



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-95-14/2-PT

Date: 6 November 1998

English

Original: French

**IN THE TRIAL CHAMBER**

**Before:** Judge Claude Jorda, Presiding  
Judge Fouad Riad  
Judge Almiro Simões Rodrigues

**Registrar:** Mrs. Dorothee de Sampayo Garrido-Nijgh

**Decision of:** 6 November 1998

**THE PROSECUTOR**

v.

Dario KORDIĆ  
Mario ČERKEZ

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**ORDER TO THE REPUBLIC OF CROATIA  
FOR THE PRODUCTION OF DOCUMENTS**

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**The Office of the Prosecutor:**

Mr. Geoffrey Nice  
Mr. Kenneth Scott

Mrs. Susan Somers  
Mr. Patrick Lopez-Terres

**Defence Counsel:**

Mr. Mitko Naumovski  
Mr. Turner T. Smith, Jr.

Mr. David Geneson  
Mr. Božidar Kovačić

**Counsel for the Republic of  
Croatia:**

Mr. David B. Rivkin Jr.

Mr. Lee A. Casey

**TRIAL CHAMBER I** of the International Criminal Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (hereinafter “the Tribunal”),

**NOTING** the Application of the Prosecutor for “the issuance of an order to the Republic of Croatia for the production of documents” filed on 8 October 1998 (hereinafter “the Application”),

**NOTING** the Prosecutor’s request for assistance from the Republic of Croatia (hereinafter “Croatia”) dated 23 July 1998 (hereinafter the “Request for Assistance”) and the response from Croatia to that Request dated 18 September 1998 which was annexed to the Application as exhibit 2,

**NOTING** the opposition of the Republic of Croatia to the Prosecutor’s Application [24 July 1998] for an order for the production of documents” filed on 28 August 1998 *ex parte* and under seal (hereinafter “Opposition to the Application of 24 July 1998”),

**NOTING** the Judgement of the Appeals Chamber of 29 October 1997 on the Request of the Republic of Croatia for Review of the Decision of Trial Chamber II of 18 July 1997” on the power of the Tribunal’s to issue orders for the production of documents in the case *The Prosecutor v. Tihomir Blaškić* (IT-95-14-AR 108 bis/T),

**PURSUANT** to Article 29 of the Statute of the Tribunal and Rule 54 of the Rules of Procedure and Evidence,

**CONSIDERING** that the Application requests the production of thirty-one documents listed in the annex to the Application which were also requested in the Prosecutor’s Request for Assistance addressed directly to Croatia,

**CONSIDERING** that in its Judgement of 29 October 1997, the Appeals Chamber sets out clear criteria which the orders to produce *inter alia* documents must satisfy: (1) a specific statement of the documents requested and not broad categories; (2) the relevance of the documents to the trial; (3) the relative ease of execution of the order; (4) sufficient time given to the State for compliance,

**CONSIDERING** that the documents requested in the annex to the Application were clearly identified by title, date, author or other information (in the case in point, the contents and/or a registration number); that in its Opposition to the Application of 24 July 1998, as the Prosecutor noted in her Application by saying that she “conformed to this standard in a recent Request for Assistance [...] in this case, which sought thirty-one (31) specifically identified documents”,

**CONSIDERING** that the Trial Chamber deems that the documents whose production was requested are relevant to the present case, in particular, to demonstrate whether or not an international armed conflict existed,

**CONSIDERING** that the Trial Chamber notes that the documents requested in the annex to the Application were described precisely and are limited to a specific number ensuring that compliance with the request is particularly easy; that, lastly, the Trial Chamber considers a time period of thirty days sufficient for the request to be executed,

**CONSIDERING** therefore that this Trial Chamber is of the opinion that the Application satisfies the criteria set by the Appeals Chamber,

**FOR THE FOREGOING REASONS,**

**ORDERS** the Republic of Croatia to produce for the Office of the Prosecutor the documents of which the confidential list is annexed to this decision, in an authentic or authenticated version, as quickly as possible and, at the latest, by 6 December 1998.

Done this sixth day of November 1998  
At The Hague  
The Netherlands

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

(signed)

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Claude Jorda  
Presiding Judge Trial Chamber I

**(SEAL OF THE TRIBUNAL)**