



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-T

Date: 8 April 2008

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:** 8 April 2008

**PROSECUTOR**

v.

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

**PUBLIC**

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**ORDER ON THE MOTION TO REOPEN THE PROSECUTION CASE**

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**Office of the Prosecutor**

Mr. Peter McCloskey

**Counsel for the Accused**

Mr. Zoran Živanović and Ms. Mira Tapušковиć 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. Christopher Gosnell for Ljubomir Borovčanin  
Ms. Natacha Fauveau Ivanović and Mr. Nenad Petrušić 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”);

**BEING SEISED OF** the “Motion to Reopen the Prosecution Case, with Two Appendices”, filed confidentially on 7 April 2008 (“Prosecution Motion”);

**NOTING** that the Prosecution seeks to reopen the Prosecution case to introduce the testimony of three new *viva voce* witnesses and ten items of related evidence;<sup>1</sup>

**NOTING** that if the Prosecution Motion were to be granted, the Prosecution would request protective measures in respect of two of the three new *viva voce* witnesses whose evidence it seeks to introduce;<sup>2</sup>

**NOTING** that in order to preserve the efficacy of any protective measures which subsequently may be granted, the Prosecution also requests that the Trial Chamber issue an order that the contents of the interviews and the identities of the witnesses not be disclosed in whole or in part to any third party without first obtaining the Trial Chamber's permission to do so, pending the outcome of the Prosecution Motion;

**NOTING** that the Pre-Defence Conference shall be held on 22 May 2008<sup>3</sup> and that the Defence case shall commence on 2 June 2008;<sup>4</sup>

**CONSIDERING** that, pursuant to Article 20(1) of the Statute of the Tribunal, the Trial Chamber shall ensure that a trial is fair and expeditious;

**CONSIDERING** that, therefore, a decision on the Prosecution Motion should be issued expeditiously;

**PURSUANT TO** Rules 54, 75, 126 *bis* and 127 of the Rules of Procedure and Evidence,

**HEREBY ORDERS** as follows:

1. The contents of the interviews and the identities of the witnesses for whom the Prosecution would seek protective measures shall not be disclosed in whole or in part to any third party

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<sup>1</sup> Prosecution Motion, para. 43.

<sup>2</sup> Prosecution Motion, paras. 4, 42.

<sup>3</sup> Order on Close of Prosecution Case-in-chief, Rule 98 *bis* Proceedings, Defence Rule 65 *ter* Filings, Pre-Defence Conference and Commencement of the Defence Case, 29 November 2007 (“November 2007 Order”), p. 5.

<sup>4</sup> November 2007 Order, p. 6.

without first obtaining the Trial Chamber's permission to do so, pending the outcome of the Prosecution Motion.

2. The Defence shall file no later than 15 April 2008 a Response to the Prosecution Motion.

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



Carmel Agius  
Presiding

Dated this eighth day of April 2008  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**