

INTERNATIONAL CRIMINAL TRIBUNAL  
FOR THE FORMER YUGOSLAVIA

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POUR L'EX-YOUGOSLAVIE

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IT-05-88/2-277.2  
D161-D160  
02 NOVEMBER 2011

Case No. IT-05-88/2-R77.2

In the contempt case of Dragomir Pećanac

PUBLIC  
DECISION

THE DEPUTY REGISTRAR,

**NOTING** the Statute of the Tribunal as adopted by the Security Council under Resolution 827 (1993), 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(B), 14(A), 16(A), and 16(G) thereof;

**NOTING** the Code of Professional Conduct for Counsel Appearing Before the International Tribunal as adopted by the Tribunal on 12 June 1997, as subsequently amended (“Code of Conduct”);

**NOTING** that on 21 September 2011, the confidential Order *in Lieu* of Indictment<sup>1</sup> was filed against Mr. Dragomir Pećanac (“Accused”), charging him with contempt of the Tribunal under Rule 77 of the Rules and that a public redacted version of the Order *in Lieu* of Indictment was filed on 19 October 2011;<sup>2</sup>

**CONSIDERING** that the Accused was transferred to the seat of the Tribunal on 9 October 2011 and that his first initial appearance was held on 10 October 2011, followed by a further initial appearance held on 19 October 2011;

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

**CONSIDERING** that on 9 October 2011 and pursuant to Rule 45(C) of the Rules, the Registrar assigned Mr. Jens Dieckmann, Attorney at Law from Germany, 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;<sup>3</sup>

<sup>1</sup> *In the contempt case of Dragomir Pećanac*, IT-05-88/2-R77.2, Confidential Order *in Lieu* of Indictment, 21 September 2011.

<sup>2</sup> *In the contempt case of Dragomir Pećanac*, IT-05-88/2-R77.2, Public Order Issuing a Public Redacted Version of the “Order *in Lieu* of Indictment”, 19 October 2011.

<sup>3</sup> *In the contempt case of Dragomir Pećanac*, IT-05-88/2-R77.2, Confidential Decision by the Deputy Registrar, 9 October 2011. Confidentiality lifted pursuant to: *In the contempt case of Dragomir Pećanac*, IT-05-88/2-R77.2, Public Notice to Reclassify Decision by the Deputy Registrar, 2 November 2011.

**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 indicated that he will apply for Tribunal legal aid pursuant to Article 7 of the Directive, on the basis that he does not have means to remunerate counsel and has submitted a declaration of means pursuant to Article 7(B) of the Directive;

**CONSIDERING** that on 28 October 2011, the Accused formally requested the Registry to assign Mr. Jens Dieckmann, Attorney at Law from Germany, to represent him as lead counsel;

**NOTING** that Mr. Dieckmann is currently assigned as co-counsel to Mr. Sredoje Lukić in the case *The Prosecutor v. Milan Lukić and Sredoje Lukić*, IT-98-32/1-A;

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

**CONSIDERING** that both Mr. Sredoje Lukić and the Accused have consented in writing to the dual assignment of Mr. Dieckmann after receiving independent legal advice on this issue from the Registry pursuant to Article 16(G) of the Directive;

**CONSIDERING** that the Registry has not yet determined whether or to what extent the Accused is able to remunerate counsel;

**CONSIDERING** that in accordance with Article 11(B) of the Directive, the Registrar may temporarily assign counsel to an accused for a period of 120 days to ensure that an accused's right to counsel is not affected while the Registry examines his ability to remunerate counsel;

**CONSIDERING** that in this case it is necessary to assign counsel to the Accused pursuant to Article 11(B) to ensure that his right to counsel is not affected while the Registry assesses his ability to remunerate counsel;

**HEREBY DECIDES** to assign Mr. Dieckmann as counsel to the Accused for a temporary period of 120 days pursuant to Article 11(B) of the Directive, effective as of the date of this decision.

Linda Murnane  
  
Acting Deputy Registrar  


Dated this 2<sup>nd</sup> day of November 2011  
At The Hague,  
The Netherlands