



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-94-1-A
Date: 11 September 2001
Original: English
French

THE PRESIDENT OF THE INTERNATIONAL TRIBUNAL

Before: Judge Claude Jorda, President of the Tribunal

Registrar: Mr. Hans Holthuis

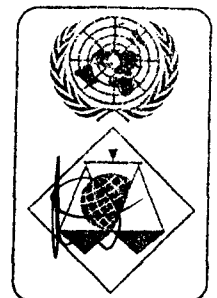
Decision of: 11 September 2001

THE PROSECUTOR

v.

DUŠKO TADIĆ

**DECISION ON MILAN VUJIN'S REQUEST
FOR THE REVIEW OF THE REGISTRAR'S DECISION
PURSUANT TO ARTICLE 14(D) OF THE DIRECTIVE
ON ASSIGNMENT OF DEFENCE COUNSEL**



I, Claude Jorda, President 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 (hereinafter “the Tribunal”),

NOTING the “Judgment on allegations of contempt against prior counsel, Milan Vujin” rendered by the Appeals Chamber ruling in the first instance on 31 January 2000, (IT-94-1-A-R77) (hereinafter “the Judgment”),

NOTING the “Appeal Judgement on allegations of contempt against prior counsel, Milan Vujin” rendered by the Appeals Chamber ruling on appeal on 27 February 2001, (IT-94-1-A-AR77) (hereinafter “the Appeal Judgement”),

CONSIDERING that, in its Judgment, the Appeals Chamber found Milan Vujin guilty of contempt of the Tribunal pursuant to Rule 77 of the Rules of Procedure and Evidence of the International Tribunal (hereinafter “the Rules”), a finding reaffirmed in the Appeal Judgement,

CONSIDERING that, in the Appeal Judgement, the Appeals Chamber orders *inter alia* that “the Registrar may consider, bearing in mind the factual findings against the Appellant by the Appeals Chamber ruling in the first instance and in accordance with his powers, to strike off or suspend the Appellant for a set period from the list of assigned counsel kept pursuant to Rule 45 of the Rules and to report his conduct as found by the Appeals Chamber, ruling in the first instance, to the professional body to which he belongs”,

NOTING the Decision of the Registrar of 8 June 2001 in the case *The Prosecutor v. Duško Tadić* (IT-94-1-A) in which he orders that the name of Mr. Milan Vujin be withdrawn from the Rule 45(B) list of counsel (hereinafter “the Decision”),

NOTING the “Request for the review of the Decision of the Registrar no. IT-94-1-A” filed on 28 June 2001 by Milan Vujin (hereinafter “the Request”),

PURSUANT to Article 14(D) of the Directive on Assignment of Defence Counsel (hereinafter “the Directive”),

CONSIDERING that, in the Request, Mr. Vujin argues: (i) that the Registrar may not rely on Article 14(D) of the Directive to remove him from the Rule 45(B) list of counsel since the provision post-dates the conduct characterised as contempt of the Tribunal and is consequently inapplicable in the case in point, and (ii) that the Rules and Directive applicable at the time of the facts provide the Registrar with no basis for removing his name from the Rule 45(B) list of counsel further to a conviction for contempt of the Tribunal pursuant to Rule 77 of the Rules,

CONSIDERING that the Registrar principally derives his authority from Article 17 of the Statute of the Tribunal (hereinafter “the Statute”) and Rule 33 of the Rules which confer upon him responsibility for the administration and servicing of the Tribunal,

CONSIDERING that several provisions of the Rules specifically confer upon the Registrar, as the organ responsible for the administration of the Tribunal, administrative authority to regulate various matters,

CONSIDERING that, among the functions assigned to the Registrar, Rule 45(B) of the Rules provides that the Registrar shall keep a list of counsel fulfilling the requirements of the Rules, and that the issue of deciding whether the requirements for inclusion in the list have been met falls within his discretionary power,

CONSIDERING that, in its Appeal Judgement, the Appeals Chamber explicitly acknowledged the Registrar’s autonomy in this matter when it ordered that “the Registrar *may* consider, [...] *in accordance with his powers*, to strike off [...] the Appellant [...] from the list of assigned counsel kept pursuant to Rule 45 of the Rules” (emphasis added),

CONSIDERING that, in so doing, the Appeals Chamber clearly underscored the Registrar’s autonomous power deriving from the relevant provisions of the Rules, which is manifestly distinct from the Appeals Chamber’s power to sanction,

CONSIDERING that the effect of the Appeal Judgement therefore was not to bind the Registrar; that, with regard to the conviction of Mr. Vujin for contempt of the Tribunal and in the exercise of his discretionary power, the Registrar was fully authorised to decide on the appropriate measures to adopt in the case in point,

CONSIDERING that, in his Decision, the Registrar did take the Appeals Chamber's Judgment and Appeal Judgement into consideration; that, moreover, he considered that "the findings [against Mr. Milan Vujin] constitute a continuing threat to the administration of justice before the Tribunal", and decided that "in order to safeguard the administration of justice before the Tribunal", it is necessary to withdraw the name of Mr. Milan Vujin from the Rule 45(B) list of counsel,

CONSIDERING that the Registrar's decision on the issue is thus purely administrative in nature and that, for this reason, the principle of *nullum crimen nulla pena sine lege* established in criminal matters has not been violated,

CONSIDERING therefore that the argument is without merit; that this finding sets aside the second argument which, in the interests of justice, shall nevertheless also be considered,

CONSIDERING that, as Mr. Vujin states, Article 20 of the Directive, in force at the time of the facts, confers upon the Registrar the power to remove any counsel from the list kept pursuant to Rule 45(B) of the Rules upon the decision by a Chamber to refuse audience to assigned counsel for misconduct under Rule 46 of the Rules, but that such circumstances do not apply in the case in point,

CONSIDERING that Rule 45(B) of the Rules must nevertheless be read in conjunction with the other provisions of the Statute and the Rules,

CONSIDERING that Rule 44 of the Rules, in force at the time of the facts, in particular Rule 44(C), sets forth the obligations of counsel, which include respect for the Code of Professional Conduct for Defence Counsel appearing before the International Tribunal (hereinafter "the Code of Conduct"), likewise in force at the time of the misconduct characterised as contempt of the Tribunal,

CONSIDERING that, in its Judgment, the Appeals Chamber concluded that the acts characterised as contempt of the Tribunal constituted serious violations and professional misconduct falling within all the categories established under Articles 13 and 20 of the Code of Conduct (para. 169),

CONSIDERING that the Appeal Judgement states that when convicted of contempt pursuant to Rule 77 of the Rules, counsel may expect to be suspended or struck off the list of assigned counsel kept by the Registrar pursuant to Rule 45 of the Rules, and that the Registrar's discretionary power in the matter is acknowledged,

CONSIDERING that Rule 45(B) of the Rules, in force at the time of the facts, states that "[a] list of counsel [...] *fulfilling the requirements of Rule 44* [...] shall be kept" by the Registrar (emphasis added),

CONSIDERING that Mr. Vujin had to expect that he would be removed from the Rule 45(B) list of counsel since he no longer satisfied the requirements of Rule 44(C) of the Rules,

FOR THE FOREGOING REASONS,

DISMISS the Request of Mr. Milan Vujin,

CONFIRM the Registrar's Decision to remove Mr. Milan Vujin from the list of counsel kept pursuant to Rule 45(B) of the Rules.

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

Done this eleventh day of September 2001
At The Hague
The Netherlands

(signed)

Claude Jorda
President

[Seal of the Tribunal]

