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**Case No. IT-98-32/1-R77.2**  
**Prosecutor v. Jelena Rašić**

**PUBLIC****DECISION ON THE ASSIGNMENT OF COUNSEL****THE DEPUTY REGISTRAR,**

**NOTING** the Statute of the Tribunal as adopted by the Security Council under Resolution 827 (1993), as subsequently amended (“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 Rules 44, 45, and 77 thereof;

**NOTING** the Directive on the 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, 11(A), 14(A) and 16(A) and (G) thereof;

**NOTING** the Code of Professional Conduct for Counsel Appearing Before the International Tribunal (IT/125/Rev.3);

**CONSIDERING** the confidential “Decision on Review of Indictment” issued by Judge Howard Morrison on 26 August 2010<sup>1</sup> confirming an indictment for contempt of court pursuant to Rule 77 of the Rules against Ms. Jelena Rašić (“Accused”);

**CONSIDERING** that the Accused was transferred to the seat of the Tribunal on 20 September 2010;

**CONSIDERING** that on 21 September 2010, Ms. Mira Tapušковиć, attorney at law from Serbia, was assigned as duty counsel to represent the Accused at her initial appearance and in other such matters as may be necessary to ensure that the rights of the Accused are protected until a permanent counsel is retained by the Accused or assigned by the Registrar;<sup>2</sup>

**CONSIDERING** that on 22 September 2010, the initial appearance of the Accused was held before Judge Michèle Picard (“Duty Judge”);

<sup>1</sup> *Prosecutor v. Jelena Rašić*, IT-98-32/1-R77.2, “Decision on Review of Indictment”, 26 August 2010.

<sup>2</sup> *Prosecutor v. Jelena Rašić*, IT-98-32/1-R77.2, “Decision on the Assignment of Duty Counsel”, 21 September 2010.

**CONSIDERING** that during the initial appearance, the indictment against the Accused<sup>3</sup> was made public by order of the Duty Judge;<sup>4</sup>

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

**NOTING** that any person charged with contempt 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 has applied for Tribunal legal aid pursuant to Article 7 of the Directive on the basis that she does not have the means to remunerate counsel, has submitted a declaration of means pursuant to Article 7(B) of the Directive, and has requested that the Registrar assign Ms. Tapušковиć as her permanent counsel;

**CONSIDERING** that the Registrar has examined the information provided by the Accused in her 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 Registrar assesses the income and assets of the Accused, her spouse and persons with whom she habitually resides, and determines the contribution the Accused must make to the costs of her defence by deducting the estimated living expenses of the Accused's family and dependents during the period in which the Accused requires representation before the Tribunal from her disposable means;

**CONSIDERING** that the Registrar has assessed the Accused's financial status and her ability to remunerate counsel in accordance with the Indigency Policy;

**CONSIDERING** that the Registrar is satisfied that the Accused does not have sufficient means to pay for the costs of her defence before the Tribunal, and as such is entitled to the assignment of counsel paid for by the Tribunal;

**CONSIDERING** that Ms. Tapušковиć is admitted to the list of counsel eligible to represent indigent accused under Rule 45 of the Rules, and has indicated her willingness to be assigned as permanent counsel to the Accused;

**CONSIDERING** that Ms. Tapušковиć is currently assigned as co-counsel to the Defence team of Mr. Vujadin Popović (IT-05-88) in proceedings before the Tribunal, whose case is currently on appeal;

**CONSIDERING** that pursuant to Article 16(G)(i) of the Directive, the Registrar wrote to the Accused and to Mr. Popović, advising each of the potential dual assignment of Ms. Tapušковиć and providing each with an opportunity to comment should they have any objection to the dual assignment;

**CONSIDERING** that the Accused and Mr. Popović each consented in writing to the dual assignment of Ms. Tapušковиć, in accordance with Article 16(G)(i) of the Directive;

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<sup>3</sup> *Prosecutor v. Jelena Rašić*, IT-98-32/1-R77.2, "Indictment", 8 July 2010.

<sup>4</sup> Initial appearance, 22 September 2010, T.4.

**CONSIDERING** that the Registrar is satisfied, in accordance with Article 16(G)(ii) of the Directive, that the dual assignment of Ms. Tapušković presents no scheduling conflict and no potential or actual conflict of interest, and that the assignment would not otherwise prejudice the defence of either of the accused or the integrity of the proceedings;

**HEREBY DECIDES** pursuant to Article 11(A)(i) of the Directive to assign Ms. Tapušković, effective as of the date of this decision.



Dated this 25<sup>th</sup> day of November 2010  
At The Hague,  
The Netherlands.