

INTERNATIONAL CRIMINAL TRIBUNAL
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Case No. IT-04-84-R77.1
Prosecutor v. Shefqet Kabashi

PUBLIC
DECISION

THE DEPUTY REGISTRAR,

NOTING the Statute of the Tribunal as adopted by the Security Council under Resolution 827 (1993), 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, 45 and 77 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(A), and 16 thereof;

NOTING the Code of Professional Conduct for Counsel Appearing Before the International Tribunal (“Code of Conduct”)(IT/125 REV.3);

NOTING that on 5 June 2007, an Order in Lieu of Indictment was filed against Mr. Shefqet Kabashi (“Accused”), charging him with contempt of the Tribunal under Rule 77 of the Rules;

NOTING that on 18 February 2008, the Order in Lieu of Indictment was amended by the “Decision Granting Leave to Amend the Indictment”;

CONSIDERING that the Accused was transferred to the seat of the Tribunal on 17 August 2011 and that his initial appearance was held on 19 August 2011;

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

CONSIDERING that on 18 August 2011, Mr. Michael Karnavas, Attorney at Law from the United States of America, has been assigned as Duty Counsel to the Accused in accordance with Rule 62(B) of the Rules to ensure that the Accused’s rights are protected until he retains permanent counsel or has counsel assigned to him pursuant to Rule 45 of the Rules;

CONSIDERING that the Accused has applied for Tribunal legal aid pursuant to Article 8 of the Directive on the basis that he does not have means to remunerate counsel and submitted a declaration of means pursuant to Article 7(B) of the Directive;

CONSIDERING that the Registry has 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 has to make to the costs of his defence by deducting the estimated living expenses of the Accused’s family and dependents in 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 does not have sufficient means to pay for the costs of his defence before the Tribunal, and as such is entitled to the assignment of counsel paid for by the Tribunal;

REMINING the Accused of his obligation under Article 7(E) of the Directive to update his declaration of means at any time a change relevant to his declaration of means occurs;

CONSIDERING that the Accused has requested the Registry to assign Mr. Karnavas as his permanent counsel;

NOTING that Mr. Karnavas is currently assigned as counsel in the case against Mr. Jadranko Prlić in *The Prosecutor v Prlić et al.*;

CONSIDERING that the Registry has ascertained that no conflict of interest exists between Mr. Karnavas’ representation of Mr Prlić and his representation of the Accused;

CONSIDERING that the Registry has determined that Mr. Karnavas’ representation of both Mr. Prlić and the Accused will not prejudice the defence of either Mr. Prlić or the Accused due to the generally limited scope of cases under Rule 77 of the Rules;

CONSIDERING that both Mr. Prlić and the Accused have consented in writing to the dual assignment of Mr. Karnavas after receiving independent legal advice on this issue from the Registry pursuant to Article 16(G) of the Directive;

DECIDES in light of the above and in accordance with Article 11(A) of the Directive that the Accused is eligible for full legal aid;

DECIDES without prejudice to Article 19 of the Directive and pursuant to Article 11(A)(i) of the Directive to assign Mr. Karnavas as counsel to the Accused, effective as of the date of this decision;

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



Ken Roberts
Deputy Registrar

Dated this 24th day of August 2011
At The Hague,
The Netherlands