

CASE INFORMATION SHEET

United Nations
Nations UniesInternational Criminal Tribunal
for the former Yugoslavia
Tribunal Pénal International
pour l'ex-Yougoslavie

“OPERATION STORM” (IT-03-73)

ČERMAK & MARKAČ

*The Prosecutor v. Ivan Čermak and Mladen Markač***IVAN ČERMAK**

Indicted for murder, persecutions on political, racial and religious grounds, deportation, inhumane acts (forcible transfer), plunder of public or private property, wanton destruction of cities, towns or villages, or devastation not justified by military necessity, inhumane acts, cruel treatment



Assistant Minister of Defence in the Croatian Government from 1991-1993; from 5 August 1995, Commander of the Knin Garrison and highest ranking Croatian military authority in the Garrison's jurisdiction (municipalities of Civljane, Ervenik, Kijevo, Kistanje, Knin, Nadvoda and Orlić); held the rank of Colonel General.

MLADEN MARKAČ

Indicted for murder, persecutions on political, racial and religious grounds, deportation, inhumane acts (forcible transfer), plunder of public or private property, wanton destruction of cities, towns or villages, or devastation not justified by military necessity, inhumane acts, cruel treatment



Commander of the Special Police of the Ministry of the Interior of the Republic of Croatia from 18 February 1994, which gave him overall authority and responsibility for the operation and functioning of the Special Police; Assistant Minister of the Interior for Special Police; following Operation Storm, held the rank of Colonel General.

Crimes indicted for (examples):

Persecutions on political, racial and religious grounds; deportation; inhumane acts (including forcible transfer) (crimes against humanity)

Plunder of public or private property; wanton destruction of cities, towns or villages, or devastation not justified by military necessity; murder; cruel treatment (violations of the laws or customs of war)

Acting individually and/or in concert with other members of the joint criminal enterprise, and/or various subordinates over whom the accused possessed effective control, planned, instigated, ordered, committed, and/or aided and abetted the planning, preparation and/or execution of various crimes against the Serb population in the southern portion of the Krajina region of Croatia, including in the following municipalities or parts thereof: Benkovac, Civljane, Donji Lapac, Drniš, Ervenik, Gračac, Kijevo, Kistanje, Knin, Lisane Ostrovičke, Lisičić, Lovinac, Nadvoda, Obrovac, Oklaj, Orlić, Polača, Smilčić, Titova Korenica and Udbina.

Those crimes included the following:

- Unlawful killing of many Serb civilians who failed to flee the area, including men not of military status and unarmed, elderly women and invalids.
- Infliction of extensive and widespread inhumane acts on Serb civilians and persons taking no part in hostilities, causing severe physical injury, by shooting, beating, kicking and burning people, including extensive shelling of civilian areas and an aerial attack on fleeing civilians, as well as mental abuse, humiliation and anguish (including by threats to kill such persons or their families).

- Infliction of inhumane acts and cruel treatment on the most vulnerable victims, including elderly women and civilians in hospitals.
- Systematic destruction of Serb civilian property - homes, barns, businesses, buildings, as well as crops and livestock throughout the Krajina region.
- Large-scale systematic looting of Serb homes and businesses.

IVAN ČERMAK	
Born	19 December 1949 in the municipality of Zagreb, Croatia
Indictment	Initial: 24 February 2004, made public on 8 March 2004; amended: 14 December 2005
Surrendered	11 March 2004
Transferred to ICTY	11 March 2004
Initial appearances	12 March 2004, pleaded not guilty to all charges
Provisionally released	2 December 2004

MLADEN MARKAČ	
Born	8 May 1955 in Đurđevac, Croatia
Indictment	Initial: 24 February 2004, made public on 8 March 2004; amended: 14 December 2005
Surrendered	11 March 2004
Transferred to ICTY	11 March 2004
Initial appearances	12 March 2004, pleaded not guilty to all charges
Provisionally released	2 December 2004

RELATED CASES <i>by geographical area</i>
GOTOVINA (IT-01-45)

INDICTMENT AND CHARGES

The amended indictment of 14 December 2005, states that following the Republic of Croatia's declaration of independence on 25 June 1991, the Assembly of the Serbian Autonomous Region of Krajina, together with Serbs from other parts of Croatia declared independence from Croatia on 19 December 1991 and formed a new entity, the self-proclaimed Republika Srpska Krajina (the RSK). The southern portion of this entity included the following municipalities: Benkovac, Civljane, Donji Lapac, Drniš, Ervenik, Gračac, Kijevo, Kistanje, Knin, Lisane Ostrovičke, Lisičić, Lovinac, Nadvoda, Obrovac, Oklaj, Orlić, Polača, Smilčić, Titova Korenica and Udbina. The indictment alleges that from 1992 to 1994, Croatian leaders, officials and forces formulated and implemented various operations to re-take territory claimed by the RSK and that by at least July and early August 1995, they conceived, planned, established and implemented Operation Storm, which began in full effect on 4 August 1995 and continued for several days thereafter, with continuing actions and operations until approximately 15 November 1995.

The indictment alleges that from at least July to 15 November 1995 and thereafter, Ivan Čermak and Mladen Markač, along with other persons described below, planned, established, implemented and/or participated in a joint criminal enterprise, the common purpose and objectives of which were the permanent removal of the Serb population from the Krajina region, by force, fear or threat of force, persecution, forced displacement, transfer and deportation, appropriation and destruction of property and other means, which constituted or involved the commission of crimes charged in the indictment. The indictment alleges that many persons participated in the joint criminal enterprise including: Franjo Tuđman, the President of the Republic of Croatia (deceased, 10 December 1999); Gojko Šušak, the Minister of Defence of the Republic of Croatia (deceased, 3 May 1998); Janko Bobežko, Chief of the Main Staff of the Croatian Army until mid-July 1995 (deceased, 29 April 2003); Zvonimir Červenko, Chief of the Main Staff of the Croatian Army during and following Operation Storm (deceased, 17 February 2001); Ante Gotovina, a senior Croatian Army General; various officers, officials and members of the Croatian government and political structures, at all levels (including in municipal governments and local organisations); various leaders and members of the Croatian Democratic Union (HDZ); various officers and members of the armed forces of the Republic of Croatia, including the Army (HV) and Air Force (HR"), the Special Police, the civilian police, and other Republic of Croatia security and/or intelligence services (Croatian forces); and other persons, both known and unknown.

The indictment also states that the orchestrated campaign to drive the Serbs from the Krajina region began before the major military operation commenced on 4 August 1995, largely by the use of propaganda, disinformation and psychological warfare.

The indictment further describes that the ethnic cleansing operation included severe violence against the Krajina Serbs and organised and systematic plunder and destruction of Serb property and that this conduct was not sporadic or limited, but part and parcel of the whole campaign, intended to drive any remaining Serbs from the area and/or to prevent or discourage those who had fled from returning. The indictment states that in the course of Operation Storm and the following actions, participants in the joint criminal enterprise and subordinates of the accused inflicted extensive and widespread inhumane acts on Serb civilians and persons taking no part in hostilities, causing not only mental abuse, humiliation and anguish, but also severe physical injury, by shooting, beating, kicking and burning people, including extensive shelling of civilian areas and an aerial attack on fleeing civilians. Family members were often forced to watch while other family members were beaten and abused. Inhumane acts and cruel treatment were especially inflicted on the most vulnerable victims, including elderly women and civilians in hospitals. In addition, many Serb civilians who remained in the area rather than fleeing, including men not of military status and unarmed, elderly women and invalids, were unlawfully killed. At the same time, a "demographic policy" was also implemented whereby much of the Krajina region was to be "urgently colonized with Croats," whereby Croatian forces and other Croats were moved into many of the abandoned Serb houses that survived and homes belonging to Serbs were expropriated. The indictment concludes that by 15 November 1995, the devastation of Serb properties in the southern Krajina region was so extensive that the Krajina Serb community and habitat were virtually destroyed.

The indictment alleges that in his combined capacities, Ivan Čermak participated in various structures of power and responsibility, and possessed effective control over members of Croatian Army units or elements who comprised or were attached to, or operated in the Knin garrison, and also over civilian police who operated in the garrison area and areas adjacent to it. The Croatian Army units comprising or operating in the garrison and adjacent areas included the 4th and 7th HV brigades, the 1st Croatian guards brigade, the 113th infantry brigade, 142nd infantry brigade, 144th infantry brigade, 126th home guard regiment (HGR), the 6th HGR, the 7th HGR, the 134th HGR, and a combined military police company

(consisting of units from the 72nd and 73rd military police battalions). Members of the Zadar Knin and Kotar Knin Police administrations (including various stations and posts) also operated in the same area as the garrison.

Ivan Čermak was responsible, *inter alia*, for maintaining order; disciplining and supervising the conduct of military personnel; organising duty services in the garrison; and establishing cooperation and coordination between or among the Knin garrison and area police forces, for the purposes of establishing and maintaining law and order. All of his subordinates were required to carry out his orders. He had the material ability to prevent persons under his authority from committing crimes and to punish his subordinates for any crimes that they committed. He also had the ability to recommend or propose disciplinary measures against members of the Croatian Army who were involved in Operation Storm and continuing related actions, until 15 November 1995.

Specifically, the indictment states that the various members of the joint criminal enterprise, including the accused, acting individually and/or in concert with others, participated in and acted in furtherance of the joint criminal enterprise, by doing the following:

- establishing, organising, commanding, ordering, directing, facilitating, participating in, supporting, maintaining and/or operating the HV, military police, special police, intelligence and other forces through which the objectives of the joint criminal enterprise were pursued and implemented and by which various crimes charged in this indictment, such as forcible transfer and deportation, plunder and destruction of property, killings and inhumane treatment were committed;
- initiating, promoting, planning, preparing, participating in, supporting and/or encouraging the development, formulation, dissemination and/or implementation of Croatian political, governmental and/or military policies, programs, plans, decrees, decisions, regulations, strategies or tactics which were used as bases or vehicles for various actions against or to the disadvantage of Serbs, such as depriving them of fundamental human rights, housing, property and/or humanitarian assistance, as part of the joint criminal enterprise;
- instigating, supporting, encouraging, facilitating and/or participating in the dissemination of information, false information and propaganda to the Krajina Serbs that was intended to advance the joint criminal enterprise, including, without limitation: (i) stating that the Serbs' safety and rights would be guaranteed while, in fact, intending to displace, transfer or deport them from the Krajina; and (ii) using information to intimidate or confuse the Krajina Serbs and cause them to leave the area;
- promoting, instigating, facilitating, encouraging and/or condoning the perpetration of violent acts;
- promoting, instigating, permitting, encouraging and condoning the commission of crimes against Serbs by failing to report and/or investigate crimes or alleged crimes against them, to follow up on such allegations and/or investigations, and/or to punish or discipline subordinates and others in the Croatian authorities and forces (over whom they possessed effective control) for crimes committed against Serbs; and;
- engaging in, encouraging, facilitating or supporting efforts to deny, conceal and/or minimise crimes committed by the Croatian authorities and forces against Serbs, including the provision of false, incomplete or misleading information to international organisations, monitors, investigators and the public.

Ivan Čermak and Mladen Markač are charged on the basis of individual criminal responsibility (Article 7(1) of the Statute of the Tribunal) and superior criminal responsibility (Article 7(3)), with:

- **Persecutions on political, racial and religious grounds; deportation; inhumane acts (including forcible transfer)** (crimes against humanity, Article 5)
- **Plunder of public or private property; wanton destruction of cities, towns or villages, or devastation not justified by military necessity; murder; cruel treatment** (violations of the laws or customs of war, Article 3)

PROVISIONAL RELEASE

On 12 March 2004, Ivan Čermak and Mladen Markač filed separate motions for provisional release. The Trial Chamber denied the motions on 29 April 2004. Ivan Čermak and Mladen Markač then filed separately their second motions for provisional release on 23 July 2004. The Trial Chamber denied the motions on 14 September 2004.

On 20 September 2004, the accused filed a joint motion for leave to appeal the Trial Chamber's decision. On 29 September 2004, the Prosecutor filed a response in which "The Prosecutor joined in the accused's motion for leave to appeal the Trial Chamber's decision denying their second motions for provisional release." After the Bench of the Appeals Chamber granted the motion for leave to appeal the impugned decision on 13 October 2004, the accused each filed an interlocutory appeal against the Trial Chamber's decision on the second motion for provisional release on 22 and 26 October 2004, respectively.

On 2 December 2004, the Appeals Chamber granted the provisional release of Ivan Čermak and Mladen Markač. They remain on provisional release.

Trial Chamber II	Judge O-Gon Kwon, Judge Kimberly Prost, Judge Ole Bjørn Støle
Counsel for the Prosecution	Alan Tieger, Laurie Sartorio
Counsel for the Defence	For Ivan Čermak: Čedo Prodanović; Jadranka Sloković For Mladen Markač: Miroslav Šeparović, Goran Mikuličić