

IT-06-90-Misc.1  
D12-D10  
13 April 2011

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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-Misc.1  
Date: 13 April 2011  
Original: English

IN TRIAL CHAMBER I

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

Registrar: Mr John Hocking

Decision of: 13 April 2011

PROSECUTOR

v.

ANTE GOTOVINA  
IVAN ČERMAK  
MLADEN MARKAČ

*PUBLIC*

DECISION ON ANTE GOTOVINA'S EMERGENCY MOTION SEEKING AN  
ORDER TO THE REGISTRY CONCERNING COURT ROOM SEATING

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Ms Gillian Higgins

Counsel for Mladen Markač

Mr Goran Mikuličić  
Mr Tomislav Kuzmanović

## PROCEDURAL BACKGROUND

1. On 14 March 2011, the Chamber announced that the pronouncement of the Judgement in this case take place on 15 April 2011 in Courtroom I.<sup>1</sup>
2. On 12 April 2011, the Gotovina Defence requested the Chamber to order the Registry to provide the Defence with the same number of seats in the Defence area of Courtroom I as is usually provided to the Defence (18 seats).<sup>2</sup> In the alternative, it requested the Chamber to order the Registry to provide a reasoned explanation justifying the Registry's departure from established seating practices.<sup>3</sup> The Gotovina Defence submitted that the Registry had "unilaterally and without explanation" decided to limit the number of seats in the Defence area to twelve.<sup>4</sup> It argued that its team consists of more than four members and that all team members should have the opportunity to sit in the courtroom and be present for the Judgement, which is the culmination of their many years of work on the "Gotovina case".<sup>5</sup> The Gotovina Defence further points to prior practice, specifically to hearings in this case, as well as the pronouncement of the Judgement in the *Haradinaj* case, when 18 seats were available to the Defence in Courtroom I.<sup>6</sup>
3. On the same day, after the Chamber had sought further information on the matter through an informal communication, the Registry filed an internal memorandum providing an explanation for its decision to limit the number of seats in Courtroom I for the pronouncement of the Judgement on 15 April 2011.<sup>7</sup> It argued that following the pronouncement of the *Haradinaj* judgement, due to security considerations, certain restrictions, including in relation to seating availability, were necessary during special hearings.<sup>8</sup>

<sup>1</sup> Scheduling Order for Pronouncement of Judgement, 14 March 2011.

<sup>2</sup> Ante Gotovina's Emergency Motion Seeking an Order to the Registry Concerning Courtroom Seating, 12 April 2011 ("Motion"), paras 1, 6.

<sup>3</sup> Motion, para. 6.

<sup>4</sup> Motion, para. 1.

<sup>5</sup> Motion, para. 2, Confidential Annex A.

<sup>6</sup> Motion, paras 3-6.

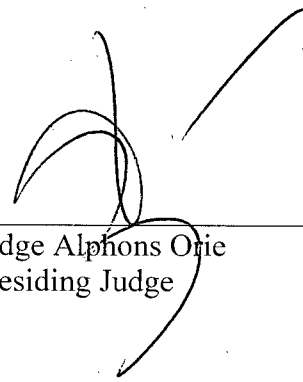
<sup>7</sup> Additional Information in Relation to the Seating for Defence Allocated for the Judgement of Gotovina et al., 12 April 2011 ("Registry Memo").

<sup>8</sup> Registry Memo, p. 1.

## DISCUSSION

4. At the outset, the Chamber considered that the nature of the Motion does not require input from the other parties in this case.
5. The Chamber will only interfere in security-related practical arrangements in the courtroom in exceptional circumstances; for example if such involvement was indispensable for upholding a fair trial. The Registry Memo clarifies the reasons for the limitation in courtroom seating and explains the differences between a judgement pronouncement hearing and regular hearings. It also clarifies that a new security assessment was conducted after the *Haradinaj* judgement.
6. The Chamber notes that the alternative relief requested by the Motion has been met by the Registry Memo. Notwithstanding that, the Chamber finds that no exceptional circumstances exist that would justify an interference by the Chamber. Limiting the number of seats in the courtroom for members of the Defence for the hearing on 15 April 2011 does not in any way jeopardize the fairness of the trial.
7. For the above reasons, the Chamber **DENIES** the Motion.

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



Judge Alphons Onie  
Presiding Judge

Dated this thirteenth of April 2011  
At The Hague  
The Netherlands

[Seal of the Tribunal]