial Chamber orally on 27 November 2006, all tendered intercept communications in this trial are not admitted but, rather, marked for identification pending the Trial Chamber’s decision on the admissibility of intercept evidence;²

RECALLING that the Trial Chamber orally informed the parties that it intends to rule on the admissibility of intercept evidence “when all the evidence on them has been led by the Prosecution”³, and orally informed the parties that the Defence would be required to provide written submissions “of a general nature but also of a specific nature”;⁴

CONSIDERING that many intercept operator witnesses have already testified and that the majority of intercept operator witnesses are currently scheduled to have completed their testimony by 2 February 2007, and that it is now appropriate for the Defence to provide written submissions substantially describing the nature of each of its challenges to the general admissibility of intercept evidence;

FOR THE FOREGOING REASONS

PURSUANT TO Rule 54 of the Rules of Procedure and Evidence;

HEREBY ORDERS that:

By 2 February 2007, the Defence shall provide the Trial Chamber and the Prosecution with written submissions substantially describing the nature of each of its challenges to the general admissibility of intercept evidence.

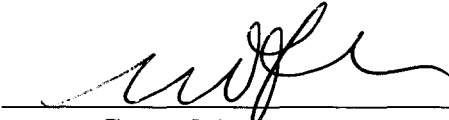
¹ 12 September 2006 Rule 92 *bis* Decision, para. 103.

² T. 4556 (27 November 2006).

³ T. 5549 (14 December 2006).

⁴ T. 5550 (14 December 2006).

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



Carmel Agius
Presiding Judge

Dated this 17h day of January 2007,
At The Hague
The Netherlands

[Seal of the Tribunal]