

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 No. IT-06-90-T
Date: 16 June 2010
Original: English

IN TRIAL CHAMBER I

Before: Judge Alphons Orie, Presiding
Judge Uldis Ķinis
Judge Elizabeth Gwaunza

Registrar: Mr John Hocking

Order of: 16 June 2010

PROSECUTOR

v.

ANTE GOTOVINA
IVAN ČERMAK
MLADEN MARKAČ

PUBLIC

SCHEDULING ORDER

Office of the Prosecutor

Mr Alan Tieger

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 the Prosecution Motion for Leave to Exceed Word Limit for Final Trial Brief of 4 June 2010, wherein it requests that the word limit for its final brief be extended to 90,000 words, that its proposed crime base appendices be exempt from the word limit, and, in the case the proposed crime base appendices are not exempt from the word limit, that the word limit be extended further (“Prosecution Motion”);¹

RECALLING that on 11 June 2010 the Chamber closed the evidentiary stage of the instant proceedings;²

RECALLING that on 7 June 2010, pursuant to Rule 126 *bis* of the Tribunal’s Rules of Procedure and Evidence (“Rules”), the Chamber shortened the deadline for responses to the Prosecution Motion to 10 June 2010 through an informal communication, and after a Gotovina Defence request for additional time to respond, the Chamber extended the deadline for responses to the Prosecution Motion to 11 June 2010 through an informal communication;

NOTING the Gotovina Defence’s Response to Prosecution Motion for Leave to Exceed Word Limit for Final Trial Brief of 11 June 2010, wherein it requests that the Chamber deny the Prosecution Motion or, in the alternative, requests a reciprocal right to exceed the word limit for its final brief and further requests to file its final brief 14 days after the filing of the Prosecution’s final brief in the case the Prosecution Motion is granted in its entirety (“Gotovina Request”);³

NOTING that on 11 June 2010 the Markač Defence joined the Gotovina Request (“Markač Request”);⁴

NOTING the Čermak Defence’s response of 11 June 2010, wherein it does not object to the Prosecution request for a word limit extension but instead requests that the Chamber further extend the word limit for its final brief to 120,000 words, or in the case the Prosecution

¹ Prosecution Motion, paras 1, 11, 13.

² T. 29007.

³ Gotovina Defence’s Response to Prosecution Motion for Leave to Exceed Word Limit for Final Trial Brief of 11 June 2010, paras 13-14, 16.

⁴ Defendant Mladen Markač’s Joinder to Defendant Ante Gotovina’s Response to Prosecution Motion for Leave to Exceed Word Limit for Final Trial Brief, 11 June 2010, para. 1.

Motion is granted in whole or in part, requests a reciprocal right for the Defence to exceed the word limit in their final briefs (“Čermak Request”);⁵

NOTING the Prosecution Request For Leave to Reply to Responses to Prosecution Motion for Leave to Exceed Word Limit for Final Trial Brief of 14 June 2010, which the Chamber granted on 11 June 2010 and of which the parties were informed through an informal communication;⁶

NOTING the Prosecution Reply to Gotovina and Markač’s Responses to its Motion for Leave to Exceed Word Limit for Final Trial Brief of 15 June 2010, in which the Prosecution requested that the Chamber deny the Gotovina Defence request for an additional 14 days to file its final brief after the Prosecution’s final brief filing;

RECALLING the discussions on 11 June 2010 regarding the scheduling of the filing of final briefs and hearing closing arguments, as well as the Gotovina Defence’s wish for flexibility in time allotment for presenting Defence closing arguments;⁷

CONSIDERING that the Practice Direction on the Lengths of Briefs and Motions (“Practice Direction”) states that a party seeking authorization from the Chamber to exceed the word limits set in the Practice Direction must provide an explanation of the exceptional circumstances that necessitate the oversized filing;⁸

NOTING that in this instance the Prosecution and the Čermak Defence have provided such an explanation;⁹

CONSIDERING that the purpose of final briefs is to provide the Chamber with a party’s summarized position in relation to the evidence heard at trial and that references to well-identified evidence can be an essential component of the parties’ positions in their final briefs;

RECALLING the Chamber’s statement on scheduling and final briefs of 26 March 2010, wherein the Chamber stated that it would be assisted by *references* to well-identified evidence in relation to the charges in the Indictment;¹⁰

⁵ Ivan Čermak’s Response to Prosecution Motion for Leave to Exceed Word Limit for Final Trial Brief, 11 June 2010, paras 7-8.

⁶ The request for leave to reply was granted on 11 June 2010, after a courtesy copy had been distributed to the parties and the Chamber.

⁷ T. 29009-29018.

⁸ Practice Direction on the Length of Briefs and Motions, IT/184/Rev. 2, 16 September 2005, (C)(4), (C)(7).

⁹ Prosecution Motion, paras 3-8; Čermak Request, paras 7-8.

¹⁰ See T. 28047-28048.

ENCOURAGING the Prosecution to present such references in a succinct and structured format;

CONSIDERING that appendices containing tables referencing crime base information by incident would be an intrinsic component of a party's arguments as presented to the Chamber and are accordingly to be counted against the word limit set out in the Practice Direction;

FINDING that the parties can present their positions, including the Prosecution's proposed crime base appendices, within a limit of 90,000 words;

GRANTS in part the Prosecution Motion, the Gotovina Request, the Markač Request, and the Čermak Request;

DISMISSES the remainder of the Prosecution Motion, the Gotovina Request, the Markač Request, and the Čermak Request; and accordingly

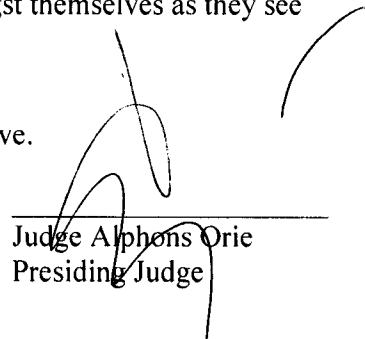
PURSUANT to Rule 54 of the Rules;

ORDERS that:

1) All parties shall file their final briefs no later than 16 July 2010. The length of each brief shall not exceed 90,000 words, and the Prosecution's proposed crime base appendices shall be included in that word limit.

2) The closing arguments of the parties shall take place on 25-27 August 2010. The Prosecution will be allotted six hours to deliver its closing argument, and the Defence teams will each have two and a half hours to deliver their closing arguments. There will then be one hour for Prosecution rebuttal arguments and one hour in total for rejoinder arguments. Defence teams may divide their time for closing arguments amongst themselves as they see fit.

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



Judge Alphons Orie
Presiding Judge

Dated this sixteenth day of June 2010
At The Hague
The Netherlands

[Seal of the Tribunal]