



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-97-25/1-PT
Date: 7 April 2006
Original: ENGLISH

IN TRIAL CHAMBER II

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

Registrar: Mr. Hans Holthuis

Order: 7 April 2006

PROSECUTOR

v.

**SAVO TODOVIĆ
MITAR RAŠEVIĆ**

ORDER ON OPERATIVE INDICTMENT

Office of the Prosecutor:

Ms. Hildegard Uertz-Retzlaff

Counsel for Accused:

Mr. Vladimir Domazet for Mitar Rašević
Mr. Aleksandar Lazarević for Savo Todović

THIS TRIAL 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 (“Tribunal”),

BEING SEIZED of “the Prosecution submission of Second Joint amended Indictment with Annex A and Confidential Annex B”, filed on 24 March 2006 (“Prosecution submission”), in which the Office of the Prosecutor (“Prosecution”) requests that the “Second Joint Amended Indictment”, also filed on 24 March 2006, be adopted as the operative indictment,

NOTING the “Decision on Todović Defence Motion on the form of the Joint Amended Indictment,” filed on 21 March 2006 (“Decision”), in which the Trial Chamber ordered the Prosecution to clarify the timeframes mentioned in paragraphs 2, 4, 39 and 55 of the Joint Amended Indictment; resolve the ambiguities in paragraphs 31 and 52 of the Joint Amended Indictment; add the names of other known members of the KP Dom prison staff which were within the alleged Joint Criminal Enterprise, as alleged in paragraph 7 of the Joint Amended Indictment; submit to the Trial Chamber the supporting materials in relation to additional factual allegations that were neither mentioned in the Initial Indictment, nor established by either the *Krnojelac* Trial Judgement or the *Krnojelac* Appeals Judgement; correct the clerical errors in the Indictment; and either amend the Joint Amended Indictment to provide better specification of each of the “authorities” referred to in paragraph 16 of this Decision, or confirm that it is not in a position to do so,

NOTING “Savo Todović’s Defence Motion for leave to file a response and the Defence response to ‘Prosecution’s submission of Second Joint Amended Indictment with Annex A and Confidential Annex B’”, filed by the Defence of the Accused Todović (“Todović Defence”) on 31 March 2006, in which the Defence argues that (1) the timeframes in paragraph 39 and 55 of the “Second Joint Amended Indictment” have not sufficiently been clarified, (2) the supporting materials provided by the Prosecution do not adequately cover some of the allegations in the “Second Joint Amended Indictment” and (3) the Prosecution should provide “better specification” of the authorities mentioned in the “Second Joint Amended Indictment”,

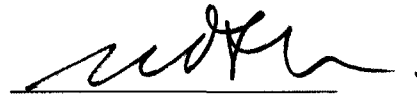
CONSIDERING that the reasons set forth in paragraph 6, 7 to 10 and paragraph 15 to 16 of the Prosecution’s Submission sufficiently address the Trial Chamber concerns with respect to, *inter alia*, the specificity of aforementioned timeframes and “authorities”, and the Trial Chamber accepts that no further amendment in the “Second Joint Amended Indictment” will be necessary in relation thereto,

CONSIDERING, regarding second issue raised by the Todović Defence, that this Trial Chamber is satisfied that the supporting materials are sufficient to constitute *prima facie* evidence for those additional factual allegations contained in the “Second Joint Amended Indictment” that were neither previously mentioned in the Initial Indictment, nor established by either the *Krnojelac* Trial Judgement or the *Krnojelac* Appeals Judgement,

CONSIDERING that the Trial Chamber is satisfied that the “Second Joint Amended Indictment” is in compliance with the Trial Chamber’s Decision of 21 March 2006,

FOR THE FOREGOING REASONS, and pursuant to Rule 72 of the Rules of Procedure and Evidence,

GRANTS the Todović Defence’s request to file a response, **REJECTS** the Todović Defence’s request for any further amendments to the “Second Joint Amended Indictment” and **ORDERS** that the “Second Joint Amended Indictment” shall be the operative Indictment in the case against the Accused Savo Todović and Mitar Rašević.



Judge Carmel Agius
Presiding

Dated this seventh day of April 2006
At The Hague
The Netherlands

[Seal of the Tribunal]