

*The Prosecutor v. Momir Nikolic*

**THE DEPUTY REGISTRAR,**

**CONSIDERING** the Statute of the Tribunal as adopted by the Security Council under Resolution 827 (1993), and in particular Article 21 thereof;

**CONSIDERING** the Rules of Procedure and Evidence as adopted by the Tribunal on 11 February 1994, as subsequently amended, and in particular Rules 44 and 45 thereof;

**CONSIDERING** the Directive on Assignment of Defence Counsel ("the Directive"), as subsequently amended, and in particular Articles 14 and 16(C) thereof;

**CONSIDERING** the Code of Professional Conduct for Counsel Appearing Before the International Tribunal (IT/125 REV.1) (hereinafter "the Code of Conduct"), and in particular Article 14 thereof;

**NOTING** the Registrar's decision dated 1 August 2002 assigning Mr Stefan Kirsch, attorney at law from Frankfurt, as co-counsel to Momir Nikolic (hereinafter "the Accused");

**CONSIDERING** that on 11 February 2004, Mr Veselin Londrovic, lead counsel for the Accused, requested the withdrawal of Mr Kirsch and the assignment of Ms Virginia Lindsay, attorney at law from Houston, as replacement co-counsel for the appellate proceedings;

**CONSIDERING** Ms Lindsay was granted limited assignments as Legal Consultant in *The Prosecutor v. Dragan Jokic* and *The Prosecutor v. Haradin Bala*;

**CONSIDERING** that Ms. Lindsay's assignment to the *Prosecutor v. Dragan Jokic* is completed;

**CONSIDERING** that the Registrar has ascertained that there exists no conflict between Ms. Lindsay's assignments in *The Prosecutor v. Dragan Jokic* and *The Prosecutor v. Haradin Bala* and the present assignment;

**CONSIDERING** further that Mr. Miodrag Stojanovic, lead counsel in the *Prosecutor v. Dragan Jokic* and Mr. Peter Murphy, lead counsel in the *Prosecutor v. Haradin Bala*, submitted assurances to the Registry that no prejudice or conflict of interest would result from Ms Lindsay's assignment to the present case;

**CONSIDERING** that Ms Lindsay is a member of the Association of Defence Counsel and is currently listed on the Rule 45 list of counsel who are eligible to be considered for assignment of counsel;

**NOTING** that in accordance with Article 9(D) of the Code of Conduct, Mr Kirsch is obliged to surrender any papers and property to which the client or the Tribunal is entitled;

**NOTING** that in accordance with Article 13(A) of the Code of Conduct, Mr Kirsch remains subject to a continuing duty of confidentiality of the client's affairs and shall not reveal to any other person, other than to members of his team who need such information for the performance of their duties, information which has been entrusted to him in confidence or use such information to the client's detriment or to his own or another client's advantage;

**CONSIDERING** that Mr. Londrovic has satisfied the Registry that this would constitute withdrawal of counsel in the interest of justice under Article 19(A)(ii) of the Directive;

**CONSIDERING** that Article 19(E) of the Directive stipulates that if the assignment of counsel has been

withdrawn then a new counsel shall be assigned immediately;

**CONSIDERING** that in accordance with Article 16 (C) of the Directive, at the request of lead counsel, the Registrar may assign a second counsel to assist the lead counsel if it is in the interest of justice to do so;

**CONSIDERING** further that in view of Mr Kirsch's assignment in *The Prosecutor v. Sefer Halilovic*, his continued assignment to the present case at this stage of the proceedings could hinder the expeditious preparation of the appeal and cause delays in the proceedings;

**DECIDES** to withdraw Mr Stefan Kirsch as co-counsel to the Accused and to assign Ms Virginia Lindsay as co-counsel effective as of the date of this decision.

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David Tolbert  
Deputy Registrar

Dated this nineteenth day of February 2004,  
At The Hague,  
The Netherlands