



International Tribunal for the  
Prosecution of Persons  
Responsible for Serious Violations  
of International Humanitarian Law  
Committed in the Territory of the  
former Yugoslavia since 1991

Case No.: IT-05-88/2-T

Date: 27 May 2010

Original: English

**IN TRIAL CHAMBER II**

**Before:** Judge Christoph Flügge, Presiding  
Judge Antoine Kesia-Mbe Mindua  
Judge Prisca Matimba Nyambe

**Registrar:** Mr. John Hocking

**Order of:** 27 May 2010

**PROSECUTOR**

v.

**ZDRAVKO TOLIMIR**

**PUBLIC**

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**ORDER ISSUING A PUBLIC REDACTED VERSION OF THE "DECISION  
ON ACCUSED'S REQUEST TO THE TRIAL CHAMBER CONCERNING  
ASSISTANCE OF HIS LEGAL ADVISOR"**

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**Office of the Prosecutor**

Mr. Peter McCloskey

**The Accused**

Zdravko Tolimir

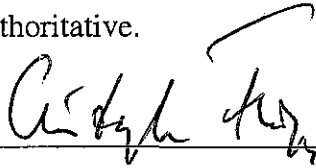
**THIS TRIAL CHAMBER** of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (“Tribunal”);

**NOTING** the “Decision on Accused’s Request to the Trial Chamber Concerning Assistance of his Legal Advisor”, filed confidentially on 28 April 2010 (“Decision”);

**CONSIDERING** that save for paragraphs 13, 14 and 15 and footnote 50 of the Decision, there is no legitimate reason for the Decision to remain confidential;

**HEREBY ISSUES** a public redacted version of the Decision.

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

  
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Judge Christoph Flügge  
Presiding Judge

Dated this twenty-seventh day of May 2010  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**



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**PUBLIC REDACTED VERSION**

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**DECISION ON ACCUSED'S REQUEST TO THE TRIAL CHAMBER  
CONCERNING ASSISTANCE OF HIS LEGAL ADVISOR**

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**Office of the Prosecutor**

Mr. Peter McCloskey

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**THIS TRIAL CHAMBER** of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (“Chamber” and “Tribunal”, respectively) is seised of the “Request to the Trial Chamber”, submitted by Mr. Tolimir (“the Accused”) on 1 March 2010 and filed in the English version on 3 March 2010 (“Motion”), and hereby renders its decision thereon.

## I. SUBMISSIONS OF THE PARTIES

### A. Motion

1. In his Motion, the Accused requests that his legal adviser, Mr. Aleksandar Gajić, “after consulting with the Accused”, be granted permission to present legal arguments, make “proposals”<sup>1</sup> and raise objections in the case.<sup>2</sup> In addition, he requests that at the “proposal” of the Accused sent to the Chamber, and following approval by the Chamber on a case-by-case basis, Mr Gajić be permitted to “act in [the] courtroom”,<sup>3</sup> in particular, to “cross-examine or examine witnesses”.<sup>4</sup>

2. In support of the requests set out in his Motion, the Accused refers to the practice of “legal advisors” in the cases of *Popović et al.* and *Dorđević* who were allowed to cross-examine witnesses despite the fact that the Accused in these two cases are represented by counsel.<sup>5</sup> The Accused also makes reference to the *Karadžić* case, where, he submits, the legal advisor was granted the right to “present legal arguments and objections” before the Trial Chamber.<sup>6</sup>

3. The Accused submits that the defence of his case is being actively prepared by the Accused and Mr Gajić together, and that “in cases in which an accused is self-represented, the role of a legal advisor is similar in some ways, if not more difficult than that of the co-counsel”.<sup>7</sup> He further submits that this case is “very extensive” and “exceptionally complex”, such that granting his requests would assist his defence and be in the interests of justice.<sup>8</sup> According to the Accused, the Defence has, to date, demonstrated its ability to successfully carry out its obligations and expresses

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<sup>1</sup> See Reply, para. 3. The word used in the Motion was “recommendations”. The Chamber notes however the submission made by the Accused in his reply to the effect that the more proper translation of the Serbian word “predlog” is “proposal”

<sup>2</sup> Motion, para. 1.

<sup>3</sup> Motion, para. 1; See Reply, para. 3. The phrase in the Motion was “to appear in the courtroom”. The Accused submits in his reply that the translation of the Serb phrase used in the Motion should be “to act in [the] courtroom”.

<sup>4</sup> Motion, para. 1.

<sup>5</sup> Motion, para. 3.

<sup>6</sup> Motion, para. 3.

<sup>7</sup> Motion, paras. 4-5.

<sup>8</sup> Motion, paras. 2, 4.

the wish for the trial to be conducted fairly and expeditiously.<sup>9</sup> The Accused submits that he is not intending to make further requests for any of the other members of the Defence team.<sup>10</sup>

4. Finally, the Accused reiterates that he is fully aware of his responsibilities arising from his decision to represent himself, yet submits that it is not contrary to the nature of self-representation to receive adequate legal aid.<sup>11</sup>

### B. Response

5. The Prosecution's "Response to Tolimir's Request to the Trial Chamber" was filed on 8 March 2010 ("Response"). The Prosecution opposed the requests set out in the Accused's Motion, arguing that in effect, the Accused is requesting his legal advisor to appear before the Chamber in a "representational capacity substantively coextensive with that of appointed counsel".<sup>12</sup> It submits that in making the decision to represent himself, the Accused undertook to carry out the very responsibilities he now requests Mr. Gajić to assume.<sup>13</sup> The Prosecution refers to an Appeals Chamber decision in the *Milosević* case from 2004 in which it was held that a defendant who chooses to represent himself "relinquishes many of the benefits associated with representation by counsel", submitting that Tolimir "cannot have it both ways".<sup>14</sup>

6. With respect specifically to the *Popović et al.* and *Đorđević* cases referred to by the Accused, the Prosecution submits that these examples do not implicate a defined right or principle relevant to a self-represented Accused as the Accused in those cases were represented by counsel, such that these cases do not support the expanded right of audience for Mr. Gajić.<sup>15</sup>

### C. Reply

7. On 8 March 2010, the Accused submitted a request to reply together with a reply, filed in the English version on 10 March 2010 ("Reply").<sup>16</sup> The Chamber grants this request. It notes however that much of what is submitted in the Reply has already been argued in the Motion. The Chamber will therefore only deal with the novel issues raised by the Accused or issues in direct reply to particular matters contained in the Prosecution's response.

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<sup>9</sup> Motion, para. 4.

<sup>10</sup> Motion, para. 6.

<sup>11</sup> Motion, paras. 4, 6.

<sup>12</sup> Response, para. 4.

<sup>13</sup> Response, para. 5.

<sup>14</sup> Response, para. 5.

<sup>15</sup> Response, para. 2.

<sup>16</sup> Request to the Pre-Trial Chamber for Leave to File of a Reply and Reply to the Prosecution's Response of 5 March 2010, submitted to the Chamber on 8 March 2010 and filed in English before the Chamber on 10 March 2010.

8. The Accused submits in his reply that the Prosecution “erroneously interpreted” the requests set out in his Motion and reiterates that he did not ask for Mr. Gajić to have an unlimited right of audience before the court.<sup>17</sup> He submits moreover that the Prosecution communicates directly with Mr. Gajić on, *inter alia*, the disclosure of material and the delivery of documents from the Prosecution to the Defence and *vice versa*.<sup>18</sup> The Accused argues that many “courtroom actions” will be linked to this communication.<sup>19</sup>

9. With respect to the practice in the *Popović et al.* and *Dorđević* cases, the Accused submits that if defence counsel are entitled to such assistance in the courtroom, then self-represented accused should be as well.<sup>20</sup>

10. Finally, the Accused submits that the actions he requests for his legal advisor to be able to take in court will not interfere with his position as self-represented accused, and that the Accused will continue filing all submissions, acting in the courtroom, questioning witnesses, and giving “appropriate commentaries, responses, proposals, *etc*”.<sup>21</sup>

#### **D. First and Second Submission by the Registry**

11. On 11 March 2010 the Chamber received a Rule 33(B) submission from the Registry on the matter raised in the Accused’s request (“Registry Submission”). The Registry submitted that the criteria set out in Rules 44 and 45 of the Rules of Procedure and Evidence (“Rules”) establish the appropriate qualifications necessary for an individual to be granted rights of audience before the Tribunal.<sup>22</sup> The Registry further submitted that the Remuneration Scheme for Persons Assisting Indigent Self-Represented Accused<sup>23</sup> (“Remuneration Scheme”) provides that legal associates<sup>24</sup> have no right of audience before the Court unless the Chamber seized of the case decides otherwise.<sup>25</sup> In this context, the Registry referred to the order issued by the Trial Chamber in the *Karadžić* case granting a limited right of audience to Karadžić’s legal advisor Mr. Robinson to address the Trial Chamber on legal issues arising during the proceedings, where a specific request is made by the Accused to the Trial Chamber.<sup>26</sup> The Registry noted, however, that Mr. Robinson is

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<sup>17</sup> Reply, paras. 2, 3.

<sup>18</sup> Reply, para. 4.

<sup>19</sup> Reply, para. 4.

<sup>20</sup> Reply, para. 5.

<sup>21</sup> Reply, para. 6.

<sup>22</sup> Registry Submission, para. 16.

<sup>23</sup> Remuneration Scheme for Persons Assisting Indigent Self-Represented Accused, as revised on 24 July 2009 (Rev. 1).

<sup>24</sup> The Chamber notes that the terms “legal associate” and “legal advisor” are used interchangeably but refer to the same position. For the purposes of consistency, the Chamber shall use the term “legal advisor” throughout this decision.

<sup>25</sup> Registry Submission, para. 17, citing to para. 5.1(B) of the Remuneration Scheme.

<sup>26</sup> Registry Submission, para. 17, referring to the *Prosecutor v. Radovan Karadžić*, Case No. IT-95-5/18-T, Order on the Procedure for the Conduct of Trial, 8 October 2009, Appendix A, T-U.

qualified pursuant to Rule 44 and 45 and has appeared as counsel in other cases before the Tribunal as well as before the International Criminal Tribunal for Rwanda (“ICTR”).<sup>27</sup>

12. The Registry explained, furthermore, that Mr. Gajić is recognized by the Registry as a Legal Advisor pursuant to the Remuneration Scheme, but that under this Scheme, legal advisors are not required to meet the same standards as counsel, in part because it was not envisaged that they would have right of audience.<sup>28</sup> It noted that counsel before the Tribunal are required both by the Rules and the Directive for the qualification of appointed counsel<sup>29</sup> to have a greater level of professional experience than required for a legal associate under the Remuneration Scheme.<sup>30</sup>

13. [REDACTED].<sup>31</sup> [REDACTED].<sup>32</sup> [REDACTED].<sup>33</sup> [REDACTED].<sup>34</sup> [REDACTED].<sup>35</sup>

14. [REDACTED]. [REDACTED].<sup>36</sup> [REDACTED].<sup>37</sup> [REDACTED].<sup>38</sup>

#### **E. Response by the Accused and third Registry Submission**

15. [REDACTED],<sup>39</sup> [REDACTED].<sup>40</sup> [REDACTED],<sup>41</sup> [REDACTED].<sup>42</sup> [REDACTED].<sup>43</sup>

#### **F. Response by the Accused to the Third Registry Submission**

16. On 6 April 2010, the Accused filed a response to the Registry’s Third Submission,<sup>44</sup> submitting that the Registrar had made “several mistakes” which “require intervention”.<sup>45</sup> Having reviewed the Accused’s arguments, the Chamber is of the view that besides expressing his disagreement with the Registrar’s interpretation of the materials reviewed to come to the conclusion that Mr. Gajić is not eligible as counsel pursuant to the Rules, the Accused does not raise any new issues that may have the potential to impact the Registrar’s conclusion.

<sup>27</sup> Registry Submission, para. 18.

<sup>28</sup> Registry Submission, para. 19.

<sup>29</sup> Directive on the Assignment of Defence Counsel, Directive No. 1/94, as amended 29 June 2006 (IT/73/REV.11), Articles 14, 15.

<sup>30</sup> Registry Submission, para. 21.

<sup>31</sup> [REDACTED].

<sup>32</sup> [REDACTED].

<sup>33</sup> [REDACTED].

<sup>34</sup> [REDACTED].

<sup>35</sup> [REDACTED].

<sup>36</sup> [REDACTED].

<sup>37</sup> [REDACTED].

<sup>38</sup> [REDACTED].

<sup>39</sup> [REDACTED].

<sup>40</sup> [REDACTED].

<sup>41</sup> [REDACTED].

<sup>42</sup> [REDACTED].

<sup>43</sup> [REDACTED].

## II. APPLICABLE LAW

17. Article 20 of the Statute of the Tribunal (“Statute”) concerning the commencement and conduct of trial proceedings provides the following:

“1. The Trial Chambers shall ensure that a trial is fair and expeditious and that proceedings are conducted in accordance with the rules of procedure and evidence, with full respect for the rights of the accused and due regard for the protection of victims and witnesses.”

18. Article 21 (4) (d) of the Statute reads as follows:

“In the determination of any charge against the accused pursuant to the present Statute, the accused shall be entitled to the following minimum guarantees, in full equality:

(d) to be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;”

## III. DISCUSSION

19. In its decision on the requests set out by the Accused, the Chamber is of the view that it must take into account a number of factors. The Chamber’s primary consideration is that it has the duty to ensure that the trial against the Accused is fair and expeditious, and that the integrity of the court proceedings is safeguarded. To date, the Chamber does not consider that there is a compelling reason to curtail the Accused’s right of self-representation, but recalls that it reserves the right to review this position should it consider intervention by the Chamber necessary.<sup>46</sup>

20. Throughout the pre-trial phase as well as immediately before the start of the trial, the Accused was informed several times of the difficulties he will face as a self-represented Accused,

<sup>44</sup> Response to the Registrar’s Submission of 1 April 2010, filed confidentially in BCS on 6 April 2010 and in the English version on 9 April 2010 (“Response to the Third Registry Submission”).

<sup>45</sup> Response to Third Registry Submission, para. 2.

<sup>46</sup> As held by the Appeals Chamber, a Trial Chamber may restrict the right to self-representation in appropriate circumstances where “a defendant’s self-representation is substantially and persistently obstructing the proper and expeditious conduct of his trial”, whether intentional or unintentional (*see Prosecutor v. Milošević*, Case No. IT-02-54-AR73.7, Decision on Interlocutory Appeal of the Trial Chamber’s Decision on the Assignment of Defence Counsel, 1 November 2004, para. 13; *Prosecutor v. Šešelj*, Case No. IT-03-67-AR73.3, Decision on Appeal Against the Trial Chamber’s Decision on Assignment of Counsel, 20 October 2006, para 8). The Chamber also recalls its discretion to intervene on the basis of Article 21(4)(d) of the Statute and Rule 45 *ter*, should it consider that it is in the interest of justice to do so, for example, to ensure a fair and expeditious trial.



yet has maintained his position that he will continue to represent himself.<sup>47</sup> Pursuant to the Remuneration Scheme, he has acquired the assistance of a legal team that includes his legal advisor Mr. Gajić, with whom he works closely and continuously in effectuating his right to represent himself. The Accused does not have a legal background and the case against him involves complex factual and legal issues and requires familiarity with the procedural rules. The Chamber therefore encourages the assistance the Accused is receiving from the members of his defence team, and, in particular, from Mr. Gajić.

21. Leaving aside the question altogether of whether it would be preferable for the Accused to be represented by counsel, the Chamber must decide whether it considers the type of assistance requested by the Accused in his Motion appropriate. The Chamber notes the Prosecution's position that the Accused, in having made a considered decision to be self-represented cannot have it "both ways".<sup>48</sup> In taking this decision, the Accused has accepted that he is to carry out all tasks and responsibilities normally borne by counsel. The Chamber notes the Accused's submission, however, that by allowing Mr. Gajić a limited right of audience, he is not asking for defence counsel, nor is he seeking to relinquish his responsibilities as self-represented Accused.

22. The question that currently lies before the Chamber, therefore, is whether the assistance granted to the Accused should include an expansion of Mr. Gajić's role in the courtroom, specifically, to be allowed a limited right of audience to present legal arguments, raise objections and procedural propositions, and to participate in the examination of witnesses with the approval of the Chamber on a case-by-case basis following a specific request to that effect by the Accused.

23. The Chamber has reviewed the cases cited by the Accused in support of its request. The Chamber notes the Registry's submission that Karadžić's legal advisor Mr. Robinson, who has been granted a limited right to make legal submissions before that Trial Chamber, has been deemed qualified pursuant to Rule 44 and 45 and has appeared as counsel in other cases before the Tribunal as well as before the ICTR. However, as also noted by the Registry, the Remuneration Scheme specifies that legal advisors have no right of audience before the Court unless the Chamber seized of the case decides otherwise.

24. The Chamber is of the view that despite the fact that Mr. Gajić has not been deemed qualified pursuant to Rule 44 and 45, it lies within the discretion of the Chamber to grant limited rights of audience to Mr. Gajić should it consider this appropriate in the present case. Mr. Gajić was

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<sup>47</sup> See e.g., Status Conference, 14 September 2007, T. 56-58; Status Conference 31 October 2008, T. 212-213; Pre-Trial Conference, 25 February 2010, T. 317-318.

<sup>48</sup> See Response, para. 5.

assigned by the Registry to the position of "Legal Advisor with privileged legal status"<sup>49</sup> on 18 March 2008.<sup>50</sup> The Chamber considers that on the basis of his qualifications, particularly his teaching experience in international law and the institutional knowledge that he has gained from working in this case as legal advisor for approximately two years, the assistance of Mr. Gajić in the courtroom to address specific legal issues, as granted by the Trial Chamber in the *Karadžić* case to legal advisor Mr. Robinson, would be in the interests of justice.

25. The Chamber further considers that given Mr. Gajić's direct communications with the Prosecution and the nature of the work carried out by him as legal advisor, the expediency and efficiency of the trial proceedings would be benefited if Mr. Gajić would be in the position to respond directly in court to issues discussed in these communications. This specific right of audience will be limited to, for example, the scheduling of witnesses, the disclosure and delivery of materials between the parties, and other such exclusively administrative matters.

26. The Chamber does not consider it appropriate, however, for Mr. Gajić to be able to "raise objections"<sup>51</sup> or make "procedural propositions"<sup>52</sup> in this case, without prior approval of the Chamber. Firstly, the Chamber considers that much of what falls under the category of "objections", might well overlap with the content of legal submissions for which prior approval will be required. Secondly, the request is both too broad and too vague for the Chamber to be able to anticipate what this request might entail in practice. Thirdly, Mr. Gajić's presence in the courtroom during the trial proceedings already allows him the possibility of communicating with the Accused with respect to any objections or proposals the Accused may wish to raise in the courtroom.

27. Turning now to the Accused's request to permit Mr. Gajić to examine witnesses, after submitting a specific request to that effect in advance and after having received approval of the Chamber, the Chamber considers this to be more controversial. The examination of witnesses is a task typically, and normally, borne by defence counsel. A self-represented accused elects to act as his own defence counsel. It appears that the Accused is the first self-represented accused at this Tribunal who has requested this type of assistance and as such, this is a novel situation. The Prosecution has referred to the Appeals Chamber finding that an Accused who has chosen to represent himself "relinquishes many of the benefits association with representation by counsel". The Chamber however does not consider that this finding stands for the proposition that the Accused's request for assistance with the examination of witnesses must be automatically denied.

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<sup>49</sup> Registry's Submission, para. 6.

<sup>50</sup> See Remuneration Scheme, Section 5.1. [REDACTED].

<sup>51</sup> See Motion, para. 1.

<sup>52</sup> See Reply, para. 3.

Instead, the Chamber considers that it must make this decision against the backdrop of the specific circumstances of this case.

28. The Chamber notes that the two examples cited by the Accused in support of this request, concern cases in which the Accused were represented by counsel. In the *Popović et al.* case, the Defence for Accused Ljubiša Beara filed a motion before the Chamber requesting that one of their legal assistants be allowed to assist in the examination of a limited number of witnesses.<sup>53</sup> The *curriculum vitae* of the legal assistant for whom the request was made reflects that this individual was a qualified lawyer admitted to the Belgrade Bar Association and had a considerable legal background.<sup>54</sup> The Trial Chamber in that case, having heard the parties, considered it to be in the interests of justice to grant the request by the Defence for Beara.<sup>55</sup> The Prosecution did not object to this course of action.<sup>56</sup> In the *Dorđević* case, the parties made informal requests seeking permission of the Trial Chamber for two of their legal assistants to cross-examine one specific witness each. These requests were repeated *ad hoc* for a number of additional witnesses later on in the case, concerning both cross-examination and examination-in-chief. Both of these legal assistants were members of a bar association in their respective country, and state of admission. They were not, however, eligible as counsel pursuant to Rule 44 and 45. The Trial Chamber in that case likewise granted the request.<sup>57</sup>

29. The Chamber notes that while the three legal assistants who were granted leave of limited audience before the respective Trial Chambers in the *Popović et al.* and *Dorđević* cases discussed above are members of a bar association, they were not admitted to the list of counsel eligible pursuant to Rules 44 and 45. However, the fact that the Accused in these respective cases were represented by counsel and co-counsel with considerable experience in criminal litigation allowed for the supervision of the examination of witnesses by these legal assistants. The Accused, as noted, does not have a legal background and is therefore in no position to supervise the conduct of Mr. Gajić.

30. The Chamber moreover is concerned with the effect that the examination of witnesses by individuals who are not eligible pursuant to the Rules, have limited experience in criminal proceedings, and who will not supervised by experienced counsel present in the courtroom, will

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<sup>53</sup> *Prosecutor v. Popović et al.*, Case No. IT-05-88-T, Defence Request for Assistance in the Examination of A Limited Number of Witnesses with Annexes A and B, filed confidentially on 24 January 2007 (“*Beara Motion*”).

<sup>54</sup> *Beara Motion*, p. 11.

<sup>55</sup> *Prosecutor v. Popović et al.*, Case No. IT-05-88-T, Hearing on 25 January 2007, T. 6415-6419.

<sup>56</sup> *Ibid.*

<sup>57</sup> *Prosecutor v. Dorđević*, Case No. IT-05-87/1-T, Hearing on 6 July 2009, T 6884 and 6928. The informal requests by defence counsel made to the Trial Chamber are not on the record. The Chamber has however been in the position to review them.

have on the integrity of the proceedings and the quality of the evidence as a whole. While the Chamber may have similar concerns with the examination of witnesses by an accused without a legal background or litigation experience, such accused, in electing to represent themselves, have accepted the consequences this may have on their defence. By allowing Mr. Gajić - who is not eligible to act as counsel pursuant to the Rules - the right to examine witnesses, it is the Chamber, and not the Accused, who would have to take the responsibility for any adverse effects this may have on the proceedings, and in particular, on the defence case.

31. Further, while the Chamber encourages assistance to the Accused in the preparation of his case, it is of the view that allowing Mr. Gajić to assist the Accused in the examination of witnesses would stretch the boundaries of self-representation to an extent which the Chamber finds inconsistent with the principle of self-representation. It will therefore not allow for this expansion of Mr. Gajić's right of audience.

32. Finally, it would appear to the Chamber that the Accused's request for a limited right of audience for Mr. Gajić to assist with the examination of witnesses would suggest that the Accused might benefit from assistance of this nature. While the Chamber, at this stage, has no reason to consider that the assistance he is currently receiving is not sufficient, the Chamber informs the Accused that should he wish to reconsider the assignment of qualified counsel pursuant to the Rules, such assignment does not necessarily restrict his participation in the proceedings. There are modalities that the Chamber is willing to consider which would ensure that assignment of counsel does not interfere with the Accused's ability to take part in the proceedings,<sup>58</sup> and would allow the Accused to select counsel of his own choosing from the list of eligible counsel maintained by the Registry. It reminds the Accused that in accordance with its discretion under the Statute and the Rules<sup>59</sup> the Chamber shall not hesitate to intervene *proprio motu* and assign counsel, should it be of the view, at any time in the future of these proceedings, that the interests of justice are at stake.

#### IV. DISPOSITION

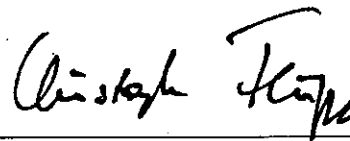
For these reasons, pursuant to Article 20 of the Statute and Rule 54 of the Rules, the Trial Chamber hereby

<sup>58</sup> See, e.g., *Prosecutor v. Šešelj*, Case No. IT-03-67-PT, Decision on Prosecution's Motion for Order Appointing Counsel to Assist Vojislav Šešelj with his Defence", 9 May 2003, see, in particular, para. 30, setting out the role of the appointed standby counsel. See also *Prosecutor v. Milošević*, Case No. IT-02-54-AR73.7, Decision on Interlocutory Appeal of the Trial Chamber's Decision on the Assignment of Defence Counsel, 1 November 2004, see in particular paras. 15-18.

<sup>59</sup> Article 21(d) of the Statute and Rule 45 *ter*, which provides that the Chamber "...may, if it decides that it is in the interests of justice, instruct the Registrar to assign a counsel to represent the interests of the Accused".

- (1) **GRANTS** the Accused's request for the Reply;
- (2) **GRANTS** the Motion in part; and
- (3) **DECIDES** that during the Trial, Mr. Gajić, acting in the capacity of the Accused's legal adviser, will have a right of audience limited to
  - (i) addressing the Chamber on legal issues that arise during the proceedings, upon a specific request for such by the Accused being granted by the Chamber.
  - (ii) addressing the Chamber on administrative issues arising out of Mr. Gajić's correspondence with the Prosecution and relating to the conduct of the proceedings.
- (4) **DENIES** the Motion in all other parts.

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



Judge Christoph Flüge  
Presiding Judge

Dated this twenty-eighth day of April 2010  
At The Hague  
The Netherlands

[Seal of the Tribunal]