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UNITED
NATIONS



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-00-39-T

Date: 1 September 2004

Original: English

IN TRIAL CHAMBER I

Before: Judge Alphons Orie, Presiding
Judge Amin El Mahdi
Judge Joaquín Martín Canivell

Registrar: Mr Hans Holthuis

Decision of: 1 September 2004

PROSECUTOR

v.

MOMČILO KRAJIŠNIK

**DECISION ON THE DEFENCE'S MOTION FOR REVIEW OF THE DEPUTY
REGISTRAR'S DECISION OF 30 JULY 2004**

Office of the Prosecutor

Mr Mark Harmon
Mr Alan Tieger

Defence Counsel

Mr Nicholas Stewart
Ms Chrissa Loukas

TRIAL CHAMBER I 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;

BEING SEIZED of the “Defence Motion for Review of the Registry’s Decision dated 30 July 2004” (the “Motion”) filed confidentially, seeking to set aside the Deputy Registrar’s Decision of 30 July 2004, also filed confidentially (the “Decision”);¹

NOTING that, in its Motion, the Defence contests the Decision on the ground that the Deputy Registrar did not correctly assess (a) the number of visits to be considered a “humane minimum in the family circumstances” of the Complainant;² (b) the reasonable costs of these visits;³ and (c) the Complainant’s access to sources of revenue to cover these costs;⁴

NOTING that the Deputy Registrar, relying on the system used by the International Committee of the Red Cross, considers that, in principle, the cost of one visit per year by two of the closest family members of a detainee is to be added to the average yearly expenditure of his household (the “travel component”);

NOTING that however, in the present case, the Deputy Registrar has found reason not to add the travel component to the Complainant’s household’s average yearly expenditure since there is “strong indication” that the cost of the 30 visits so far by members of the Complainant’s family have not been incurred by the Complainant, but financed by other means, in particular by contributions from third parties or other income;

NOTING that the Deputy Registrar has also considered that the Complainant had sufficient funds in his account at the United Nations Detention Unit (the “UNDU”) to finance family visits for the whole period of his detention during the pre-trial and trial stages of his case (with money left over for other expenses); and **NOTING** moreover that the Registry deliberately did not take the UNDU account funds into consideration when assessing the financial status of the Complainant;

¹ Filed on 3 August 2004.

² Motion, p. 3. The Chamber will refer to Momčilo Krajišnik in the context of this administrative decision as the Complainant.

³ Ibid., p. 4.

⁴ Ibid., pp. 4-6.

CONSIDERING that the Defence has given no persuasive reason why the Deputy Registrar's method for calculating the travel component should be particularised to the circumstances of each detainee and should not be applied as a standard formula in all circumstances;

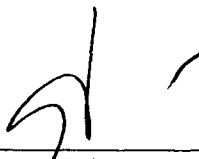
CONSIDERING that it was not unreasonable of the Deputy Registrar to take into account information on family visits to the Complainant that actually have taken place and on the level of funds in his UNDU account;

CONSIDERING that in all other respects the Defence has not shown that the Deputy Registrar, in exercising his discretion, acted unreasonably, based his decision on irrelevant material, or failed to take account of relevant material;⁵

PURSUANT to Articles 13 and 18 of the Directive on Assignment of Defence Counsel;

HEREBY DENIES the Motion.

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



Alphons Orie
Presiding Judge

Dated this 1 September 2004
At The Hague
The Netherlands

[Seal of the Tribunal]

⁵ See *Prosecutor v. Miroslav Kvočka et al.*, [Appeals Chamber's] Decision on Review of the Registrar's Decision to Withdraw Legal Aid From Zoran Žigić, 7 February 2003.