



International Tribunal for the
Prosecution of Persons
Responsible for Serious Violations of
International Humanitarian Law
Committed in the Territory of
Former Yugoslavia since 1991

Case No. IT-03-73-PT
Date: 6 April 2005
Original: English

IN TRIAL CHAMBER II

Before: Judge Carmel Agius, Presiding
Judge Jean Claude Antonetti
Judge Kevin Parker

Registrar: Mr. Hans Holthuis

Decision: 6 April 2005

PROSECUTOR

v.

**IVAN ČERMAK
MLADEN MARKAČ**

**DECISION ON THE PROSECUTION'S MOTION FOR AN
EXTENSION OF TIME IN WHICH
TO AMEND INDICTMENT**

The Office of the Prosecutor:

Mr. Kenneth Scott
Ms. Laurie Sartorio

Counsel for the Accused:

Mr. Čedo Prodanović and Ms. Jadranka Sloković for Ivan Čermak
Mr. Miroslav Šeparović and Mr. Goran Mikuličić for Mladen Markač

TRIAL CHAMBER II 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;

NOTING the “Prosecution’s Motion for an Extension of Time in Which to Amend Indictment” filed on 18 March 2005 (“Motion”), whereby the Prosecution seeks a forty-five days extension, as of 21 March 2005, in which to file an amended Indictment;

NOTING the “Decision on Ivan Čermak’s and Mladen Markač’s Motions on Form of Indictment”, issued on 8 March 2005 (“Decision of 8 March 2005”), in which the Trial Chamber ordered the Prosecution to amend the Indictment in relation to various matters within twenty-one days of the decision, *i.e.* by 29 March 2005;

NOTING that in the Motion, the Prosecution indicates that it is intending to propose further amendments to the Indictment and to file to motion for joinder with the related case *Prosecutor v. Ante Gotovina* (Case No. 01-45-I); that in the Prosecution’s submission, these matters would be best addressed in a single amended Indictment;

NOTING the “Order relating to the Prosecution’s Motion for an Extension of Time in Which to Amend Indictment” dated 23 March 2005, whereby the Chamber deferred its consideration of the Motion until after the filing of a response by the Defence for the Accused Ivan Čermak and Mladen Markač (“Čermak Defence” and “Markač Defence” respectively) or 1 April 2005, whichever is the earlier;

NOTING “Mladen Markač’s Response to the Prosecution’s Motion for an Extension of Time in Which to Amend the Indictment”, filed on 24 March 2005, whereby the Markač Defence indicates that it does not oppose the request for an extension of time in which to amend the Indictment but that it opposes the “argument referring to the anticipation of a motion for joinder”;

NOTING “Ivan Čermak’s Response to the Prosecution’s Motion for Extension of Time in Which to Amend the Indictment”, dated 29 March 2005, whereby the Čermak Defence states that it does not oppose the request for an extension of time, although it submits that, with respect to the Prosecution’s anticipation that the present case will be joined with that of *The Prosecutor v. Ante Gotovina*, an appropriate motion for joinder should be filed, to which the Defence should be given an opportunity to respond;

NOTING that pursuant to Rule 50(A)(c) of the Rules of Procedure and Evidence (“Rules”), once a case is assigned to a Trial Chamber, the Prosecution may only amend the Indictment with the leave of that Chamber or of a Judge of that Chamber, after having heard the parties;

CONSIDERING that by the present Motion, the Prosecution is not seeking to join the present case with that of *The Prosecutor v. Ante Gotovina*, but is requesting an extension of time in which to file a motion to amend the Indictment, possibly including a request for joinder pursuant to Rule 48 of the Rules;

CONSIDERING that, in accordance with Rule 50 of the Rules, both the Čermak Defence and the Markač Defence will be given an opportunity to respond when and where such motion is filed by the Prosecution;

CONSIDERING that it is the view of the Chamber that in light of the Defence's agreement, it is appropriate to grant the requested extension of time;

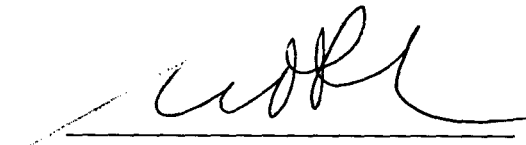
FOR THE FOREGOING REASONS,

PURSUANT TO Rules 50 and 54 of the Rules

GRANTS the Motion and **VARIES** the Decision of 8 March 2005 so as to enlarge the time allocated to the Prosecution to amend the Indictment or file a motion to that effect until 6 May 2005.

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

Dated this sixth day of April 2005
At The Hague
The Netherlands



Carmel Agius
Presiding

[Seal of the Tribunal]