

IN THE TRIAL CHAMBER

Before: Judge Almiro Simões Rodrigues

Registrar: Mrs. Dorothee de Sampayo Garrido-Nijgh

Decision of: 15 April 1998

THE PROSECUTOR

v.

**MIROSLAV KVOCKA
MLADEN RADIC a/k/a "KRKAN"**

ORDER ON REPRESENTATION BY COUNSEL

The Office of the Prosecutor:

**Mr. Michael Keegan
Mr. James Cowles
Mr. Kapila Waidyaratne**

Defence Counsel:

**Mr. Michael Greaves
Mr. Thomas Moran**

I, Judge Almiro Simões Rodrigues, Judge of Trial Chamber I of the International Criminal Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991,

CONSIDERING the initial appearance of the accused Miroslav Kvočka and Mladen Radi } which was held before me on 14 April 1998,

CONSIDERING the oral request submitted by the Defence at the hearing on behalf of the two accused that they not be questioned by the Prosecutor without counsel being present,

CONSIDERING the letter addressed by the Defence to the Prosecution in this respect,

PURSUANT to Rules 15, 54 and 73 of the Rules of Procedure and Evidence (hereinafter "the Rules"),

NOTING that the Defence counsel present clearly indicated that they were representing the accused at the initial appearance only,

NOTING that, according to a Defence assertion which the Prosecutor did not contest, the Prosecutor allegedly attempted to question the accused even though neither of them had counsel,

NOTING that Sub-rule 63(A) of the Rules expressly provides that "questioning by the Prosecutor of an accused after the initial appearance shall not proceed without the presence of counsel unless the accused

has voluntarily and expressly agreed to proceed without counsel present" and that "if the accused subsequently expresses a desire to have counsel, questioning shall thereupon cease, and shall only resume when the accused's counsel is present",

NOTING that grounds exist for considering the request as unambiguously demonstrating the accused's current refusal to be questioned by the Prosecutor without counsel being present,

NOTING lastly that the choice or the designation of counsel shall be made in the coming days,

FOR THE FOREGOING REASONS,

STATES that the questioning of either of the accused by the Prosecutor may not proceed before he has received the permanent assistance of counsel.

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

Done this fifteenth day of April 1998

At The Hague

The Netherlands

(signed)

Judge Almiro Simões Rodrigues

[SEAL OF THE TRIBUNAL]