



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: 14 July 2006
Original: English

IN TRIAL CHAMBER II

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

Registrar: Mr. Hans Holthuis

Decision: 14 July 2006

PROSECUTOR

v.

**IVAN ČERMAK
MLADEN MARKAČ**

**DECISION ON ACCUSED MLADEN MARKAČ APPLICATION
FOR VARIATION OF CONDITIONS OF PROVISIONAL
RELEASE**

The Office of the Prosecutor:

Mr. Alan Tieger
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”);

BEING SEIZED OF the urgent “Accused Mladen Markač’s Application for Variation of Conditions of Provisional Release”, filed on 5 July 2006 (“Motion”), whereby the Defence for Mladen Markač (“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 2006 to 15 September 2006;

NOTING that the Prosecution indicated on 14 July 2006 that in view of the decision previously issued in the present case, it does not oppose the Motion although it considered that the Motion does not provide any factual substantiation for the assertion that a variation is required at this time on medical grounds; that if the variation is granted, the remaining conditions for provisional release should remain in place;

NOTING that the Motion is supported by an attached medical certificate issued on 4 July 2006, following an examination of the Accused’s health;

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 2006, 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;

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”;

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 2006 to 15 September 2006), 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 reports 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;”¹

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 2006 to 15 September 2006;

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;
- 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 2006, or earlier;
- 5) the Accused shall comply with any additional measure imposed by the Government of the Republic of Croatia.

¹ Appeals Chamber Decision of 2 December 2004, para. 44 (xiii).

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 14th day of July 2006
At The Hague
The Netherlands

[Seal of the Tribunal]