



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: 28 August 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

Registrar: Mr. John Hocking

Decision of: 28 August 2009

PROSECUTOR
v.
VUJADIN POPOVIĆ
LJUBIŠA BEARA
DRAGO NIKOLIĆ
LJUBOMIR BOROVIČANIN
RADIVOJE MILETIĆ
MILAN GVERO
VINKO PANDUREVIĆ

PUBLIC

**DECISION ON MOTION FOR ADDITIONAL TIME FOR THE
PRESENTATION OF CLOSING ARGUMENTS AND
GUIDANCE CONCERNING REBUTTAL AND REJOINDER
ARGUMENTS**

The Office of the Prosecutor:

Mr. Peter McCloskey

Counsel for the Accused:

Zoran Živanović and Mira Tapušковиć for Vujadin Popović
John Ostojić and Predrag Nikolić for Ljubiša Beara
Aleksandar Lazarević and Christopher Gosnell for Ljubomir Borovčanin
Jelena Nikolić and Stéphane Bourgon for Drago Nikolić
Natacha Fauveau Ivanović and Nenad Petrušić for Radivoje Miletić
Dragan Krgović and David Josse for Milan Gvero
Peter Haynes and Simon Davis 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 on Behalf of Drago Nikolić Seeking Additional Time for the Presentation of Closing Arguments and Seeking Guidance Concerning Rebuttal and Rejoinder Arguments,” filed on 24 August 2009 (“Motion”), in which he requests the Trial Chamber:

- (i) For an extension of time for his presentation of closing arguments from two and a half hours to four hours, given the many references to him in the Prosecution’s and the co-Accused’s Final Briefs and the extensive evidence and complex issues around the charges against him;¹
- (ii) For its guidance, in the interests of judicial expeditiousness, on the criteria by which it will decide whether arguments in rebuttal and rejoinder will be permitted, and if so, how much time will be allocated for this;²

NOTING the “Prosecution’s Response to Motion on Behalf of Drago Nikolić Seeking Additional Time for the Presentation of Closing Arguments and Seeking Guidance Concerning Rebuttal and Rejoinder Arguments,” filed on 26 August 2009, in which the Prosecution opposes the Motion, arguing it fails to advance any new or compelling reasons to vary the “Order on Final Briefs and Closing Arguments,” rendered by this Trial Chamber on 27 March 2009 (“Order”);

NOTING the “Response on Behalf of Milan Gvero to ‘Motion on Behalf of Drago Nikolić Seeking Additional Time for the Presentation of Closing Arguments and Seeking Guidance Concerning Rebuttal and Rejoinder Arguments,’” filed on 27 August 2009 (“Gvero Response”), in which Gvero broadly supports the Motion and requests one complete court day for the presentation of his closing argument;

NOTING the “Pandurević Defence Response to Motion on Behalf of Drago Nikolić Seeking Additional Time for the Presentation of Closing Arguments and Seeking Guidance Concerning Rebuttal and Rejoinder Arguments,” filed on 27 August 2009 (“Pandurević Response”), in which he takes no position on the Motion but submits that given the portion of the Prosecution final brief dedicated to arguments related to him, the time for closing arguments allotted to him should take that factor into account and in any event should not be less than that allowed his co-Accused;

¹ Motion, paras. 7–9.

² Motion, paras. 12–14.

NOTING the “Borovčanin Response to Motion on Behalf of Drago Nikolić Seeking Additional Time for the Presentation of Closing Arguments and Seeking Guidance Concerning Rebuttal and Rejoinder Arguments,” filed on 27 August 2009 (“Borovčanin Response”), in which he requests three and a half hours for his closing argument, or in the alternative, time equal to that granted to his co-Accused given the portion of the Prosecution final brief dedicated to arguments related to him;

NOTING the extensive final brief filed by Nikolić for which he has exceptionally already been granted an additional 50 pages;³

NOTING that the Trial Chamber expects focused closing arguments, targeted at unaddressed issues raised by other parties’ final briefs and not an oral rendition of the arguments already discussed in each party’s final brief;

CONSIDERING that neither the Motion, nor the Gvero Response, the Pandurević Response or the Borovčanin Response, have shown good cause sufficient to justify extending the time for the presentation of their respective closing arguments at this stage;

CONSIDERING the Order in which the Trial Chamber held that it “[...] shall decide upon the time to be allocated for rebuttal and rejoinder arguments, if any, after the completion of the Defence closing arguments”;⁴

CONSIDERING that the Trial Chamber considers it unnecessary to provide any additional guidance on the question of the allocation of time, if any, for rebuttal and rejoinder arguments at this preliminary stage as the matter will be determined on the basis of the circumstances after closing arguments;

³ See T. 33837– 33838, 2 July 2009.

⁴ Order, p. 1.

PURSUANT TO Rules 54 and 86 of the Rules of Procedure and Evidence,

HEREBY DENIES the Motion.

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



O-Gon Kwon
Judge

Dated this twenty-eighth day of August 2009
At The Hague
The Netherlands

[Seal of the Tribunal]