



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: 3 July 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

Order of: 3 July 2009

PROSECUTOR

v.

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

PUBLIC

FURTHER ORDER TO *SUBPOENA AD TESTIFICANDUM*

Office of the Prosecutor

Mr. Peter McCloskey

Counsel for the Accused

Mr. Zoran Živanović and Ms. Mira Tapušковиć 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. Simon Davis for Vinko Pandurević

The Government of Bosnia and Herzegovina and the Authorities of Republika Srpska

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”);

NOTING the “Decision on Expedited Motion on Behalf of Drago Nikolić Requesting the Trial Chamber to Issue a *Subpoena Duces Tecum*” issued on 24 June 2009 and the “Order to the Government of Bosnia and Herzegovina and the Authorities of Republika Srpska Concerning *Subpoena*” and the “*Subpoena ad Testificandum*”, both issued confidentially and *ex parte* on 24 June 2009, in which Sreten Milošević (“Milošević”) was ordered to appear to testify before this Trial Chamber in this case during the week commencing 6 July 2009 or on another date to be communicated to him, or to show good cause why he should not testify;¹

NOTING the “Memorandum of Service of the *Subpoena ad testificandum*”, filed confidentially on 1 July 2009, in which Milošević is reported not to be willing to appear before the Court and to give testimony on the grounds that “[he does] not see the point in [testifying] since he gave testimony to the Hague investigators in BiH/Bosnia and Herzegovina”;²

CONSIDERING that the Trial Chamber considers that Milošević has not shown good cause for not appearing before it to give testimony as ordered in the *Subpoena ad testificandum*;

CONSIDERING that the *Subpoena ad testificandum* remains in force and the assistance of the Government of Bosnia and Herzegovina and the Authorities of Republika Srpska is again required to ensure that the *Subpoena ad testificandum* is enforced and to communicate this Order to Milošević;

PURSUANT TO Article 29 of the Statute and Rule 54 of the Rules of Procedure and Evidence (“Rules”),

HEREBY ORDERS that:

1. Sreten Milošević be present on Thursday 9 July 2009 at 2.15 p.m. in Courtroom 3 of the Tribunal to give testimony in the case *Prosecutor v. Popović et al.*;
2. the Government of Bosnia and Herzegovina and the Authorities of Republika Srpska take whatever steps are reasonably necessary to ensure that Milošević is fully aware that failure to comply with the *Subpoena ad testificandum* may constitute contempt of the Tribunal under Rule 77,

¹ *Subpoena ad Testificandum*, p. 1.

² Memorandum of Service of the *Subpoena ad testificandum*, p. 2.

which is punishable by a term of imprisonment not exceeding seven years, a fine not exceeding 100,000 Euros, or both:

3. the Registry of the Tribunal take whatever steps are reasonably necessary to ensure that the *Subpoena ad testificandum* and this Order are transmitted immediately to the Government of Bosnia and Herzegovina and the Authorities of Republika Srpska and requests the Victims and Witnesses Section of the Tribunal to provide any necessary assistance in the implementation of this Order.

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



Carmel Agius
Presiding

Dated this third day of July 2009
At The Hague
The Netherlands

[Seal of the Tribunal]