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**UNITED  
NATIONS**

IT-06-90-AR73.2  
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29 June 2007

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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-AR73.2  
Date: 29 June 2007  
Original: English

**IN THE APPEALS CHAMBER**

**Before:** Judge Andréia Vaz, Presiding  
Judge Mohamed Shahabuddeen  
Judge Liu Daqun  
Judge Theodor Meron  
Judge Wolfgang Schomburg

**Registrar:** Mr. Hans Hothuis

**Decision:** 29 June 2007

**PROSECUTOR**

v.

**ANTE GOTOVINA  
IVAN ČERMAK  
MLADEN MARKAČ**

***PUBLIC***

**DECISION ON IVAN ČERMAK'S INTERLOCUTORY APPEAL  
AGAINST TRIAL CHAMBER'S DECISION ON CONFLICT OF  
INTEREST OF ATTORNEYS ČEDO PRODANOVIĆ AND  
JADRANKA SLOKOVIĆ**

**Office of the Prosecutor**

Mr. Alan Tieger  
Ms. Laurie Sartorio

**Counsel for Ivan Čermak**

Mr. Cedo Prodanović  
Ms. Jadranka Sloković

**Counsel for Ante Gotovina**

Mr. Luka Mišetić  
Mr. Gregory Kehoe  
Mr. Payam Akhavan

**Counsel for Mladen Markač**

Mr. Goran Mikuličić

*[Handwritten signature]*

**A. Applicable Law**

15. Article 14 of the Code of Conduct reads in relevant parts:

- (A) Counsel owes a duty of loyalty to a client. [...]
- (B) Counsel shall exercise all care to ensure that no conflict of interest arises. [...]
- (D) Counsel or his firm shall not represent a client with respect to a matter if:
  - (i) such representation will be, or may reasonably be expected to be, adversely affected by representation of another client;
  - (ii) representation of another client will be, or may reasonably be expected to be, adversely affected by such representation;
  - (iii) the matter is the same or substantially related to another matter in which counsel or his firm had formerly represented another client ("former client"), and the interests of the client are materially adverse to the interests of the former client; [...].
- (E) Where a conflict of interest does arise, counsel shall:
  - (i) promptly and fully inform each potentially affected present and former client of the nature and extent of the conflict; and
  - (ii) either:
    - (1) take all steps necessary to remove the conflict; or
    - (2) obtain the full and informed consent of all potentially affected present and former clients to continue the representation unless such consent is likely to irreversibly prejudice the administration of justice.

16. The Appeals Chamber also recalls that a conflict of interest between an attorney and a client arises in any situation where, by reason of certain circumstances, representation by such an attorney prejudices, or could prejudice, the interests of the client and the wider interests of justice.<sup>50</sup> Safeguarding the interests of justice requires the prevention of potential conflicts of interest before they arise.<sup>51</sup> If a Chamber determines that the risks and damage that could be caused are such as to jeopardise the right of the accused to a fair and expeditious trial or proper administration of justice, it takes the appropriate measure to restore and protect the fairness of trial and the integrity of the proceedings.<sup>52</sup> It has been held that such measures can include ordering the withdrawal of counsel.<sup>53</sup>

<sup>50</sup> 4 May 2007 Decision, para. 23 citing *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-AR73.1, Decision on Appeal by Bruno Stojić against Trial Chamber's Decision on Request for Appointment of Counsel, 24 November 2004 ("*Prlić Appeal Decision*"), para. 22.

<sup>51</sup> *Ibid.*, para. 25.

<sup>52</sup> See *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, Decision on Requests for Appointment of Counsel, 30 July 2004 ("*Prlić Trial Decision*"), para. 16.

<sup>53</sup> *Prosecutor v. Željko Međaković et al.*, Case No. IT-02-65-AR73.1, Decision on Appeal by the Prosecution to Resolve Conflict of Interest Regarding Attorney Jovan Simić, 6 October 2004 ("*Međaković Decision*"), para. 7; *Prlić Trial Decision*, para. 16.