



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: 13 July 2005  
Original: English

**IN TRIAL CHAMBER II**

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

**Registrar:** Mr. Hans Holthuis

**Decision:** 13 July 2005

**PROSECUTOR**

v.

**IVAN ČERMAK  
MLADEN MARKAČ**

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**ORDER ON MLADEN MARKAČ URGENT APPLICATION  
FOR VARIATION OF CONDITIONS OF PROVISIONAL  
RELEASE**

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**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 (“Chamber” and “Tribunal”);

**NOTING** the urgent “Accused Mladen Markač’s Application for Variation of Conditions of Provisional Release”, filed on 5 July 2005 (“Motion”), whereby the Defence for Mladen Markač (“Defence” and “Accused”) requests a variation of the conditions of his provisional release as set out in paragraph 44(a)(i) of the Decision of the Appeals Chamber issued in this case on 2 December 2004 (“Decision of 2 December 2004”) and seeks permission to travel from his residence in Zagreb to temporarily reside at his apartment, located at Stinica, 53287 Smilje, 47p in the municipality of Senj (Republic of Croatia) from 15 July 2005 to 15 September 2005;

**NOTING** that the Motion is supported by an attached medical certificate, issued at the end of June 2005 following an examination of the Accused’s health, in which it is recommended “climate curing outside an urban environment, along with moderate physical exercise”;<sup>1</sup>

**NOTING** the Defence’s submission that the Accused would reside in his own apartment in Stinica;

**NOTING** that the Accused suggests to resume residence in Zagreb after 15 September 2005, or even earlier; that while staying in Stinica, he would continue to apply and respect the conditions of his provisional release as set out in the Decision of 2 December 2004, such as reporting to the local police office in Jablanac or Senj once a week, or more frequently if so ordered, as he has been doing in Zagreb since December 2004;

**NOTING** the “Prosecution’s Response to the Accused Mladen Markač’s Application for Variation of Conditions of Provisional Release”, filed on 7 July 2005, whereby the Prosecution submits that no sufficient justification has been shown for modifying the terms of Mladen Markač’s provisional release;

**RECALLING** that in the Decision of 2 December 2004, the Appeals Chamber ordered that the Accused “(i) remain within the confines of [his] residence in the Republic of Croatia; [...] (iii) within three days of [his] arrival, report the address at which [he] will be staying, to the Ministry of Interior and the Registrar of the International Tribunal, and notify the Ministry of Interior and the Registrar of the International Tribunal of any change of address within three days of such change”;

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<sup>1</sup> See Medical Certificate attached to the Motion, dated 29 June 2005.

**CONSIDERING** that the Accused requests leave to reside in Stinica (municipality of Senj) for only a limited period of time (*i.e* from 15 July 2005 to 15 September 2005), after which he would resume residence at his current address in Zagreb;

**CONSIDERING** that there are no indications showing that the Accused will try to abscond or to interfere with the administration of justice if he is granted leave to reside at a different place for a limited period of time;

**NOTING** that the most recent report of the Ministry of Justice of the Republic of Croatia and the local authorities in Zagreb indicate that the Accused has complied so far with the conditions and obligations set out in the Decision of 2 December 2004;

**CONSIDERING** that the medical information provided to the Chamber as a basis of the Motion would not justify *per se* variation of the conditions of provisional release as ordered by the Appeals Chamber;

**CONSIDERING HOWEVER** that the Accused merely seeks to reside in a different location for a limited period of time but will remain within the Republic of Croatia;

**RECALLING** that the Accused shall “comply strictly with any order issued by the Trial Chamber varying the terms of [...] the provisional release;”<sup>2</sup>

**FOR THE FOREGOING REASONS,**

**PURSUANT TO** Rules 54 and 65 of the Rules,

**GRANTS** the Motion;

**VARIES** the terms and conditions of provisional release set out by the Appeals Chamber in the Decision of 2 December 2004 so as to allow Mladen Markač to temporarily reside only at 53287 Stinica, Smilje 47p (municipality of Senj) from 15 July 2005 to 15 September 2005;

**ORDERS** that the conditions for provisional release of the Accused Mladen Markač be modified temporarily as set out below:

- 1) the Accused shall report within three days of his arrival in Stinica to the Ministry of Interior the address at which he will be residing and shall immediately notify his presence at the closest police office;

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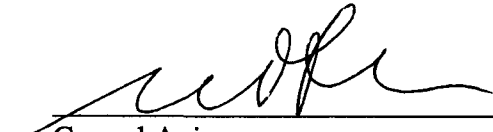
<sup>2</sup> Appeals Chamber Decision of 2 December 2004, para. 44 (xiii).

- 2) the Accused shall remain within the confines of the municipality of Senj for the period of time during which he will be residing at Stinica;
- 3) the Accused shall report once a week to the closest police office;
- 4) the Accused shall notify the Ministry of Interior and the local police station within three days of his return to his previous residence in Zagreb on 15 September 2005;
- 5) the Accused shall comply with any additional measure imposed by the Government of the Republic of Croatia.

**RECALLS** that the remaining measures as set forth in the Decision of 2 December 2004 remain in full force and effect.

**REQUESTS** the Registrar of the International Tribunal to transmit the present decision to the competent authorities of the Republic of Croatia.

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



Carmel Agius  
Presiding

Dated this 13<sup>th</sup> day of July 2005  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**