



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: 12 May 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

**Decision of:** 12 May 2009

**PROSECUTOR**

v.

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

***PUBLIC***

**DECISION ON PROSECUTION MOTION TO ADMIT BUTLER  
DOCUMENTS**

**Office of the Prosecutor**

Mr. Peter McCloskey

**Counsel for the Accused**

Mr. Zoran Živanović and Ms. Mira Tapušević 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

**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 “Prosecution’s Notice of Supporting Material to Reports by Richard Butler” (“Notice”), filed on 30 March 2009, and the “Corrigendum to Prosecution’s Notice of Supporting Material to Reports by Richard Butler” (“Corrigendum”), filed on 1 April 2009 (collectively “Motion”), in which the Prosecution specifically requests leave to add five documents to its 65 *ter* list and to admit them into evidence and to generally admit the documents marked in parentheses in the spreadsheets attached to the Notice;<sup>1</sup>

**NOTING** that no responses were filed;

**CONSIDERING** that the Trial Chamber has held that “in striking a balance between [the Prosecution’s duty to present the available evidence to prove its case with the right of the accused to have adequate time and facilities to prepare a defence and to be tried without undue delay], at this stage of the proceedings, the Trial Chamber should primarily consider whether the rights of the Accused will be adequately protected if exhibits [...] will be added to the Prosecution Exhibit List”<sup>2</sup> and that “the Trial Chamber may also take into account additional criteria, including whether the proposed evidence is *prima facie* relevant and of probative value to issues raised in the indictment, and whether good cause for amending the witness list and/or exhibit list was shown, taking into consideration the complexity of the case, on-going investigations, and translation of documents and other materials”;<sup>3</sup>

**CONSIDERING** that the five documents identified, Ex. P04461, Ex P04462, Ex. P04463, Ex. P04464, and Ex. P04465 and the documents marked in parentheses in the spreadsheets attached to the Notice (collectively “Documents”) were referred to in one or more of the Butler reports;

**CONSIDERING** that the Documents are supporting documentation to the Butler reports which have already been admitted into evidence;

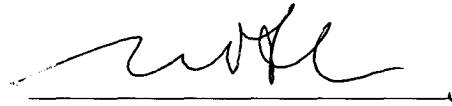
**CONSIDERING** that the Documents are *prima facie* relevant and of probative value to issues raised in the Butler reports, and that the rights of the Accused will not be prejudiced by their addition to the Prosecution Exhibit list, and that the Prosecution has shown good cause for the addition of the documents to the Prosecution Exhibit list;

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<sup>1</sup> Notice, paras. 2–3; Corrigendum, para. 2.

**PURSUANT TO** Rules 54, 73 *bis* and 89 of the Rules, the Trial Chamber hereby **GRANTS** the Motion to amend the 65 *ter* list of Exhibits, and admits the Documents.

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



Carmel Agius  
Presiding

Dated this twelfth day of May 2009  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**

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<sup>2</sup> Decision on Prosecution's Motion for Leave to Amend Rule 65 *ter* Witness List and Rule 65 *ter* Exhibit List, 6 December 2006, p. 6.

<sup>3</sup> *Ibid.*, p. 7.