



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: 10 March 2009

Original: English

**IN TRIAL CHAMBER II**

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

**Acting Registrar:** Mr. John Hocking

**Order of:** 10 March 2009

**PROSECUTOR**

**v.**

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

**PUBLIC**

**ORDER TO SUMMON MOMIR NIKOLIĆ**

**Office of the Prosecutor**

Mr. Peter McCloskey

**Counsel for the Accused**

Mr. Zoran Živanović and Ms. Mira Tapusković for Vujadin Popović  
Mr. John Ostojić and Mr. Predrag Nikolić 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

**Government of Finland**

**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”);

**NOTING** that on 7 May 2003, Momir Nikolić pleaded guilty to Count 5 of the Indictment<sup>1</sup>, namely persecutions, a crime against humanity, punishable under Article 5 (h) of the Statute of the Tribunal (“Statute”) in the case *Prosecutor v. Vidoje Blagojević et al.*;<sup>2</sup>

**NOTING** the Statement of Facts which was attached to Momir Nikolić’s plea agreement with the Office of the Prosecutor;<sup>3</sup>

**NOTING** that Momir Nikolić originally appeared on the Prosecution’s Rule 65 *ter* Witness List<sup>4</sup> in the present case, but was withdrawn by the Prosecution on 2 November 2007;<sup>5</sup>

**NOTING** that Rule 98 of the Rules of Procedure and Evidence (“Rules”) authorises the Trial Chamber to summon witnesses *proprio motu*;

**CONSIDERING** that the Trial Chamber, in its search for the truth, finds it appropriate in the interests of justice to summon Momir Nikolić as a Chamber witness;

**PURSUANT TO** Rules 54 and 98 of the Rules,

**HEREBY ORDERS** as follows:

1. Momir Nikolić is hereby summoned by the Trial Chamber to testify as a Chamber witness on a date to be communicated;
2. The Registrar shall ensure that Momir Nikolić is provided with this Order and his Statement of Facts in a language he can understand;
3. Momir Nikolić shall review his Statement of Facts as soon as possible. No less than 7 days before his scheduled testimony, Momir Nikolić shall provide the Trial Chamber with a written statement confirming his Statement of Facts or indicating, with an explanation, any specific parts of his Statement of Facts he no longer agrees to (“Further Statement”);

<sup>1</sup> *Prosecutor v. Vidoje Blagojević et al.*, Case No. IT-02-60-PT, 27 May 2002 (“Indictment”).

<sup>2</sup> *Prosecutor v. Vidoje Blagojević et al.*, Case No. IT-02-60-PT, Plea Hearing, 7 May 2003 (“Plea Hearing”), T. 293.

<sup>3</sup> *Prosecutor v. Vidoje Blagojević et al.*, Case No. IT-02-60-PT, “Statement of Facts and Acceptance of Responsibility”, Tab A to Annex A to the “Joint Motion for Consideration of Plea Agreement between Momir Nikolić and the Office of the Prosecutor”, 6 May 2003.

<sup>4</sup> Confidential “Prosecution’s Filing of Pre-Trial Brief Pursuant to Rule 65 *ter* and List of Exhibits Pursuant to Rule 65 *ter* (E) (v)” [sic], 28 April 2006.

<sup>5</sup> Trial Hearing, 2 November 2007, T. 17398.

4. The Registrar shall ensure that all necessary arrangements are made to enable Momir Nikolić to appear as a witness.

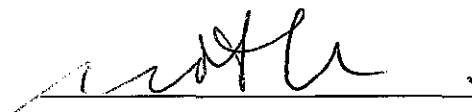
**REQUESTS** the Government of Finland to facilitate the transfer of Momir Nikolić.

**FURTHER ORDERS** that the testimony of Momir Nikolić will proceed pursuant to Rule 92 *ter* of the Rules as follows:

1. Momir Nikolić shall attest that his Statement of Facts and Further Statement accurately reflect what he would say if examined;
2. The Prosecution shall be entitled to cross-examine Momir Nikolić for a period not to exceed three and a half hours;
3. Each Defence Team shall be entitled to cross-examine Momir Nikolić for a period not to exceed two hours.

**FURTHER ORDERS** that none of the parties, or any agents acting on behalf of the parties, shall have any contact or communication with Momir Nikolić or cause any other person to contact or communicate with him, from the date of this order and until such time as any evidence given by him in the present case has been completed.

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



Carmel Agius  
Presiding

Dated this tenth day of March 2009  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**