



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-95-11-PT
Date: 3 December 2002
Original: English

BEFORE THE TRIAL CHAMBER

Before: Judge Liu Daqun, Presiding
Judge Amin El Mahdi
Judge Alphonsus Orié

Registrar: Mr. Hans Holthuis

Order of: 3 December 2002

PROSECUTOR

v.

MILAN MARTIĆ

**DECISION ON THE APPEAL OF THE DEFENCE AGAINST
REGISTRY DECISION DATED 25 SEPTEMBER 2002**

The Office of the Prosecutor:

Ms. Hildegard Uertz-Retzlaff

Counsel for the Accused:

Mr. Strahinja Kastratović

TRIAL CHAMBER I (the “Chamber”) 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 (the “Tribunal”);

BEING SEISED OF the “Appeal” of the Defence against the Registry Decision dated 25 September 2002 (“the Appeal”), wherein the Defence claims that the accused is fully indigent and that the Registry Decision is, therefore, erroneous;

NOTING the Registry Decision, dated 25 September 2002 and filed on 30 September 2002 (“the Registry Decision”), according to which fifty hours of investigative work at pre-trial stage shall be borne by the accused;

NOTING the Chamber’s “Request to Registry”, rendered on 23 October 2002 (“the Chamber’s Request”), whereby the Registry was requested to submit further information to the Chamber in the matter of the Appeal before 1 November 2002;

NOTING the “Registry Comments on Trial Chamber’s Order to Provide Information on the Registrar’s Decision Dated 25 September 2002”, dated 31 October and filed on 1 November 2002 (“the Registry Comments”); wherein the Registrar *en detail* explained the formula adopted by the Registry which aims at ensuring that partially indigent accused contribute payment for a certain amount of working hours commensurate with their income;

CONSIDERING that the Registry Comments submitted that: the contribution of the accused shall not use up any and all means of the accused, a financial contribution of the accused to his defence must not result in a loss of all liquid means and assets by the accused or in a lack of support for dependants; the Registry’s assessment of the financial situation of the accused, based on the formula explained in the Registry’s Comments, verified that the accused has means to partially pay for the costs of his defence to the extent calculated in the Registry’s Decision;

CONSIDERING that the determination of the accused’s financial status and his or her entitlement to legal aid provided by the Tribunal is a matter to be conducted by the Registry in each individual case upon the application of the Directive on Assignment of Defence Counsel (Directive No. 1/94) (“the Directive”), in particular based on the examination of the declaration of means pursuant to Article 7 (B) and (C) and Article 11 of the Directive;

CONSIDERING that, therefore, the competence of the Chamber concerning the decisions of the Registrar in these matters is limited to the verification of the correct application of the dispositions of the Directive; that, in relation to the determination of the accused's financial status, the Chamber is restricted to ensuring that such a decision does not exceed the limits of the Registrar's discretion in a manner that would affect the rights of the accused to a fair trial and an effective defence;

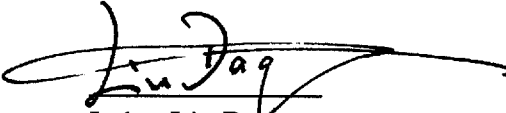
CONSIDERING that the Chamber is not satisfied that the Registry Decision violates or even touches upon the fundamental right of the accused to a fair trial and an effective defence;

FOR THE FOREGOING REASONS

HEREBY REJECTS the Appeal.

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

Dated this third day of December 2002,
At The Hague,
The Netherlands



Judge Liu Daqun
Presiding Judge

[Seal of the Tribunal]