

16 MAY 2007

UNITED
NATIONS

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: IT-06-90-AR73.2

Date: 16 May 2007

Original: English

BEFORE THE APPEALS CHAMBER

Before: Judge Andréia Vaz, Presiding
Judge Mohamed Shahabuddeen
Judge Liu Daqun
Judge Theodor Meron
Judge Wolfgang Schomburg

Registrar: Mr Hans Holthuis

Decision of: 16 May 2007

THE PROSECUTOR

v.

**ANTE GOTOVINA
IVAN ČERMAK
MLADEN MARKAČ**

**DECISION ON IVAN ČERMAK'S URGENT MOTION FOR LEAVE TO FILE A
CONSOLIDATED REPLY TO RESPONSES FILED BY THE PROSECUTOR AND
ANTE GOTOVINA**

Counsel for the Prosecutor:

Mr. Peter Kremer, QC

Counsel for the Defence:

Mr. Luka Mišetić, Mr. Gregory Kehoe, Mr. Payam Akhavan for Ante Gotovina
Mr. Čedo Prodanović and Ms. Jadranka Sloković for Ivan Čermak
Mr. Goran Mikuličić for Mladen Markač

THE APPEALS CHAMBER of the International Criminal Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (“Appeals Chamber” and “Tribunal”, respectively),

NOTING “Ivan Čermak’s Interlocutory Appeal against Trial Chamber’s Decision on Conflict of Interest of Attorneys Čedo Prodanović and Jadranka Sloković filed by Counsel for Ivan Čermak (“Appellant”) on 4 May 2007 (“Appeal”);

NOTING “Defendant Ante Gotovina’s Response in Opposition to Ivan Čermak’s Interlocutory Appeal against the Trial Chamber’s Decision on Conflict of Interest of Attorneys Čedo Prodanović and Jadranka Sloković” filed by Counsel for Ante Gotovina (“Gotovina”) on 11 May 2007 (“Gotovina’s Response”);

NOTING “Prosecution’s Response Brief to Ivan Čermak’s Interlocutory Appeal against Trial Chamber’s Decision on Conflict of Interest of Attorneys Čedo Prodanović and Jadranka Sloković” filed by the Prosecution on 14 May 2007 (“Prosecution’s Response”);

BEING SEIZED OF “Ivan Čermak’s Urgent Motion for Leave to File a Consolidated Reply to Responses by the Prosecutor and Ante Gotovina” filed by the Appellant on 15 May 2007 (“Motion”);

NOTING that neither Gotovina nor the Prosecution has yet filed a response;

NOTING, however, that, pursuant to paragraph C(7) of the Practice Direction on the Length of Briefs and Motions,¹ a motion for an extension of time can be disposed of without hearing the other party, unless the Appeals Chamber considers that there is a risk that the other party may be prejudiced;

CONSIDERING, that the time limit at issue expired on the day when the Motion was filed, namely on 15 May 2007, and that, in light of the discussion below, there is no risk that Gotovina or the Prosecution may suffer prejudice if the relief sought by the Appellant is granted by the Appeals Chamber;

¹ IT/184/Rev. 2, 16 September 2005.

CONSIDERING, therefore, that the Motion may be disposed of without giving the Prosecution or Gotovina further time to respond thereto;²

RECALLING that, pursuant to paragraph 11 of the Practice Direction on Procedure for the Filing of Written Submissions in Appeal Proceedings before the International Tribunal (“Practice Direction on Filing”), a reply to Gotovina’s Response was due to be filed by 15 May 2007, and a reply to the Prosecution’s Response is due to be filed by 18 May 2007;

NOTING, that the Appellant requests the Appeals Chamber to permit him to file a single consolidated reply to both Responses,³ since they “address similar matters and many of the issues are overlapping”;⁴

NOTING that the Appellant further submits that the time-limit applicable to such a consolidated reply should run from the date of filing of the Prosecution’s Response and thus expire on 18 May 2007;⁵

CONSIDERING that pursuant to Rule 127(A) of the Rules of Procedure and Evidence of the Tribunal and in accordance with paragraph 19 of the Practice Direction on Filing, the prescribed time-limits may, upon showing of good cause, be varied and any act done after the expiration of such a time-limit may be recognised as validly done;

CONSIDERING that it is indeed in the interests of judicial economy to allow the Appellant to file a consolidated reply to both Gotovina’s and Prosecution’s Responses;⁶

FINDING that, in these circumstances, good cause exists for extending the time-limit for filing a reply to Gotovina’s Response until the expiration of the time-limit for filing a reply to the Prosecution’s Response;

² Cf. *Ferdinand Nahimana et al. v. The Prosecutor*, Case No. ICTR-99-52-A, Decision on Appellant Jean-Bosco Barayagwiza’s Motion for Extension of Time, 3 May 2007, p. 2; *Ferdinand Nahimana et al. v. The Prosecutor*, Case No. ICTR-99-52-A, Decision on Hassan Ngeze’s Request for a Status Conference, 13 December 2006, p. 2; *Ferdinand Nahimana et al. v. The Prosecutor*, Case No. ICTR-99-52-A, Decision on the Prosecutor’s Motion to Be Relieved from Filing the Appeal Book and Books of Authorities, 27 November 2006, p. 2; *Sylvestre Gacumbitsi v. The Prosecutor*, Case No. ICTR-01-64-A, Decision on the Appellant’s Motion of 8 December 2005, 16 December 2005, para. 2.

³ Motion, para. 1.

⁴ *Ibid.*, para. 3.

⁵ *Ibid.*, paras 3-4.

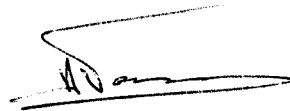
⁶ See, *ibid.*, para. 3.

FOR THE FOREGOING REASONS,

GRANTS the Motion and **ORDERS** the Appellant to file his consolidated reply to Gotovina's and the Prosecution's Responses no later than 18 May 2007.

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

Dated this 16th day of May 2007,
At The Hague,
The Netherlands.



Andrézia Vaz
Presiding Judge

[Seal of the Tribunal]