

UNITED  
NATIONS

4-95-14/2-A  
A 11263 - A 11262  
06 December 2004

11263  
105.



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-A  
Date: 6 December 2004  
Original: English

**IN THE APPEALS CHAMBER**

**Before:** Judge Wolfgang Schomburg, Presiding Judge  
Judge Fausto Pocar  
Judge Florence Ndepele Mwachande Mumba  
Judge Mehmet Güney  
Judge Inés Mónica Weinberg de Roca

**Registrar:** Mr. Hans Holthuis

**Decision of:** 6 December 2004

**PROSECUTOR**

v.

**MARIO ČERKEZ**

**DECISION ON "PROSECUTION'S URGENT REQUEST TO STAY THE  
ORDER OF THE APPEALS CHAMBER RELEASING MARIO ČERKEZ"**

**Counsel for the Prosecutor:**

Mr. Norman Farrell  
Ms. Helen Brady

**Counsel for Mario Čerkez:**

Mr. Božidar Kovačić and Mr. Goran Mikuličić

**THE APPEALS 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 (“International Tribunal”);

**NOTING** the “Order to Release Mario Čerkez”, rendered by the Appeals Chamber on 2 December 2004;

**BEING SEIZED OF** the “Prosecution’s Urgent Request to Stay the Order of the Appeals Chamber Releasing Mario Čerkez”, filed by the Office of the Prosecutor (“Prosecution”) on 2 December 2004 (“Request”), in which the Prosecution “requests that the Appeals Chamber stay the Release Order pending issuance of a final Judgement”;<sup>1</sup>

**NOTING** “Mario Čerkez’s Urgent Response to the Prosecution’s Urgent Request to Stay the Order of the Appeals Chamber Releasing Mario Čerkez”, filed by the defence for Mario Čerkez on 3 December 2004;

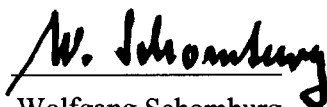
**NOTING** the “Prosecution’s Reply to Response of Mario Čerkez on the Motion to Stay the Release Order of the Appeals Chamber”, filed by the Prosecution on 3 December 2004;

**CONSIDERING** that under both the Statute and the Rules of Procedure and Evidence a request for reconsidering a final release order is not foreseen;

**FOR THE FOREGOING REASONS,**

**DISMISSES** the Request of the Prosecution.

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

  
Wolfgang Schomburg  
Presiding

Dated this sixth day of December 2004,  
At The Hague,  
The Netherlands.

**[Seal of the International Tribunal]**

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<sup>1</sup> Request, para. 15.