



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-04-84-PT

Date: 12 January 2007

Original: English

IN TRIAL CHAMBER II

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

Registrar: Mr. Hans Holthuis

Decision of: 12 January 2007

PROSECUTOR

v.

**RAMUSH HARADINAJ
IDRIZ BALAJ
LAHI BRAHIMAJ**

**DECISION ON MOTION TO AMEND
THE AMENDED INDICTMENT**

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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”) is seised of the “Motion Seeking Leave to Amend the Amended Indictment by Substituting a Revised Second Amended Indictment”, filed by the Prosecution on 10 November 2006 (“10 November Motion”). In the 10 November Motion, the Prosecution requests the Trial Chamber to grant it leave to amend the Amended Indictment. The Trial Chamber hereby renders its decision on the 10 November Motion.

I. PRELIMINARY MATTERS

1. The initial Indictment in this case was confirmed on 4 March 2005 (“Original Indictment”),¹ containing 37 counts charging Ramush Haradinaj, Idriz Balaj and Lahi Brahimaj (collectively, “Accused”) with crimes against humanity and violations of the laws or customs of war. On 26 April 2006 the Prosecution filed a motion seeking leave to amend the Original Indictment, in order to add two new counts and a number of allegations under two of the existing counts.² On 25 October 2006 the Trial Chamber granted the motion and adopted the Amended Indictment (“Amended Indictment”)³ as operative in this case.

2. On the same day as the Amended Indictment was confirmed (25 October 2006), the Prosecution filed a motion seeking leave to further amend the Amended Indictment (“25 October Motion”).⁴ On 7 November 2006 Idriz Balaj filed a response informing the Trial Chamber that he did not oppose the 25 October Motion.⁵ Balaj, however, reserved the right under Rule 72 to file any challenges to the new indictment, should it be approved by the Trial Chamber, within 30 days. On 9 November 2006 Ramush Haradinaj filed a response informing the Trial Chamber that he did not have any submissions to make pursuant to Rule 50 and no preliminary motions to file pursuant to Rule 72.⁶ Lahi Brahimaj did not file any response to the 25 October Motion, thereby waiving his

¹ *Prosecutor v. Haradinaj, Balaj, and Brahimaj*, Case No. IT-04-84-PT (“*Haradinaj et al.*”), (Confidential and *Ex Parte*) Decision on Review of the Indictment, 4 March 2005, p. 3.

² *Haradinaj et al.*, Motion for Leave to Amend the Indictment in the Case of *Prosecutor v. Haradinaj [et] al.* with Public and *Ex Parte* Annexes, Case No. IT-04-84-PT, 26 April 2006.

³ *Haradinaj et al.*, Decision on Motion to Amend the Indictment and on Challenges to the Form of the Amended Indictment, 25 October 2006 (“*Haradinaj et al.* October 2006 Decision”), p. 13.

⁴ *Haradinaj et al.*, Prosecution Motion Seeking Leave to Amend the Indictment with Annexes (Partly Confidential and *Ex Parte*), 25 October 2006.

⁵ *Haradinaj et al.*, Response by the Defence for Idriz Balaj to “Prosecution Motion Seeking Leave to Amend the Indictment with Annexes (Partly Confidential and *Ex Parte*)”, 25 October 2006, 7 November 2006.

⁶ *Haradinaj et al.*, Defence Response on Behalf of Mr. Ramush Haradinaj to Prosecution Motion Seeking Leave to Amend the Indictment, 9 November 2006 (“*Haradinaj Response*”), para. 2.

right to object to the further amendment, without affecting his right to bring any challenge to the new indictment within 30 days of its approval by the Trial Chamber pursuant to Rule 72.

3. While the 25 October Motion was still pending in the Trial Chamber, the Prosecution filed the 10 November Motion, in which it seeks leave to amend the Amended Indictment, and to replace the 25 October 2006 proposed Second Amended Indictment (“Initial Second Amended Indictment”), with a revised proposed Amended Indictment (“Revised Second Amended Indictment”).⁷ Along with the 10 November Motion, the Prosecution filed a number of annexes. Annex A contains the Prosecution’s proposed Revised Second Amended Indictment as it would appear if leave to amend were granted as requested by the Prosecution. Annex B contains a version of the Revised Second Amended Indictment tracking the changes sought to be made to the Initial Second Amended Indictment. Annex C contains a version of the Revised Second Amended Indictment tracking the changes sought to be made to the Amended Indictment confirmed on 25 October 2006. Annex D should have contained a chart detailing the changes to the charges contained in each count, but was mistakenly omitted from the 11 November Motion. It was submitted by the Prosecution in a corrigendum dated 16 November 2006.⁸

4. The 10 November Motion requests that the Trial Chamber treat the Revised Second Amended Indictment as the Prosecution’s proposed amendments in lieu of the Initial Second Amended Indictment filed on 25 October 2006. The Prosecution seeks to make a number of non-substantive clerical and stylistic improvements to the Amended Indictment; it also requests leave pursuant to Rule 50(A) to make some substantive changes. The Prosecution proposes to withdraw Counts 1 and 2 of the Amended Indictment, which respectively allege persecution and inhumane acts as crimes against humanity under Articles 5(h) and 7(1) of the Statute, and cruel treatment as a violation of the laws or customs of war under Articles 3 and 7(1). These counts pertain to the Jollaj family in the village of Glodjane/Gllogjan. The underlying offence of torture has also been added to Counts 2, 4, 6, 20, 24, 28, 32, and 37 of the Revised Second Amended Indictment, charging the Accused with violations of the laws or customs of war under Article 3. Torture is also added to Counts 1, 3, 5, 19, 23, 27, 31, and 35 of the Revised Second Amended Indictment as a crime against humanity, as provided for by Article 5(f) of the Statute. In these same counts, torture has alternatively been alleged as a form of persecution as a crime against humanity under Article 5(h).

⁷ 10 November Motion, para. 2.

⁸ *Haradinaj et al.*, Prosecution Corrigenda and Addendum to “Motion Seeking Leave to Amend the Amended Indictment by Substituting a Revised Second Amended Indictment”, 16 November 2006, Annex.

The Prosecution also seeks to add new material facts relating to the identity of the remains of alleged victims in Counts 9, 10, 12, 14, 19, 20, 21, 22, 31 and 32.⁹

5. On 10 January 2007, the Pre-Trial Judge issued an order for the Prosecution to identify or file supporting material in relation to seven new victims named in Counts 21 and 22 of the Revised Second Amended Indictment (“10 January Order”) by 11 January 2007.¹⁰ On 11 January 2007, the Prosecution filed a submission which included seven annexes containing supporting material purportedly relating to Counts 21 and 22 of the Revised Second Amended Indictment (“11 January Submission”). In the submission the Prosecution sought an extension of the 10 January Order to allow it to file the remainder of the supporting material.¹¹ On 12 January 2007, the Prosecution filed a further submission which included the remainder of the supporting material.¹²

6. The Trial Chamber has reviewed and considered the submissions of the Prosecution and those which were timely submitted by the Accused. Only two of the Accused have filed responses; neither of them objected to the granting of the 25 October Motion, and their failure to file any submissions in relation to the 10 November Motion suggests that they also do not oppose the granting of that Motion. However, to ensure that the decision is made in accordance with the standards set out in Rule 50(A)(i)(c) and (A)(ii), the Trial Chamber will fully address issues related to whether leave should be granted to amend the Amended Indictment.

7. Furthermore, the 10 November Motion was filed before the Trial Chamber issued a decision on the 25 October Motion, and the Prosecution has requested that the 10 November Motion supersede the 25 October Motion. The Trial Chamber is of the view that it is in the interests of justice to grant this request, and therefore dismisses as moot the 25 October 2006 Motion. In addition, The Trial Chamber will consider the Haradinaj and Balaj responses to the 25 October Motion as applicable to its analysis of the 10 November Motion.

⁹ See 10 November Motion, para. 9.

¹⁰ *Haradinaj et al.*, Order Requiring Prosecution to Identify or File Supporting Material for Proposed Amendments, 10 January 2007 (“*Haradinaj et al.* 10 January Order”).

¹¹ *Haradinaj et al.*, Prosecution Submission of Supporting Material for Revised Second Amended Indictment and Application for Extension of Time to Comply with Order, 11 January 2007 (“*Haradinaj et al.* 11 January Submission”).

¹² *Haradinaj et al.*, Prosecution Submission of Further Supporting Material for Revised Second Amended Indictment with Confidential Annexes, 12 January 2007 (“*Haradinaj et al.* 12 January Submission”).

II. AMENDMENT OF THE INDICTMENT

A. Law on the Amendment of the Indictment

The Amendment of an indictment is governed by Rule 50. However, the Trial Chamber recalls the comprehensive discussion of the Tribunal's jurisprudence on the amendment of an indictment in its "Decision on Further Amendments and Challenges to the Indictment", issued on 13 July 2006 in *Prosecutor v. Popović et al.*¹³ As the law on this subject has not changed since the issuance of that decision, the Chamber will rely on the legal discussion set forth therein and sees no need to reproduce it here.

B. Prosecution Arguments

8. The Prosecution argues that the proposed amendments in the Revised Second Amended Indictment narrow and clarify the Prosecution case and contain all necessary legal and factual pleadings.¹⁴ It submits that the removal of two counts and the removal of allegations of criminal conduct by the Accused with respect to a number of victims in several counts will ensure fairness to the Accused. The removal of a number of factual allegations that are not material to the crimes charged and the greater precision in specifying the applicable forms of responsibility under Article 7(1) of the Statute for each Accused will ease the burden on the Accused in preparing their respective defences. The clarification of charges against the Accused, it is argued, will not cause any undue delay to the start of trial, but will rather increase the efficiency of proceedings.¹⁵

9. The Prosecution acknowledges that the crimes charged in the Revised Second Amended Indictment differ slightly from those charged in the Amended Indictment. It goes on to submit, however, that these changes are not the result of new allegations of criminal conduct, and only involve the legal re-characterisation of a number of existing charges. While the Prosecution is not of the opinion that these changes constitute new charges, it argues that should the Trial Chamber determine that they do in fact constitute new charges, undue delay need not result as no trial date has been set; therefore, according to the Prosecution, the additional procedural requirements of allowing the Accused to appear and plead to any new charges, and to file any preliminary

¹³ See *Prosecutor v. Popović, Beara, Nikolić, Borovčanin, Tolimir, Miletić, Gvero, and Pandurević*, Case No. IT-05-88-PT, Decision on Further Amendments and Challenges to the Indictment, 13 July 2006 ("*Popović et al.* July 2006 Pre-Trial Decision"), paras. 5–11, 20–36.

¹⁴ 10 November Motion, para. 19.

¹⁵ *Ibid.*, paras. 12–13.

challenges in respect of any new charges, can be fulfilled without causing any delay in the proceedings.¹⁶

10. The Prosecution submits that the Accused would require little, if any, additional time in order to prepare their defences, as the Revised Second Amended Indictment does not plead any new allegations of criminal conduct. Any delay that might result would be more than offset by the increased efficiency in the proceedings resulting from the other proposed amendments.¹⁷

11. The Prosecution further submits that the Revised Second Amended Indictment meets the *prima facie* standard under Article 19 of the Statute, as it makes no new allegations of criminal conduct; therefore, the supporting material that accompanied the Original Indictment and the Amended Indictment also establishes the *prima facie* case in respect of all charges in the Revised Second Amended Indictment. The Prosecution contends that all evidence supporting any additional material facts included in the Revised Second Amended Indictment has already been disclosed to the Accused.¹⁸

C. Discussion

12. A Chamber enjoys wide discretion in granting leave to amend an indictment, and will typically grant such leave where the amendment in question has the prospect of helping “to ensure that the real issues in the case will be determined”.¹⁹ The Trial Chamber has examined the amendments proposed in the Revised Second Amended Indictment and considers that, on the whole, they serve to clarify the scope of the Prosecution’s case against the Accused. The great majority of the proffered changes are merely structural, terminological, or typographical, and seek merely to rectify minor, non-substantive errors and ambiguities. Furthermore, the Accused have not presented any objection to the granting of the 10 November Motion, and so the Chamber is accordingly inclined to grant leave to make such amendments, provided the following two conditions are fulfilled: the inclusion of the amendments which are material must not result in unfair prejudice to the Accused, and those amendments which are material must be supported by documentation meeting the *prima facie* standard in Article 19 of the Statute. The Chamber will proceed to examine the proposed amendments having regard to these two conditions.

¹⁶ *Ibid.*, paras. 15–16.

¹⁷ *Ibid.*, para. 17.

¹⁸ *Ibid.*, para. 18.

¹⁹ *Prosecutor v. Brđanin and Talić*, Case No. IT-99-36-PT, Decision on Form of Further Amended Indictment and Prosecution Application to Amend, 26 June 2001, para. 50.

a. Do the proposed amendments result in unfair prejudice to the Accused?

13. One of the two key factors to take into account when determining the possible prejudicial effect of a proposed amendment is whether it provides the accused with sufficient notice of the scope and nature of the new allegations, affording the accused an adequate opportunity to prepare an effective defence.²⁰ The closer to trial the Prosecution proposes a given amendment, the more likely it is that the Trial Chamber will reject it on the ground that its introduction would cause unfair prejudice to the accused by depriving him or her of adequate notice.²¹

14. With regard to this first key factor, three considerations have led the Chamber to conclude that the proposed amendments will not cause unfair prejudice to the Accused by depriving them of adequate notice. First, almost all of the material amendments—that is, those amendments other than those seeking to make minor structural, terminological, or typographical changes—involve new legal characterisations of factual allegations that existed either in the Original Indictment or in the Amended Indictment, or both. The Accused have therefore already had ample opportunity to investigate the great majority of the factual allegations that would be included in the Second Amended Indictment if the proposed amendments were granted by the Trial Chamber as drafted; the only exception are those factual allegations under Counts 21 and 22 of the Revised Second Amended Indictment describing the killing of several new victims by the Kosovo Liberation Army (“KLA”) in the Lake Radonjić/Radoniq canal area.²⁴ Second, the Accused have been aware of the Prosecution’s intention to amend the Amended Indictment, and of the substance of these amendments, since at least 10 November 2006, when the Prosecution filed the 10 November Motion. Third, none of the three Accused has raised any objection to the granting of the 10 November Motion.

²⁰ *Prosecutor v. Čermak and Markač*, Case No. IT-03-73-PT, Decision on Prosecution’s Consolidated Motion to Amend the Indictment and for Joinder, 14 July 2006, para. 11; *Popović et al.* July 2006 Pre-Trial Decision, *supra* note 13, para. 20; *Prosecutor v. Boškoski and Tarčulovski*, Case No. IT-04-82-PT, Decision on Prosecution’s Motion to Amend the Indictment and Submission of Proposed Second Amended Indictment and Submission of Amended Pre-Trial Brief, 26 May 2006, para. 10; *Prosecutor v. Milutinović, Šainović, Ojdanić, Pavković, Lazarević, Đorđević, and Lukić*, Case No. IT-05-87-PT, Decision on Motion to Amend the Indictment, 11 May 2006, para. 10; *Prosecutor v. Halilović*, Case No. IT-01-48-PT, Decision on Prosecutor’s Motion Seeking Leave to Amend the Indictment, 17 December 2004 (“*Halilović* Pre-Trial Decision”), para. 23.

²¹ *Popović et al.* July 2006 Pre-Trial Decision, *supra* note 13, para. 21. *Accord Prosecutor v. Delić*, Case No. IT-04-83-PT, Decision on the Prosecution’s Submission of Proposed Amended Indictment and Defence Motion Alleging Defects in Amended Indictment, 30 June 2006, para. 62; *Prosecutor v. Šešelj*, Case No. IT-03-67-PT, Decision on Prosecution’s Motion for Leave to Amend the Indictment, 27 May 2005, para. 5.

²⁴ See Revised Second Amended Indictment, paras. 78–89.

15. The second key factor to take into account when determining the possible prejudicial effect of a proposed amendment is whether its inclusion will result in undue delay of the proceedings, and particularly whether it risks delaying the start date of trial. This risk is greater where the proposed amendment incorporates a new charge against the accused, as the accused would have to make a further appearance to plead to the new charge pursuant to Rule 50(B) and, according to Rule 50(C), would have an additional period of 30 days to file preliminary challenges in respect of the new charge pursuant to Rule 72.²⁵

16. The Trial Chamber reaffirms its endorsement of the holding of the *Halilović* Trial Chamber as to what constitutes a new charge for purposes of Rule 50:

When considering whether a proposed amendment results in the inclusion of a “new charge”, it is [...] appropriate to focus on the imposition of criminal liability on a basis that was not previously reflected in the indictment. In the opinion of the Trial Chamber the key question is, therefore, whether the indictment introduces a basis for conviction that is *factually and/or legally distinct* from any already alleged in the indictment.²⁶

The introduction of a crime not previously reflected in the indictment amounts to the inclusion of a new charge because it introduces a basis for conviction that is legally distinct from those already alleged. Since the accused could ultimately be convicted solely for this crime, and acquitted of all others alleged in the original indictment, he or she must be given the opportunity to enter a plea in respect of the new charge. Accordingly, the accused must be permitted to enter a plea on any new charges pursuant to Rule 50(B), even though the original indictment may have alleged that the accused’s mistreatment of the victim amounted to another crime, such as inhumane acts as a crime against humanity. Similarly, the introduction of a factual allegation not previously reflected in the indictment also amounts to the inclusion of a new charge, but only where such allegation exposes the accused to an additional basis for conviction.²⁷

17. The Prosecution argues that while the crimes alleged in the Revised Second Amended Indictment differ slightly from those in the Amended Indictment, these changes merely constitute legal re-characterisations of a number of existing charges, and no new counts have been added to

²⁵ *Haradinaj et al.* October 2006 Decision, *supra* note 3, para. 12; *Popović et al.* July 2006 Pre-Trial Decision, *supra* note 13, para. 10; *Halilović* Pre-Trial Decision, *supra* note 20, para. 24.

²⁶ *Halilović* Pre-Trial Decision, *supra* note 20, para. 30 (emphasis added). *See also*, para. 34 (holding that “where the new allegation could be the sole action or omission of the Accused that justifies his conviction, that amendment is a ‘new charge’ for the purposes of Rule 50”). *See also* *Haradinaj et al.* October 2006 Decision, *supra* note 3, para. 13 (also reaffirming this Trial Chamber’s endorsement of the *Halilović* standard in *Popović et al.* July 2006 Pre-Trial Decision, *supra* note 13, para. 11).

²⁷ *See Popović et al.* July 2006 Pre-Trial Decision, *supra* note 13, para. 11.

the Amended Indictment.²⁸ Yet as this Trial Chamber has observed in the past, it is each charge that exposes the accused to individual criminal liability; the counts in an indictment, by contrast, merely reflect the way in which the Prosecution chose to organise the charges in relation to the alleged crimes.²⁹ Thus, it is entirely conceivable that a proposed amendment may seek to introduce previously uncharged crimes without adding any new counts.

18. The Trial Chamber holds that the proposed amendments to the Amended Indictment contain a considerable number of new charges against the Accused. Several of these new charges stem from the introduction of a basis for liability that is legally distinct from any already alleged in the Amended Indictment. Specifically, Counts 1, 3, 5, 19, 23, 27, 31, and 35 of the Revised Second Amended Indictment not only allege torture as a new means by which the Accused may incur liability for persecution as a crime against humanity under Article 5(h), but also, in the alternative, torture as a crime against humanity in its own right under Article 5(f). Counts 2, 4, 6, 20, 24, 28, 32, and 37, through their introduction of the new crime of torture as a violation of the laws or customs of war under Article 3, contain at least one new charge each. Count 29, while still relating to the same criminal episode, now charges five new crimes against humanity—persecution,³⁰ murder, imprisonment, torture, and inhumane acts as crimes against humanity—in lieu of cruel treatment as a violation of the laws or customs of war. In a similar vein, Count 34, while still relating to the same underlying factual allegations, now charges torture as a violation of the laws or customs of war, rather than the previously charged persecution as a crime against humanity. Furthermore, imprisonment as a crime against humanity under Article 5(e) has been inserted, for the first time, in Counts 20, 23, 27, 31, and 35; cruel treatment as a violation of the laws or customs of war under Article 3 has been inserted in Counts 16, 18, 20, 24 and 26; and forcible labour as a crime against humanity under Article 5(h) has been inserted in Count 35.1.

19. The Prosecution has additionally inserted other new charges in Counts 21 and 22 by including under them bases for liability that are factually distinct from any already alleged in the Amended Indictment. Although no new additional crimes are alleged under these counts through any additional form of responsibility, these paragraphs allege new and different ways in which the physical perpetration of the crimes charged in those counts were committed. In particular, the paragraphs underpinning Counts 21 and 22 list several new victims who were allegedly killed by

²⁸ 10 November Motion, para. 15.

²⁹ See *Haradinaj et al.* October 2006 Decision, *supra* note 3, para. 13; *Popović et al.* July 2006 Pre-Trial Decision, *supra* note 13, para. 11, n. 26.

³⁰ Through the forms of murder, imprisonment, torture, other inhumane acts, and abduction.

the KLA in the Lake Radonjić/Radoniq canal area. Since the Trial Chamber could conceivably acquit any of the Accused of all previously charged criminal conduct, but find the Accused responsible for the killing of any of these new victims, new charges exist under both of these counts.

20. Accordingly, Counts 1, 2, 3, 4, 5, 6, 16, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 31, 35, and 37 would all contain new charges if the Trial Chamber were to grant the Prosecution leave to make the proposed amendments to the Amended Indictment. If such leave were granted, a further appearance would have to be held pursuant to Rule 50(B), in order for the Accused to re-enter their pleas in respect of all these counts. In addition, the Accused would have a further period of 30 days in which to file preliminary motions pursuant to Rule 72 in respect of the new charges. As discussed above,³¹ these two procedural consequences hold the potential of unduly delaying the proceedings, with the effect that the Accused may be unfairly prejudiced. In this particular case, however, the delaying effect of these procedural consequences is not so great, in the Trial Chamber's view, as to hold the risk of unfairly prejudicing the Accused.

21. In light of this holding and the holding above that none of the proposed amendments will deprive any of the Accused of his right to prepare an effective defence,³⁵ the Trial Chamber concludes that the Accused would not be unfairly prejudiced by the inclusion of all the proposed amendments in the Revised Second Amended Indictment. The Chamber will now examine whether the Prosecution has provided documentation in support of these proposed amendments satisfying the *prima facie* standard of Article 19 of the Statute.

b. Are the proposed amendments supported by documentation meeting the *prima facie* standard?

22. Under the jurisprudence of this Tribunal, the test for determining whether a *prima facie* case has been established by the Prosecution in accordance with Article 19(1) of the Statute and Rule 50(A)(ii) obliges the Trial Chamber to inspect the supporting documentation submitted with

³¹ See *supra* para. 15.

³⁵ See *supra* para. 14.

the indictment in order to determine whether it provides a “credible case which would (if not contradicted by the Defence) be a sufficient basis to convict the accused on the charge.”³⁶

23. The Prosecution filed supporting documentation along with the Original Indictment and the Amended Indictment. Furthermore, in the 10 January Order the Pre-Trial Judge, pursuant to jurisprudence holding that the Prosecution must provide supporting material for every “material proposed amendment” to an indictment, or identify such documentation from the items already in the Trial Chamber’s possession,³⁷ ordered the Prosecution to provide the Trial Chamber with supporting documentation, or to identify where in the items already in the Chamber’s possession such documentation can be found, relating to seven new victims identified in Counts 21 and 22 of the Revised Second Amended Indictment. The Prosecution submitted some of the requested documentation on 11 January 2007.³⁸ In that submission, the Prosecution requested that it be given an additional day in order to file the remainder of the supporting material. In the interests of justice the Chamber has decided to grant this request. On 12 January 2007, the Prosecution filed the remainder of the documentation.³⁹

24. The Trial Chamber has examined the proposed amendments in the Revised Second Amended Indictment having regard to the supporting documentation that accompanied the Original Indictment and the Amended Indictment, as well as that submitted by the Prosecution in response to the 10 January Order, and finds that it establishes a *prima facie* case for the proposed amendments. The requirements of Article 19 of the Statute and Rule 50 have therefore been met. Bearing in mind the Chamber’s holding that the proposed amendments will not cause unfair prejudice to the Accused, and that the Accused have not filed any objection to the proposed amendments, the Chamber accordingly grants leave to the Prosecution to make the proposed amendments.

³⁶ *Popović et al.* July 2006 Pre-Trial Decision, *supra* note 13, para. 36 (quoting *Prosecutor v. Kordić, Blaškić, Čerkez, Šantić, Skopljak, and Aleksovski*, Case No. IT-95-14-I, Decision on the Review of the Indictment, 10 November 1995, p. 3). *Accord Prosecutor v. Stanišić and Simatović*, Case No. IT-03-69-PT, Decision on Defence Request for Certification to Appeal Decision Granting Prosecution Leave to Amend the Amended Indictment, 8 February 2006, para. 3.

³⁷ *Haradinaj et al.* 10 January Order, *supra* note 10, p. 1.

³⁸ *Haradinaj et al.* 11 January Submission, *supra* note 11, para. 6

³⁹ *Haradinaj et al.* 12 January Submission, *supra* note 12.

III. DISPOSITION

25. For the reasons discussed above, pursuant to Article 19 of the Statute and Rules 50 and 54, the Trial Chamber hereby orders as follows:

- a. The 25 October Motion is dismissed as moot.
- b. The request in the 11 January Submission for an extension of time to file additional supporting material is granted.
- c. The 10 November Motion is granted, the Revised Second Amended Indictment shall henceforth be the operative indictment in this case.
- d. A further appearance for the Accused to re-enter their pleas in relation to Counts 1, 2, 3, 4, 5, 6, 16, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 31, 35, and 37 of the Revised Second Amended Indictment will be scheduled in due course.
- e. In accordance with the 13 December Order, the Prosecution shall file its pre-trial brief no later than Friday, 26 January 2007.
- f. In accordance with the 13 December Order, the Accused shall file their respective pre-trial briefs no later than 14 days after the Prosecution files its pre-trial brief.

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



O-Gon Kwon
Judge

Dated this twelfth day of January 2007
At The Hague
The Netherlands

[Seal of the Tribunal]