

**UNITED
NATIONS**

International Tribunal for the
Prosecution of Persons
Responsible for Serious Violations of
International Humanitarian Law
Committed in the Territory of
Former Yugoslavia since 1991

Case No. IT-06-90-T
Date: 12 March 2008

IN THE TRIAL CHAMBER

Before: Judge Alphons Orie, Presiding
Judge Uldis Ķiniš
Judge Elisabeth Gwaunza

Registrar: Mr. Hans Holthuis

THE PROSECUTOR

v.

**ANTE GOTOVINA
IVAN ČERMAK
MLADEN MARKAČ**

PUBLIC FILING

**CORRECTED CORRIGENDUM TO PROSECUTION'S
NOTICE OF FILING OF AMENDED JOINDER INDICTMENT**

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Mr. Goran Mikuličić and Mr. Tomislav Kuzmanović for Mladen Markač

**THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA**

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1. On 22 February 2008 the Prosecution filed its "Corrigendum to Prosecution's Notice of Filing of Amended Joinder Indictment" to which it appended the Amended Joinder Indictment.
2. The Prosecution corrects the title of the Amended Joinder Indictment filed on 22 February from "Proposed Amended Joinder Indictment" to "Amended Joinder Indictment."
3. The corrected Amended Joinder Indictment is attached.

Word count: 63



Stefan Waespi
Senior Trial Attorney

Dated this 12th day of March 2008
At The Hague, The Netherlands

**THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA**

Case No. IT-06-90-PT

**THE PROSECUTOR
OF THE TRIBUNAL**

v.

**ANTE GOTOVINA
IVAN ČERMAK
MLADEN MARKAČ**

AMENDED JOINDER INDICTMENT

The Prosecutor of the International Criminal Tribunal for the former Yugoslavia, pursuant to his authority under Article 18 of the Statute of the International Criminal Tribunal for the former Yugoslavia ("Statute"), charges:

**ANTE GOTOVINA
IVAN ČERMAK
MLADEN MARKAČ**

with **CRIMES AGAINST HUMANITY** and **VIOLATIONS OF THE LAWS OR CUSTOMS OF WAR**, as follows:

THE ACCUSED

ANTE GOTOVINA

1. **Ante GOTOVINA** was born on 12 October 1955, on the island of Pašman within the Municipality of Zadar in the Republic of Croatia ("Croatia"), then part of the Socialist Federal Republic of Yugoslavia ("SFRY").
2. From 1 February 1973 to 1 February 1978, **Ante GOTOVINA**, served in the French Foreign Legion and attained the rank of Chief Corporal. In June 1991, he returned to Croatia and was appointed Chief of Operations and Training of the 1st Brigade of the *Zbor Narodne Garde* ("ZNG") (National Guard Corps). From February 1992 to May or June 1992, he was Deputy to the Commander of the Special Unit of the Main Staff of the Armed Forces of Croatia, the *Hrvatska Vojska* ("HV"). From May or June to October 1992, he was assigned to the Croatian Defence Council, the *Hrvatsko Vijeće Obrane* ("HVO").
3. On 9 October 1992, **Ante GOTOVINA**, holding the rank of Brigadier General, was appointed the Commander of the Split Operative Zone of the HV, which in 1993 was re-

named the Split Military District. On 30 May 1994, he was promoted to the rank of Major General. Between late July and 4 August 1995, he was promoted to the rank of Colonel General. Ante GOTOVINA remained as Commander of the Split Military District until March 1996. On 12 March 1996, the President of the Republic of Croatia, Franjo TUĐMAN ("President TUĐMAN"), appointed **Ante GOTOVINA** Chief of the HV Inspectorate.

4. From at least 4 August 1995 to 15 November 1995, **Ante GOTOVINA** was the Commander of the Split Military District of the HV and the overall operational commander of Operation Storm in the southern portion of the Krajina region. In this capacity, he participated in various structures of power and responsibility. During Operation Storm and the continuing related operations and/or actions thereafter, he possessed effective control over all units, elements and members of the HV that comprised or were attached to the Split Military District and such other forces as were subordinated to his command and operated and/or were present in the southern portion of the Krajina region during Operation Storm. The main units or elements within and attached to the Split Military District and subordinated to the command of **Ante GOTOVINA** during the period relevant to the Joinder Indictment are listed in Annex A. As Commander of the Split Military District, **Ante GOTOVINA** was responsible for, *inter alia*, maintaining order among, and disciplining and supervising the conduct of, his subordinate personnel.

IVAN ČERMAK

5. **Ivan ČERMAK** was born on 19 December 1949, in the Municipality of Zagreb in Croatia. Between 1990 and 1991, **Ivan ČERMAK** held the position of Vice President of the Executive Board of the Croatian Democratic Union ("HDZ") and also served as an advisor to President TUĐMAN. In 1991, **Ivan ČERMAK** was appointed the Assistant Minister of Defence in the Croatian Government, a position he held until 1993. While in this position and thereafter, he held the rank of Colonel General.

6. **Ivan ČERMAK** had a close personal relationship with President TUĐMAN. On 5 August 1995, President TUĐMAN personally appointed **Ivan ČERMAK** Commander of the Knin Garrison, which encompassed the municipalities of Civljane, Ervenik, Kijevo, Kistanje, Knin, Nadvoda and Orlić. **Ivan ČERMAK** established his headquarters in Knin on or about 5 or 6 August 1995, and continued as Garrison Commander until approximately 15 November 1995. In addition to acting in military and administrative roles as the Garrison Commander, **Ivan ČERMAK** acted as a representative of the Croatian Government in dealing with members of the international community and media concerning Operation Storm in areas that extended beyond the boundaries of the Garrison command.

7. In his combined capacities, **Ivan ČERMAK** participated in various structures of power and responsibility and possessed effective control over members of the HV 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 HV units comprising or operating in the Garrison and adjacent areas included, without limitation: the 4th and 7th HV Brigades; the 1st Croatian Guards Brigade (1 *Hrvatski Gardijski Zdrug*); the 113th Infantry Brigade; 142nd Infantry Brigade; 144th Infantry Brigade; 126th Home Guard Regiment ("126 *domobranska pukovnija*, 126 dp") ("HGR"); the 6th HGR; the 7th HGR; the 134th HGR; and a combined Military Police company (consisting of elements or 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. As Garrison Commander, **Ivan ČERMAK** was responsible for, *inter alia*, maintaining order among, and disciplining and supervising the conduct of, military personnel in the Garrison; organising duty services in the Garrison; and establishing cooperation and coordination between or among the Garrison and area police forces, for the purposes of establishing and maintaining law and order.

MLADEN MARKAČ

8. **Mladen MARKAČ** was born on 8 May 1955, in Djurdjevac, in the Municipality of Djurdjevac in Croatia. In 1981, **Mladen MARKAČ** graduated from the University of Zagreb, and in 1982, he completed his compulsory military service. He then joined the police force of the SFRY Ministry of the Interior ("MUP").

9. In 1990, **Mladen MARKAČ** and others were involved in the development of the police unit for special tasks in the RH MUP. He was appointed Deputy Commander, and in late 1990, this unit became the Lučko Anti-Terrorist Unit. In 1991, **Mladen MARKAČ** was appointed the head of the Lučko Anti-Terrorist Unit. In 1992, he was promoted to the rank of Colonel General (reserve).

10. On 18 February 1994, **Mladen MARKAČ** was appointed Assistant Minister of the Interior by President TUDMAN and as such also became the Commander of the Special Police of the Ministry of the Interior of the Republic of Croatia ("Special Police"), which gave him both overall authority and responsibility for the operation and functioning of the Special Police. Following Operation Storm, **Mladen MARKAČ** held the rank of Colonel General.

11. As Commander of the Special Police, **Mladen MARKAČ** participated in various structures of power and responsibility and possessed effective control over all members of the Special Police who were involved in Operation Storm and the continuing related operations and/or actions in that region. The participating Special Police force was comprised of individuals from special purpose units, including the Lučko Anti-Terrorist Unit, the Special Police logistics department and a Ministry of Interior communications company, as well as individuals from Special Police units from various District Police Administrations throughout Croatia, including those from Bjelovar-Bilogora, Dubrovnik-Neretva, Istria, Karlovac, Krapina-Zagorje, Lika-Senj, Osijek-Baranja, Primorje-Gorski Kotar, Šibenik, Sisak-Moslavina, Split-Dalmatia, Varaždin, Vukovar-Srijem, Zadar-Knin and Zagreb. **Mladen MARKAČ** also possessed effective control over all members of the HV rocket and artillery units attached to his forces or subordinated to his command during Operation Storm and the continuing related operations and/or actions.

FACTUAL DESCRIPTION OF THE JOINT CRIMINAL ENTERPRISE

12. From at least July 1995 to 30 September 1995, **Ante GOTOVINA**, **Ivan ČERMAK** and **Mladen MARKAČ**, along with other persons described below, participated in a joint criminal enterprise, the common purpose being 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 or other means. These

constituted or involved the commission of crimes punishable under Articles 3 and 5 of the Tribunal Statute, as further described herein. In addition to the crimes which were set out above as part of the joint criminal enterprise, it was foreseeable that the crimes of murder, inhumane acts and cruel treatment were a possible consequence in the execution of the enterprise.

13. As explained in more detail in paragraph 22, the term "Krajina" throughout the Joinder Indictment refers to a part of the area in Croatia that was self-proclaimed as the "Republika Srpska Krajina" (RSK) and that was heavily settled by Serbs. A military offensive known as "*Oluja*" or "Storm" ("Operation Storm") took place, in part, in and around the southern Krajina region.

14. This joint criminal enterprise, of which **Ante GOTOVINA**, **Ivan ČERMAK** and **Mladen MARKAČ** were members and key participants, was in the process of being conceived, planned and prepared by at least July 1995 and was fully implemented in August 1995 and thereafter.

15. Many persons participated with **Ante GOTOVINA**, **Ivan ČERMAK** and **Mladen MARKAČ** in this joint criminal enterprise. These persons included: Franjo TUĐMAN (deceased), the President of the Republic of Croatia; Gojko ŠUŠAK (deceased), the Minister of Defence of the Republic of Croatia; Janko BOBETKO (deceased), the Chief of the Main Staff of the HV until 17 July 1995, when he retired; Zvonimir ČERVENKO (deceased), the Chief of the Main Staff of the HV (appointed 17 July 1995).

16. Members of the joint criminal enterprise used or cooperated with others, including those under their command or effective control, to facilitate or carry out the *actus reus* of crimes against the Serbian civilian population and civilian property. Those who were used by or cooperated with the members of the joint criminal enterprise included: various officers, officials and members of the Croatian government and political structures, at all levels (including those in municipal governments and local organisations); various leaders and members of the HDZ; various officers and members of the HV, Special Police, civilian police, military police, and other Republic of Croatia security and/or intelligence services ("Croatian forces"); and other persons, both known and unknown.

17. Various members of the joint criminal enterprise, including **Ante GOTOVINA**, **Ivan ČERMAK** and **Mladen MARKAČ**, acting individually and/or in concert with others, participated in and acted in furtherance of the joint criminal enterprise, by:

- (a) establishing, organising, commanding, ordering, directing, facilitating, participating in, supporting, maintaining and/or operating the HV, military police, Special Police, intelligence, security and other forces through which the objectives of the joint criminal enterprise were pursued and implemented and by which various crimes charged in this Joinder Indictment, such as forcible transfer and deportation, plunder and destruction of property, killings and inhumane treatment were committed;
- (b) 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;

- (c) instigating, supporting, encouraging, facilitating and/or participating in the dissemination of information, false information and propaganda to the Krajina Serbs that was intended to cause them to leave the area;
- (d) promoting, instigating, facilitating, encouraging and/or condoning the perpetration of violent acts against Serbs and the creation of a climate of fear amongst those Serbs who had remained;
- (e) 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
- (f) 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.

18. **Ante GOTOVINA** participated in and furthered the joint criminal enterprise both directly and indirectly, including with and through other members of the joint criminal enterprise and through subordinates over whom he possessed effective control and/or persons whom he could direct or substantially affect, as described in paragraphs 3 and 4 above. In particular, and without limitation, Ante GOTOVINA participated in the joint criminal enterprise by:

- (a) from at least July 1995, participating in the planning and preparation of the operational use of the Croatian forces in Operation Storm and the continuing related operations and/or actions until at least 30 September 1995;
- (b) from at least 4 August to 30 September 1995, exercising command and control over all units, elements and members of the HV that comprised or were attached to the Split Military District, and such other forces as were subordinated to his command and operated and/or were present in the southern portion of the Krajina region, by directing, facilitating, supporting and issuing orders to them during Operation Storm and the continuing related operations and/or actions;
- (c) until at least 30 September 1995, retaining command and control of the HV that continued to be deployed in the southern portion of the Krajina region within the Split Military District;
- (d) permitting, denying and/or minimizing the ongoing criminal activity, including participating in the reporting of false, incomplete or misleading information regarding crimes committed, while knowing that widespread destruction and plunder of property

belonging to Serb civilians and the unlawful killing and inhumane treatment of Krajina Serbs were ongoing;

- (e) failing to establish and maintain law and order among, and discipline of, his subordinates, and neither preventing nor punishing crimes committed against the Krajina Serbs.

19. **Ivan ČERMAK** participated in and furthered the joint criminal enterprise both directly and indirectly, including with and through other members of the joint criminal enterprise and through subordinates over whom he possessed effective control and/or persons whom he could direct or substantially affect, as described in paragraphs 6 and 7 above. In particular, and without limitation, **Ivan ČERMAK** participated in the joint criminal enterprise by:

- (a) issuing orders and directions concerning the administration and operation of the Knin Garrison;
- (b) directing, facilitating, supporting and issuing orders to elements and/or members of the HV and RH MUP, including the military police and civilian police;
- (c) permitting, denying and/or minimising the ongoing criminal activity, including participating in the reporting of false, incomplete or misleading information regarding crimes committed, while knowing that widespread destruction and plunder of property belonging to Serb civilians and the unlawful killing and inhumane treatment of Krajina Serbs were ongoing;
- (d) failing to establish and maintain law and order among, and discipline of, his subordinates, and neither preventing nor punishing crimes committed against the Krajina Serbs;
- (e) providing false assurances to the international community that action to stop the crimes was being and/or would be taken.

20. **Mladen MARKAČ** participated in and furthered the joint criminal enterprise both directly and indirectly, including with and through other members of the joint criminal enterprise and through subordinates over whom he possessed effective control and/or persons whom he could direct or substantially affect, as described in paragraphs 10 and 11 above. In particular, and without limitation, **Mladen MARKAČ** participated in the joint criminal enterprise by:

- (a) participating in the planning and preparation of the operational use of the Special Police and attached HV rocket and artillery units in Operation Storm and the continuing related operations and/or actions in the region, from at least July 1995 to early August 1995;
- (b) ordering the Special Police and attached HV rocket and artillery units in Operation Storm to carry out the operation, from at least July 1995 to approximately 9 August 1995;

- (c) ordering the Special Police to carry out continuing related operations and/or actions in the region from at least 10 August 1995 to 30 September 1995;
- (d) permitting, denying and/or minimizing the ongoing criminal activity, including participating in the reporting of false, incomplete or misleading information regarding crimes committed, while knowing that widespread destruction and plunder of property belonging to Serb civilians and the unlawful killing and inhumane treatment of Krajina Serbs were ongoing;
- (e) failing to establish and maintain law and order among, and discipline of, his subordinates, and neither preventing nor punishing crimes committed by them against the Krajina Serbs.

STATEMENT OF FACTS

21. The Republic of Croatia declared its independence on 25 June 1991, by which time an armed conflict had erupted in certain areas of Croatia between the Yugoslav People's Army (JNA) and other Serb forces and the Croat armed forces. By the end of 1991, the JNA and various Serb forces controlled approximately one-third of the territory of the Republic of Croatia.

22. On 21 December 1990, the Croatian Serbs announced the creation of a Serbian Autonomous District ("SAO") of Krajina. On 19 December 1991, the SAO Krajina proclaimed itself the Republic of Serbian(Srpska) Krajina ("RSK") and appointed its own President. The RSK military force was later known as the Srpska Vojska Krajine (Serbian Army of Krajina or "SVK").

23. In February 1992, in accordance with the Vance Plan, the United Nations Security Council established a United Nations Protection Force ("UNPROFOR"), parts of which were deployed in United Nations Protected Areas in Croatia. The United Nations Protected Areas ("UNPAs") were areas in Croatia where Serbs constituted a majority or substantial minority of the population and where inter-ethnic tensions had already led to armed conflict. There were four UNPAs, known as Sectors North, South, East and West.

24. The Krajina region, including the area covered by the UNPA Sector South and UNPA Sector North, was part of or within the territory claimed by the RSK. The southern portion of the Krajina region included, without limitation, the following municipalities: Benkovac, Civljane, Donji Lapac, Drniš, Ervenik, Gračac, Kijevo, Kistanje, Knin, Lišane Ostrovičke, Lisičić, Lovinac, Nadvoda, Obrovac, Oklaj, Orlić, Polača, Smilčić, Titova Korenica and Udbina.

25. From 1992 to 1994, Croatian leaders, officials and forces formulated and implemented various operations to re-take part of the territory claimed by the RSK, which included operations into the UNPAs and adjacent areas, including the following areas at the following times: in the area of the Miljevački Plateau, in June 1992; in the area of the Maslenica bridge, in northern Dalmatia, in January 1993; and in the Medak Pocket, in September 1993.

26. Similar operations and efforts continued in 1995, including Operation Flash, in Western Slavonia in May 1995, and Operation *Ljeto* or "Summer", in the Dinaric Alps, in the area of Bosnia and Herzegovina adjacent to Knin Municipality and the surrounding areas, from the spring 1995 onwards.

27. By at least July and early August 1995, Croatian leaders, officials and forces (including members of the joint criminal enterprise) conceived, planned, established and implemented Operation Storm. The major part of the military operation began in full on 4 August 1995. On 7 August 1995, the Croatian government announced that the Operation had been successfully completed. Follow-up actions continued until about 15 November 1995.

28. 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. Information was spread that the attack by Croatian forces was imminent, in circumstances where the Serb population, having experienced or become aware of crimes and misconduct in similar Croatian operations, was filled with panic and fear. In the midst of this, information was distributed, by radio, television and other means, that the Serbs were "free to leave" and that large convoys of Serbs were leaving the area. At the same time, maps depicting "exclusive Croat" territory were shown to Serb civilians and "exit routes" from these areas were made known. As the operation went forward, Croatian forces shelled civilian areas, entered civilian Serb settlements at night, and threatened those civilians who had not already fled, with gunfire and other intimidation.

29. In the context of Operation Storm, acts were undertaken to ensure that any displacement, even of those Serbs who fled just prior to or at the beginning of the Operation, whether in response to actions of RSK leadership or for other reasons, would be permanent. In this sense the actions and crimes as described in this section were implemented to ensure that the Serbs in the Krajina would not return.

30. On commencing the major operation on 4 August 1995, Croatian forces engaged in looting Serb owned or inhabited civilian property almost at the beginning, starting on the second day. Large-scale looting was carried out on a systematic basis, involving both homes and businesses. Convoys of looters were observed going empty-handed into particular towns and then leaving fully-loaded, with household goods, personal belongings and even livestock. Homes, including those occupied by international representatives, were ransacked and completely emptied of their contents, including refrigerators, stoves, electronic equipment, furniture and clothes, down to doors and window frames. In some instances, detained Serb civilians were ordered to conduct looting on behalf of Croatian forces. After loading the stolen property onto military trucks, the detained Serbs were then forced to also unload the stolen items. Most of the looting occurred in homes which had been abandoned by fleeing Serbs, but there were also many instances where the persons were present while their belongings were stolen under threat of physical violence.

31. The ethnic cleansing operation included the organised and systematic plunder and destruction of Serb owned or inhabited property. 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. Some who were

attempting to flee were rounded up, loaded into vehicles and transported to detention facilities and "collection centres," to better ensure that they did not return to their settlements.

32. The wanton destruction of Serb inhabited towns and villages commenced within one or two days following the beginning of Operation Storm. Once the minimal (and in many instances, non-existent) SVK resistance was overcome, Croatian forces and some Croat civilians under their watch implemented a scorched earth, ethnic cleansing campaign, as they systematically destroyed civilian property which was owned or had been inhabited by Serbs and livestock throughout the Krajina region. These forces, including HV and Special Police, destroyed Serb homes, barns, businesses, buildings, crops and livestock. Often operating in arson squads using inflammable fuels, incendiary bullets and explosives, the Croatian forces left some towns and numerous villages completely destroyed. In places where Serb and Croat properties were side by side, Croat houses were spared whilst Serb houses were burned. Livestock, such as cattle and pigs, were shot or burned to death in barns and stables. Wells and water supplies were intentionally spoiled. 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.

33. 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 during Operation Storm and the continuing related operations and/or actions, as evidenced, in part, by mass grave excavations. Soldiers opened fire on groups of civilians. Persons were shot while fleeing their homes. Dead bodies were strewn along roads. Persons were observed being shot at point-blank range and killed execution-style, and many persons had to look on while family members were killed. Some persons were burned alive and others were dumped into wells. Other persons died as a result of multiple stab wounds. Persons mysteriously disappeared from their homes and neighbourhoods. Some were later found dead and others were never found.

34. In the course of Operation Storm and the continuing related operations and/or actions, participants in the joint criminal enterprise and their subordinates inflicted inhumane acts on Serb civilians and persons taking no part in hostilities, including persons placed *hors de combat*, causing not only mental abuse, humiliation and anguish (including by threats to kill such persons or their families), 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.

35. A demographic policy was also implemented whereby much of the Serb Krajina was to be colonized with Croats, whereby Croatian forces and other Croats were moved into many of the abandoned Serb houses that survived. Homes belonging to Serbs were expropriated. While rights to return to the area or reclaim property may have formally existed, the destruction of Serb property and their papers, under the circumstances of mass flight, made such relief largely artificial and unavailable, and intentionally so.

36. It was in, and as part of these events that, from at least July 1995 to about 30 September 1995, **Ante GOTOVINA**, **Ivan ČERMAK** and **Mladen MARKAČ**, acting individually and/or through their participation in the joint criminal enterprise, planned,

instigated, ordered, committed and/or aided and abetted the planning, preparation and/or execution of the crimes charged in Counts 1 through 9 below.

CRIMINAL RESPONSIBILITY

37. Pursuant to Article 7(1), each accused is charged with and criminally responsible for the crimes which he planned, instigated, ordered, committed and/or aided and abetted. As part of this responsibility, each accused is charged individually and through participation in a joint criminal enterprise as set out below. Each accused is responsible for his participation in the crimes charged, based on his own acts and, where he had a duty to act, on his omissions or failures to act, both directly and indirectly, through or by way of his subordinates or other persons, including by or through structures of power of which he was a part or in which he played a role.

38. Pursuant to Article 7(1), each accused is criminally responsible for the crimes which were committed as part of the joint criminal enterprise. (By using the word "committed" in this context, the Prosecutor does not mean to indicate that a particular accused, or any of them, necessarily committed, by his own physical person, the crime(s) charged. "Committed" in this context refers to the accused's participation in a joint criminal enterprise.) The members of the joint criminal enterprise used or cooperated with others to facilitate or achieve crimes that formed part of the common purpose. The members of the JCE are responsible for the crimes committed in furtherance of the JCE or forming part of the common purpose and that were physically committed or facilitated by persons used by or cooperating with members of the JCE.

39. The crimes charged in Counts 1 through 5 were intended and within the purpose of the joint criminal enterprise and were committed in the course of the enterprise. The joint criminal enterprise was in existence at the time of the commission of the crimes charged in this Joinder Indictment and at the time of the participatory conduct of each of the accused in furtherance thereof.

40. Each accused participated in the joint criminal enterprise and possessed and/or shared the intent concerning each of the crimes which were committed as part of the joint criminal enterprise.

41. Each accused participated in and/or contributed to the joint criminal enterprise, in carrying out the enterprise and accomplishing or attempting to accomplish its purpose or objectives.

42. In addition or in the alternative, as to any crime charged in this Joinder Indictment which was not within the purpose of the joint criminal enterprise, such crime was the natural and foreseeable consequence of the joint criminal enterprise and of implementing or attempting to implement the enterprise and each accused was aware of this possible consequence and, despite this awareness, joined and continued in the enterprise and willingly took the risk that the crimes would be committed and is responsible for the crimes charged.

43. The mens rea with respect to the crimes charged in this Joinder Indictment are:

- (a) Persecutions on political, racial and religious grounds, punishable under Article 5(h) of the Statute (Count 1) – the accused and/or perpetrator acted with discriminatory intent, with the intention to discriminate on political, racial or religious grounds.
- (b) Deportation, punishable under Article 5(d) of the Statute (Count 2) – the accused and/or perpetrator acted with the intent that the person or persons be removed or with the awareness of the likelihood that the person or persons would be removed.
- (c) Inhumane acts (forcible transfer), punishable under Article 5(i) of the Statute (Count 3) -- the accused and/or perpetrator acted with the intent that the person or persons be removed or with the awareness of the likelihood that the persons or persons would be removed.
- (d) Plunder of public or private property, punishable under Article 3(e) of the Statute (Count 4) – the accused and/or perpetrator intended to appropriate property or in the reckless disregard of the likelihood of its appropriation.
- (e) Wanton destruction of cities, towns or villages, or devastation not justified by military necessity, punishable under Article 3(b) of the Statute (Count 5) -- the accused and/or perpetrator acted with the intent to destroy the property in question or in reckless disregard of the likelihood of its destruction.
- (f) Murder, punishable under Articles 5(a) and 3 of the Statute (Counts 6 and 7) -- the accused and/or perpetrator acted with the intent to cause death or to cause serious bodily harm in the reasonable understanding that such act or omission was likely to cause death.
- (g) Inhumane acts, punishable under Article 5(i) of the Statute (Count 8) -- the accused and/or perpetrator acted with the intent to inflict serious bodily or mental harm or with the awareness of the likelihood that his act or omission would result in serious bodily or mental harm.
- (h) Cruel treatment, punishable under Article 3 of the Statute (Count 9) – the accused and/or perpetrator acted intentionally or deliberately (judged objectively) in that the acts or omissions were not accidental. The act or omission must have been committed with the intent to cause cruel treatment or with the awareness of the likelihood that his act or omission would result in cruel treatment.

44. In addition or in the alternative, each accused planned, instigated and/or ordered the crimes charged in the Joinder Indictment. Each accused was aware of the substantial likelihood that the execution of his plans and orders, and the carrying out of the acts and conduct which he instigated, would involve or result in the crimes charged in this Joinder Indictment.

45. In addition or in the alternative, pursuant to Article 7(1), each accused is criminally responsible for aiding and abetting the planning, preparation and/or execution of the crimes charged in this Joinder Indictment. Each accused was aware that he was substantially contributing to the commission of the crimes charged in this Joinder Indictment or was aware

that one or a number of crimes would probably be committed and was aware that his acts or omissions would substantially contribute to the commission of such crime or crimes.

46. Pursuant to Article 7(3), each accused is charged with and criminally responsible for the criminal acts and/or omissions of his subordinates which he knowingly failed to prevent or punish. Each accused was a superior to subordinates over whom he possessed effective control (that is, the material ability to prevent or punish), who were involved in the commission of crimes charged in this Joinder Indictment. Each accused knew and/or had reason to know that one or more such subordinates was about to commit or had committed such crimes and failed to take necessary and reasonable measures to prevent such crimes or punish the perpetrators thereof.

47. Each accused knew and/or had reason to know of the crimes charged in this Joinder Indictment, which were about to be or had been committed by his subordinates, by and through various means, including but not limited to: (a) the exercise of command functions over and concerning his subordinates, including their receipt of reports and information in the course of these functions; (b) the operation of headquarters and field communication systems; (c) their personal presence, involvement and observations in various operations in the Krajina region during the time covered by this Joinder Indictment; (d) knowledge and information concerning the conduct of various Croatian forces in previous, ongoing and similar operations; (e) media reports of crimes and suspected crimes; and (f) communications and meetings with members and representatives of the international community, namely, the United Nations monitors and other non-governmental organisations and media.

COUNT 1
PERSECUTIONS

48. From at least July 1995 to about 30 September 1995, **Ante GOTOVINA, Ivan ČERMAK and Mladen MARKAČ**, acting individually and/or through their participation in the joint criminal enterprise planned, instigated, ordered, committed, and/or aided and abetted the planning, preparation and/or execution of persecutions against the Krajina Serb population, on political, racial and/or religious grounds, in the southern portion of the Krajina region, including in the following municipalities or parts thereof: Benkovac, Cviljane, Donji Lapac, Drniš, Ervenik, Gračac, Kistanje, Knin, Lišane Ostrovičke, Lisičić, Nadvoda, Obrovac, Oklaj, and Orlić.

Ante GOTOVINA, Ivan ČERMAK and Mladen MARKAČ are responsible for acts of persecution against the Krajina Serbs including: deportation and forcible transfer; destruction and burning of Serb homes and businesses; plunder and looting of public or private Serb property; murder; other inhumane acts, including the shelling of civilians and cruel treatment; unlawful attacks on civilians and civilian objects; imposition of restrictive and discriminatory measures, including the imposition of discriminatory laws; discriminatory expropriation of property; unlawful detentions; disappearances.

By these acts and omissions (including those alleged in paragraphs 12-20 and 27-47), **Ante GOTOVINA, Ivan ČERMAK and Mladen MARKAČ** are responsible for the following crime(s):

Count 1: persecutions on political, racial and religious grounds, a CRIME AGAINST HUMANITY, punishable under Statute Articles 5(h), 7(1) and 7(3).

COUNTS 2 AND 3
DEPORTATION AND FORCIBLE TRANSFER

49. From at least July 1995 to about 30 September 1995, **Ante GOTOVINA, Ivan ČERMAK and Mladen MARKAČ**, acting individually and/or through their participation in the joint criminal enterprise, planned, instigated, ordered, committed, and/or aided and abetted the planning, preparation and/or execution of the forcible transfer and/or deportation of members of the Krajina Serb population from the southern portion of the Krajina region to the SFRY, Bosnia and Herzegovina and/or other parts of Croatia, by the threat and/or commission of violent and intimidating acts (including the plunder and destruction of property), the effect of which was to displace, transfer or deport the Krajina Serbs from the area (including causing them to flee or leave the area) and/or to prevent or discourage them from returning to the area, including in the following municipalities or parts thereof: Benkovac, Cviljane, Donji Lapac, Drniš, Ervenik, Gračac, Kistanje, Knin, Lišane Ostrovičke, Lisičić, Nadvoda, Obrovac, Oklaj, and Orlić.

By these acts and omissions (including those alleged in paragraphs 12-20 and 27-47), **Ante GOTOVINA, Ivan ČERMAK and Mladen MARKAČ** are responsible for the following crime(s):

Count 2: deportation, a CRIME AGAINST HUMANITY, punishable under Statute Articles 5(d), 7(1) and 7(3).

Count 3: inhumane acts (forcible transfer), a CRIME AGAINST HUMANITY, punishable under Statute Articles 5(i), 7(1) and 7(3).

COUNT 4
PLUNDER OF PUBLIC OR PRIVATE PROPERTY

50. From at least July 1995 to about 30 September 1995, **Ante GOTOVINA, Ivan ČERMAK and Mladen MARKAČ**, acting individually and/or through their participation in the joint criminal enterprise, planned, instigated, ordered, committed, and/or aided and abetted the planning, preparation and/or execution of the systematic plunder of the property owned or inhabited by the Krajina Serbs, including their homes, outbuildings, barns and/or livestock, including in the following municipalities or parts thereof: Benkovac, Donji Lapac, Drniš, Ervenik, Gračac, Kistanje, Knin, Lišane Ostrovičke, Nadvoda, Obrovac, Oklaj, and Orlić.

By these acts and omissions (including those alleged in paragraphs 12-20, 27-31, and 35-47), **Ante GOTOVINA, Ivan ČERMAK and Mladen MARKAČ** are responsible for the following crime(s):

Count 4: plunder of public or private property, a VIOLATION OF THE LAWS OR CUSTOMS OF WAR, punishable under Statute Articles 3(e), 7(1) and 7(3).

COUNT 5
WANTON DESTRUCTION

51. From at least July 1995 to about 30 September 1995, **Ante GOTOVINA, Ivan ČERMAK and Mladen MARKAČ**, acting individually and/or through their participation in the joint criminal enterprise, planned, instigated, ordered, committed, and/or aided and abetted the planning, preparation and/or execution of the large scale destruction (including burning) of and substantial damage to villages, homes, outbuildings and/or barns owned or inhabited by the Krajina Serbs, the killing of their livestock and the spoiling of their wells, including in the following municipalities or parts thereof: Benkovac, Civljane, Donji Lapac, Drniš, Ervenik, Gračac, Kistanje, Knin, Lišane Ostrovičke, Lisičić, Nadvoda, Obrovac, Oklaj, and Orlić.

By these acts and omissions (including those alleged in paragraphs 12-20, 27-32 and 35-47), **Ante GOTOVINA, Ivan ČERMAK and Mladen MARKAČ** are responsible for the following crime(s):

Count 5: wanton destruction of cities, towns or villages, or devastation not justified by military necessity, a VIOLATION OF THE LAWS OR CUSTOMS OF WAR, punishable under Statute Articles 3(b), 7(1) and 7(3).

COUNTS 6 AND 7
MURDER

52. From at least July 1995 to about 30 September 1995, **Ante GOTOVINA, Ivan ČERMAK** and **Mladen MARKAČ**, acting individually and/or through their participation in the joint criminal enterprise, planned, instigated, ordered, committed, and/or aided and abetted the planning, preparation and/or execution of the murder of Krajina Serb civilians and persons taking no part in hostilities, including members of Serb armed forces who had laid down their arms and those placed *hors de combat*, by various means, including by shooting, burning and/or stabbing them, including in the following municipalities or parts thereof: Donji Lapac, Drniš, Ervenik, Gračac, Kistanje, Knin and Orlić (particular incidents of which are listed in the attached Schedule).

By these acts and omissions (including those alleged in paragraphs 12-20, 27-28, 33 and 35-47), **Ante GOTOVINA, Ivan ČERMAK** and **Mladen MARKAČ** are responsible for the following crime(s):

Count 6: murder, a CRIME AGAINST HUMANITY, punishable under Statute Articles 5(a), 7(1) and 7(3).

Count 7: murder, a VIOLATION OF THE LAWS OR CUSTOMS OF WAR, as recognised by Common Article 3(1)(a) of the Geneva Conventions of 1949, punishable under Statute Articles 3, 7(1) and 7(3).

COUNTS 8 AND 9
INHUMANE ACTS AND CRUEL TREATMENT

53. From at least July 1995 to about 30 September 1995, **Ante GOTOVINA, Ivan ČERMAK** and **Mladen MARKAČ**, acting individually and/or through their participation in the joint criminal enterprise, planned, instigated, ordered, committed, and/or aided and abetted the planning, preparation and/or execution of the infliction of inhumane acts and cruel treatment against Krajina Serb civilians and persons taking no part in hostilities, including members of Serb forces who had laid down their arms and those placed *hors de combat*, including their humiliation and/or degradation, by firing upon (including by aerial attack), assaulting, beating, stabbing, threatening and burning them, including in the following municipalities or parts thereof: Benkovac, Donji Lapac, Drniš, Gračac, Kistanje, Knin and Orlić.

By these acts and omissions (including those alleged in paragraphs 12-20, 27-28, 34 and 35-47), **Ante GOTOVINA, Ivan ČERMAK** and **Mladen MARKAČ** are responsible for the following crime(s):

Count 8: inhumane acts, a CRIME AGAINST HUMANITY, punishable under Statute Articles 5(i), 7(1) and 7(3).

Count 9 : cruel treatment, a VIOLATION OF THE LAWS OR CUSTOMS OF WAR, as recognised by Article 3(1)(a) of the Geneva Conventions, punishable under Statute Articles 3, 7(1) and 7(3).

GENERAL ALLEGATIONS

54. Unless otherwise specifically stated, all acts and omissions alleged in this Joinder Indictment occurred in or on the territory of the former Yugoslavia.

55. At all relevant times, a state of armed conflict existed in the Krajina region of the Republic of Croatia in or on the territory of the former Yugoslavia.

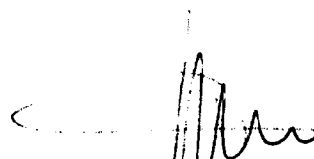
56. All acts, practices, omissions and conduct charged as a crime in this Joinder Indictment occurred as part of a widespread or systematic attack directed against a civilian population, namely, the Serb population of the southern portion of the Krajina region.

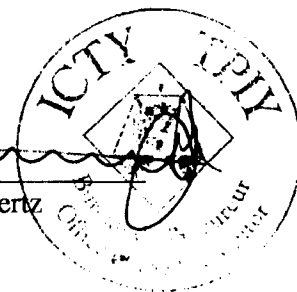
57. At all relevant times, each of the accused was required to abide by the laws and customs governing the conduct of war, including the Geneva Conventions of 1949 (including Common Article 3) and the additional protocols thereto.

58. All acts, practices, omissions and conduct charged in connection with the destruction of property were committed, omitted and/or carried out unlawfully and wantonly, and without military necessity or justification.

59. The acts, practices, omissions and conduct by which the accused and other persons committed persecutions, as charged in Count 1, included, without limitation, the crimes charged in Counts 2 through 9.

60. The allegations and counts charging or involving murder or killing include all murders and killings which were committed by members of the Croatian forces in the course of the conduct outlined in this Joinder Indictment. The Schedule concerning these allegations sets forth only a small number of particular incidents for the purposes of specificity in pleading.


Serge Brammertz
Prosecutor



21 February 2008
The Hague, The Netherlands

ANNEX A**HV ("Postrojbe HV") of the Split MD ("Zbornu Područje Split, ZP Split")****and other units attached to it for the period of Storm****Operations Groups ("Operativna grupa")**

OG Sinj
 OG Šibenik
 OG Zadar
 OG Sjever

Garrisons

Split Garrison (Command), ("Zbornu mjesto Split");
 Zadar Garrison (Command), ("Zbornu mjesto Zadar");
 Sinj Garrison (Command), ("Zbornu mjesto Sinj");
 Vrgorac Garrison (Command), ("Zbornu mjesto Vrgorac");
 Imotski Garrison (Command), ("Zbornu mjesto Imotski");
 Dubrovnik Garrison (Command), ("Zbornu mjesto Dubrovnik");
 Benkovac Garrison (Command), ("Zbornu mjesto Benkovac");
 Knin Garrison (Command), ("Zbornu mjesto Knin");

Units

4th Mechanised Guards Bde (The Lions or The Spiders), HQ Split, (4 Gardijska Brigada, 4gbr, "Lavovi", "Paukovi");
 112th Infantry Brigade, HQ Zadar, (112 brigada, 112 br);
 113th Infantry Brigade, HQ Šibenik, (113 brigada, 113 br);
 141st Infantry Brigade, HQ Split, (141 brigada, 141 br);
 6th Home Guard Regiment, HQ Split, (6 domobranska pukovnija, 6 dp);
 7th Home Guard Regiment, HQ Zadar, (7 domobranska pukovnija, 7 dp);
 15th Home Guard Regiment, HQ Šibenik, (15 domobranska pukovnija, 15 dp);
 126th Home Guard Regiment, HQ Sinj, (126 domobranska pukovnija, 126 dp);
 134th Home Guard Regiment, HQ Biograd, (134 domobranska pukovnija, 134 dp);
 142nd Home Guard Regiment, HQ Šibenik, (142 domobranska pukovnija, 142 dp);
 264th Reconnaissance-Sabotage Company, HQ Split, (264 Izvidnička Diverzantska Satnija, 264 ids);
 72nd Military Police Battalion, HQ Split, (72 bojna vojne policije, 72 bVP);
 11th Anti-tank artillery rocket Battalion, HQ Zadar (11POTRD);
 14th Artillery Rocket Battalion, HQ Zadar, (14 topničko raketni divizijun, 14 trd);
 20th Artillery Rocket Battalion, HQ Split, (20 topničko raketni divizijun, 20 trd);
 204th Air Defence Artillery Rocket Brigade, HQ Split, (204 topničko raketna brigada PZO, trbr PZO);
 40th Engineer Battalion, HQ Split, (40 inženjerijska bojna);
 306th Logistics Base, HQ Split, (306 logistička baza, 306 lob);
 307th Logistics Base, HQ Zadar, (307 logistička baza, 307 lob);

7th Mechanised Guards Bde ("The Pumas"), HQ Varaždin, (7 Gardijska Brigada, 7 gbr, "Puma");
 2nd Battalion of 9th Mechanised Guards Brigade ("The Termites"), (previously independent 84 Bn), HQ Gospić, (2 bojna 9 gardijskoj brigade, 2/9 bde, Termiti);
 144th Infantry Brigade, HQ Zagreb, (144 brigada, 144 br);
 81st Guards Battalion, HQ Virovitica, (81 gardijska bojna, 81 gb);
 1 hgZ (Hrvatski Gardijski Zdrug) (1 Brigade, part of the HGZ = Croatian Guards Corps);

ANNEX A

350 Reconnaissance and Sabotage Unit, HQ Zagreb ("350 Izvidnička Diverzantska Satnija, 350 IDS");
a part of 73rd Military Police Battalion, HQ Split, (73 bojna vojne policije, 73 bVP);
Battery of 8th Howitzer Artillery Battalion, HQ Zagreb (bitnica 8 topničkog divizion);
2 fighter aircraft MiG-21 (Air Base Pula), 2 attack helicopters MI-24, and 2 multipurpose helicopters MI-8;

HVO Units ("Postrojbe HVO")

1st Mechanised Guards Bde (HVO), (1 Gardijska Brigada HVO, 1gbr HVO);
2nd Mechanised Guards Bde (HVO), (2 Gardijska Brigada HVO, 2gbr HVO);
3rd Mechanised Guards Bde (HVO), (3 Gardijska Brigada HVO, 3gbr HVO);
60th Guards Bn (HVO), (60 gardijska bojna HVO, 60 gb HVO);
Units of Tomislavgrad Military District (Tomislavgrad ZP, HR-HB).

Special Police of the MUP of Herceg-Bosna ("Specialjna Policija HR H-B")

SCHEDULE TO JOINDER INDICTMENT

KILLING INCIDENTS

Counts 6 and 7

Village or Hamlet	Date	Victims Name	Sex	Age	Manner of Death
KNIN MUNICIPALITY					
1. <u>Kovačić</u>	5 Aug 95	Nikola Dragičević,	M	60	Gunshot
		Mile Dragičević,	M	62	Gunshot
		Sava Čeko	M	50	Gunshot
2. <u>Đurići</u>	On or about 6 Aug 95	Sava Đurić	M		Burnt
3. <u>Žagrović</u>	On a date between 5 and 12 August 95	Milka Petko	F	70	Gunshot
		Ilija Petko	M	45	Gunshot
		Dmitar Rašuo	M	81	Gunshot
		Đuro Rašuo	M	40	Gunshot
		Unidentified			Gunshot
4. <u>Grubori</u>	25 Aug 95	Miloš Grubor	M	80	Gunshot
		Jovo Grubor	M	65	Gunshot/ Throat Cut
		Marija Grubor	F	90	Burnt
		Mika Grubor	F	51	Gunshot
		Đuro Karanović	M	45	Beaten / Gunshot
ORLIĆ MUNICIPALITY					
5. <u>Orlić</u>	On or about 13 Aug 95	Tode Marić	M		Gunshot
6. <u>Šarena Jezera/ Vrbnik</u>	5 Aug 95	Miloš Borjan	M		Gunshot
		unidentified	M		Gunshot
		unidentified	M		Gunshot
		unidentified	M		Gunshot
		unidentified	M		Gunshot
		unidentified	M		Gunshot
		unidentified	M		Gunshot

SCHEDULE TO JOINDER INDICTMENT

7. <u>Uzdolje</u>	6 Aug 95	Milica Šare	F		Gunshot
		Stevo Berić	M	62	Gunshot
		Janja Berić	F	62	Gunshot
		Miloš Čosić	M	72	Gunshot
		Jandrija Šare	F	63	Gunshot
		Djuka Berić	F	75	Gunshot
		Krsta Šare	F	61	Gunshot
KISTANJE MUNICIPALITY					
8. <u>Kakanj</u>	On a date between 10 and 18 Aug 95	Danica Šarić	F		
		Uroš Šarić	M		Gunshot
		Uroš Ognjenović	M		Gunshot
ERVENIK MUNICIPALITY					
9. <u>Oton</u>	18 Aug 95	Marta Vujnović	F	85	Gunshot
DONJI LAPAC MUNICIPALITY					
10. <u>Oraovac</u>	7 Aug 95	Marko Ilić	M	76	Gunshot
		Stevo Ajduković	M	59	Gunshot
		Rade Bibić	M	78	Gunshot
		Ruža Bibić	F	75	Gunshot