

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 No. IT-03-67-PT

Date: 22 November 2006

Original: English

IN TRIAL CHAMBER I

Before: Judge Alphons Orie, Presiding
Judge Patrick Robinson
Judge Frank Höpfel

Registrar: Mr Hans Holthuis

Decision of: 22 November 2006

PROSECUTOR

v.

VOJISLAV ŠEŠELJ

**DECISION ON MOTION TO REVIEW REGISTRAR'S DECISION
(SUBMISSION No. 124)**

Office of the Prosecutor

Ms Hildegard Uertz-Retzlaff

Mr Dan Saxon

Mr Ulrich Müssemer

Ms Melissa Pack

The Accused (representing himself)

Mr Vojislav Šešelj

Standby Counsel for the Accused

Mr David Hooper

Mr Andreas O'Shea

1. The Chamber has received a “Request of Dr Vojislav Šešelj for the Issuing of an Order to Approve the Payment of Expenses for the Preparation of his Defence” filed on 16 January 2006 (“Motion”).
2. The Motion requests the Chamber to review a purported decision made by the Registry not to reimburse the Accused for expenses allegedly incurred by the Accused’s so-called “expert team”. The Chamber notes that, under the legal aid scheme, issues relating to the remuneration of counsel are the primary responsibility of the Registrar.¹ The Chamber also notes that the distribution of legal aid funds is governed by the Directive on the Assignment of Defence Counsel (“Directive”).²
3. In cases where the Directive does not expressly provide for review of a decision by the Registrar “the Trial Chamber, pursuant to its statutory obligation to ensure the fairness of the trial, is competent to review the Registrar’s decision in the light of its effect upon the fairness of the trial”.³ The standard of review required of a decision made by the Registrar on legal aid was explained by the Appeals Chamber in *Prosecutor v Kvočka et al.*⁴ According to the Appeals Chamber, “A judicial review of such an administrative decision is not a rehearing. Nor is it an appeal, or in any way similar to the review which a Chamber may undertake of its own judgment in accordance with Rule 119 of the Rules of Procedure and Evidence. A judicial review of an administrative decision made by the Registrar in relation to legal aid is concerned initially with the propriety of the procedure by which Registrar reached the particular decision and the manner in which he reached it.”⁵
4. The Chamber requested the Registry for more background information pertaining to the Accused’s Motion, pursuant to Rule 33 of the Rules of Procedure and Evidence. The Registry responded on 31 January 2006 with the “Registry Submission Pursuant to Rule 33 of the Rules of Procedure and Evidence Regarding Vojislav Šešelj’s Request for an Order to the Registry to Pay the Costs of his Defence”.⁶ On 21 September 2006, the Registry provided further information in the partly confidential and partly *ex parte* “Registrar’s Submission Pursuant to the Trial Chamber’s Request for Further Information on the Request by Vojislav

¹ *Prosecutor v Milutinovic et al.*, Decision on Interlocutory Appeal on Motion for Additional Funds, 13 November 2003, para. 19.

² IT/73/Rev.11, as amended 11 July 2006, Articles 23-31.

³ *Prosecutor v Milutinovic et al.*, para. 19.

⁴ *Prosecutor v Kvočka et al.*, Decision on Review of Registrar’s Decision to Withdraw Legal Aid from Zoran Žigić, 7 February 2003.

⁵ *Ibid.* para. 13.

Šešelj for Payment of Expenses for the Preparation of His Defence”.⁷ The annexes to the latter submission included the Accused’s original applications to the Registry for the payment of his alleged expenses.

5. After reviewing the Registry’s submissions, the Chamber finds that no written decision was made by the Registry on the Accused’s original applications. As such, there is no decision for the Chamber to review. Therefore, the Chamber finds that it is not properly seised of the Motion made by the Accused.

FOR THE FOREGOING REASONS, and considering the length of time this matter has been outstanding,

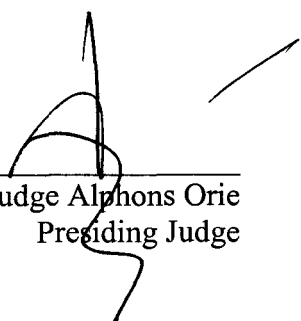
THE CHAMBER HEREBY:

ORDERS the Registry to produce a written decision, in response to the Accused’s request for the payment of his alleged legal expenses, within thirty (30) days.

DISMISSES the Motion.

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

Dated this twenty second day of November 2006
The Hague
The Netherlands



Judge Alphons Orie
Presiding Judge

[Seal of the Tribunal]

⁶ Filed on 1 February 2006.

⁷ Filed on 21 September 2006.