



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: 7 March 2007

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. Hans Holthuis

Order of: 7 March 2007

PROSECUTOR

v.

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

**ORDER SETTING DEADLINES FOR SUBMISSIONS REGARDING THE
ADMISSIBILITY OF INTERCEPT EVIDENCE**

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 and Mr. Nenad Petrušić for Radivoje Miletić
Mr. Dragan Krgović and Mr. David Josse for Milan Gvero
Mr. Peter Haynes and Mr. Đorđe Sarapa 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”):

RECALLING the “Decision on Prosecution’s *Confidential* Motion for Admission of Written Evidence in Lieu of *Viva Voce* Testimony Pursuant to Rule 92 *bis*”, filed on 12 September 2006 (“12 September 2006 Rule 92 *bis* Decision”), and that the Trial Chamber decided “to defer any ruling on the admissibility of intercepted communications until such time as the issue can be addressed in a comprehensive fashion”;¹

RECALLING that the intercepted communications tendered thus far in this trial have not been admitted but, rather, have been marked for identification pending the Trial Chamber’s decision on the admissibility of intercept evidence;²

RECALLING that the Trial Chamber orally informed the parties that it intends to rule on the admissibility of intercepted communications “when all the evidence on them has been led by the Prosecution”³, and orally informed the parties that the Accused would be required to provide written submissions “of a general nature but also of a specific nature”;⁴

RECALLING the “Order Regarding Intercepted Communications”, filed on 17 January 2007 (“Order of 17 January 2007”), in which the Trial Chamber ordered the Accused to “provide the Trial Chamber and the Prosecution with written submissions substantially describing the nature of each of [their] challenges to the general admissibility of intercept evidence” by 2 February 2007;⁵

NOTING the various submissions of the Accused in response to the Order of 17 January 2007;⁶

NOTING Rule 89 of the Rules of Procedure and Evidence of the Tribunal (“Rules”);

¹ 12 September 2006 Rule 92 *bis* Decision, para. 103.

² T. 4556 (27 November 2006).

³ T. 5549 (14 December 2006).

⁴ T. 5550 (14 December 2006).

⁵ Order of 17 January 2007, p. 1.

⁶ Defence Submission on Behalf of Drago Nikolić Regarding Its Objection to the Admissibility of Intercepted Communications, 2 February 2007; [Popović] Defence Submissions on the Exclusion of Intercept Evidence Pursuant to Rule 95, 2 February 2007; Accused Beara’s Submissions Regarding the Lack of Admissibility of Intercept Evidence, 2 February 2007; Opposition Préliminaire du Général Miletic à l’Admission des Conversations Interceptées, 2 February 2007; Borovčanin Defence Notification on Joining Other Srebrenica Defence Preliminary Submissions Regarding Admissibility of Intercept Material and Evidence, 5 February 2007.

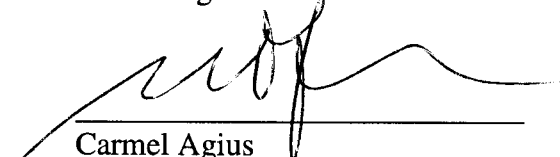
CONSIDERING that the Prosecution will soon have led its evidence regarding intercepted communications, and that it will then be appropriate for the parties to provide written submissions fully setting forth the issues relevant to the admissibility of the intercept evidence;

PURSUANT TO Rules 54 and 89 of the Rules,

HEREBY ORDERS that:

1. No later than 29 March 2007, the Prosecution shall file a written submission on the admissibility of the intercepted communications, including in particular a section describing the *prima facie* relevance of each tendered intercepted communication to the Indictment.
2. No later than 21 days following the Prosecution's filing, the Accused shall file detailed written submissions fully setting forth the grounds for any objections to the admissibility of the intercepted communications tendered by the Prosecution. To the extent possible, the Accused should endeavour to make joint submissions on any points on which they agree.
3. No later than 14 days following the filing of the Accused's written submissions, the Prosecution may file a reply.

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


Carmel Agius
Presiding

Dated this seventh day of March 2007,
At The Hague
The Netherlands

[Seal of the Tribunal]