



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: IT-98-30/1-A
Date: 27 November 2002
Original: English

IN THE APPEALS CHAMBER

Before: Judge David Hunt, Pre-Appeal Judge

Registrar: Mr Hans Holthuis

Decision of: 27 November 2002

PROSECUTOR

v

Miroslav KVOČKA, Mlađo RADIĆ Zoran ŽIGIĆ & Dragoljub PRCAĆ

DECISION ON REQUEST BY ZORAN ŽIGIĆ FOR TRANSLATION OF DOCUMENTS

Counsel for the Prosecutor:

Mr Christopher Staker

The Accused:

Zoran Žigić, un-represented

Procedural Background and Request for provision of documents

1. On 8 July 2002, pursuant to Rules 44 and 45 of the Rules of Procedure and Evidence (“Rules”) as well as the Directive on Assignment of Defence Counsel (IT/73/Rev 8) (“Directive”), the Registrar by his “Decision” withdrew the assignment of counsel, Mr Stojanović, from the accused Zoran Žigić (“Žigić”) and discontinued the provision of legal aid.¹ The Registrar held that he had lawfully obtained documentation showing that Žigić possessed substantial means which he acquired mostly by cash transfers from members of his defence team, which in turn were diverted from their revenues as assigned defence counsel at the International Tribunal.² Accordingly, the Registrar concluded that Žigić had sufficient means to remunerate the cost of his defence for the remainder of his appeal, and he therefore withdrew the assignment of Mr Stojanović as lead counsel.³ Žigić has appealed against that Decision.⁴

2. On 1 October 2002, Žigić filed a “Request for Providing All Material Translated in BCS”,⁵ whereby he requested that he receive “all material translated in BCS, submitted to the ICTY and all decisions rendered by ICTY since 08.07.2002 until now” in relation to his Request for Review. On 3 October 2002, I decided as Pre-Appeal Judge that, considering that Žigić was now without legal representation and that he must prepare his case against the Registrar’s decision by himself, he was entitled to receive in a language which he understands all the documents directly relating to his Request for Review. I therefore ordered that all such relevant documents be provided to him in BCS.⁶

3. On 14 October 2002, Žigić filed a fresh Motion in which he claimed that he “is entitled to have the accuracy of the English translation of the appeal verified”, and he requested that he be sent the English version of all material before it is provided to the Appeals Chamber “so that he may verify the accuracy of the translation”.⁷ On 15 October 2002, I noted that Žigić had elected to proceed with his Request for Review with documents in the BCS language, and that he has been granted access to all relevant material in BCS only because he claimed not to be able to read or

¹ Since the Impugned Decision was given, the Directive has been amended, although not in any of its relevant parts (IT/73/Rev.9).

² Impugned Decision.

³ The Registrar stated that he would have no objection to Mr Deretić continuing his representation of the accused on a non-assigned basis. On 11 July 2002, Žigić informed the Registrar that he was revoking the power of attorney of Mr Deretić (the letter was filed on 23 July 2002). On 15 July 2002, Mr Deretić informed the Registrar that in any case he could not continue to represent Žigić.

⁴ Appeal against the Decision by the Registrar of the Tribunal of 8 July 2002, 4 Oct 2002 (“Request for Review”).

⁵ Dated 25 September 2002, but filed on 1 October 2002

⁶ Decision on Zoran Žigić’s Motion for Translation of Documents Pertaining to his Appeal, 3 October 2002.

⁷ Request to Verify Accuracy of Translation, 14 Oct 2002.

understand English. I therefore denied Žigić's request for verification of the translations provided to the Appeals Chamber. I reserved my right to re-consider my Decision of 3 October 2002.⁸

4. In relation to the Request for Review, the Registrar filed his "Response of the Registry to the Request of Zoran Žigić to Review the Decision of the Registrar Dated 8 July 2002" on 30 October 2002 ("Response"), which was provided to Žigić in BCS on 18 November 2002. During the Status Conference of 28 October 2002, I informed Žigić that, as he was acting in his own defence in relation to his Request for Review of the Registrar's Decision to withdraw counsel, he would have seven (7) days in which to reply to the Registrar's Response from the day he received a BCS version of the Registrar's Response.⁹ I also informed him that he would be granted additional time in which to reply should he establish that seven (7) days were not sufficient.¹⁰

5. On 19 November 2002, Žigić filed a "Request for the Provision of Documents" ("Request") whereby he seeks to obtain a translation in the BCS language of a number of decisions from various jurisdictions as well as other documents to which the Registrar has referred in his Response. In his Request, Žigić claims that he "cannot write [his] rebuttal until [he has] been sent all those documents in the BCS language". He further submits that he should not only be provided with those passages from the decisions and documents to which the Registrar refers specifically but to the decision or document *in full*. He claims that he could thereby discover whether "there is something of value to [his] defence" in those decisions and documents.

Discussion and disposition

6. The Decision of 3 October 2002 ordered that Žigić should receive in BCS, all documents "directly relating to his appeal". If that phrase, "directly relating to his appeal", was to be interpreted as broadly as suggested by Žigić so as to include *any* material which is relevant to the present proceedings, it would include dozens of textbooks and hundreds of decisions from countless jurisdictions. This was not the intention of that Decision. The Decision was intended, as its disposition makes clear, to provide Žigić with BCS translations of "all documents filed by the prosecution or co-accused relating to the appeal of this appellant, as well as all orders, decisions and letters filed by the Appeals Chamber which concern the appellant", thereby clearly limiting the scope of documents for which a translation was in order to those filed by a party in these

⁸ *Ibid.*

⁹ Status Conference, 28 Oct 2002, T 12781.

¹⁰ *Ibid.*

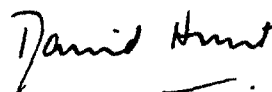
proceedings, as opposed to documents or material to which passing reference may be made therein.¹¹

7. Although Žigić is unrepresented, he has been provided by the Registrar with a legal assistant/investigator to assist him in evaluating and responding to the Decision in his Request for Review.¹² That legal assistant speaks both English and BCS. It will be sufficient for the purposes of the Request for Review for that legal assistant to check out the materials to which passing reference has been made in the documents which have been filed and translated into BCS for Žigić himself to read. Žigić will be in a far better informed position if the legal assistant reads those materials than if he were (without any legal training) to read them for himself. His request to have these materials translated into BCS is refused.

8. Žigić is to file his reply to the Registrar's response on or before 9 December 2002.

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

Dated this 27th day of November 2002,
At The Hague,
The Netherlands.



Judge David Hunt
Pre-Appeal Judge

[Seal of the Tribunal]

¹¹ Žigić has sought BCS translations of *Prosecutor v Hadžihasanović et al*, IT-01-47-PT, Decision on Prosecution's Motion for Review of the Registrar to Assign Mr Rodney Dixon as Co-Counsel to the Accused Kubura, 26 Mar 2002; *Reid v Secretary of State of Scotland* (1999) 1 AER 506; *Associated Provincial Houses Ltd v Wednesbury Corporation* (1948) 1 KB 223; Rules of European Court of Human Rights on legal aid; *Prosecutor v Kupreškić et al*, IT-95-16-T, Decision on Registrar's Withdrawal of the Assignment of Defence Counsel, 3 Sept 1999; testimony of investigator J-R Ruez in the *Erdemović* and *Krstić* cases; testimony of Mr Ole Hortemo in the *Kupreškić* case; *Prosecutor v Tadić*, IT-94-1-PT, Decision on Defence Motion on Hearsay, 5 Aug 1996; and the United Nations Staff Rules.

¹² Response, par 79.