



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

IT-05-88/2-I  
0187-0185  
21 JUNE 2007

187  
51

Case No.: IT-05-88/2-I

Date: 21 June 2007

Original: English

**IN TRIAL CHAMBER II**

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

**Registrar:** Mr. Hans Holthuis

**Order of:** 21 June 2007

**PROSECUTOR**

v.

**ZDRAVKO TOLIMIR**

**PUBLIC**

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**ORDER FOR ESTIMATES RELATING TO LENGTH OF TRIAL**

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**Office of the Prosecutor**

Mr. Peter McCloskey

**Accused**

Mr. Zdravko Tolimir

**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 “Prosecution’s Motion for Joinder of Accused” filed on 6 June 2007 (“Joinder Motion”), in which the Prosecution requests that Zdravko Tolimir be charged and tried jointly pursuant to Rule 48 of the Rules of Procedure and Evidence (“Rules”) with Vujadin Popović, Ljubiša Beara, Drago Nikolić, Ljubomir Borovčanin, Radivoje Miletić, Milan Gvero and Vinko Pandurević;

**NOTING** that at his initial appearance on 4 June 2007 Tolimir did not enter a plea of guilty or not guilty<sup>1</sup> and that a further appearance has been scheduled for Tuesday 3 July 2007;<sup>2</sup>

**NOTING** that Rule 48 provides that “[p]ersons accused of the same or different crimes committed in the course of the same transaction may be jointly charged and tried”;

**NOTING** that in addition to the requirements set forth in Rule 48 the Tribunal’s jurisprudence has established several factors which the Trial Chamber may take into consideration in deciding a motion for joinder pursuant to Rule 48, and that among these factors are the promotion of judicial economy and the protection of the rights of the accused;<sup>3</sup>

**NOTING** that pursuant to Articles 20 and 21 of the Statute of the Tribunal the Trial Chamber must ensure that a trial is fair and expeditious and that the right of each accused to be tried without undue delay is respected;

**CONSIDERING** that in order to decide upon the Joinder Motion the Trial Chamber will need to take into account whether granting the requested joinder may prejudice the rights of one or more Accused;

**CONSIDERING** that the Trial Chamber will therefore need to assess the length of trial in *Prosecutor v. Popović et al.* if the Joinder Motion were to be granted and the length of a trial in *Prosecutor v. Tolimir*, if it were not to be granted;

<sup>1</sup> *Prosecutor v. Tolimir*, Case No. IT-05-88/2-I, T. 9 (4 June 2007).

<sup>2</sup> *Prosecutor v. Tolimir*, Case No. IT-05-88/2-I, Scheduling Order for Further Initial Appearance, 15 June 2007.

<sup>3</sup> See, e.g., *Prosecutor v. Popović*, Case No. IT-02-57-PT, *Prosecutor v. Beara*, Case No. IT-02-58-PT, *Prosecutor v. Nikolić*, Case No. IT-02-63-PT, *Prosecutor v. Borovčanin*, Case No. IT-02-64-PT, *Prosecutor v. Tolimir, Miletić and Gvero*, Case No. IT-04-80-PT and *Prosecutor v. Pandurević and Trbić*, Case No. IT-05-86-PT, Decision on Motion for Joinder, 21 September 2005, paras. 19–35; *Prosecutor v. Čermak and Markač*, Case No. IT-03-73-PT and *Prosecutor v. Gotovina*, Case No. IT-01-45-PT, Decision on Prosecution’s Consolidated Motion to Amend the Indictment and for Joinder, 14 July 2006, paras. 55–80.

PURSUANT TO Rule 54,

HEREBY ORDERS that the Prosecution shall provide as soon as practicable

1. The following estimates for the trial in *Prosecutor v. Popović et al.*, if the Joinder Motion were to be granted:

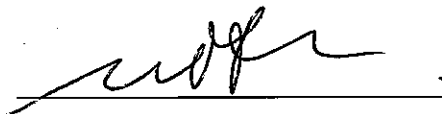
- a. The total number of additional *viva voce*, including Rule 92 *ter*, witnesses the Prosecution would seek to call as a result of the requested joinder and the overall length of their examination-in-chief;
- b. The number of witnesses that might in the view of the Prosecution need to be recalled to give additional evidence and/or that would be subject to further cross-examination; and
- c. The number of *viva voce* witnesses already on the 65 *ter* list who would in the view of the Prosecution require a longer examination-in-chief as a result of joinder and the total number of hours that would be required for the additional examination-in-chief;

2. The following estimates for the trial in *Prosecutor v. Tolimir* if the Joinder Motion were not to be granted and a trial of Tolimir alone were to take place:

- a. The total number of *viva voce*, including Rule 92 *ter*, witnesses the Prosecution would seek to call; and
- b. The overall length of the examination-in-chief of the *viva voce* witnesses the Prosecution would seek to call.

In making these estimates the Prosecution should take special account of the possible use of Rule 92 *bis* and Rule 92 *ter* on the admission of written statements and transcripts, as well as Rule 94 on judicial notice of adjudicated facts or documentary evidence from other proceedings of the Tribunal.

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



Carmel Agius  
Presiding

Dated this twenty-first day of June 2007  
At The Hague  
The Netherlands

[Seal of the Tribunal]