

**UNITED
NATIONS**



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: 1 March 1999

Original: English

IN THE TRIAL CHAMBER

Before: Judge Richard May, Presiding
Judge Mohamed Bennouna
Judge Patrick Robinson

Registrar: Mrs. Dorothee de Sampayo Garrido-Nijgh

Decision of: 1 March 1999

PROSECUTOR

v.

**DARIO KORDIĆ
MARIO ČERKEZ**

**DECISION ON JOINT DEFENSE MOTION TO STRIKE ALL COUNTS ARISING
UNDER ARTICLE 2 OR ARTICLE 3 FOR FAILURE TO ALLEGE A NEXUS
BETWEEN THE CONDUCT AND AN INTERNATIONAL ARMED CONFLICT**

The Office of the Prosecutor

**Mr. Geoffrey Nice
Mr. Rodney Dixon**

Counsel for the accused

**Mr. Mitko Naumovski, Mr. Leo Andreis, Mr. David F. Geneson, Mr. Turner T. Smith, Jr.,
and Ms. Ksenija Turković, for Dario Kordić**

Mr. Božidar Kovačić, for Mario Čerkez

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 (“the International Tribunal”),

BEING SEISED of the “Joint Defense Motion to Strike All Counts Arising Under Article 2 or Article 3 for Failure to Allege a Nexus Between the Conduct and an International Armed Conflict”, filed by counsel for the two accused, Dario Kordić and Mario Čerkez (together “the Defence”) on 22 January 1999, and the “Prosecutor’s Response to Joint Defense Motion to Strike All Counts Arising Under Article 2 or Article 3 for Failure to Allege a Nexus Between the Conduct and an International Armed Conflict”, filed by the Office of the Prosecutor (“the Prosecution”) on 5 February 1999,

NOTING the written submissions of the parties and their oral arguments heard on 16 February 1999,

CONSIDERING that the Indictment meets the requirements of Article 18, paragraph 4, of the Statute of the International Tribunal and Rule 47 (C) of the Rules of Procedure and Evidence of the International Tribunal, which Rule states that “the Indictment shall set forth the name and particulars of the suspect, and a concise statement of the facts of the case and of the crime with which the suspect is charged”,

CONSIDERING that paragraphs 15 and 16 of the Amended Indictment allege a nexus,

CONSIDERING that, in any event, an evaluation of the evidence of a nexus between the alleged conduct of the accused and an international armed conflict is a matter for trial,

PURSUANT TO Rule 72 of the Rules of Procedure and Evidence of the International Tribunal,

HEREBY DISMISSES THE MOTION.

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

Richard May

Richard May
Presiding Judge

Dated this first day of March 1999
At The Hague
The Netherlands

[Seal of the Tribunal]