

INTERNATIONAL CRIMINAL TRIBUNAL
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Prosecutor v. Milivoj Petković
Case No. IT-04-74-T

IT-04-74-T
D 75958-D 75957
02 MAY 2013

**PUBLIC
DECISION****THE DEPUTY 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 the Assignment of Defence Counsel as adopted by the Tribunal on 28 July 1994, as subsequently amended ("Directive"), and in particular Articles 14, 16, and 20 thereof;

NOTING the Code of Professional Conduct for Counsel Appearing Before the International Tribunal adopted by the Tribunal on 12 June 1997, as subsequently amended;

CONSIDERING that on 31 March 2004, Mr. Milivoj Petković ("Accused") submitted a power of attorney for Ms. Vesna Alaburić, attorney at law from Croatia, to represent him in proceedings before the Tribunal pursuant to Rule 44 of the Rules;

CONSIDERING that on 6 April 2004, the Accused informed the Registrar that he would not apply for Tribunal legal aid;

CONSIDERING however, that on 29 September 2004, the Accused submitted a declaration of means pursuant to Article 7 of the Directive and requested the assignment of Ms. Alaburić as his counsel pursuant to Rule 45 of the Rules;

CONSIDERING that on 20 May 2005, the Deputy Registrar assigned Ms. Alaburić as counsel to the Accused permanently, having found the Accused to be partly indigent and thus eligible for the assignment of Tribunal-paid counsel;¹

CONSIDERING that on 20 October 2006, the Deputy Registrar assigned Mr. Nicholas Stewart, Q.C. from the United Kingdom, as co-counsel to Ms. Alaburić;²

¹ *Prosecutor v. Milivoj Petković*, IT-04-74-PT, Decision, 20 May 2005.

² *Prosecutor v. Milivoj Petković*, IT-04-74-T, Decision, 20 October 2006.

CONSIDERING that on 29 November 2010, the Deputy Registrar issued a decision withdrawing the assignment of Mr. Stewart as co-counsel to Ms. Alaburić and assigning Mr. Zoran Ivanišević, attorney at law from Croatia, as replacement co-counsel;

CONSIDERING that on 28 January 2013, Ms. Alaburić requested that the Registrar withdraw the assignment of Mr. Ivanišević as her co-counsel and assign Mr. Guénaél Mettraux as replacement co-counsel;

CONSIDERING that Mr. Mettraux is on the Registrar's list of counsel eligible for assignment to indigent suspects and accused envisaged under Rule 45 of the Rules, and has indicated his willingness to be assigned as co-counsel to Ms. Alaburić in the Accused's case;

CONSIDERING that Mr. Mettraux was assigned by the Registrar as a legal consultant to the defence team of the Accused on 4 November 2010, pursuant to a request by Ms. Alaburić and in accordance with Article 16(E) of the Directive, and that Ms. Alaburić has provided written assurances to the Registrar that Mr. Mettraux is sufficiently prepared to immediately take over the role of co-counsel in this case;

CONSIDERING that closing arguments in the Accused's trial concluded on 2 March 2011, and that the case is currently awaiting judgement, scheduled for pronouncement on 29 May 2013;

NOTING Article 16(C) of the Directive, which provides that in the interests of justice and at the request of lead counsel, the Registrar may assign a second counsel to assist with the defence of the suspect or accused;

NOTING Articles 20(A)(ii) and 20(E) of the Directive, which provide that in the interests of justice, the Registrar may withdraw the assignment of co-counsel at the request of lead counsel and assign replacement counsel;

CONSIDERING that, in light of the foregoing and on the basis of information and undertakings provided by Ms. Alaburić and Mr. Mettraux, the Registrar is satisfied that interests of justice would be served in allowing the withdrawal of Mr. Ivanišević and the assignment of Mr. Mettraux as replacement co-counsel;

HEREBY DECIDES, pursuant to Article 20(A)(ii), and Articles 16(C) and 20(E) of the Directive, respectively, to withdraw the assignment of Mr. Ivanišević and to assign Mr. Mettraux as co-counsel to Ms. Alaburić effective as of the date of this decision;

DIRECTS Mr. Ivanišević to hand over to Ms. Alaburić any case-related materials he received or produced during his assignment, in accordance with his duties under Article 9(D) of the Code of Conduct.



Dated this first day of May 2013
At The Hague,
The Netherlands.