



INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA

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Case No. IT-95-5/18-R 77.2
In the contempt case of Milan Tupajić

IT-95-5/18-277.2
D118 - D117
11 APRIL 2012

PUBLIC

DECISION

THE REGISTRAR,

NOTING the Statute of the Tribunal as adopted by the Security Council under Resolution 827 (1993), as subsequently amended, 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 Rules 44 and 45 thereof;

NOTING the Directive on Assignment of Defence Counsel as adopted by the Tribunal on 28 July 1994, as subsequently amended ("Directive"), and in particular Articles 6, 7, 8, 9, 10 and 11 thereof;

NOTING the Code of Professional Conduct for Counsel Appearing Before the International Tribunal as adopted by the Tribunal on 25 May 1993, as subsequently amended ("Code of Conduct");

NOTING that Mr. Milan Tupajić ("Accused") was charged with contempt of the Tribunal under Rule 77 of the Rules, and that a public redacted version of the Order *in Lieu* of an Indictment was filed on 14 December 2011;¹

NOTING that the Rules in parts four to eight apply *mutatis mutandis* to proceedings under Rule 77 of the Rules;

CONSIDERING that the Accused was transferred to the seat of the Tribunal on 15 December 2011 and that his initial appearance was held on 16 December 2011;

CONSIDERING that on 16 December 2011, pursuant to Rule 45(C) of the Rules, the Acting Deputy Registrar assigned Mr. Eugene O'Sullivan, Attorney at Law from Canada, as duty counsel to the Accused for the purposes of his initial appearance and for such other matters as necessary until permanent counsel is assigned;²

CONSIDERING that on 13 January 2012, pursuant to Article 11(B) of the Directive, the Acting Deputy Registrar assigned Mr. Aleksandar Lazarević, Attorney at Law from Serbia, as counsel to

¹ *In the contempt case of Milan Tupajić*, IT-95-5/18-R77.2, Public Redacted Version of "Order *in Lieu* of Indictment", 14 December 2011.

² *In the contempt case of Milan Tupajić*, IT-95-5/18-R77.2, Public Decision by the Registrar, 16 December 2011.

the Accused for a period of 120 days, to ensure that the Accused's right to counsel was not affected while the Registrar examined his ability to remunerate counsel;³

NOTING that the proceedings *In the contempt case of Milan Tupajić* concluded on 24 February 2012;⁴

NOTING that any person charged with contempt of the Tribunal is entitled to assigned counsel in accordance with Rule 45 of the Rules if that person satisfies the criteria for the determination of indigence;

CONSIDERING that the Accused applied for Tribunal legal aid pursuant to Article 7 of the Directive, on the basis that he does not have sufficient means to remunerate counsel, and submitted a declaration of means pursuant to Article 7(B) of the Directive;

CONSIDERING that the Registry has examined the information provided by the Accused in his declaration of means and has completed an inquiry into the Accused's means pursuant to Article 10(A) of the Directive;

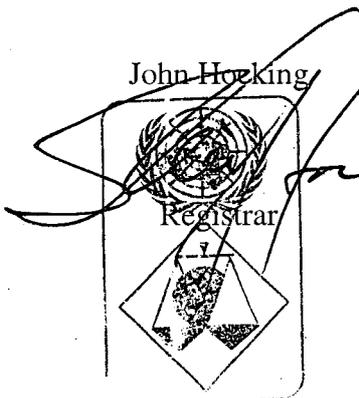
CONSIDERING that pursuant to the Registry Policy for Determining the Extent to Which an Accused is Able to Remunerate Counsel ("Indigency Policy"), the Registry assesses the income and assets of the Accused, his spouse, and persons with whom he habitually resides, and determines the contribution the Accused is able to make to the costs of his defence by deducting the estimated living expenses of the Accused's family and dependents for the period in which the Accused requires representation before the Tribunal, from his disposable means;

CONSIDERING that the Registry has assessed the Accused's financial status and his ability to remunerate counsel in line with the Indigency Policy;

CONSIDERING that the Registry is satisfied that the Accused did not and does not have sufficient means to pay for the cost of his defence before the Tribunal, and as such the Accused is, and was at the time of the proceedings against him, entitled to the assignment of Tribunal-paid counsel;

DECIDES in light of the above and in accordance with Article 11(A) of the Directive that the Accused is, and was at the time of the proceedings against him, eligible for full legal aid;

INFORMS the Accused and his counsel that the costs relating to the Accused's defence referred to in Articles 23, 24, 26, 27 and 28 of the Directive shall be borne by the Tribunal.

John Horking

 Registrar

Dated this 11th day of April 2012
 At The Hague,
 The Netherlands.

³ *In the contempt case of Milan Tupajić*, IT-95-5/18-R77.2, Decision by the Acting Deputy Registrar on Assignment of Counsel, 13 January 2012.

⁴ *In the contempt case of Milan Tupajić*, IT-95-5/18-R77.2, *Public Redacted Version* of Judgement on Allegations of Contempt issued on 24 February 2012.