

IT-06-90-T
D37834-D37832
18 FEBRUARY 2011

37834

Aj



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: 18 February 2011
Original: English

IN TRIAL CHAMBER I

Before: Judge Alphons Orie, Presiding
Judge Uldis Kinis
Judge Elizabeth Gwaunza
Registrar: Mr John Hocking
Order of: 18 February 2011

PROSECUTOR

v.

ANTE GOTOVINA
IVAN ČERMAK
MLADEN MARKAČ

PUBLIC

ORDER DIRECTED TO THE REPUBLIC OF CROATIA

Office of the Prosecutor

Mr Alan Tieger

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, QC
Ms Gillian Higgins

Counsel for Mladen Markač

Mr Goran Mikuličić
Mr Tomislav Kuzmanović

1. On 12 March 2010, the Chamber issued its “Decision on requests for permanent restraining orders directed to the Republic of Croatia” (“Decision of 12 March 2010”). In this Decision, the Chamber, *inter alia*, denied Gotovina Defence requests for a permanent restraining order directed to the Republic of Croatia (“Croatia”) to (i) cease the preliminary investigations and criminal prosecutions against Mr Ivanović and Mr Ribičić and (ii) stop all searches of records and computers in its custody which were seized from Gotovina Defence offices or members.¹ The Chamber recalls the procedural history and parties’ submissions related to those requests set out in the Decision of 12 March 2010.²

2. On 14 February 2011, the Appeals Chamber issued its “Decision on Gotovina Defence appeal against 12 March 2010 Decision on requests for permanent restraining orders directed to the Republic of Croatia” (“Decision of 14 February 2011”). The Chamber refers to the applicable law as expounded in this Decision and to the Appeals Chamber’s findings therein.³ The Appeals Chamber granted the Gotovina Defence appeal in part and ordered the Trial Chamber to issue the below orders to Croatia.⁴ The Chamber clarifies that the below orders replace the relevant parts of its orders of the Decision of 12 March 2010, thereby terminating the procedures set out therein and rendering moot the suspension of deadlines of the “Decision on Defence request for certification to appeal the Trial Chamber decision of 12 March 2010” of 21 April 2010.

DISPOSITION

3. For the foregoing reasons, pursuant to Article 30 (4) of the Statute of the Tribunal and Rule 54 of the Rules of Procedure and Evidence, the Chamber **ORDERS** Croatia to:

1. Cease all criminal proceedings against members of the Gotovina Defence for acts performed in the fulfilment of their official function before the Tribunal;
2. Cease and desist from all current and future investigative activities against members of the Gotovina Defence for acts performed in the fulfilment of their official function before the Tribunal, including searches of their persons or premises; and

¹ Decision of 12 March 2010, para. 77 (6) and (8).

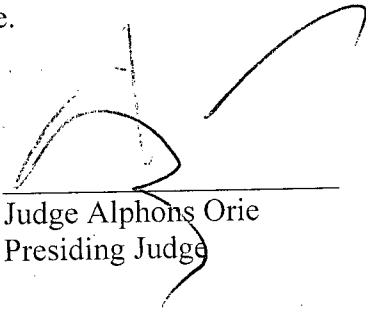
² Decision of 12 March 2010, paras 1-19.

³ Decision of 14 February 2011, paras 26-36, 45, 67-70.

⁴ Decision of 14 February 2011, paras 33, 35-36, 45, 67, 71.

3. Return, as soon as practicable, all material seized from members of the Gotovina Defence, including but not limited to documents, computers, CD-ROMs and diskettes.

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



Judge Alphons Orié
Presiding Judge

Dated this Eighteenth day of February 2011
At The Hague
The Netherlands

[Seal of the Tribunal]