



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: 11 March 2003  
Original: English

**IN THE APPEALS CHAMBER**

**Before:** Judge Theodor Meron, Presiding  
Judge Mohamed Shahabuddeen  
Judge David Hunt  
Judge Mehmet Güney  
Judge Asoka de Zoysa Gunawardana

**Registrar:** Mr Hans Holthuis

**Decision of:** 11 March 2003

**PROSECUTOR**

v

**Miroslav KVOČKA, Mlađo RADIĆ, Zoran ŽIGIĆ & Dragoljub PRCAĆ**

---

**DECISION ON FURTHER REQUEST FOR REVIEW BY ZORAN ŽIGIĆ**

---

**Counsel for the Prosecutor**

Mr Christopher Staker  
Ms Susan L Somers

**Defendant**

**Zoran Žigić (unrepresented)**

### Procedural Background

1. During the course of the preparation by Zoran Žigić (“Žigić”) for the hearing of his appeal, the Registrar withdrew legal aid from him, on the basis that, since the decision to grant him legal aid, Žigić had come into sufficient means to pay for the cost of his defence for the remainder of his appeal against conviction.<sup>1</sup>

2. In accordance with the Directive on the Assignment of Defence Counsel,<sup>2</sup> Žigić sought a review of the Registrar’s Decision before the Appeals Chamber (as the Chamber before which he is appearing).<sup>3</sup> In support of that Request for Review, Žigić filed a statement as to his financial position and, by his own calculation, forty-five documents of material.<sup>4</sup> After considering the Request for Review and the filings by both Žigić and the Registrar,<sup>5</sup> the Appeals Chamber rejected his Request for Review.<sup>6</sup>

### Request by Žigić for Review of the Decisions of the Appeals Chamber and the Registrar

3. Žigić has now filed a request for review of both the Registrar’s Decision and the Appeals Chamber Review Decision,<sup>7</sup> apparently pursuant to Rule 119 of the Rules of Procedure and Evidence (“Rules”). The basis for the Further Request for Review is the claim by Žigić that both the Registrar and the Appeals Chamber failed to take into account the forty-five documents which he had put forward in support of his original Request for Review.<sup>8</sup>

4. The Registrar responded to the Further Request for Review by a letter informing Žigić that he regarded it as a “new request for legal aid for the preparation of the remainder of [his] appeal”, requesting Žigić to submit a fresh Declaration of Means disclosing his current financial status, and adding that his consideration of such a request would then be treated as a satisfaction of Žigić’s request for a review of the Registrar’s Decision.

<sup>1</sup> Decision, 8 July 2002 (“Registrar’s Decision”).

<sup>2</sup> IT/73, Article 18(C) incorporating Article 13(B).

<sup>3</sup> Appeal Against the Decision by the Registrar of the Tribunal of 8 July 2002, 30 Sept 2002 (“Request for Review”). An English version of that document was filed on 4 Oct 2002.

<sup>4</sup> Defendant Zoran Žigić’s Statement – Summary of Financial Changes from 16 April 1998 to 8 July 2002, undated but filed 18 Oct 2002 (“Žigić Statement”).

<sup>5</sup> Response of the Registry to the Request of Zoran Žigić to Review the Decision of the Registrar Dated 8 July 2002, 30 Oct 2002; Reply to the Response of the Registry to the Request of Zoran Žigić of 30 September 2002, 9 Dec 2002 (an English translation was filed on 11 Dec 2002).

<sup>6</sup> Decision on Review of Registrar’s Decision to Withdraw Legal Aid from Zoran Žigić, 7 Feb 2003 (“Appeals Chamber Review Decision”).

<sup>7</sup> Request for Review of the Decision of 8 July 2002 and the Decision of 7 February 2003, 26 Feb 2003 (“Further Request for Review”).

<sup>8</sup> Žigić’s complaint that the Appeals Chamber had failed to take those documents into account was also raised by him at the last Status Conference (14 Feb 2003, Transcript pp 60-62) and in a letter addressed to the Pre-Appeal Judge and the Registrar dated 25 February.

5. Both Article 26 of the Statute and Rule 119 restrict the review procedure to the review of a final judgment (in the sense of one which terminates the proceedings).<sup>9</sup> The procedure is accordingly not available in relation to the Registrar's Decision, but in any event the Further Request for Review, so far as it related to the Registrar's Decision, has been rendered moot as a result of the Registrar's offer to consider a new request for legal aid when a fresh Declaration of Means has been filed.


6. The Further Request for Review of the Appeals Chamber Review Decision must also fail, as Žigić has produced no "new fact" (that is, a fact which was not in issue or considered in the original proceedings).<sup>10</sup> Even if the Further Request for Review were to be treated as a request to the Appeals Chamber to reconsider its decision, it would also fail. Contrary to the claim made by Žigić, the Appeals Chamber did have before it the forty-five documents which he put forward and it did consider all of the documents. It referred to those which were relevant in the text of the decision and in the footnotes, as annexes to the Žigić Statement.<sup>11</sup> That material was not before the Registrar when he gave his decision, and the Appeals Chamber, when reviewing his decision, was concerned with the material which *was* before him at the time.<sup>12</sup> The Registrar will, of course, have the material in those forty-five documents before him when considering the fresh application now made by Žigić, and thus will necessarily take that material into account so far as it is relevant to his new decision.

### Disposition

7. The Further Request for Review filed by Zoran Žigić is rejected.

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

Dated this 11<sup>th</sup> day of March 2003,  
At The Hague,  
The Netherlands.

  
\_\_\_\_\_  
Judge Theodor Meron  
Presiding

[Seal of the Tribunal]

<sup>9</sup> *Barayagwiza v Prosecutor*, ICTR-97-AR72, Decision (Prosecutor's Request for Review or Reconsideration), 31 Mar 2000, 49; *Prosecutor v Bagilishema*, ICTR-95-1A-A, Decision (Motions for Review of the Pre-Hearing Judge's Decisions of 30 November and 19 December 2001), 6 Feb 2002, p 2; *Prosecutor v Delić*, IT-96-21-R-1119, Decision on Motion to Review, 25 April 2002 ("Delić Decision"), par 8.

<sup>10</sup> *Delić Decision*, par 11.

<sup>11</sup> See footnotes 68 (referring to Annex 14, D 13), 121 (Annex 03), 126 (Annex 04), 152 (Annex 14, D 11, D 19 and D 20), 160 (Annex 14, D 8) and 177 (Annex 14, D 13), which are to be found in pars 21, 36, 37, 69, 74 and 83 of the text.

<sup>12</sup> Appeals Chamber Review Decision, par 42; see also par 13 and footnote 152.