

Defence Lawyer Appeals Dismissal

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By Caroline Tosh in London (TU No 494, 23-Mar-07)

Separovic's appeal, filed on March 20, is also against the trial chamber finding of misconduct in his representation of Markac, who is set to go on trial with former Croatian army generals Ante Gotovina and Ivan Cermak, on May 7.

The three Croatians are charged with the murder, persecution and deportation of ethnic Serbs during a Croatian military operation to retake the Serb-held Krajina region in the summer of 1995.

Judges dismissed Separovic from the case on March 6, stating that he had a "personal interest" in the case and was likely to be called to testify.

Separovic, a Zagreb attorney, was Croatia's justice minister during the period relevant to the indictment.

The trial chamber also ordered Markac to find a new lawyer, and told Separovic to assist his replacement until he or she is ready to fully take over the case.

The code of ethics for the defence at the tribunal prevents lawyers representing a client where there is a conflict of interest, or where "counsel is likely to be a necessary witness" in a trial.

In his appeal this week, Separovic argued that in their decision to dismiss him, judges "did not appropriately take into account the legal arguments and jurisprudence" on conflict of interest at the tribunal.

He also argued that the judges' finding "jeopardises and endangers" Markac's right to a fair trial "due to substantial hardship he would suffer" if he were not allowed to choose his own counsel.

Attached to the appeal was a statement signed by Markac on March 7, 2006, in which the former general said he was "entirely informed" of the conflict of interest of his counsel and had "full faith" in Separovic.

Markac also said he thought the judges' decision "unjust and unlawful" as it deprived him of his right to choose his own counsel.

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