



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: 17 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

Decision of: 17 April 2008

PROSECUTOR

v.

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

PUBLIC

**DECISION ON NIKOLIĆ MOTION SEEKING A FURTHER EXTENSION
OF TIME FOR FILING OF MILITARY EXPERT REPORT**

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. 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 partly confidential “Motion on Behalf of Drago Nikolić Seeking a Further Extension of Time for the Filing of a Military Expert Report”, filed on 15 April 2008 (“Motion”), in which Nikolić requests that the Trial Chamber grants a further extension of time pursuant to Rule 127(A)(i) of the Rules of Procedure and Evidence (“Rules”) until 30 April 2008, in order to provide the Prosecution with the military expert report prepared by Lieutenant-Colonel Landry (“report”) and to file the related notice pursuant to Rule 94 *bis*;¹

NOTING that the Prosecution has indicated that it would not file a response to the Motion;

NOTING Rule 127(A)(i), which provides that a Trial Chamber may on good cause being shown by motion, enlarge any time prescribed by or under the Rules;

NOTING the decision issued on 31 March 2008 (“Decision of 31 March 2008”), in which the Trial Chamber partly granted a previous Nikolić’s request for extension of time to file the report and ordered that the report be filed by 15 April 2008;²

NOTING that the Decision of 31 March 2008 also stated that “the Trial Chamber might consider favorably an application for a further extension of time provided that by 15 April 2008 the preparation of the report has been pursued with diligence and good cause is demonstrated; but that any such additional extension of time will not be granted beyond 30 April 2008”;³

NOTING that Nikolić submits that, following the issuance of the Decision of 31 March 2008, he took a number of measures to abide with the Trial Chamber’s order, including the reduction of the scope of the expert opinion and of the material to be analysed;⁴

NOTING that on 14 April 2008, Lieutenant-Colonel Landry informed Nikolić that he had not succeeded in completing his report and that it would not be possible for him to do so before the end of April 2008;⁵

¹ Motion, paras. 1, 24.

² Decision on Nikolić’s Motion Seeking an Extension of Time for Filing of Military Expert Report, 31 March 2008, (“Decision of 31 March 2008”), p. 6. *See also*, Motion on Behalf of Drago Nikolić Seeking an Extension of Time for the Filing of a Military Expert Report, 25 March 2008.

³ Decision of 31 March 2008, p. 5.

⁴ Motion, paras. 13, 14, 20.

⁵ Motion, para. 15; Confidential Annex A.

NOTING that Lieutenant-Colonel Landry also stated that as of 14 April 2008 he had completed more than half of the work required, and that he had worked some 110 hours and a minimum of 90 additional hours would be required to complete his report;⁶

CONSIDERING that despite the actions taken by Nikolić and the work performed by Lieutenant-Colonel Landry, it was not possible for the latter to compile the requested report by 15 April 2008, and that it is in the Trial Chamber's interest to have this evidence properly presented and disclosed;

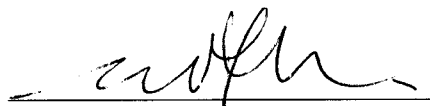
CONSIDERING that efforts have been made to pursue the preparation of the report and that the Trial Chamber is satisfied that good cause has been shown for a further extension of time;

CONSIDERING that no additional extension of time will be granted beyond 30 April 2008;

PURSUANT TO Rule 127(A)(i) of the Rules;

HEREBY GRANTS the Motion, and **ORDERS** that Nikolić shall file the report no later than 30 April 2008.

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



Carmel Agius
Presiding

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

[Seal of the Tribunal]

⁶ Motion, paras. 16–18; Confidential Annex A.