

IT-06-90-1
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01 July 2008

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UNITED
NATIONS



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-06-90-T

Date:

1 July 2008

Original:

English

IN TRIAL CHAMBER I

Before: Judge Alphons Orie, Presiding
Judge Uldis Ķinis
Judge Elizabeth Gwaunza

Registrar: Mr Hans Holthuis

Order of: 1 July 2008

PROSECUTOR

v.

ANTE GOTOVINA
IVAN ČERMAK
MLADEN MARKAČ

PUBLIC

ORDER SCHEDULING A HEARING

Office of the Prosecutor

Mr Serge Brammertz
Mr Alan Tieger
Mr Stefan Waespi

Republic of Croatia

Per: the Embassy of the Republic of Croatia
to the Kingdom of the Netherlands

Counsel for Ante Gotovina

Mr Luka Mišetić
Mr Gregory Kehoe
Mr Payam Akhavan

Counsel for Ivan Čermak

Mr Steven Kay
Mr Andrew Cayley
Ms Gillian Higgins

Counsel for Mladen Markač

Mr Goran Mikuličić
Mr Tomislav Kuzmanović

TRIAL CHAMBER I (“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 Application for an Order Pursuant to Rule 54 *bis* Directing the Government of the Republic of Croatia to Produce Documents or Information” filed publicly with public and confidential Appendices on 13 June 2008 and the “Corrigendum to Prosecution’s Application for an Order Pursuant to Rule 54 *bis* Directing the Government of the Republic of Croatia to Produce Documents or Information” filed publicly with one Appendix on 19 June 2008 (“Motion”);

NOTING that the Gotovina Defence has requested leave from the Chamber to respond to the Motion and the Chamber has granted the request. The Gotovina Defence has filed the “Defendant Ante Gotovina’s Response to Prosecution’s Application for an Order Pursuant to Rule 54 *bis* Directing the Government of the Republic of Croatia to Produce Documents or Information” (“Response”) on 24 June 2008, requesting that the Chamber dismisses the Motion;

NOTING that the Markač Defence has filed the “Defendant Mladen Markač’s Joinder to Defendant Ante Gotovina’s Response to Prosecution’s Application for an Order Pursuant to Rule 54 *bis* Directing the Government of the Republic of Croatia to Produce Documents or Information” on 26 June 2008;

NOTING that the Prosecution has requested leave from the Chamber to reply to the Response by the “Prosecution’s Application to Reply to Gotovina’s Response to Prosecution’s Application for an Order Pursuant to Rule 54 *bis*”, filed on 26 June 2008, and that the Chamber informally communicated to the parties that it had granted the Prosecution and the Gotovina and the Markač Defence the opportunity to make further submissions on issues raised by the Motion and the Response;

NOTING that on 30 June 2008 the Prosecution, the Gotovina Defence and the Markač Defence did orally respond to the respective points of view of the Parties as reflected in the Motion and the Response.

NOTING that the Prosecution has requested the assistance of the Republic of Croatia in obtaining documents or information listed in the request for artillery documents of 15 May

2007 (“Artillery Document Request”) and the request for special police documents of 27 June 2007 (“RFA 739”), as contained in confidential Appendices D and E of the Motion;

NOTING that the Prosecution has set forth efforts taken to obtain the documents it had requested from the Republic of Croatia in public Appendix A and public Appendix B to the Motion;

NOTING that these requests have led to the production by the Republic of Croatia of only a small part of the documents and the information requested;

CONSIDERING the arguments raised in the Motion, the Response and the oral submissions in court, the Chamber does not find that the aforementioned documents and information have so little relevance or are unnecessary for a fair determination as to justify rejection of the Motion *in limine* pursuant to Rule 54 *bis* (B) (i) of the Rules. The Chamber is not satisfied that the Prosecution has failed to take reasonable steps to obtain the documents or the information which would justify rejection of the Motion *in limine* pursuant to Rule 54 *bis* (B) (ii) of the Rules;

FINDING it appropriate to hear the Republic of Croatia under Rule 54 *bis* (D) (i) of the Rules;

PURSUANT to Article 29 of the Statute of the Tribunal and Rule 54 *bis* of the Rules;

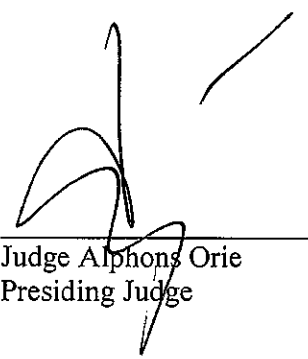
HEREBY ORDERS that a hearing be held on Friday 18 July 2008, at 2.15 p.m. in Courtroom 1;

REQUESTS the Republic of Croatia to appear before the Chamber through authorized and informed representative(s) at the time and place indicated above;

INFORMS the Republic of Croatia that should it wish to raise an objection on the grounds that disclosure would prejudice its national security interests, it should file a notice of objection pursuant to Rule 54 *bis* (F) of the Rules not less than five days before the date of the hearing;

INSTRUCTS the Registrar to serve the present Order on the Government of the Republic of Croatia, *per* the Embassy of the Republic of Croatia to The Netherlands, The Hague.

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



Judge Alphons Orié
Presiding Judge

Dated this first day of July 2008
At The Hague
The Netherlands

[Seal of the Tribunal]