

**UNITED
NATIONS**



International Tribunal for the
Prosecution of Persons
Responsible for Serious Violations of
International Humanitarian Law
Committed in the Territory of
Former Yugoslavia since 1991

Case No. IT-95-11-PT
Date: 06 December 2005
Original: English

IN TRIAL CHAMBER I

Before: Judge Bakone Justice Moloto, Presiding
Judge Janet Nosworthy
Judge Frank Höpfel

Registrar: Mr. Hans Holthuis

Decision of: 06 December 2005

PROSECUTOR

v.

Milan MARTIĆ

EX-PARTE

**DECISION ON DEFENCE'S MOTION FOR REVIEW OF
REGISTRY'S DECISION DENYING ADDITIONAL LEGAL
AID FUNDS**

Counsel for the Accused:

Mr. Predrag Milovančević

TRIAL CHAMBER I, SECTION A (“Trial 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 (“Tribunal”);

BEING SEISED of the Defence’s “Motion for Additional Legal Aid Funds” (“Motion”), filed *ex-parte* with two confidential annexes on 18 March 2005 (“Motion”) following the decision of the Head of the Office for Legal Aid and Detention Matters (“Registry”) by letter dated 9 March 2005 that the Registry, after having consulted the Trial Chamber in accordance with Article 22 of the Directive on Assignment of Defence Counsel (“Directive”), decided that the allocation of additional resources to the Defence for the Accused was not justified (“Impugned Decision”);

RECALLING the Decision of Trial Chamber I of 1 July 2004 (“First Decision”), which rejected the Defence’s Motion for Review of Registrar’s Decision not to Rank the Case to Level III Complexity (“First Motion”) on the grounds that there were no circumstances showing that the Registrar made that decision in a manifestly unreasonable manner;

NOTING that the Appeals Chamber upheld the First Decision;¹

CONSIDERING that the standard of review which is to be applied to administrative decisions of the Registry is whether the Registry “failed to observe any basic rules of natural justice or to act with procedural fairness toward the person affected by the decision, or if he has taken into account irrelevant material or failed to take into account relevant material, or if he has reached a decision which no sensible person who has properly applied his mind to the issue could have reached (“the reasonableness test”)”; and that in order for a decision of the Registry to be quashed, the Defence will have to “persuade the Trial Chamber a) that an error of the nature described has occurred, and b) that such error has significantly affected the Registrar’s decision to his detriment”;²

NOTING that the Defence submits in its Motion that it requested additional legal aid funds because during the first part of the year 2004 the Prosecution disclosed 12,335 pages of documents and 50 video CDs, 1,746 pages of witness’s statements and 556 pages of exculpatory documents and that such disclosure (i) had a significant impact on the workload of the Defence, (ii) was beyond the “influence” of the Defence, and (iii) represented an unforeseen circumstance;

¹ Appeals Chamber Decision on Review of Registrar’s Decision not to Rank the Case to Level III Complexity, *Ex-Parte* and Confidential, 03 December 2004.

² *Prosecutor v. Kvočka et al.*, Decision on Review of Registrar’s Decision to Withdraw Legal Aid from Zoran Žigić, IT-98-30/1-A, 7 February 2003, paras 13-14.

CONSIDERING that the Registry, in the Impugned Decision explained that it had decided not to allocate additional funds because in January 2004 it had allocated additional funds to the Defence; that the additional funds allocated to the Defence in January 2004 constituted the maximum hours to be allocated for the Defence team before the commencement of the trial and that these funds, if administered properly, should have covered the period of March to May 2004, during which period the Prosecution made the further disclosure;

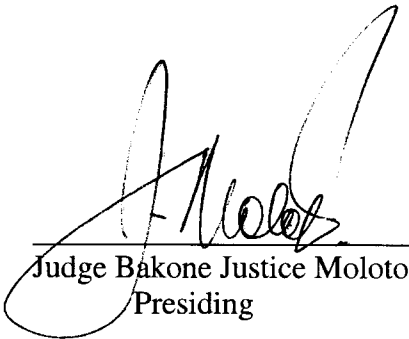
FINDING that the Defence failed to persuade the Trial Chamber that the Registry made an error of the nature mentioned above;

PURSUANT to Rule 54 of the Rules of Procedure and Evidence;

HEREBY REJECTS the Motion.

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

Dated this sixth day of December 2005
At The Hague,
The Netherlands.



Judge Bakone Justice Moloto,
Presiding

[Seal of the Tribunal]