

Case No. IT-04-74-PT

IN TRIAL CHAMBER I

Before:
Judge Liu Daqun, Presiding
Judge Amin El Mahdi
Judge Alphons Orie

**Declassified to Public
06 September 2012**

Registrar:
Mr. Hans Holthuis

Decision:
30 July 2004

PROSECUTOR

v.

**Jadranko PRLIC
Bruno STOJIC
Slobodan PRALJAK
Milivoj PETKOVIC
Valentin CORIC
And Berislav PUSIC**

DECISION ON REQUESTS FOR APPOINTMENT OF COUNSEL

The Office of the Prosecutor:**Kenneth Scott****Counsel for the Accused:**

**For Jadranko Prlic: Camil Salahovic, Zelimir Par
For Bruno Stojic: Zeljko Olujic
For Slobodan Praljak: Kresimir Krsnik
For Milijov Petkovic: Vesna Alaburic
For Valentin Coric: Tomislav Jonjic
For Berislav Pusic: Marinko Skobic**

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prompt counsel to withdraw from the case, thereby causing delay in the proceedings, to the detriment of the accused. This may further justify that some witnesses be called back in order to have them testify on matters that counsel did not touch upon by reason of a potential or actual conflict. Such disruption in the proceedings is even more damaging in cases, like the present one, involving several accused.

16. To conclude, counsel, before accepting to represent a client, is bound by a professional duty to ensure that he will be in a position to defend this client in full independence and with loyalty. Counsel's duty is not exclusive of the Trial Chamber's inherent powers deriving from its duty to ensure the right of the accused to a fair and expeditious trial and proper administration of justice.²¹ Where the existence or a reasonable expectation of conflict of interest is obvious, the Trial Chamber cannot presume any longer that counsel has fulfilled his professional obligations, including Article 14 of the Code, but it falls to the Trial Chamber to guarantee that each accused is effectively assisted by counsel²² and to ensure that the integrity of the proceedings is not endangered. The risk of conflict of interest would be obvious in cases where counsel represents two accused, who are, at least partly, charged with the same criminal acts, committed during the same period of time and in the same area. The Trial Chamber must then assess factors such as the objective likelihood of conflict and the harm that could be caused to the accused and the proceedings, especially in cases, as this one, which concern several accused. It must further explore whether counsel is aware of all potential conflicts of interest and has properly assessed their possible consequences. After reviewing these elements, the Trial Chamber determines whether 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, and, if it finds that that is so, takes the appropriate measures to restore or protect the fairness of trial and the integrity of the proceedings. Such measures include barring counsel from representing an accused. The Trial Chamber concurs in this respect with the *Hadzihasanovic* Decision which, noting that the Trial Chamber is entitled, under the Rules, to exclude counsel from representing any suspect or accused before the Tribunal,²³ inferred that "the Chamber certainly has the power to take less far-reaching steps aimed at ensuring a fair trial and the proper administration of justice in a concrete case pending before that Chamber."²⁴

B. The conflicts of interest considered

1. Zeljko Olujic, counsel for Ivica Rajic and Bruno Stojic

17. Zeljko Olujic is the assigned lead counsel of Ivica Rajic and has been chosen by Bruno Stojic as his lead counsel in the present case.
 - (a) Charges against the accused
18. Ivica Rajic is charged, under Articles 7(1) and 7(3) of the Statute, with acts committed in Vares and Stupni Do (Bosnia and Herzegovina) between October 1993 and December 1993. The main criminal acts are alleged to have been committed on or about 23 October 1993. Ivica Rajic is charged with these acts on the basis of his *de jure* and *de facto* command and control of various Croatian Defence Council units in his area of responsibility (including Kiseljak, Kakanj and Vares municipalities), including the Ban Jelacic Brigade, the Bobovac Brigade and units known as the "Maturice" and "Apostoli."²⁵
19. Bruno Stojic is presented in the Indictment as the head of the HVO department (later Ministry) of