



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-97-25/1-PT
Date: 17 May 2005
Original: English

IN TRIAL CHAMBER II

Before: Judge Jean-Claude Antonetti
Registrar: Mr. Hans Holthuis
Order : 17 May 2005

PROSECUTOR

v.

**MITAR RAŠEVIĆ
SAVO TODOVIĆ**

**ORDER ON THE PARTLY CONFIDENTIAL PROSECUTION'S
MOTION FOR LEAVE TO AMEND THE ORIGINAL
INDICTMENT**

The Office of the Prosecutor:

Ms. Hildegard Uertz-Retzlaff

Counsel for the Accused Mitar Rašević :

Mr. Vladimir Domazet

Counsel for the Accused Savo Todović :

Mr. Aleksandar Lazarević

I, Jean-Claude Antonetti, Judge 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”)

HAVING BEEN DESIGNATED pre-trial Judge in this matter by virtue of the orders issued by Trial Chamber II (“Trial Chamber”) on 7 October 2003 and 7 March 2005,

BEING SEIZED of the partly confidential “Prosecution’s Motion for Leave to Amend the Original Indictment with Attached Annexes A and B and Confidential Annexes C and D” (“Prosecution’s Motion”) filed by the Office of the Prosecutor (“Prosecution”) on 20 April 2005, in which the Prosecution seeks leave to amend the original indictment against the Accused Savo Todović (“Todović”) pursuant to Rule 50 of the Tribunal’s Rules of Procedure and Evidence (“Rules”),

NOTING the “Savo Todović’s Defense Response to Prosecution’s Partly Confidential Motion for Leave to Amend the Original Indictment of 25 April 2005” (“Defense Response”) filed by the Defense of Todović (“Defense”) on 6 May 2005, in which the Defense does not object to the Prosecution’s Motion,

NOTING the order issued on 23 March 2005, whereby the Trial Chamber ordered *inter alia* the Prosecution to file a motion for leave to amend the indictment wherein the Prosecution shall reconcile the indictment against Todović and the amended indictment against the Accused Mitar Rašević (“Rašević”),

NOTING the indictment against the Accused Milorad Krnojelac (“Krnojelac”), Rašević and Todović filed by the Prosecution on 6 June 1997¹ and confirmed by Judge Vohrah on 17 June 1997,

NOTING further the amended indictment against Rašević filed by the Prosecution on 12 May 2004,

CONSIDERING that the Prosecution submits in its Motion that it has refrained from filing an amended indictment including both Accused and has filed a proposed amended indictment exclusively against Todović under Annex A to the Prosecution’s Motion (“Proposed Amended Indictment”) because the amendments to the Rašević’s indictment have already been granted by the Trial Chamber pursuant to Rule 72 of the Rules²,

¹ *Prosecutor v. Krnojelac, Todović and Rašević*, Case IT-97-25, Indictment, 6 June 1997.

² Prosecution’s Motion, par. 6.

CONSIDERING that Todović and Rašević were initially jointly indicted along with Krnojelac for the same crimes in relation to events which took place in Bosnia and Herzegovina at the Kazneno Popravni (KP) Dom detention centre at Foca from April 1992 until October 1994, and that the Proposed Amended Indictment against Todović mirrors the amended indictment against Rašević, it is the view of the Trial Chamber that, at this stage of the preliminary proceedings, charges against Todović and Rašević must be addressed in a joint indictment,

CONSIDERING, furthermore, that the necessity to reconcile both indictments is consistent with the interests of justice and ensure that the trial proceed expeditiously according to Rule 65*ter* of the Rules,

FOR THE FOREGOING REASONS

PURSUANT TO Rules 50, 54, 72 and 127 of the Rules,

HEREBY DENY the Prosecution's Motion, and


ORDER AS FOLLOWS

The Prosecution shall file a new motion for leave to amend the indictment in which the Prosecution shall join the indictment against Todović and the amended indictment against Rašević, by 27 May 2005,

The Defense shall file its preliminary motion under Rule 72 of the Rules in a consolidated manner, which shall include issues already raised in its Defense preliminary motion filed on 10 March 2005, by 27 June 2005,

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

Done this 17th day of May 2005,
At The Hague,
The Netherlands



Judge Jean-Claude Antonetti

[Seal of the Tribunal]