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D435-D434  
27 MARCH 2012

Case No. IT-05-88/2-R77.2

*In the contempt case of Dragomir Pećanac*

PUBLIC

## DECISION

## THE REGISTRAR,

**NOTING** the Statute of the Tribunal as adopted by the Security Council under Resolution 827 (1993), as subsequently amended, and in particular Article 21 thereof;

**NOTING** the Rules of Procedure and Evidence as adopted by the Tribunal on 11 February 1994, as subsequently amended (“Rules”), and in particular Rules 44 and 45 thereof;

**NOTING** the Directive on Assignment of Defence Counsel as adopted by the Tribunal on 28 July 1994, as subsequently amended (“Directive”), and in particular Articles 6, 7, 8, 9, 10 and 11 thereof;

**NOTING** the Code of Professional Conduct for Counsel Appearing Before the International Tribunal as adopted by the Tribunal on 25 May 1993, as subsequently amended (“Code”);

**NOTING** that Mr. Dragomir Pećanac (“Accused”) was charged with contempt of the Tribunal under Rule 77 of the Rules, and that a public redacted version of the Order *in Lieu* of Indictment was filed on 19 October 2011;<sup>1</sup>

**NOTING** that the Rules in parts four to eight apply *mutatis mutandis* to proceedings under Rule 77 of the Rules;

**CONSIDERING** that the Accused was transferred to the seat of the Tribunal on 9 October 2011 and that his initial appearance was held on 10 October 2011;

**CONSIDERING** that on 9 October 2011, pursuant to Rule 45(C) of the Rules, the Acting Deputy Registrar assigned Mr. Jens Dieckmann, Attorney at Law from Germany, as duty counsel to the Accused for the purposes of his initial appearance and for such other matters as necessary until permanent counsel is assigned;<sup>2</sup>

**CONSIDERING** that on 2 November 2011, pursuant to Article 11(B) of the Directive, the Acting Deputy Registrar assigned Mr. Dieckmann as counsel to the Accused for a period of 120 days, to

<sup>1</sup> *In the contempt case of Dragomir Pećanac*, IT-05-88/2-R77.2, Public Order Issuing a Public Redacted Version of the “Order *in Lieu* of Indictment”, 19 October 2011.

<sup>2</sup> *In the contempt case of Dragomir Pećanac*, IT-05-88/2-R77.2, Confidential Decision by the Deputy Registrar, 9 October 2011. Confidentiality lifted pursuant to: *In the contempt case of Dragomir Pećanac*, IT-05-88/2-R77.2, Public Notice to Reclassify Decision by the Deputy Registrar, 2 November 2011.

ensure that the Accused's right to counsel was not affected while the Registrar examined his ability to remunerate counsel;<sup>3</sup>

**NOTING** that the proceedings *In the contempt case of Dragomir Pećanac* concluded on 9 December 2011;<sup>4</sup>

**NOTING** that any person charged with contempt is entitled to assigned counsel in accordance with Rule 45 of the Rules if that person satisfies the criteria for the determination of indigence;

**CONSIDERING** that the Accused applied for Tribunal legal aid pursuant to Article 7 of the Directive, on the basis that he does not have sufficient means to remunerate counsel, and submitted a declaration of means pursuant to Article 7(B) of the Directive;

**CONSIDERING** that the Registry examined the information provided by the Accused in his declaration of means and has completed an inquiry into the Accused's means pursuant to Article 10(A) of the Directive;


**CONSIDERING** that pursuant to the Registry Policy for Determining the Extent to Which an Accused is Able to Remunerate Counsel ("Indigency Policy"), the Registry assesses the income and assets of the Accused, his spouse, and persons with whom he habitually resides, and determines the contribution the Accused is able to make to the costs of his defence by deducting the estimated living expenses of the Accused's family and dependents for the period in which the Accused requires representation before the Tribunal, from his disposable means;

**CONSIDERING** that the Registry has assessed the Accused's financial status and his ability to remunerate counsel in line with the Indigency Policy;

**CONSIDERING** that the Registry is satisfied that the Accused did not and does not have sufficient means to pay for the costs of his defence before the Tribunal, and as such the Accused is, and was at the time of the proceedings against him, entitled to the assignment of Tribunal-paid counsel;

**DECIDES** in light of the above and in accordance with Article 11(A) of the Directive that the Accused is, and was at the time of the proceedings against him, eligible for full legal aid;

**INFORMS** the Accused and his counsel that the costs relating to the Accused's defence referred to in Articles 23, 24, 26, 27 and 28 of the Directive shall be borne by the Tribunal.

John Hocking  


Dated this 27<sup>th</sup> day of March 2012  
 At The Hague,  
 The Netherlands.

<sup>3</sup> *In the contempt case of Dragomir Pećanac*, IT-05-88/2-R77.2, Public Decision by the Registrar, 2 November 2011.

<sup>4</sup> *In the contempt case of Dragomir Pećanac*, IT-05-88/2-R77.2, Judgment on Allegations of Contempt, 9 December 2011.