



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-08-91-T
Date: 16 January 2013
Original: English

IN TRIAL CHAMBER II

Before: Judge Burton Hall, Presiding
Judge Guy Delvoie
Judge Frederik Harhoff

Registrar: Mr. John Hocking

Decision of: 16 January 2013

PROSECUTOR

v.

MIĆO STANIŠIĆ AND STOJAN ŽUPLJANIN

PUBLIC

**DECISION DENYING PROSECUTION MOTION
REQUESTING FINDINGS ON ALL MODES OF
LIABILITY CHARGED IN THE INDICTMENT**

The Office of the Prosecutor

Mr. Matthew Olmsted
Mr. Alexis Demirdjian

Counsel for the Accused

Mr. Slobodan Zečević and Mr. Slobodan Cvijetić for Mićo Stanišić
Mr. Dragan Krgović and Mr. Aleksandar Aleksić for Stojan Župljanin


1. Trial Chamber II (“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 “Prosecution’s motion requesting findings on all modes of liability charged in the indictment”, filed on 13 December 2012 (“Motion”). The Defence did not file a response.

2. In the Motion, the Prosecution requests the Trial Chamber to make findings on all modes of liability charged in the Indictment.¹ It argues that this is necessary in light of the recent holding of the Appeals Chamber in *Gotovina* which, in the Prosecution’s interpretation, requires Trial Chambers to do so.² However, neither in the *Gotovina* case nor in any other cases relied upon by the Prosecution did the Appeals Chamber establish a rule that a Trial Chamber must make findings on all modes of liability charged in an indictment.³

3. The Trial Chamber also notes that it would not be in the interests of judicial economy—nor would it be consistent with the Trial Chamber’s duty to ensure an expeditious trial—to make superfluous findings on modes of liability, which would potentially add many months to the case.

4. For all the foregoing reasons, the Trial Chamber hereby **DENIES** the Motion.

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


Judge Burton Hall
Presiding

Dated this 16th day of January 2013

At The Hague

The Netherlands

[Seal of the Tribunal]

¹ Second amended consolidated indictment, 23 November 2009 (“Indictment”).

² Motion, para. 1. In support of its request, the Prosecution refers to the jurisprudence of the Tribunal and the International Criminal Tribunal for Rwanda and in particular to the *Gotovina* case (*Prosecutor v. Ante Gotovina and Mladen Čermak*, Case No. IT-06-90-A, 16 November 2012, Judgement).

³ *Cf. Prosecutor v. Ephrem Setako*, Case No. ICTR-04-81-A, Judgement, 28 September 2001, para. 268 (discussing the obligation to make findings on alternate modes of liability in the context of sentencing).