

IT-06-90-T  
D 23349 - D 23346  
12 May 2009

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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-06-90-T
Date:	12 May 2009
Original:	English

### IN TRIAL CHAMBER I

**Before:** Judge Alphons Orie, Presiding  
Judge Uldis Ķiniš  
Judge Elizabeth Gwaunza

**Acting Registrar:** Mr John Hocking

**Order of:** 12 May 2009

### PROSECUTOR

v.

ANTE GOTOVINA  
IVAN ČERMAK  
MLADEN MARKAČ

*PUBLIC*

### NOTIFICATION OF REPLY AND INVITATION TO SURREPLY

#### Office of the Prosecutor

Mr Alan Tieger  
Mr Stefan Waespi

#### European Union Monitoring Mission

Mr Javier Solana

#### The Presidency of the Council of the European Union (Czech Republic)

#### The Commission of the European Union

#### The Founding Member States of the European Community Monitoring Mission

Belgium, Denmark, France, Germany, Greece,  
Ireland, Italy, Luxembourg, The Netherlands,  
Portugal, Spain and the United Kingdom

#### Counsel for Ante Gotovina

Mr Luka Mišetić  
Mr Gregory Kehoe  
Mr Payam Akhavan

#### Counsel for Ivan Čermak

Mr Steven Kay, QC  
Mr Andrew Cayley  
Ms Gillian Higgins

#### Counsel for Mladen Markač

Mr Goran Mikuličić  
Mr Tomislav Kuzmanović

**TRIAL CHAMBER I** (“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 SEISED** of Defendant Ante Gotovina’s Motion to Enforce the Trial Chamber’s Previous Rule 54 *bis* Order Compelling Access to Archives of the European Union Monitoring Mission, filed on 20 March 2009 (“Further Motion”), and the Corrigendum thereto, filed on 23 March 2009;

**NOTING** Defendant Ante Gotovina’s Motion to Compel Access to EUMM Archives, filed confidentially and *ex parte* on 28 December 2007 (“Motion”), and the Chamber’s Order Compelling Access to Archives of the European Union Monitoring Mission filed confidentially and *ex parte* on 28 February 2008 (“Order”), and noting that these two filings were made public in court on 3 April 2009;

**NOTING** that the Order invited “the Secretary General of the Council of the European Union and High Representative for the Common Foreign and Security Policy, or his designated representative, to grant access to the Defence to archives of the European Union Monitoring Mission specified in Annex 1 to the Motion and to select the documents that the Defence sought to be provided with”;

**NOTING** the Chamber’s Notification of Motion and Invitation to Respond, filed on 3 April 2009; the European Union’s Response, filed on 17 April 2009; the Gotovina Defence Request to Reply to European Union Response to Defendant Ante Gotovina’s Motion to Enforce the Trial Chamber’s Previous Rule 54 *bis* Order Compelling Access to Archives of the EUMM, filed confidentially on 20 April 2009 (“Request to Reply”); the Gotovina Defence’s notice of public status of filing of its Request to Reply, filed on 22 April 2009; the Chamber’s informal communication to the parties on 22 April 2009, informing them that it had granted the Request to Reply; the Gotovina Defence Reply to European Union’s Response to Defendant Ante Gotovina’s Motion to Enforce the Trial Chamber’s Previous Rule 54 *bis* Order Compelling Access to Archives of the EUMM, filed on 23 April 2009 (“Reply”);

**NOTING** that the Gotovina Defence in the Further Motion asserted that the European Union failed to produce a significant number of reports which it was requested to produce by the Order;

**INVITES** the Secretary-General of the Council of the European Union and High Representative for the Common Foreign and Security Policy, or his designated representative, to take notice of the Gotovina Defence's Reply and to surreply within fourteen days of the filing of this Invitation. The surreply should include the European Union's response to the arguments made by the Gotovina Defence regarding the existence of specific documents listed in Annex A of its Reply.

**FURTHER INVITES** the Secretary-General of the Council of the European Union and High Representative for the Common Foreign and Security Policy, or his designated representative, to find the most practical and expeditious way to give the Gotovina Defence renewed access to the 24 documents sought by the Gotovina Defence that the European Union had found to be present in EUMM's archives, as stated in the European Union's Response.

**REQUESTS** the Registrar of the Tribunal to serve this Notification and Invitation on:

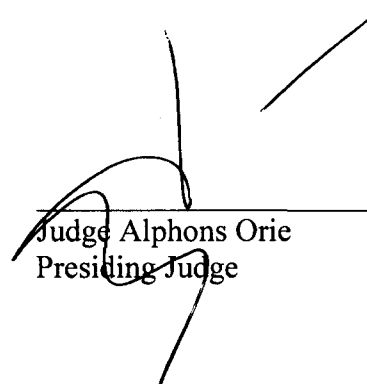
1. The Secretary-General of the Council of the European Union and High Representative for the Common Foreign and Security Policy, or his designated representative;
2. The European Union Monitoring Mission;
3. The Presidency of the Council of the European Union;
4. The Commission of the European Union;
5. The Founding Member States of the European Community Monitoring Mission;

and to attach the following filings to this Notification and Invitation:

1. Gotovina Defence Request to Reply to European Union Response to Defendant Ante Gotovina's Motion to Enforce the Trial Chamber's Previous Rule 54 *bis* Order Compelling Access to Archives of the EUMM, filed on 20 April 2009;
2. Notice of Public Status of Filing of Gotovina Defence Request to Reply to European Union Response to Defendant Ante Gotovina's Motion to Enforce the Trial Chamber's Previous Rule 54 *bis* Order Compelling Access to Archives of the EUMM, filed on 22 April 2009;

3. Gotovina Defence Reply to European Union's Response to Defendant Ante Gotovina's Motion to Enforce the Trial Chamber's Previous Rule 54 *bis* Order Compelling Access to Archives of the EUMM, filed on 23 April 2009.

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



Judge Alphons Orie  
Presiding Judge

Dated this twelfth day of May 2009  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**