

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-A
Date: 21 May 2012

IN THE APPEALS CHAMBER

Before: Judge Theodor Meron, Presiding
Judge Carmel Agius
Judge Patrick Robinson
Judge Mehmet Güney
Judge Fausto Pocar

Registrar: Mr. John Hocking

THE PROSECUTOR

v.

**ANTE GOTOVINA
MLADEN MARKAČ**

PUBLIC

**PROSECUTION RESPONSE TO GOTOVINA'S
SUPPLEMENTAL BRIEF**

The Office of the Prosecutor:

Ms. Helen Brady
Mr. Douglas Stringer

Counsel for Ante Gotovina:

Mr. Gregory Kehoe, Mr. Luka Mišetić, Mr. Payam Akhavan and Mr. Guénaél Mettraux

Counsel for Mladen Markač:

Mr. Goran Mikuličić, Mr. Tomislav Kuzmanović, Mr. John Jones and Mr. Kai Ambos

**THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA**

Case No. IT-06-90-A

THE PROSECUTOR

v.

**ANTE GOTOVINA
MLADEN MARKAČ**

PUBLIC

PROSECUTION RESPONSE TO GOTOVINA'S SUPPLEMENTAL BRIEF

I. OVERVIEW

1. The Prosecution gave proper notice in the Indictment and pre-trial phase that the Appellants were members of a joint criminal enterprise (JCE) with a common criminal purpose of permanently removing Serb civilians from the Krajina. Shelling was a means of carrying out the crimes against humanity of persecution, deportation and forcible transfer of the Serb civilian population (Counts 1-3). Regardless of whether it separately met the elements of unlawful attack under Article 3, if the shelling operation had an impermissible civilian objective—to deport the civilian population and thereby capture the territory cleansed of Serbs—it would be a crime against humanity. This does not undermine IHL or otherwise infringe IHL's *lex specialis* status, since such shelling would not be "permitted" under IHL. On the contrary, it would violate IHL's most fundamental principles.¹ From the outset the Appellants were on notice that the charges under Article 5 did not depend on proof of an unlawful attack under Article 3.

¹ AT.95-98.

2. The Prosecution argued and proved at trial that the shelling attack on the four towns was unlawful, in the sense of a direct and indiscriminate attack on civilians and civilian objects. However, the Prosecution did not exclude that the attack was also unlawful because it was aimed at expelling the civilian population.² JCE members did not merely foresee the civilian flight as an unintended consequence; rather the shelling was intended to expel the Serb civilians to further the common criminal purpose.³ As the Chamber found, the shelling caused the forcible displacement of at least 20,000 Serbs, constituting the *actus reus* of deportation and an underlying act of persecution.⁴

3. The Appellants were well-aware that they could be convicted of crimes against humanity on this basis, and conducted their defence accordingly. Gotovina fails to show any prejudice to the conduct of his case and his notice objection should be rejected.

4. Gotovina's additional objections to issues discussed in the Appeals Hearing⁵ go beyond the Appeal Chamber's request for supplemental briefs. These complaints should also be rejected, as they are without merit.

II. THE APPELLANTS HAD PROPER NOTICE

A. The Indictment charged shelling as an underlying act of persecution (Count 1) and a means of forcible displacement (Counts 2&3)

5. The Indictment gave the Appellants notice that the shelling was one way of committing persecution and deportation/forcible transfer, irrespective of whether it was indiscriminate, disproportionate or otherwise in violation of IHL. All material facts were properly pleaded.⁶

6. The Indictment alleged that the persecution and deportation/forcible transfer were committed by a variety of means, including shelling. Count 1 charged both

² Prosecution R98bis, T.17392. Prosecution Closing, T.29050-25054. *Also* AT.179. *Further* Gotovina R98bis, T.17478-17479.

³ Prosecution Closing, T.29050-25054. *Contra* GSB, para.7.

⁴ *Below* II. *Contra* GSB, paras.1-15.

⁵ GSB, III-V.

⁶ *Contra* GSB, paras.11-14.

“shelling of civilians” and “unlawful attacks on civilians and civilian objects” as separate underlying acts of persecution.⁷

7. The statement of facts—incorporated by reference into the charges of persecution (Count 1)⁸ and deportation/forcible transfer (Counts 2&3)⁹—pleaded that the JCE’s common criminal purpose was “the permanent removal of the Serb population from the Krajina region by force, fear or threat of force, persecution, forced displacement, transfer and deportation”.¹⁰ As part of the “orchestrated campaign to drive the Serbs from the Krajina” the “Croatian forces shelled civilian areas.”¹¹ “Civilian areas” is not a term of art,¹² but rather a description of the towns and villages shelled.¹³

B. The Defence received additional timely, clear and consistent notice and defended themselves accordingly

8. The Defence cannot be surprised by the argument that the shelling was unlawful in the sense that it was an underlying act of persecution and caused the deportation, regardless of proof of an “unlawful attack” under Article 3.¹⁴ This issue was extensively litigated pre-trial.

9. The Defence repeatedly raised this issue in pre-trial submissions, showing they had notice of it. The Defence argued they could only be convicted if the “unlawful attack” met the requirements of an Article 3 “unlawful attack against civilians and civilian objects”. The Chamber consistently rejected this argument, stressing that the underlying “unlawful attack” need not meet the requirements of an Article 3 “unlawful attack” to constitute the crimes against humanity of persecutions and deportation/forcible transfer.

⁷ Indictment, para.48.

⁸ Indictment, para.48.

⁹ Indictment, para.49.

¹⁰ Indictment, para.12.

¹¹ Indictment, para.28; *also* para.34 (referring to “extensive shelling of civilian areas” in relation to inhumane acts). From 2006, when the Prosecution added “shelled civilian areas” to Indictment para.28 (then para.29), the Defence knew “the shelling of civilian areas was also a means by which the crime of forcible transfer was committed”, *see* Prosecution Joinder Motion, para.68.

¹² *E.g. D.Milošević* AJ, para.54.

10. Gotovina made the same arguments then that he makes on appeal:
- “Most revealing is the repeated contention – in relation to the core allegation of ‘ethnic cleansing’ – that ‘the laws and customs of war...do not apply to crimes against humanity.’ This is tantamount to arguing that the basis for criminal liability under humanitarian law can be wholly disregarded simply by charging conduct as crimes against humanity rather than war crimes.”¹⁵
 - “This abrupt *volte face* can only suggest that the Prosecution does not have adequate proof of the alleged Hague Law violations – such as spreading terror or deliberate attacks against civilians as an element of ‘ethnic cleansing’ – and therefore seeks to transform crimes against humanity into a humanitarian law black-hole in which the laws of war can be disregarded at will. If the Joinder Indictment is accepted in its present form, ‘lawful combat would become impossible’”.¹⁶
 - “We submit respectfully that the Gotovina exception is an attempt by the Prosecution to criminalise Operation Storm without proof that it constituted unlawful combat.”¹⁷
 - “[I]f it is the case that there are lawful military targets in Knin and there is a lawful attack in order to take out those military targets, in the course of shelling, civilians flee as they always do in situations of combat in every warfare that one can – act of warfare that one can think about, the mere fact that civilians have fled is not a war crime or a crime against humanity, nor can it be a basis for inferring criminal intent on the part of the accused. You must establish that the attacks either deliberately targeted civilians or that they were indiscriminate attacks or disproportionate attacks.”¹⁸

¹³ Cf. GSB, paras.4-8, 14.

¹⁴ See GSB, para.3; AT.105-106.

¹⁵ Gotovina Jurisdiction Reply, para.3; *also* para.17; Gotovina Jurisdiction Motion, para.16.

¹⁶ Gotovina Jurisdiction Reply, paras.20-21.

¹⁷ T.142; *compare* AT.122.

¹⁸ T.161. *Also* T.139-140.

11. In response, the Prosecution maintained that the Indictment’s Article 5 charges did not require proof of an Article 3 violation:

- “A crime against humanity may be committed using various modalities of the armed conflict. For example, the Joinder Indictment charges that shelling civilians was one of the methods used in the commission of the crimes charged in the Joinder Indictment. Whether or not the actions described in the statement of facts in the Joinder Indictment could also have been charged as other crimes is irrelevant”.¹⁹
- “[T]he erroneous assumption that the attacks on civilians were lawful rests on a factual dispute. The Prosecution alleges that the accused unlawfully attacked civilians, civilian areas, and civilian convoys in order to drive the civilians from the RSK [...] The fact that the Prosecutor has not charged the shelling, for example, as a separate war crime does not mean that the acts were legal. Whether or not the shelling caused deportation, forcible transfer, or formed part of a persecutory campaign is a matter of fact which must be determined at the trial”.²⁰

12. Although the Pre-Trial Brief argued that the shelling was “unlawful” in the sense that it was directed against civilians and civilian objects and was indiscriminate and disproportionate, the Prosecution’s Pre-Trial Brief also pleaded that shelling and shelling of civilian areas caused the deportations:

- “[T]he population of Knin was expected to flee as a result of the shelling of civilian areas.”²¹
- “Almost the entire Serb civilian population was forcibly displaced through fear, threat of force, shelling, forced expulsion, or other forms of coercion from their homes to other areas within Croatia or across the *de jure* state border to BH and Serbia without grounds permitted under international law. Serb civilians left the Krajina involuntarily. In light of the coercive

¹⁹ Prosecution Jurisdiction Response, para.14. *Also* Prosecution Concession Response, paras.13, 23.

²⁰ T.150. *Contra* AT.121.

²¹ PTB, para.36; *also* paras.16, 28, 33.

circumstances – which included shelling of civilian areas, threats, fear of violence [...] the Serb civilians had no genuine choice in their displacement.”²²

13. The Chamber observed that Gotovina “consistently and repeatedly attempt[ed] to apply constructs of the laws and customs of war (‘war crimes’) to charges of crimes against humanity.”²³ Gotovina was arguing that had he “been charged with unlawful attacks or spreading terror he would have been in a position to raise defences which he cannot now raise when faced with the present charges”.²⁴ The Defence, the Chamber explained, “is not prohibited from raising conformity with international humanitarian law as a defence although the Chamber at this stage of the proceedings refrains from any comment on the potential merits of such a defence.”²⁵

14. In a pre-trial Interlocutory Appeal the Defence repeated these arguments, again confirming their understanding that the Prosecution’s case included the issues now canvassed on appeal by Question #4. Gotovina protested that he “may prove his innocence under the laws of war but still be found guilty by reclassification of the same conduct as crimes against humanity.”²⁶ He also challenged what he termed “[t]he Trial Chamber’s unprecedented view that contrary to customary law, any ‘forced displacement’, however occasioned and whether in conformity with the laws of war potentially falls within the ambit of deportation... leav[ing] open the possibility of his conviction for crimes against humanity even if he can establish his compliance with the laws of war.”²⁷ The Appeals Chamber dismissed the Interlocutory Appeal.²⁸

15. Before trial, the Chamber reaffirmed that the Prosecution’s case encompassed shelling as an act of persecution and deportation—regardless of its status under Article 3, stating “it is not required for the Prosecution to reference, to use the Defence’s term, ‘Hague Law’ in order to charge ‘unlawful attacks on civilian objects’

²² PTB, para.114.

²³ Jurisdiction Decision, para.24.

²⁴ Jurisdiction Decision, para.33.

²⁵ Jurisdiction Decision, para.34.

²⁶ Gotovina Interlocutory Appeal, para.21. *Also* Interlocutory Appeal Decision, para.12.

²⁷ Gotovina Interlocutory Appeal, para.29. *Also* paras.42, 45, 53; Interlocutory Appeal Decision, para.13.

²⁸ Interlocutory Appeal Decision, para.25.

as a factual allegation or a ‘modality’ of the *actus reus* of persecution under Count 1.”²⁹ The Chamber explained:

The use of the term ‘unlawful attacks on civilians and civilian objects’ in the pre-trial brief does not include, and clearly is not intended to include, a charge of unlawful attacks as punishable under Article 3. The Trial Chamber leaves it open to which extent it would accept defences which would have been appropriate in relation to such a charge, had it existed within the indictment.³⁰

16. The Prosecution’s case did not change at trial. It maintained its position that shelling was one means of persecuting and forcibly displacing the Serbs.³¹ Defence submissions at trial consistently show they understood the Prosecution’s case was that JCE members intended to use shelling as a means to force the Serb population out of the Krajina.³² For example, the Defence asserted that the shelling, *whether lawful or unlawful*, did not cause the mass flight of the civilian population.³³ In their R98bis submissions, the Defence tried to incorporate API provisions into the crimes against humanity charges.³⁴ They argued, “[i]f there is no unlawful attack, there is no forced displacement without grounds permitted under international law.”³⁵

17. The Defence cannot show any prejudice to the preparation of their case.³⁶ In addition to arguing that the shelling was “lawful”, the Appellants also defended

²⁹ Motion to Strike Decision, para.26.

³⁰ Motion to Strike Decision, para.25. *Also* paras.26, 28.

³¹ Prosecution Opening, T.417-419, 423-428, 438-439; Prosecution FTB, paras.4-11, 123. Although it is irrelevant to the notice question, contrary to Gotovina’s claims (GSB, para.9), the Chamber did not exclude lawful shelling as a means of deportation in places other than the four towns. The Chamber found although witnesses from other places referred to shelling as the reason for departure, there was insufficient evidence establishing shelling caused their flight: Judgement, para.1754. Moreover, the Chamber considered that in light of possible military targets and other factors, it could not conclude that those firing the shells had intent to displace: Judgement, para.1755. These findings concerning other towns, which turn on lack of evidence, do not impact the Chamber’s findings that JCE members intended to forcibly displace civilians from Knin, Obrovac, Benkovac and Gračac.

³² Gotovina Opening, T.514, 546; Gotovina R98bis, T.17245, 17248; Gotovina FTB, para.189.

³³ Gotovina R98bis, T.17225, 17236; noted in R98bis Decision, T.17596; Gotovina Closing, T.29260 (“But the more fundamental problem is that there is no proof even that Serb civilians fled in panic because of lawful artillery attacks.”).

³⁴ Gotovina R98bis, T.17229-17232, 17255, 17478-17479.

³⁵ Gotovina R98bis, T.17235-17236; *also* T.17485, 29254-29256, 29259; Gotovina FTB, paras.858-859. This is legally incorrect: IHL permits displacement on narrow grounds, *see Stakić* AJ, paras.283-284; *Popović* TJ, paras.901-903. A violent means can render displacement unlawful, by disregarding civilian health, safety and protection: AT.96. Moreover, an attack aimed at displacing the civilian population violates fundamental principles of IHL, *above* para.2.

³⁶ *Mrkšić* AJ, paras.142-144.

themselves on the basis that the shelling, whether lawful or unlawful, did not *cause* the deportation.³⁷

III. GOTOVINA’S ADDITIONAL ISSUES GO BEYOND THE ORDER

18. The three additional matters fall outside the Appeals Chamber’s order for supplementary briefing.³⁸

A. Disproportionate attacks have always been part of the Prosecution’s case

19. The Prosecution’s unlawful attack case at trial included disproportionate shelling of Krajina towns.³⁹ On appeal, the Prosecution has continued to assert the relevance of the proportionality assessment.⁴⁰ Gotovina’s claim that the Prosecution raised this for the first time at the appeal hearing is unsustainable.⁴¹

20. As early as 2007, Gotovina said that he understood “unlawful attack” to include the targeting of civilians, or the use of indiscriminate or disproportionate fire.⁴² The Prosecution’s assertion in the Pre-Trial Brief of “an indiscriminate shelling campaign”⁴³ necessarily entailed the failure to adequately distinguish lawful targets from civilians or civilian objects, and the relevance of proportionality. In fact, Defence expert Corn testified that a disproportionate attack is a type of indiscriminate attack.⁴⁴

³⁷ Gotovina R98bis, T.17225, 17236; noted in R98bis Decision, T.17596; Gotovina Closing, T.29260.

³⁸ AT.123.

³⁹ See Response *Limine* Motion, paras.1, 3-12.

⁴⁰ See Response Brief, paras.51, 152-155, 311, fn.1112.

⁴¹ *Contra* GSB, paras.16-18.

⁴² T.161.

21. The Defence’s conduct at trial demonstrates they understood the relevance of proportionality:

- Prosecution expert Konings testified—and was cross-examined—about the relevance of proportionality when military objects are targeted in a civilian-populated area;⁴⁵
- Gotovina refuted that the use of artillery was disproportionate in his R98*bis* submissions;⁴⁶
- In opening his defence, Markač asserted that “[t]he Defence will show that there were no instances of disproportionate or indiscriminate use of artillery”;⁴⁷
- Closing his case, Gotovina denied the existence of “disproportionate” civilian casualties.⁴⁸

22. On appeal, Gotovina has continued to make arguments regarding proportionality.⁴⁹

B. The weapons used were indiscriminate in the circumstances

23. Contrary to Gotovina’s assertion,⁵⁰ the Prosecution is entitled to argue on appeal that the weapons used by the Croatian forces, including the MBRLs, were indiscriminate in the circumstances.

24. The Prosecution could not have appealed the finding at Judgement paragraph 1897 because it would not have been able to show that any error invalidated the verdict. Rather, a successful ‘appeal’ could only have further supported the unlawful

⁴³ PTB, para.31.

⁴⁴ T.21519. *Also* Response Brief, paras.59, 61-62.

⁴⁵ *E.g.* Konings: T.14342, 14347-14349, 14353, 14405, 14691, 14805. *Also* Exhs.P1259, pp.5, 13; P1260, pp.4-6. *Further* Leslie: T.1982 (collateral damage’s relevance in targeting).

⁴⁶ T.17232, 17259-17260, 17500-17501. *Also* T.17230-17231.

⁴⁷ T.17853.

⁴⁸ T.29229-29230.

⁴⁹ Gotovina Appeal Brief, paras.86-88.

⁵⁰ GSB, paras.19-21.

attack finding and thus the conviction.⁵¹ In addition, *res judicata* cannot apply to a judgment under appeal.⁵²

25. The Prosecution referred to the indiscriminate nature of the weapons when responding to Gotovina's argument for a margin of error above 200m.⁵³ If the Appeals Chamber reconsiders the illegality of the artillery attack, it must re-assess the Chamber's related findings, including the indiscriminate nature of the weapons in the circumstances.⁵⁴ If the HV weapons were much less accurate than the Chamber found, then the Appeals Chamber must examine the appropriateness of using them against "point targets" in the four towns full of civilians.⁵⁵ This reasoning applies with particular force to MBRLs, which the Chamber found were less accurate than howitzers and mortars.⁵⁶

C. The participants at Brioni discussed forcing civilians out

26. Gotovina fails to show that the Prosecution misquoted the Judgement or changed its position.⁵⁷ Based solely on the Brioni transcript, the Chamber found that the meeting "was not about the protection of civilians but about civilians being forced out."⁵⁸ The Prosecution referred to this finding at the appeals hearing.⁵⁹ This is not a change of position. In its Response Brief the Prosecution stated that the Chamber correctly found the existence of a JCE from the totality of the evidence (including its findings on the unlawful shelling).⁶⁰ Contrary to Gotovina's claim,⁶¹ the Prosecution has never conceded that the Chamber could not have made its finding that a JCE existed even absent unlawful shelling findings. To the contrary, it has maintained on appeal that the Chamber's finding about the Brioni meeting was reasonable.⁶²

⁵¹ See Art.25 Statute. *Contra* GSB, para.19. The MBRL issue concerns only a predicate step of the Chamber's reasoning: *cf. Orić* AJ, para.64.

⁵² *Contra* GSB, para.19.

⁵³ Gotovina Appeal Brief, para.18; *also* AT.149-150; Response Brief, para.82. Konings did not say the margin was 295m, *contra* GSB, fn.39.

⁵⁴ Judgement, fn.932.

⁵⁵ AT.83-84, 88-90.

⁵⁶ Judgement, para.1897.

⁵⁷ *Contra* GSB, paras.22-23.

⁵⁸ Judgement, para.1995. *Also* 2311.

⁵⁹ AT.170.

⁶⁰ Response Brief, paras.229, 237-239, 242-250.

⁶¹ *E.g.* Gotovina Reply, para.101; AT.51, 54; GSB, para.22. *Also* AT.131-132.

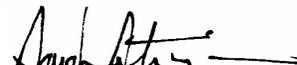
⁶² Response Brief, paras.229, 237-239, 242-250.

IV. CONCLUSION

27. The Appeals Chamber should dismiss Gotovina's objections.

Word Count: 2983


Helen Brady
Senior Appeals Counsel


Douglas Stringer
Senior Appeals Counsel

Dated this 21st day of May 2012
At The Hague, The Netherlands

V. GLOSSARY

Pleadings, Orders, Decisions etc. from *Prosecutor v. Ante Gotovina & Mladen Markač*, Case No. IT-06-90

Abbreviation used in Prosecution Response	Full citation
Gotovina Appeal Brief	<i>Prosecutor v. Ante Gotovina & Mladen Markač</i> , Case No. IT-06-90-A, Appellant's Brief of Ante Gotovina, 2 August 2011 (public redacted).
Gotovina Closing	<i>Prosecutor v. Ante Gotovina, Ivan Čermak & Mladen Markač</i> , Case No. IT-06-90-T, T.29197-T. 29380, 31 August 2010
Gotovina FTB	<i>Prosecutor v. Ante Gotovina, Ivan Čermak & Mladen Markač</i> , Case No. IT-06-90-T, Gotovina Defence Final Trial Brief, 27 July 2010 (public redacted).
Gotovina Interlocutory Appeal	<i>Prosecutor v. Ante Gotovina, Ivan Čermak & Mladen Markač</i> , Case No. IT-06-90-AR72.1, Defendant Ante Gotovina's Interlocutory Appeal Against Decision on Several Motions Challenging Jurisdiction Rendered 19 March 2007 by Trial Chamber I, 3 April 2007 (public).
Gotovina Jurisdiction Motion	<i>Prosecutor v. Ante Gotovina, Ivan Čermak & Mladen Markač</i> , Case No. IT-06-90-PT, Defendant Ante Gotovina's Preliminary Motion Challenging Jurisdiction Pursuant to Rule 72(A)(i) of the Rules of Procedure and Evidence, 18 January 2007 (public).
Gotovina Jurisdiction Reply	<i>Prosecutor v. Ante Gotovina, Ivan Čermak & Mladen Markač</i> , Case No. IT-06-90-PT, Defendant Ante Gotovina's Reply to Prosecution's Response to Preliminary Motion Challenging Jurisdiction Pursuant to Rule 72(A)(i) of the Rules of Procedure and Evidence, 8 February 2007 (public).
Gotovina Opening	<i>Prosecutor v. Ante Gotovina, Ivan Čermak & Mladen Markač</i> , Case No. IT-06-90-T, T.512-T.615, 12 March 2008
Gotovina R98bis	<i>Prosecutor v. Ante Gotovina, Ivan Čermak & Mladen Markač</i> , Case No. IT-06-90-T, T.17472-T.17554, 24 March 2009
Gotovina Reply	<i>Prosecutor v. Ante Gotovina & Mladen Markač</i> , Case No. IT-06-90-A, Reply Brief of Appellant Ante Gotovina, 30 September 2011 (public redacted version).
GSB	<i>Prosecutor v. Ante Gotovina & Mladen Markač</i> , Case No. IT-06-90-A, Ante Gotovina's Supplemental Brief Pursuant to the

	Oral Order of the Appeals Chamber of 14 May 2012, 17 May 2012 (public).
Indictment	<i>Prosecutor v. Ante Gotovina, Ivan Čermak & Mladen Markač</i> , Case No. IT-06-90-PT, Amended Joinder Indictment, 17 May 2007 (public).
Interlocutory Appeal Decision	<i>Prosecutor v. Ante Gotovina, Ivan Čermak & Mladen Markač</i> , Case No. IT-06-90-AR72.1, Decision on Ante Gotovina's Interlocutory Appeal Against Decision on Several Motions Challenging Jurisdiction, 6 June 2007 (public).
Judgement	<i>Prosecutor v. Ante Gotovina, Ivan Čermak & Mladen Markač</i> , Case No. IT-06-90-T, T.Ch., Judgement, 15 April 2011 (public with confidential appendix).
Jurisdiction Decision	<i>Prosecutor v. Ante Gotovina, Ivan Čermak & Mladen Markač</i> , Case No. IT-06-90-PT, Decision on Several Motions Challenging Jurisdiction, 19 March 2007 (public).
Motion to Strike Decision	<i>Prosecutor v. Ante Gotovina, Ivan Čermak & Mladen Markač</i> , Case No. IT-06-90-PT, Decision on Ante Gotovina's Motion Pursuant to Rule 73 Requesting Pre-Trial Chamber to Strike Parts of Prosecution Pre-Trial Brief Constituting Effective Amendment of the Joinder Indictment, and on Prosecution's Motion to Amend the Indictment, 14 February 2008 (public).
Prosecution Closing	<i>Prosecutor v. Ante Gotovina, Ivan Čermak & Mladen Markač</i> , Case No. IT-06-90-T, T.29020-T. 29196, 30 August 2010
Prosecution Concession Response	<i>Prosecutor v. Ante Gotovina, Ivan Čermak & Mladen Markač</i> , Case No. IT-06-90-PT, Prosecution Response to Allegations of Concession Pursuant to Trial Chamber Order of 23 February 2007, 26 February 2007 (public).
Prosecution FTB	<i>Prosecutor v. Ante Gotovina, Ivan Čermak & Mladen Markač</i> , Case No. IT-06-90-T, Prosecution's Public Redacted Final Trial Brief, 2 August 2010 (public).
Prosecution Joinder Motion	<i>Prosecutor v. Ante Gotovina</i> , Case No. IT-01-45-PT, Prosecution's Consolidated Motion to Amend the Indictment and for Joinder, 20 February 2006 (public).
Prosecution Jurisdiction Response	<i>Prosecutor v. Ante Gotovina, Ivan Čermak & Mladen Markač</i> , Case No. IT-06-90-PT, Prosecution Response to Gotovina's Second Motion Challenging Jurisdiction, 1 February 2007 (public).
Prosecution Opening	<i>Prosecutor v. Ante Gotovina, Ivan Čermak & Mladen Markač</i> , Case No. IT-06-90-T, T.414-T.510, 11 March 2008 (public

	redacted)
Prosecution R98bis	<i>Prosecutor v. Ante Gotovina, Ivan Čermak & Mladen Markač</i> , Case No. IT-06-90-T, T.17378-T.17471, 23 March 2009 (public redacted)
PTB	<i>Prosecutor v. Ante Gotovina, Ivan Čermak & Mladen Markač</i> , Case No. IT-06-90-PT, Prosecution Pre-Trial Brief, 23 March 2007 (public redacted).
R98bis Decision	<i>Prosecutor v. Ante Gotovina, Ivan Čermak & Mladen Markač</i> , Case No. IT-06-90-T, T.17595-T.17633, 3 April 2009 (public redacted)
Response Brief	<i>Prosecutor v. Ante Gotovina & Mladen Markač</i> , Case No. IT-06-90-A, Prosecution Response to Ante Gotovina's Appeal Brief, 12 September 2011 (public redacted).
Response <i>Limine</i> Motion	<i>Prosecutor v. Ante Gotovina & Mladen Markač</i> , Case No. IT-06-90-A, Prosecution Response to Gotovina's Motion <i>In Limine</i> Seeking Order Precluding Prosecution From Raising New Allegation of "Disproportionate Attack" and Motion for Protective Order, 9 May 2012 (confidential).

Other ICTY authorities

Abbreviation used in Prosecution Response	Full citation
<i>D.Milošević</i> AJ	<i>Prosecutor v. Dragomir Milošević</i> , Case No.IT-98-29/1-A, Judgement, 12 November 2009
<i>Mrkšić</i> AJ	<i>Prosecutor v. Mile Mrkšić and Veselin Šljivančanin</i> , Case No.IT-95-13/1-A, Judgement, 5 May 2009
<i>Orić</i> AJ	<i>Prosecutor v. Naser Orić</i> , Case No.IT-03-68-A, Judgement, 3 July 2008
<i>Popović</i> TJ	<i>Prosecutor v. Vujadin Popović et al.</i> , Case No.IT-05-88-T, Judgement, 10 June 2010
<i>Stakić</i> AJ	<i>Prosecutor v. Milomir Stakić</i> , Case No.IT-97-24-A, Judgement, 22 March 2006

Other Abbreviations

Abbreviation used in Prosecution Response	Full citation
AT.	Appeals Transcript
BH	Bosnia and Herzegovina
Chamber	Trial Chamber in <i>Prosecutor v. Ante Gotovina, Ivan Čermak & Mladen Markač</i> , Case No. IT-06-90-T
Exh.	Exhibit
Exhs.	Exhibits
Hearing	14 May 2012 hearing in <i>Prosecutor v. Ante Gotovina & Mladen Markač</i> , Case No. IT-06-90-A.
HV	<i>Hrvatska Vojska</i> – Croatian Army
IHL	International humanitarian law
JCE	Joint criminal enterprise
MBRL	Multi-barrel rocket launcher
para.	Paragraph
paras.	Paragraphs
p.	Page
R	Rule
RS	Republika Srpska
RSK	Republika Srpska Krajina (Republic of Serb Krajina)
Statute	Statute of the International Criminal Tribunal for the former Yugoslavia
T.	Trial Transcript