



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: 23 June 2006  
Original: English

**IN TRIAL CHAMBER II**

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

**Registrar:** Mr. Hans Holthuis

**Decision:** 23 June 2006

**PROSECUTOR**

v.

**IVAN ČERMAK  
MLADEN MARKAČ**

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**DECISION ON IVAN ČERMAK MOTION FOR TEMPORARY  
MODIFICATION OF THE CONDITIONS OF THE APPEALS  
CHAMBER DECISION ON PROVISIONAL RELEASE**

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**The Office of the Prosecutor:**

Mr. Alan Tieger

**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 partly confidential “Ivan Čermak’s Motion for Temporary Modification of the Conditions of the Appeals Chamber Decision on Provisional Release” filed on 23 May 2006 (“Motion”), whereby the Defence for Ivan Čermak (“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”)<sup>1</sup> and seeks permission to travel from his residence in Krapinske Toplice to temporarily reside at Ulica Sv. Dominika bb, Dubrovnik (municipality of Dubrovačko-neretvanska, Republic of Croatia)<sup>2</sup> from 1 July 2006 to 1 September 2006;

**NOTING** that the Motion is supported by confidential medical certificates, issued on 10 and 11 May 2006, which, following an examination of the Accused’s health, advised the Accused to “temporarily change the climate to allow exposure to maritime or alpine air”;<sup>3</sup>

**NOTING** that the Accused suggests to resume residence in Krapinske Toplice on 1 September 2006; that while staying in Dubrovnik, 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 Dubrovnik once a week, or more frequently if so ordered, as he has been doing in Krapinske Toplice since his release;

**NOTING** the Defence’s submission according to which the Accused has so far respected all conditions set out in the Decision of 2 December 2004 and that there is no indication that he would 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 two months;

**NOTING** the “Prosecution’s Response to Ivan Čermak’s Motion for Temporary Modification of the Conditions of the Appeals Chamber Decision on Provisional Release”, filed on 29 May 2006, whereby the Prosecution submits that in light of the Chamber granting, over the Prosecution’s objection, similar relief to the Accused Mladen Markač in July 2005, it takes no position on the present Motion;

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<sup>1</sup> “Decision on Interlocutory Appeal Against Trial Chamber’s Decision Denying Provisional Release”, *Prosecutor v. Ivan Čermak & Mladen Markač*, Case No. IT-03-73-AR65.1, 2 December 2004.

<sup>2</sup> Motion, para 8.

<sup>3</sup> Motion, para 7 and attached medical certificates.

**NOTING** that the Prosecution however requests, *inter alia*, that all of the conditions ordered by the Appeals Chamber remain in full effect and in particular that the Accused has no contact whatsoever with the co-accused Mladen Markač or with Ante Gotovina and that the Trial Chamber “order and require the authorities of the Republic of Croatia to closely co-ordinate the travel and surveillance of Čermak”;

**RECALLING** that in the Decision of 2 December 2004, the Appeals Chamber ordered, in particular 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 [...] (x) not have any contact with each other or with any other accused before this International Tribunal ”;

**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 reports of the Ministry of Justice of the Republic of Croatia and the local authorities in Krapinske Toplice 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 Decision of 2 December 2004 states that the Accused shall “comply strictly with any order issued by the Trial Chamber varying the terms of [...] the provisional release;”<sup>4</sup>

**FOR THE FOREGOING REASONS,**

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

**GRANTS** the Motion;

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<sup>4</sup> Decision of 2 December 2004, para. 44 (xiii).

**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 Ivan Čermak to temporarily reside only at Ulica Sv. Dominika bb, Dubrovnik (municipality of Dubrovačko-Neretvanska, Republic of Croatia) from 1 July 2006 to 1 September 2006;


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

- 1) the Accused shall report within three days of his arrival in Dubrovnik to the Ministry of Interior the address at which he will be residing and shall immediately notify his presence at the closest police office;
- 2) the Accused shall remain within the confines of the municipality of Dubrovnik for the period of time during which he will be residing at Dubrovnik;
- 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 Krapinske Toplice on 1 September 2006;
- 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 twenty-third day of June 2006  
At The Hague  
The Netherlands

[Seal of the Tribunal]