



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-95-13/1-PT  
Date: 27 July 2004  
Original: English

**IN TRIAL CHAMBER II**

**Before:** Judge Carmel Agius, Pre-Trial Judge  
**Registrar:** Mr. Hans Holthuis  
**Directive of:** 27 July 2004

**PROSECUTOR**

v.

**MIROSLAV RADIĆ**

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**DIRECTIVE TO RECONSIDER LEGAL AID DECISION**

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**The Office of the Prosecutor:**

Mr. Jan Wubben

**Counsel for the Accused Miroslav Radić:**

Mr. Borivoje Borović  
Ms. Mira Tapušković

**I, Carmel Agius**, Judge 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 (“Tribunal”) and Pre-Trial Judge in these proceedings:

**BEING SEISED** of the “Request by the Radić Defence to the Trial Chamber to Review the Registrar’s Decision dated 07.10.2003”, filed on 27 October 2003 (“Motion”) by the Defence Counsel for Miroslav Radić (“Radić”), requesting the Trial Chamber to review the Decision of the Registrar of the Tribunal (“Registrar”) dated 7 October 2003 (“Registrar’s Decision”<sup>1</sup>);

**NOTING** that the Registrar’s Decision determines that Radić should bear the costs of 223 hours of investigative and legal assistance work at the pre-trial stage, and that this amount will be deducted from the allotment provided for by the Registry under the current payment legal-aid system of the Tribunal;<sup>2</sup>

**NOTING** that, in response to a Trial Chamber order<sup>3</sup>:

- a) on 12 January 2004, the Registry submitted comments on the Motion as well as materials supporting the Registrar’s Decision (“Registry Comments”);<sup>4</sup>
- b) on 26 January 2004, Radić filed comments on the Registry Comments, (“Comments”);<sup>5</sup>

**NOTING** that, both in the Motion and in the Comments, Radić argues *inter alia* that the only real property that Radić owns is the apartment in which he and his family live, and that this property cannot be taken into account as disposable capital of an accused in determining whether an accused has the means to remunerate counsel;<sup>6</sup>

**CONSIDERING** that the Registry has recently adopted a new policy for determining whether an accused has the means to remunerate counsel (“Registry Policy”);<sup>7</sup>

**CONSIDERING** that pursuant to the Registry Policy, the Registry deducts from the disposable capital of an accused “the equity in the principal family home to the extent that the principal family

<sup>1</sup> *Prosecutor v. Miroslav Radić*, Case No.: IT-95-13/1-PT, Decision, 13 October 2003.

<sup>2</sup> Registrar’s Decision, p. 2.

<sup>3</sup> Order on Defence Request for Review of the Registrar’s Decision of 07/10/2003, 11 December 2003.

<sup>4</sup> Registry Comments on Radić’s Defence Request for Review of the Registrar’s Decision of 07 October 2003, 12 January 2004.

<sup>5</sup> Comments of the Accused Miroslav Radić’s Defence to the Registry Comments on Radić’s Defence Request for Review of the Registrar’s Decision of 07 October 2003, filed 12 January 2004, 26 January 2004.

<sup>6</sup> Motion, p. 13; Comments, paras 10-13, para. 17.

<sup>7</sup> Registry Policy for Determining the Extent to which a Suspect or Accused is able to Remunerate Counsel, 4 May 2004.

home is reasonably necessary for the applicant, his spouse and the persons with whom he habitually resides”;<sup>8</sup>

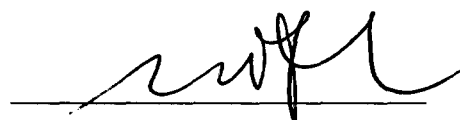
For the foregoing reasons,

**PURSUANT TO** Rule 54 of the Rules of Procedure and Evidence,

**INSTRUCT** the Registrar to inform the Pre-Trial Judge if in light of the Registry Policy he agrees that it is the case for reconsidering the Registrar’s Decision.

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

Dated this 27<sup>th</sup> day of July 2004,  
At The Hague  
The Netherlands



**Carmel Agius**

**Pre-Trial Judge**

**[Seal of the Tribunal]**

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<sup>8</sup> Registry Policy, point 6.