



IT-08-91-T
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23 July 2010

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INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA

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Prosecutor v. Stojan Župljanin
Case No. IT-08-91-T

**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 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 16(B) and (C), and 20 thereof;

NOTING the Code of Professional Conduct for Counsel Appearing before the International Tribunal (IT/125/REV.2) ("Code of Conduct");

NOTING that Mr. Stojan Župljanin ("Accused") was transferred to the seat of the Tribunal on 21 June 2008, that his initial appearance took place on 23 June 2008, and his further initial appearance took place on 21 July 2008;

NOTING that on 23 June 2008, in order to protect the Accused's rights under the Statute, Rules and Directive, the Deputy Registrar assigned Mr. Tomislav Višnjić, attorney at law from Serbia, as his duty counsel pursuant to Rule 62(B) of the Rules, for the purposes of his initial appearance and for other matters as necessary until replacement counsel could be assigned;

NOTING that the Accused 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 requested that the Registry assign Mr. Višnjić as his permanent counsel;

NOTING that on 18 July 2008, the Deputy Registrar assigned Mr. Višnjić as temporary counsel to the Accused in accordance with Article 11(B) of the Directive, to ensure that the Accused's right to counsel was not affected while the Registry examined his ability to remunerate counsel, and thereafter twice extended his temporary assignment for a period of 120 days, on 19 November 2008 and 3 April 2009, respectively;

NOTING that on 18 August 2009, the Registrar withdrew the assignment of Mr. Višnjić as Lead Counsel pursuant to Article 20 of the Directive, assigned Mr. Pantelić as replacement Lead Counsel to the Accused and assigned Mr. Krgović as Co-counsel, effective as of the date of that decision;

CONSIDERING that on 4 February 2010, the Accused requested that Mr. Pantelić and Mr. Krgović exchange positions, and that following subsequent correspondence from the Registry on 9 February 2010, and the Accused's response on 11 February 2010, the Registry denied the request on 17 February 2010 on the basis that the Accused had failed to provide sufficient justification;

CONSIDERING that on 31 March 2010, the Accused again requested the Registry to exchange the positions of his counsel and, thereafter, that both Mr. Pantelić and Mr. Krgović requested to exchange positions on the Accused's defence team, setting out reasons in correspondence dated 14 May 2010;

CONSIDERING further that on 17 June 2010, Mr. Pantelić and Mr. Krgović provided a written undertaking to the Registry confirming that the requested exchange of positions of Lead Counsel and Co-Counsel, if granted, would not cause any delay in the trial proceedings, that the interests of the Accused would be fully protected and that the work of the Defence team would not be affected;

CONSIDERING that both Mr. Pantelić and Mr. Krgović are on the Tribunal's list of counsel eligible for assignment to indigent suspects and accused under Rule 45 of the Rules;

CONSIDERING that Mr. Krgović is currently assigned as Lead Counsel in the case against Mr. Milan Gvero (IT-05-88) before this Tribunal;

NOTING that pursuant to Article 16(G) of the Directive, no counsel shall be assigned to more than one accused at a time unless each accused has received independent legal advice from the Registrar and both have consented in writing and the Registrar is satisfied that there is no potential or actual conflict of interest or a scheduling conflict, and that the assignment would not otherwise prejudice the Defence of either accused, or the integrity of the proceedings;

CONSIDERING that the Judgement in the case against Mr. Gvero was delivered on 10 June 2010, Mr. Gvero was sentenced to 5 years' imprisonment and granted early release on 28 June 2010;

CONSIDERING that appeal proceedings have not been initiated against Mr. Gvero, and that the parties have until 8 September 2010 to file any notices of appeal in that case;

CONSIDERING that in the event there is an Appeal in the case against Mr. Gvero, Mr. Gvero has informed the Registry that he would like Mr. Krgović to remain his Lead Counsel;

CONSIDERING that on 25 May 2010, Mr. Gvero provided written consent for Mr. Krgović to be assigned as Lead Counsel to the Accused, but also indicated his wish that Mr. Krgović represents him as Lead Counsel in the event there is an appeal in his case;

CONSIDERING that on 15 July 2010, Mr. Krgović provided his written submission in relation to any potential or actual scheduling conflict arising in his capacity as Lead Counsel to Mr. Gvero, in the event an appeal is filed in the case against Mr. Gvero and the Registrar is satisfied with the information provided;

HEREBY DECIDES pursuant to Article 20 of the Directive, to withdraw the assignment of Mr. Pantelić as Lead Counsel, to assign Mr. Krgović as replacement Lead Counsel to the Accused and to reassign Mr. Pantelić as Co-counsel, effective as of the date of this decision;



Dated this 23rd day of July 2010,
At The Hague,
The Netherlands.