

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

**THE PROSECUTOR**

v.

**Ivan CERMAK  
Mladen MARKAC**

Case No. IT-03-73-I

**INDICTMENT**

The Prosecutor of the International Criminal Tribunal for the former Yugoslavia, pursuant to her authority under Article 18 of the Statute of the International Criminal Tribunal for the former Yugoslavia ("the Statute of the Tribunal"), charges:

**IVAN CERMAK**

and

**MLADEN MARKAC**

with **CRIMES AGAINST HUMANITY** and **VIOLATIONS OF THE LAWS OR CUSTOMS OF WAR**, as set forth below:

**THE ACCUSED**

**Ivan CERMAK**

1. **Ivan CERMAK** was born on 19 December 1949, in the Municipality of Zagreb in the Republic of Croatia, then part of the Socialist Federal Republic of Yugoslavia (the "SFRY").
2. Between 1990 and 1991, **Ivan CERMAK** held the position of Vice President of the Executive Board of the Croatian Democratic Union (HDZ) and also served as an advisor to President Franjo TUDMAN.
3. In 1991, **Ivan CERMAK** was appointed the Assistant Minister of Defence in the government of the Republic of Croatia, which position he held until 1993. Whilst in this position and thereafter, he held the rank of Colonel General. In 1993, he was appointed the Minister of Trade, Shipbuilding and Energy. In December 1993, **Ivan CERMAK** ceased to be a Minister of the Croatian government.
4. On 5 August 1995, President Franjo TUDMAN appointed **Ivan CERMAK** the Commander of the Knin Garrison. **Ivan CERMAK** established his headquarters in Knin on 5 or 6 August 1995.
5. On or about 15 November 1995, **Ivan CERMAK** was succeeded as the Commander of the Knin Garrison by his Deputy.

## **MLADEN MARKAC**

6. **Mladen MARKAC** was born on 8 May 1955, in Durdjevac, in the Municipality of Durdjevac in the Republic of Croatia, then part of the SFRY.
7. In 1981, **Mladen MARKAC** graduated from the University of Zagreb, and in 1982, he completed his compulsory military service. He then joined the police force of the Ministry of the Interior of the SFRY.
8. In 1990, **Mladen MARKAC**, and others, established a police unit for special tasks within the Ministry of the Interior. He was appointed Deputy Commander of the unit which, in late 1990, became the Anti-Terrorist Unit. In 1991, **Mladen MARKAC** was appointed the head of the Lucko Anti-Terrorist Unit. In 1992, he was promoted to the rank of Major General (reserve).
9. On 18 February 1994, **Mladen MARKAC** was appointed Commander of the Special Police of the Ministry of the Interior of the Republic of Croatia ("the RH MUP"). In the aftermath of Operation Storm **Mladen MARKAC** held the rank of Colonel General.

## **INDIVIDUAL AND SUPERIOR CRIMINAL RESPONSIBILITY**

10. **Ivan CERMAK** and **Mladen MARKAC** are individually criminally responsible for the crimes which are referred to in Articles 3 and 5 of the Statute of the Tribunal and which are alleged in this Indictment pursuant to Article 7(1) of the Statute of the Tribunal. Acting individually or in concert with others, each accused planned, instigated, ordered, committed, or otherwise aided and abetted in the planning, preparation, or execution of such crimes, or foresaw the likelihood that they would be committed.
11. By using the word "committed" in the Indictment, the Prosecutor also includes acts that the accused committed by participating in a joint criminal enterprise. On 4 August 1995, the Republic of Croatia launched a military offensive known as "Oluja" or "Storm" ("Operation Storm"), with the objective of re-taking the Krajina region. During and after Operation Storm, and at all times relevant to this Indictment, **Ivan CERMAK** and **Mladen MARKAC**, with others including Ante GOTOVINA and President Franjo TUDMAN, participated in a joint criminal enterprise, the common purpose of which was the forcible and permanent removal of the Serb population from the Krajina region, including by the plunder, damage or outright destruction of the property of the Serb population, so as to discourage or prevent members of that population from returning to their homes and resuming habitation.
12. The crimes enumerated in Counts 1 and 3 to 6 of this Indictment were within the common purpose of the joint criminal enterprise. Each of the accused had the state of mind necessary for the commission of each of these crimes.
13. The crimes enumerated in Counts 2 and 7 and, as an alternative to the allegation in paragraph 12, Counts 1 and 3 to 6, were the natural and foreseeable consequences of the execution of the joint criminal enterprise and each of the accused was so aware.
14. During Operation Storm and its aftermath, Croatian forces attacked and took control of towns, villages and hamlets in the southern portion of the Krajina region. Pursuant to the orders of each of the accused, **Ivan CERMAK** and **Mladen MARKAC**, these forces carried out the acts which give rise to Counts 1 and 3 to 6. By their acts and omissions, each of the accused thereby encouraged others, including Croatian civilians, to also

perpetrate those acts that give rise to those charges. Further, each of the accused, **Ivan CERMAK** and **Mladen MARKAC**, had a duty to restore and ensure public order and safety and failed to fulfil this duty.

15. As the Commander of the Knin Garrison, and pursuant to the authority conferred on him by President Franjo TUDMAN, to whom he was directly responsible, **Ivan CERMAK** exercised *de jure* and/or *de facto* control over some of the Croatian forces operating in the southern portion of the Krajina region during Operation Storm from the time of his appointment, and in the Operation's aftermath. In particular, **Ivan CERMAK** exercised effective control over the units of the RH MUP, and some elements of the HV including the Military Police and the civil administration, and through them, exercised territorial control over significant areas in which the crimes alleged in this Indictment were committed.
16. As Commander of the Special Police of the RH MUP, during and after Operation Storm, **Mladen MARKAC** deployed, and issued orders to, the Special Police forces, and otherwise exercised control over them.
17. **Ivan CERMAK** and **Mladen MARKAC**, while holding positions of superior authority, are also individually criminally responsible for the acts or omissions of their subordinates, pursuant to Article 7(3) of the Statute of the Tribunal. A superior is responsible for the criminal acts of his subordinates if he knew or had reason to know that his subordinates were about to commit such acts, or had done so, and the superior failed to take the necessary reasonable measures to prevent such acts or to punish the subordinates.
18. **Ivan CERMAK** and **Mladen MARKAC** had the power, authority and responsibility to prevent or punish serious violations of international humanitarian law committed by Croatian forces during and after Operation Storm. Each accused knew, or had reason to know, that all crimes alleged within this Indictment were about to be committed or had been committed by their subordinates and they failed to take necessary and reasonable measures to prevent acts or to punish the perpetrators thereof. Each accused is therefore individually criminally responsible under Article 7(3) of the Statute of the Tribunal.

## GENERAL ALLEGATIONS

19. At all times relevant to this Indictment, a state of armed conflict existed in the Krajina region of the Republic of Croatia in the territory of the former Yugoslavia.
20. At all times relevant to this Indictment, the accused, **Ivan CERMAK** and **Mladen MARKAC** were required to abide by the laws and customs governing the conduct of war, including Common Article 3 of the Geneva Conventions of 1949.
21. The acts or omissions alleged against the accused in this Indictment which constitute Crimes against Humanity are crimes punishable by Article 5 of the Statute of the Tribunal, and were part of a widespread or systematic attack directed against a civilian population, namely the Serb population of the southern portion of the Krajina region.
22. In this Indictment every reference to "Croatian forces" means and includes those units of the HV, the Croatian Air Force or *Hrvatsko Ratno Zrakoplovstvo* (the "HRZ"), and units of the RH MUP that participated in Operation Storm and/or its aftermath and also the civilian and Special Police, in the southern portion of the Krajina region.
23. The Counts in the Indictment in relation to murder, and the Count of persecutions insofar as it relies on the acts of murder, allege the totality of these acts. The Schedule to these

counts sets forth only a small number of individual incidents for the purposes of specificity of pleading.

24. The general allegations contained in the previous paragraphs are re-alleged and incorporated into each of the related charges, which are set out below.

## **CHARGES**

### **COUNT 1** **(PERSECUTIONS)**

25. Between 4 August 1995 and 15 November 1995, each of the accused, **Ivan CERMAK** and **Mladen MARKAC**, acting individually and/or in concert with other members of the joint criminal enterprise, planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation, or execution of persecutions of the Krajina Serb population in the southern portion of the Krajina region.

The crime of persecutions was perpetrated through the following:

#### **Plunder of Public or Private Property**

26. Between 4 August 1995 and 15 November 1995, Croatian forces systematically plundered the property of the Krajina Serbs, including their homes, outbuildings, barns and livestock in the towns, villages and hamlets of the Municipalities of Benkovac, Donji Lapac, Drnis, Gospic, Gracac, Knin, Korenica, Obrovac, Sibenik, Sinj and Zadar.

#### **Destruction of Property**

27. Between 4 August 1995 and 15 November 1995, Croatian forces systematically set fire to or otherwise destroyed villages, homes, outbuildings and barns belonging to the Krajina Serbs, killed their livestock and spoiled their wells. Thousands of dwellings in the Municipalities of Benkovac, Donji Lapac, Drnis, Gospic, Gracac, Knin, Korenica, Obrovac, Sibenik, Sinj and Zadar were damaged or destroyed.

#### **Deportation / Forced Displacement**

28. Between 4 August 1995 and 15 November 1995, Croatian forces directed violent and intimidating acts against Krajina Serbs, including the plunder and destruction of their property, thereby forcing them to flee the southern portion of the Krajina region.
29. These acts were intended to discourage or prevent those who had already fled the area, either immediately before or during Operation Storm in anticipation of an armed conflict, from returning to their homes. The effect of these violent and intimidating acts was a deportation and/or displacement of tens of thousands of Krajina Serbs to Bosnia and Herzegovina and Serbia.

The Prosecution alleges that the following two acts were natural and foreseeable consequences of the joint criminal enterprise, and on that basis also contributed to the offence of persecutions.

### **Murder**

30. Between 4 August 1995 and 15 November 1995, Croatian forces murdered at least 150 Krajina Serbs. Specifically referred to in this Indictment are the murders of 1 person in the Benkovac Municipality, 30 persons in the Knin Municipality, and 1 person in the Korenica Municipality.

Listed in the Schedule, attached hereto, are further particulars of such murders.

### **Other Inhumane Acts**

31. Between 4 August 1995 and 15 November 1995, large numbers of Krajina Serbs were subjected to inhumane treatment, humiliation and degradation by Croatian forces that beat and assaulted them.
32. Alternatively, each of the accused **Ivan CERMAK** and **Mladen MARKAC** knew or had reason to know that forces under his effective control were committing the acts described in paragraphs 25 through 31 above, or had done so, including as a result of having been so informed by representatives of the international community. Each of the accused **Ivan CERMAK** and **Mladen MARKAC** failed to take necessary and reasonable measures to prevent the commission of such acts or punish the perpetrators thereof.

By these acts and omissions, each of the accused **Ivan CERMAK** and **Mladen MARKAC** did commit:

**Count 1:** a **CRIME AGAINST HUMANITY**, namely Persecutions on political, racial and religious grounds, punishable under Article 5 (h) read with Articles 7 (1) and 7 (3) of the Statute of the Tribunal.

### **COUNT 2** **(MURDER)**

33. Between 4 August 1995 and 15 November 1995, Croatian forces murdered at least 150 Krajina Serbs by means of shooting, burning or stabbing. Specifically referred to in this Indictment are the murders of 1 person in the Benkovac Municipality, 30 persons in the Knin Municipality, and 1 person in the Korenica Municipality.

Listed in the Schedule, attached hereto, are further particulars of such murders.

34. Between 4 August 1995 and 15 November 1995, each of the accused **Ivan CERMAK** and **Mladen MARKAC** knew or had reason to know that forces under his effective control were about to murder Krajina Serbs as described in paragraph 33 above, or had done so. Each of the accused **Ivan CERMAK** and **Mladen MARKAC** failed to take

necessary and reasonable measures to prevent the commission of such acts or punish the perpetrators thereof.

By these acts and omissions, each of the accused **Ivan CERMAK** and **Mladen MARKAC** did commit:

**Count 2:** a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, namely Murder, as recognised by Common Article 3(1)(a) of the Geneva Conventions of 1949, punishable under Article 3 read with Article 7 (3) of the Statute of the Tribunal.

### **COUNT 3** **(PLUNDER OF PROPERTY)**

35. Between 4 August 1995 and 15 November 1995, Croatian forces systematically plundered the property of the Krajina Serbs, including their homes, outbuildings, barns and livestock, in the towns, villages and hamlets of the Municipalities of Benkovac, Donji Lapac, Drnis, Gospic, Gracac, Knin, Korenica, Obrovac, Sibenik, Sinj and Zadar.
36. Each of the accused **Ivan CERMAK** and **Mladen MARKAC** acting individually and/or in concert with other members of the joint criminal enterprise, planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation, or execution of the acts of plunder of property.
37. Alternatively, each of the accused **Ivan CERMAK** and **Mladen MARKAC** knew, or had reason to know, that forces under his effective control were about to commit the acts described in paragraph 35 above, or had done so. Each of the accused **Ivan CERMAK** and **Mladen MARKAC** failed to take necessary and reasonable measures to prevent the commission of such acts or punish the perpetrators thereof.

By these acts and omissions, each of the accused **Ivan CERMAK** and **Mladen MARKAC**, did commit:

**Count 3:** a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, namely Plunder of public or private property, punishable under Article 3 (e) read with Articles 7 (1) and 7 (3) of the Statute of the Tribunal.

### **COUNT 4** **(WANTON DESTRUCTION OF CITIES, TOWNS OR VILLAGES)**

38. Between 4 August 1995 and 15 November 1995, Croatian forces systematically set fire to or otherwise destroyed villages, homes, outbuildings and barns belonging to Krajina Serbs, killed their livestock and spoiled their wells. Thousands of dwellings in the Municipalities of Benkovac, Donji Lapac, Drnis, Gospic, Gracac, Knin, Korenica, Obrovac, Sibenik, Sinj and Zadar were destroyed.
39. Each of the accused **Ivan CERMAK** and **Mladen MARKAC**, acting individually and/or in concert with other members of the joint criminal enterprise, planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation, or execution of the acts of destruction of property.

40. Alternatively, each of the accused **Ivan CERMAK** and **Mladen MARKAC** knew or had reason to know that forces under his effective control, or subordinated to him, were about to commit the acts described in paragraph 38 above, or had done so. Each of the accused **Ivan CERMAK** and **Mladen MARKAC** failed to take necessary and reasonable measures to prevent the commission of such acts or punish the perpetrators thereof.

By these acts and omissions, each of the accused **Ivan CERMAK** and **Mladen MARKAC** did commit:

**Count 4:** a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, namely Wanton destruction of cities, towns or villages, punishable under Article 3 (b) read with Articles 7 (1) and 7 (3) of the Statute of the Tribunal.

**COUNTS 5 AND 6**  
**(DEPORTATION AND FORCED DISPLACEMENT)**

41. Between 4 August 1995 and 15 November 1995, Croatian forces directed violent and intimidating acts against Krajina Serbs, including the plunder and destruction of their property, thereby forcing them to flee the southern portion of the Krajina region.
42. These acts were intended to discourage or prevent those who had already fled the area, either immediately before or during Operation Storm in anticipation of an armed conflict, from returning to their homes. The effect of these violent and intimidating acts was the deportation and/or displacement of tens of thousands of Krajina Serbs to Bosnia and Herzegovina and Serbia.
43. Each of the accused **Ivan CERMAK** and **Mladen MARKAC**, acting individually and/or in concert with others, including President Franjo TUDMAN, planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of the deportation and forced displacement of the Krajina Serb population.
44. Alternatively, each of the accused **Ivan CERMAK** and **Mladen MARKAC** knew or had reason to know that forces under his effective control were about to commit the acts described in paragraphs 41 and 42 above, or had done so. Each of the accused **Ivan CERMAK** and **Mladen MARKAC** failed to take necessary and reasonable measures to prevent the commission of such acts or punish the perpetrators thereof.

By these acts and omissions, each of the accused **Ivan CERMAK** and **Mladen MARKAC** did commit:

**Count 5:** a **CRIME AGAINST HUMANITY**, namely Deportation, punishable under Article 5 (d) read with Articles 7 (1) and 7 (3) of the Statute of the Tribunal.

**Count 6:** a **CRIME AGAINST HUMANITY**, namely Other Inhumane Acts (forced displacement), punishable under Article 5 (i) read with Articles 7 (1) and 7 (3) of the Statute of the Tribunal.

**COUNT 7**  
**(OTHER INHUMANE ACTS)**

45. Between 4 August 1995 and 15 November 1995, Croatian forces subjected many of the Krajina Serbs to inhumane treatment, humiliation and degradation by beating and assaulting them.
46. Between 4 August 1995 and 15 November 1995, each of the accused **Ivan CERMAK** and **Mladen MARKAC** knew or had reason to know that forces under his effective control were about to commit the acts described in paragraph 45 above, or had done so. Each of the accused **Ivan CERMAK** and **Mladen MARKAC** failed to take necessary and reasonable measures to prevent the commission of such acts or punish the perpetrators thereof.

By these acts and omissions, each of the accused **Ivan CERMAK** and **Mladen MARKAC** did commit:

**Count 7: a CRIME AGAINST HUMANITY**, namely Other Inhumane Acts, punishable under Article 5 (i) read with Article 7 (3) of the Statute of the Tribunal.

#### **STATEMENT OF THE FACTS**

47. The Republic of Croatia declared its independence on 25 June 1991, by which time an armed conflict had erupted in some areas in Croatia between Croatian Serbs (Krajina Serbs) and Croatian forces. In September 1991, the Croatian Serbs and the Yugoslav People's Army (JNA) controlled approximately one-third of the territory of the Republic of Croatia.
48. On 19 December 1991, the Assembly of the Serbian Autonomous Region of Krajina, together with Serbs from other parts of the Republic of Croatia declared independence from Croatia and purported to form a new entity, the self-proclaimed *Republika Srpska Krajina* (the "RSK"). The "RSK" had its own military force, the *Srpska Vojska Krajine* (the Serbian Army of Krajina or SVK).
49. The Krajina region, comprising the former UNPA's Sector South and Sector North, was situated within the "RSK" and included, but was not limited to, the municipalities of Benkovac, Donji Lapac, Drnis, Gospic, Gracac, Knin, Korenica, Obrovac, Sibenik, Sinj, and Zadar.
50. In February 1992, in accordance with the Vance Plan, the United Nations Security Council established under its authority a United Nations Protection Force (UNPROFOR) that was to be deployed in the UNPA's in Croatia. The UNPA's were areas in Croatia where Serbs constituted the majority or a substantial minority of the population and where inter-communal tensions had already led to armed conflict. There were four UNPA's, known as Sectors North, South, East and West.
51. By 1992, the Croatian Army was formulating plans for the forcible re-taking of the territory of the "RSK." In 1992, 1993, 1994 and 1995, Croatian forces launched military operations with this ultimate objective.
52. These operations were launched into the UNPA's or adjacent "pink zones" in the Miljevacaki Plateau in June 1992, the area of the Maslenica bridge in northern Dalmatia in January 1993, the Medak Pocket in September 1993, Operation Flash in Western Slavonia in May 1995 and Operation Storm in August 1995.

53. Ante GOTOVINA was born on 12 October 1955, on the island of Pasma within the Municipality of Zadar in the Republic of Croatia, then part of the SFRY.
54. Ante GOTOVINA, a former French Legionnaire of the rank of Chief Corporal, returned to Croatia in June 1991, whereupon he was appointed Chief of Operations and Training of the 1st Brigade of the *Zbor Narodne Garde* ("ZNG") (National Guard Corps). From February to April 1992, he was Deputy to the Commander of the Special Unit of the Main Staff of the Croatian army, the *Hrvatska Vojska* ("HV"), and from April to October 1992, he was assigned to the Croatian Defence Council, the *Hrvatsko Vijeće Obrane* ("HVO").
55. On 9 October 1992, Ante GOTOVINA, holding the rank of Brigadier, was appointed the Commander of the Split Operative Zone of the HV (which in 1993 was re-named the Split Military District), and held that command until March 1996. On 30 May 1994, he was promoted to the rank of Major General. By early August 1995, he had been promoted to the rank of Colonel General.
56. On 4 August 1995, the Republic of Croatia launched the military offensive known as Operation Storm, with the objective of re-taking the Krajina region. Ante GOTOVINA was the overall operational commander of the Croatian forces that were deployed as part of Operation Storm in the southern portion of the Krajina region, including the municipalities, in whole or in part, of Benkovac, Gracac, Knin, Obrovac, Sibenik, Sinj and Zadar. On 7 August 1995, the Croatian government announced that the Operation had been successfully completed. Follow-up actions continued until about 15 November 1995. In early August 1995, following the re-taking of the Krajina region, Ante GOTOVINA moved his headquarters to Knin, the capital of the Krajina region, which was located within the Split Military District.
57. On 12 March 1996, President Franjo TUDMAN appointed Ante GOTOVINA Chief of the HV Inspectorate.
58. As the overall operational commander, Ante GOTOVINA exercised *de jure* and/or *de facto* command and control over Croatian forces during Operation Storm. In the aftermath of Operation Storm, Ante GOTOVINA retained command and control of HV forces that continued to be deployed in the southern portion of the Krajina region.

19<sup>th</sup> February 2004  
The Hague  
The Netherlands

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Carla Del Ponte  
Prosecutor