

INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIACHURCHILLPLEIN, 1. P.O. Box 13888
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D 7393 - D 7391
10 March 2008

Case No. IT-06-90-PT
Prosecutor v. Ivan Čermak

**PUBLIC
DECISION**

THE REGISTRAR,

NOTING the Statute of the Tribunal as adopted by the Security Council under Resolution 827 (1993) ("Statute"), and in particular Article 21 thereof;

NOTING the Rules of Procedure and Evidence as adopted by the Tribunal on 11 February 1994, as subsequently amended ("Rules"), and in particular Rule 44 thereof;

NOTING the Code of Professional Conduct for Counsel Appearing Before the International Tribunal (IT/125 REV.2) ("Code of Conduct");

NOTING that Mr. Ivan Čermak ("Accused") was transferred to the seat of the Tribunal on 11 March 2004;

CONSIDERING that on 11 March 2004, the Accused executed a power of attorney authorizing Mr. Čedo Prodanović, attorney at law from Croatia, to act on his behalf in proceedings before the International Tribunal and stated that he would not apply for Tribunal legal aid;

CONSIDERING that on 12 March 2004, the Accused executed another power of attorney authorizing Ms. Jadranka Sloković, attorney at law from Croatia, to act on his behalf in proceedings before the International Tribunal;

NOTING that on 20 February 2006, the Prosecution filed a consolidated motion to amend the Indictments against the Accused, Mladen Markač and Ante Gotovina and to jointly charge and try these three accused ("Prosecution Motion");

NOTING that on 4 April 2006, a co-accused Mr. Ante Gotovina filed his “[...] Response in Opposition to the Prosecution’s Consolidated Motion to Amend the Indictment and for Joinder”, opposing the Prosecution Motion, arguing, *inter alia*, that the joinder would create a conflict of interest since the Accused’s counsel also represented Rahim Ademi, whom Mr. Gotovina intended to call as a critical witness;

NOTING that on 14 July 2006, the Trial Chamber issued its “Decision on Prosecution’s Consolidated Motion to Amend the Indictment and for Joinder” (“14 July 2006 Decision”), concluding that there was “no factual basis on which it is demonstrated that a conflict of interest will arise between the two accused” and ordering that the case of *Prosecutor v. Ante Gotovina*, case No. IT-01-45-PT, and the case of *Prosecutor v. Ivan Čermak and Mladen Markač*, case No. IT-03-73-PT, be jointly tried;

NOTING that on 25 October 2006, the Appeals Chamber issued its “Decision on Interlocutory Appeals against the Trial Chamber’s Decision to Amend the Indictment and for Joinder”, in which it confirmed the 14 July 2006 Decision on the joinder but found a potential conflict of interest in Mr. Prodanović and Ms Sloković’s dual representation of the Accused and Mr. Rahim Ademi;

NOTING that on 8 February 2007, counsel for the Accused filed a “Notice to the Trial Chamber Concerning Undertakings Provided by Ivan Čermak and Rahim Ademi” by which both clients undertook not to raise their counsel’s dual representation as a legal impediment affecting their respective right to a fair trial;

CONSIDERING that on 5 April 2007, the Trial Chamber issued its “Decision on Conflict of Interest of Attorneys Čedo Prodanović and Jadranka Sloković” (“Decision on Conflict of Interest”) and held that the representation of both the Accused and Mr. Ademi by Mr. Prodanović and Ms. Sloković raised a conflict of interest under Article 14(D)(i) of the Code of Conduct and ordered them to withdraw as counsel;

CONSIDERING that on 29 June 2007, the Appeals Chamber issued its “Decision on Ivan Čermak’s Interlocutory Appeal against Trial Chamber’s Decision on Conflict of Interest of Attorney’s Čedo Prodanović and Jadranka Sloković” upholding the Trial Chamber’s Decision on Conflict of Interest;

CONSIDERING that on 6 September 2007, the Accused executed a power of attorney authorising Mr. Steven Kay, QC from the United Kingdom, and Mr. Andrew Cayley, barrister from the United Kingdom, to act on his behalf in proceedings before the International Tribunal;

NOTING that on 27 September 2007 and on 12 November 2007, the Deputy Registrar admitted Mr. Kay and Mr. Cayley, respectively, pursuant to Rule 44(A) of the Rules, to represent the Accused in proceedings before the International Tribunal;

CONSIDERING that on 21 February 2008 the Accused executed a power of attorney authorising Ms Gillian Higgins, barrister from the United Kingdom, to represent him in proceedings before the International Tribunal;

NOTING that Ms Higgins was previously assigned as stand-by co-counsel in the case against Slobodan Milosević, case number IT-02-54;

CONSIDERING that the Registrar has ascertained that no conflict of interest exists between Ms Higgins former representation of Mr. Milosević and her representation of the Accused;

CONSIDERING that the Registrar is satisfied that the conditions for admission of counsel under Rule 44(A) of the Rules are fulfilled;

NOTING Ms Higgins's obligations under the Statute, the Rules, and the Code of Conduct;

DECIDES pursuant to Rule 44(A) of the Rules, to admit Ms Higgins to represent the Accused before the Tribunal, effective as of the date of this decision.

Dated this 10th day of March 2008
At The Hague,
The Netherlands.

