



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: 15 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: 15 August 2006

PROSECUTOR

v.

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

**ORDER ON OPERATIVE INDICTMENT AND
SEVERANCE OF CASE AGAINST ZDRAVKO TOLIMIR**

Office of the Prosecutor

Ms. Carla Del Ponte
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 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 “Submission pursuant to the Trial Chamber’s Decision on Further Amendments and Challenges to the Indictment and Motion Seeking Leave to Make Additional Minor Corrections” (“Motion”), filed on 4 August 2006, in which the Prosecution seeks leave to make a number of amendments to the Second Consolidated Amended Indictment (“SCAI”) in an effort to comply with the “Decision on Further Amendments and Challenges to the Indictment” of 13 July 2006 (“July 2006 Decision”), and that these proposed amendments appear in the Indictment annexed to the Motion (“Indictment”);

NOTING that the charges against Milorad Trbić have been removed from the Indictment in accordance with the “Decision on Severance of Case against Milorad Trbić” of 26 June 2006;

NOTING that the charges against Zdravko Tolimir (“Accused Tolimir”) have been removed from the Indictment in accordance with the Trial Chamber’s oral order of 13 July 2006;¹

RECALLING the law on the amendment of an indictment set forth in the July 2006 Decision;²

CONSIDERING that the proposed amendments merely seek to eliminate remaining typographical errors, ambiguities, and inconsistencies;

CONSIDERING that, as the proposed amendments are all non-material, their inclusion will not result in unfair prejudice to the Accused, and that they need not be supported by additional documentation meeting the *prima facie* standard set forth in Article 19 of the Statute of the Tribunal;

CONSIDERING FURTHER that the Indictment contains no new charges, as none of the proposed amendments exposes any of the Accused to a factual or legal basis for conviction for which he did not already face liability; that the procedural consequences of Rules 50(B) and (C) of the Rules of Procedure and Evidence of the Tribunal (“Rules”) have not been triggered;³ and that

¹ *Prosecutor v. Popović, Beara, Nikolić, Borovčanin, Tolimir, Miletić, Gvero, and Pandurević*, Case No. IT-05-88-PT, Oral Order, T. 311–312 (13 July 2006).

² July 2006 Decision, paras. 5–11, 20–36.

³ *See ibid.*, paras. 10–11, 23–26, 30, 34.

the Accused are accordingly not entitled to file any further preliminary motions pursuant to Rule 72 of the Rules;

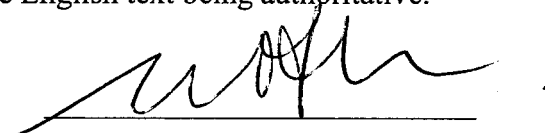
CONSIDERING, therefore, that the Indictment is no longer subject to preliminary challenge;

PURSUANT TO Rules 50, 54, and 82 of the Rules,

HEREBY ORDERS AS FOLLOWS:

1. The Prosecution is granted leave to make all amendments as proposed in the Indictment, which shall henceforth be the operative indictment in Case No. IT-05-88-T.
2. The Accused Tolimir is severed from Case No. IT-05-88-T, with immediate effect, and the Registry shall assign a new case number to any further submissions or proceedings that involve him.
3. The Prosecution shall file, no later than 28 August 2006, a new version of the Indictment re-inserting the charges against the Accused Tolimir that were contained in the SCAI, and redacting all charges against the other Accused in Case No. IT-05-88-T. This version shall bear the case number assigned by the Registry and the title "Indictment", and shall be the operative indictment against the Accused Tolimir in all future proceedings unless otherwise ordered by a Chamber of the Tribunal.

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



Carmel Agius
Presiding

Dated this fifteenth day of August 2006
At The Hague
The Netherlands

[Seal of the Tribunal]

