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A14003-A14002  
20 September 2012

Case No. IT-05-88-A

*Prosecutor v. Ljubiša Beara*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 14, 16 and 20 thereof;

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

**CONSIDERING** that Mr. Ljubiša Beara ("Accused") was transferred to the seat of the Tribunal on 10 October 2004;

**CONSIDERING** that on 11 November 2004, the Deputy Registrar assigned Mr. John Ostojic, attorney at law from the United States of America, as counsel to the Accused for a period of 120 days pending the completion of the Registry's inquiry into the Accused's ability to remunerate counsel;

**CONSIDERING** that on 18 April 2005, the Deputy Registrar issued a decision finding that the Accused was able to remunerate counsel in part and assigned Mr. Ostojic as his permanent counsel;

**CONSIDERING** that on 3 April 2006, pursuant to Article 16(C) of the Directive the Deputy Registrar assigned Mr. Christopher Meek, attorney at law from the United States of America, as co-counsel to Mr. Ostojic;

**CONSIDERING** that on 4 June 2008, pursuant to Articles 20(A)(ii) and 20(E) of the Directive, the Deputy Registrar withdrew the assignment of Mr. Meek as co-counsel to Mr. Ostojic and assigned Mr. Predrag Nikolić, attorney at law from Višegrad, Bosnia and Herzegovina, as replacement co-counsel;

**CONSIDERING** that trial proceedings in the Accused's case concluded on 15 September 2009, and that the Trial Chamber rendered its Judgement on 10 June 2010;

**CONSIDERING** that on 23 August 2011, pursuant to Articles 20(A)(ii) and 20(E) of the Directive, the Deputy Registrar withdrew the assignment of Mr. Nikolić as co-counsel to Mr.

Ostojic and assigned Mr. Theodore Scudder, attorney at law from the United States of America, as replacement co-counsel;

**NOTING** that pursuant to Article 14(E)(iii) of the Directive, the Registrar shall remove the name of a counsel from the Registrar's list of counsel eligible for assignment to indigent or partially indigent suspects or accused envisaged under Rule 45 of the Rules ("Rule 45 List") where counsel no longer fulfils the qualification requirements of Article 14(A) of the Directive;

**CONSIDERING** that on the basis of information provided by the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois, Mr. Scudder is currently not eligible to practice law in that jurisdiction and as such, he no longer fulfils the requirements of Article 14(A)(i) of the Directive;

**CONSIDERING** that the Registry wrote to Mr. Scudder giving him an opportunity to comment on his qualification under Article 14(A) of the Directive, but Mr. Scudder did not respond;

**CONSIDERING** that the Registry also wrote to Mr. Ostojic concerning this matter, and Mr. Ostojic notified the Registry that he would submit a request for the assignment of another co-counsel pursuant to Article 16(C) of the Directive in due course;

**CONSIDERING** that on 19 September 2012 the Registry informed Mr. Scudder that because he no longer satisfies the requirements of Article 14(A) of the Directive, pursuant to Article 14(E) of the Directive, his name has been removed from the Rule 45 List;

**CONSIDERING** that on 19 September 2012 the Registry informed Mr. Ostojic that Mr. Scudder has been removed from the Rule 45 List pursuant to Article 14(E) of the Directive, and that accordingly, he would be withdrawn as co-counsel as required by Article 20(C)(ii) of the Directive;

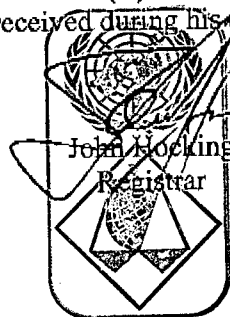
**NOTING** that to date Mr. Scudder has received no remuneration under the Tribunal's legal aid scheme for work related to the preparation of the appeal of Mr. Beara during the period he was not qualified pursuant to Article 14(A) or at any other time;

**CONSIDERING** that Article 20(C)(ii) of the Directive requires the withdrawal of Mr. Scudder's assignment as co-counsel;

**CONSIDERING** that the Accused remains represented by counsel;

**HEREBY DECIDES** to withdraw the assignment of Mr. Theodore Scudder as co-counsel to Mr. Ostojic, effective as of the date of this decision; and

**DIRECTS** Mr. Scudder, in accordance with Article 9(D) of the Code of Conduct to surrender to Mr. Ostojic any case-related materials he received during his assignment as co counsel.



Dated this 19<sup>th</sup> day of September 2012  
At The Hague,  
The Netherlands.