

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

Case No. IT-06-90-T

IN THE APPEALS CHAMBER

Before: Judge Mehmet Guney
Judge Fausto Pocar
Judge Adresia Vaz
Judge Theodor Meron
Judge Carmel Agius

Registrar: Mr. John Hocking

Date: 6 September 2011

THE PROSECUTOR

v.

ANTE GOTOVINA AND MLADEN MARKAC

PUBLIC

ERRATA TO APPELLANT'S BRIEF OF ANTE GOTOVINA

The Office of the Prosecutor:

Ms. Helen Brady
Mr. Douglas Stringer

For Ante Gotovina:

Mr. Gregory W. Kehoe
Mr. Luka S. Miletic
Mr. Payam Akhavan
Mr. Guenael Mettraux

For Mladen Markac:

Mr. Goran Mikulicic
Mr. Tomislav Kuzmanovic
Mr. John Jones
Mr. Kai Ambos

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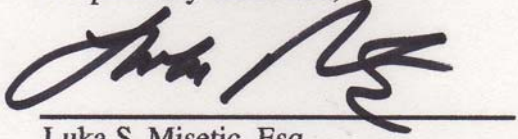
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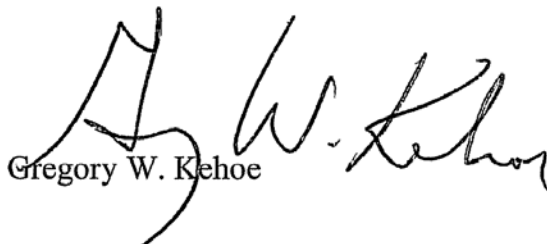
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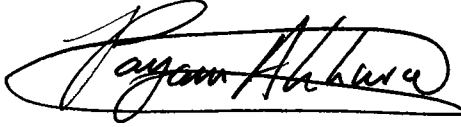
On 1 August 2011, General Ante Gotovina ("Appellant") submitted his Appellant's Brief pursuant to Rule 111 of the Tribunal's Rules of Procedure and Evidence. Appellant has prepared corrections to several minor errors that appear in Appellant's Brief, which the Appellant now files.

Dated: 6 September 2011

Respectfully submitted,

Luka S. Misetic, Esq.


Guénaél Mettraux


Gregory W. Kehoe


Payam Akhavan

APPELLANT'S BRIEF OF ANTE GOTOVINA**Errata – August 10, 2011**

Page 1, paragraph 1, sentence 1. It should read: "Pursuant to Article 25 of the Statute of the Tribunal and Rule 111 of the Rules of Procedure and Evidence, General Ante Gotovina ("Appellant") hereby submits his Appellant's Brief in support of his appeal against Trial Chamber I's Judgement dated 15 April 2011 (IT-06-90-T) (hereinafter "Judgement")."

Page 1, paragraph 2. It should read: "Appellant adopts the procedural history as set forth in the Judgement at Paragraphs 2627-2685."

Page 9, paragraph 20, sentence 1. It should read: "The Trial Chamber's adoption of the 200M Rule for which there was no evidence constitutes an error of fact, which caused a miscarriage of justice."

Page 10, heading subsection A. It should read: "40 shells" did not impact near the ECMM Headquarters and the HV did not fire shells near the ECMM Headquarters."

Page 11, paragraph 28, sentence 1. It should read: "Moreover, Berikoff testified that on 4 August, his UN convoy was attacked by a Serb soldier who fired a rocket at Berikoff's UN APC."

Page 18, heading 1.1.5.2. It should read: "The Trial Chamber erred in fact in concluding that at least 10 projectiles landed more than 200 meters from known 'military targets' in Benkovac."

Page 18, paragraph 51, sentence 1. It should read: "The present sub-ground concerns the Chamber's erroneous finding that the HV fired projectiles in the Ristic Pine Woods, Ristic Hamlet and Benkovackso selo, allegedly impacting at least 500 meters from the nearest identified 'target.'"

Page 18, paragraph 53, sentence 1. It should read: "The Trial Chamber also ignored evidence that the HV had identified an SVK artillery position in Benkovacko selo (Ristic and the Ristic Pine Woods are part of Benkovacko selo)."

Page 22, heading 1.1.5.3. It should read: "The Trial Chamber erred in fact in concluding that at least 2 projectiles landed more than 200 meters from known 'military targets' in Gracac."

Page 26, paragraph 80, sentence 3. It should read: "At that point of his testimony, Rajcic was referring to the early planning of targets in Knin that had been taking place since 1993 at a time when the HV had no clear line of sight of Knin."

Page 26, paragraph 81, bullet 2. It should read: “Leslie and Dawes testified that they saw the HV bracketing its fire, which indicated to them that the HV was able to observe its fire in Knin.”

Page 33, paragraph 98, sentence 2. It should read: “International law does not prohibit attacks on “civilian areas,” but rather attacks against civilians or the civilian population (Protocol Article 51(2) or against “civilian objects” (Protocol Article 52(1)).”

Page 39, paragraph 107, sentence 1. It should read: “Rajcic was not given an opportunity to explain whether a military objective was located in the ‘civilian areas’ highlighted by the Trial Chamber because no a single disputed shelling incident was put to Rajcic.”

Page 42, footnote 238. It should read: “See above Section 1.1.3-1.1.4.”

Page 42, footnote 241. It should read: “TJ, 1906.”

Page 42, footnote 242. It should read: “TJ, pg.965,fn.932.”

Page 44, heading 1.2.2.4. It should read: “The Trial Chamber erred in fact and law by failing to determine the lawfulness of the attack on the basis of whether General Gotovina acted within the limits of honest judgement on the basis of the conditions prevailing and information available at the time.”

Page 48, footnote 266. It should read: “See Section 1.1.5.2(D).”

Page 60, paragraph 170, subsection (i). It should read: “There is compelling evidence that civilians left because or as a result of the RSK/SVK evacuation plan.”

Page 61, paragraph 172, sentence 1. It should read: “In light of the foregoing, no reasonable trier of fact could have concluded that fear of HV unlawful artillery attacks was the ‘direct and primary’ cause of departure of Serb civilians.”

Page 61, footnote 322. It should read: “See below Section 4.2-4.3.”

Page 64, paragraph 183, sentence 2. It should read: “In June 1996, Forand told the Canadian military that the HV’s use of artillery during *Storm* was ‘excellent’ and that it was the RSK evacuation order that ‘inevitably initiated the general retreat that followed.’”

Page 72, paragraph 209, sentence 4. It should read: “Accordingly, there is clear evidence that the departure of Serb civilians was unrelated to the HV’s artillery campaign.”

Page 79, heading 3.2.3. It should read: “The Trial Chamber erred in fact and law when finding that there was a shared intent to commit deportation and forcible transfer as acts of persecution against Krajina Serbs.”

Page 81, paragraph 242. It should read: “Submissions made in 3.1.1, 3.1.3, 3.2.3 and 3.3.2 apply *mutatis mutandis* and are adopted by reference.”

Page 81, paragraph 243. It should read: “Submissions made in 3.1.1, 3.1.3, 3.2.3, 3.3.1 and 3.3.2 apply *mutatis mutandis* and are adopted by reference.”

Page 81, paragraph 244. It should read: “Submissions made in 3.1.1, 3.1.3, 3.2.3 and 3.3.2 apply *mutatis mutandis* and are adopted by reference.”

Page 85, footnote 452. It should read: “See 3.1.2(f), above.”

Page 88, heading 4.5. It should read: “The Trial Chamber erred in fact and law when it failed to establish (beyond reasonable doubt) that Gotovina had agreed with others to commit the underlying core crimes.”

Page 93, paragraph 288, sentence 1. It should read: “To hold Gotovina liable for a culpable omission, the Chamber was required to establish that (a) he had a duty to act, *i.e.*, a duty to adopt the *Chamber’s Measures*, mandated by a rule of criminal law; (b) he had the ability to act; (c) he failed to act intending the criminally sanctioned consequences or with awareness and consent that the consequences would occur; and (d) his failure to act resulted in the commission of the crimes which comprise the *actus reus* of omission as ‘committing.’”

Page 94, paragraph 291. It should read: “The Trial Chamber found that Gotovina contributed to the JCE by, *inter alia*, failing to prevent/punish crimes that were found to be a ‘natural and foreseeable’ consequence of the JCE (destruction, plunder, murder, inhumane acts, cruel treatment and unlawful detentions – as persecution).”

Page 103, paragraph 319, subsection (ii), sentence 3. It should read: “Bajic testified that a commander’s duty was to ‘inform the Military Police’ of a crime and then it was up to the Military Police to investigate and file a report with the Military Prosecutor’s Office.”

Page 105, paragraph 319, subsection (v)(a), sentence 2. It should read: “Lausic appointed his own ‘coordinator,’ Ivan Juric, to exercise command over the VPs for crime prevention and prosecution, and to provide daily status reports to Lausic.”

Page 110, paragraph 327. It should read: “See above 4.7.2, 4.7.4-4.7.6, 4.7.7.2.”

Page 111, heading 4.7.9. It should read: “The Trial Chamber erred in fact and law when it failed to provide a reasoned opinion explaining how ‘Gotovina’s failures’ had an impact on the general atmosphere of crime, and in finding that ‘Gotovina’s failures’ had an impact on the general atmosphere towards crimes in the Split MD.”