



International Tribunal for the  
Prosecution of Persons  
Responsible for Serious Violations of  
International Humanitarian Law  
Committed in the Territory of  
Former Yugoslavia since 1991

Case No. IT-05-88-T  
Date: 24 August 2006  
Original: English

**IN TRIAL CHAMBER II**

**Before:** Judge Carmel Agius, Presiding  
Judge O-Gon Kwon  
Judge Kimberly Prost

**Registrar:** Mr. Hans Holthuis

**Order of:** 24 August 2006

**PROSECUTOR**

v.

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

**ORDER ON PRODUCTION OF DEFENCE DOCUMENTS  
USED IN CROSS-EXAMINATION OF PROSECUTION  
WITNESSES**

**The 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 for Radivoje Miletić  
Mr. Dragan Krgović for Milan Gvero  
Mr. Peter Haynes and Mr. Đorđe Sarapa for Vinko Pandurević

**TRIAL CHAMBER II** (“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** an oral motion submitted on 21 August 2006 by counsel for Milan Gvero (“Gvero Defence” and together with counsel for Vujadin Popović, counsel for Ljubiša Beara, counsel for Drago Nikolić, counsel for Ljubomir Borovčanin, counsel for Radivoje Miletić, and counsel for Vinko Pandurević, “Defence”), in which the Gvero Defence requests to release documents to be used by the Defence when cross-examining a witness for the Office of the Prosecutor (“Prosecution”) upon completion of that witness’s solemn declaration, prior to the commencement of examination in chief, after which time the Prosecution can no longer contact that witness (“Oral Request”);<sup>1</sup>

**NOTING** further that on 23 August 2006, the Prosecution agreed to the Oral Request;<sup>2</sup>

**NOTING** Article 20(1) of the Statute of the Tribunal (“Statute”) pursuant to which trial chambers shall ensure that a trial is fair and expeditious and that proceedings are conducted in accordance with the rules of procedure and evidence, with full respect for the rights of the accused and due regard for the protection of victims and witnesses;

**NOTING** that the proceedings in the present case are run through an eCourt system, which allows for the electronic presentation and management of evidence and ensures that all evidence introduced at trial is available to both parties in electronic form from the moment the evidence is used in court;

**CONSIDERING** that there is no reason for this Trial Chamber to depart from the procedure recently adopted in another multi-accused trial before the Tribunal, which is also using the eCourt system;<sup>3</sup>

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<sup>1</sup> Hearing of 21 August 2006, T. 451-452.

<sup>2</sup> Hearing of 23 August 2006, T. 547.

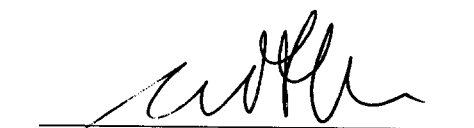
<sup>3</sup> *Prosecutor v. Milan Milutinović, Nikola Šainović, Dragoljub Ojdanić, Nebojša Pavković, Vladimir Lazarević and Sreten Lukić*, Case No. IT-05-87-T, Decision on Joint Defence Motion for Modification of Order on Procedure and Evidence, 16 August 2006.

**PURSUANT TO** Article 20(1) of the Statute and Rule 54 of the Rules of Procedure and Evidence of the Tribunal,

**HEREBY ORDERS** that

- i) a list of documents or other material to be used by the Defence when cross-examining a Prosecution witness must be disclosed to the Prosecution at the commencement of the examination in chief of that witness, after the witness has made the solemn declaration pursuant to Rule 90(A) of the Rules;
- ii) concurrently, the Defence must release to the Prosecution, via the eCourt system, any documents or other material not already in the possession of the Prosecution that form part of the list of documents or material to be used during cross-examination;
- iii) should the Defence seek to use a document or material during cross-examination that has not been listed and disclosed, it may be permitted to do so on showing good cause for not listing and disclosing it; and
- iv) in such a case and if the need arises, the Prosecution may then request a short adjournment of the proceedings to examine the said document or material.

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



**Carmel Agius**  
**Presiding Judge**

Dated this twenty-fourth day of August 2006,

At The Hague

The Netherlands

**[Seal of the Tribunal]**