



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-A
Date: 22 August 2011
Original: English

IN THE APPEALS CHAMBER

Before: Judge Theodor Meron, Pre-Appeal Judge
Registrar: Mr. John Hocking
Decision of: 22 August 2011

PROSECUTOR

v.

**ANTE GOTOVINA
MLADEN MARKAČ**

PUBLIC

**DECISION REGARDING PROSECUTION'S MOTION TO
RECTIFY EXHIBITS P545 AND P546**

The Office of the Prosecutor

Ms. Helen Brady and Mr. Douglas Stringer

Counsel for Ante Gotovina

Mr. Gregory Kehoe, Mr. Luka Mišetić, Mr. Payam Akhavan, and Mr. Guénaél Mettraux

Counsel for Mladen Markač

Mr. Goran Mikuličić, Mr. Tomislav Kuzmanović, Mr. John Jones, and Mr. Kai Ambos

I, THEODOR MERON, Judge of the Appeals Chamber of the 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 (“Tribunal”), and Pre-Appeal Judge in this case,¹

BEING SEISED of the “Motion to Rectify Exhibits P545 and P546” filed by the Office of the Prosecutor (“Prosecution”) on 16 August 2011 (“Motion”);²

NOTING the Prosecution’s request that the versions of Exhibits P545 and P546 currently under temporary seal in the trial record be replaced in their entirety with redacted versions of the two exhibits, which it attaches to the Motion;³

NOTING the public nature of the trial proceedings, and the Prosecution’s assurances to the Presiding Judge at trial that it would provide public redacted versions of the exhibits in question;⁴

CONSIDERING, however, that the Prosecution has failed to substantiate its claim that maintaining the unredacted versions of Exhibits P545 and P546 under seal in the record would serve no forensic purpose;

PURSUANT to Rule 75(A) of the Rules;

HEREBY GRANT the Motion in part;

DIRECT the Registrar to: i) enter the redacted versions of Exhibits P545 and P546 attached to the Motion into the public record; ii) place the unredacted versions of Exhibits P545 and P546 currently in the record under permanent seal; and iii) serve counsel for Mr. Ivan Čermak with copies of the Motion and this order; and

DENY the Motion in all other respects.

¹ Order Designating a Pre-Appeal Judge, 30 May 2011. Pursuant to Rule 75(A) of the Rules of Procedure and Evidence of the Tribunal (“Rules”), a “Judge or a Chamber may [...] order appropriate measures for the privacy and protection of victims and witnesses”. As the information at issue in the Motion comprises protected information regarding two witnesses, this matter may be dealt with by a single judge. *Cf. Callixte Kalimanzira v. The Prosecutor*, Case No. ICTR-05-88-AR75, Decision on the Prosecutor’s Motion to Vary Protective Measures, 26 April 2011, n. 1.

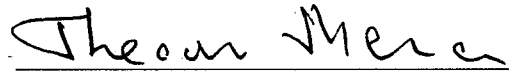
² This order is filed without awaiting a response from the Defence, in view of the lack of prejudice to them.

³ Motion, para. 3, Annexes A-D.

⁴ Motion, paras 1, 2, citing *Prosecutor v. Ante Gotovina et al.*, Case No. IT-06-90-T, T.5895-5896 (7 July 2008).

Done in English and French, the English text being authoritative.

Dated this 22nd day of August 2011,
at The Hague,
The Netherlands.



Judge Theodor Meron
Pre-Appeal Judge

[Seal of the Tribunal]