



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-R77.2  
Date: 8 July 2005  
Original: English

**IN THE TRIAL CHAMBER**

**Before:** Judge O-Gon Kwon, Presiding  
Judge Patrick Robinson  
Judge Iain Bonomy

**Registrar:** Mr. Hans Holthuis

**Decision of:** 8 July 2005

**PROSECUTOR**

v.

**IVICA MARIJAČIĆ  
MARKICA REBIĆ**

**DECISION ON**

- (1) DEFENCE FOR THE ACCUSED MARKICA REBIĆ  
MOTION FOR EXTENSION OF TIME; AND**
- (2) DEFENDANT IVICA MARIJAČIĆ'S EMERGENCY  
MOTION FOR CLARIFICATION FROM THE TRIAL  
CHAMBER**

**The Office of the Prosecutor:**

Mr. David Akerson

**Counsel for Ivica Marijačić**

Mr. Marin Ivanović

**Counsel for Markica Rebić**

Mr. Krešimir Krsnik

**I, O-GON KWON**, 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 (“International Tribunal”),

**HAVING BEEN DESIGNATED** as pre-trial Judge in this matter by virtue of an Order of 27 May 2005,

**BEING SEISED** of a “Defence for the Accused Markica Rebić Motion for Extension of Time” filed by the Defence of Markica Rebić on 5 July 2005 (“Rebić’s Application”), seeking an extension of the time limit to file a response to the “Motion for Leave to Amend Indictment” filed by the Office of the Prosecutor (“Prosecution”) on 23 June 2005 (“Motion to Amend the Indictment”),

**BEING SEISED ALSO** of a “Defendant Ivica Marijačić’s Emergency Motion for Clarification from the Trial Chamber” filed by the Defence of Ivica Marijačić on 7 July 2005 (“Marijačić’s Application”), seeking an “order clarifying the current procedural status of the case and to clarify which motions Defendant Marijačić must respond to and by what date”,<sup>1</sup>

*(1) Rebić’s Application*

**NOTING** the arguments advanced in support of Rebić’s Application that (i) the Motion to Amend the Indictment “is partially based on supporting materials” which were only received by the Defence on 4 July 2005, and (ii) since the supporting materials “could [...] influence the response of the Defence to the Prosecution’s motion”, the Defence should be entitled to the complete period of time provided in Rule 126 *bis* of the Rules of Procedure and Evidence of the International Tribunal (“Rules”) for filing a response to the Motion to Amend the Indictment, that is, 14 days from 4 July 2005,

**NOTING** that, pursuant to Rule 126 *bis* of the Rules, the last day to file a response, if any, to the Motion to Amend the Indictment is 7 July 2005, and that, pursuant to Rule 127 of the Rules, the time limit may be extended on good cause being shown,

**NOTING** that the Motion to Amend the Indictment seeks leave to amend the Indictment to include “additional detail on the protection orders that were violated, as well as clarifying the provisions of

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<sup>1</sup> Marijačić’s Application, p. 2.

Rule 77 the accused is alleged to have violated”,<sup>2</sup> and does not purport to introduce a new charge, nor does it seek to produce additional supporting materials,

**CONSIDERING** that there is good cause to extend the time limit in view of the fact that the supporting materials were received by the Defence on 4 July 2005, three days prior to the deadline for filing of a response to the Motion to Amend the Indictment, and that, as a matter of principle, an accused must have adequate opportunity to review the supporting materials when faced with an application to amend an indictment against him,

**CONSIDERING** that a period of 7 days, after receipt of the supporting materials, is sufficient time for the Defence to review the materials and file a response to the Motion to Amend the Indictment,

*(2) Marijačić’s Application*

**NOTING** that Marijačić’s Application specifically requests the Trial Chamber to “A. Issue an Order directing Mr. Marijačić as to whether and by what date he need file a Reply in support of his Motion to Dismiss and whether in that Reply he need address matters concerning the *proposed* Amended Indictment raised in the Prosecution’s Response in Opposition to the Motion to Dismiss; B. Issue an Order explaining whether Mr. Marijačić need file a Response to the Motion to Amend the Indictment, and by what date; C. Issue an Order explaining whether Mr. Marijačić need file a Response in the Motion for Extension of Time, and by what date; D. Such other and further relief as this Honourable Trial Chamber deems appropriate,”<sup>3</sup>

**NOTING** the “Decision on Prosecution Motion for Extension of Time” issued on 28 June 2005, in which the Prosecution’s application of 27 June 2005 was denied,

**CONSIDERING** that it is for the party to determine whether to file a response, or to request leave to file a reply, and what it wishes to address in the filing,

**CONSIDERING** that, in light of the date of disclosure of the supporting materials, it would be appropriate for the Defence of Ivica Marijačić to be allowed the same extension of time as the Defence of Markica Rebić,

**PURSUANT TO** Rules 54, 65 *ter*, 126 *bis* and 127 of the Rules,

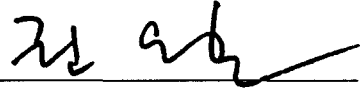
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<sup>2</sup> Motion to Amend Indictment, para. 5.

<sup>3</sup> Marijačić’s Application, p. 4 (emphasis in original).

**HEREBY GRANT** Rebić's Application in part, **DENY** Marijačić's Application, and **ORDER** the Defence of Markica Rebić and the Defence of Ivica Marijačić to file the response to the Motion to Amend the Indictment, if any, no later than Monday, 11 July 2005.

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



O-Gon Kwon  
Pre-Trial Judge

Dated this eighth day of July 2005  
At The Hague  
The Netherlands

[Seal of the Tribunal]