



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: 7 March 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:** 7 March 2007

**PROSECUTOR**

v.

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

**ORDER SETTING DEADLINES FOR SUBMISSIONS REGARDING THE  
ADMISSIBILITY OF INTERCEPT EVIDENCE**

**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 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”):

**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”;<sup>1</sup>

**RECALLING** that the intercepted communications tendered thus far in this trial have not been admitted but, rather, have been marked for identification pending the Trial Chamber’s decision on the admissibility of intercept evidence;<sup>2</sup>

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

**RECALLING** the “Order Regarding Intercepted Communications”, filed on 17 January 2007 (“Order of 17 January 2007”), in which the Trial Chamber ordered the Accused to “provide the Trial Chamber and the Prosecution with written submissions substantially describing the nature of each of [their] challenges to the general admissibility of intercept evidence” by 2 February 2007;<sup>5</sup>

**NOTING** the various submissions of the Accused in response to the Order of 17 January 2007;<sup>6</sup>

**NOTING** Rule 89 of the Rules of Procedure and Evidence of the Tribunal (“Rules”);

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<sup>1</sup> 12 September 2006 Rule 92 *bis* Decision, para. 103.

<sup>2</sup> T. 4556 (27 November 2006).

<sup>3</sup> T. 5549 (14 December 2006).

<sup>4</sup> T. 5550 (14 December 2006).

<sup>5</sup> Order of 17 January 2007, p. 1.

<sup>6</sup> Defence Submission on Behalf of Drago Nikolić Regarding Its Objection to the Admissibility of Intercepted Communications, 2 February 2007; [Popović] Defence Submissions on the Exclusion of Intercept Evidence Pursuant to Rule 95, 2 February 2007; Accused Beara’s Submissions Regarding the Lack of Admissibility of Intercept Evidence, 2 February 2007; Opposition Préliminaire du Général Miletic à l’Admission des Conversations Interceptées, 2 February 2007; Borovčanin Defence Notification on Joining Other Srebrenica Defence Preliminary Submissions Regarding Admissibility of Intercept Material and Evidence, 5 February 2007.

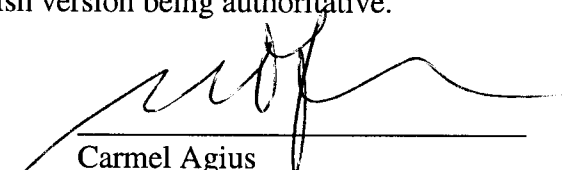
**CONSIDERING** that the Prosecution will soon have led its evidence regarding intercepted communications, and that it will then be appropriate for the parties to provide written submissions fully setting forth the issues relevant to the admissibility of the intercept evidence;

**PURSUANT TO** Rules 54 and 89 of the Rules,

**HEREBY ORDERS** that:

1. No later than 29 March 2007, the Prosecution shall file a written submission on the admissibility of the intercepted communications, including in particular a section describing the *prima facie* relevance of each tendered intercepted communication to the Indictment.
2. No later than 21 days following the Prosecution's filing, the Accused shall file detailed written submissions fully setting forth the grounds for any objections to the admissibility of the intercepted communications tendered by the Prosecution. To the extent possible, the Accused should endeavour to make joint submissions on any points on which they agree.
3. No later than 14 days following the filing of the Accused's written submissions, the Prosecution may file a reply.

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



Carmel Agius  
Presiding

Dated this seventh day of March 2007,  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**