

INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIACHURCHILLPLEIN, 1, P.O. BOX 13888
2501 EW THE HAGUE, NETHERLANDS
TELEPHONE: 31 70 512-5000
FAX: 31 70 512-8637TRIBUNAL PÉNAL INTERNATIONAL
POUR L'EX-YOUGOSLAVIECHURCHILLPLEIN, 1, B.P. 13888
2501 EW LA HAYE, PAYS-BAS
TÉLÉPHONE: 31 70 512-5000
FAX: 31 70 512-8637

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

DECISION**PUBLIC REDACTED VERSION****THE 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 Assignment of Defence Counsel as adopted by the Tribunal on 28 July 1994, as subsequently amended (“Directive”), and in particular Articles 6, 7, 8, 9, 10 and 11(A)(i) thereof;

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

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;

CONSIDERING that the Accused applied for Tribunal legal aid pursuant to Article 7 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;

NOTING that on 18 July 2008, the Deputy Registrar assigned Mr. Tomislav Višnjić as temporary counsel to the Accused in accordance with Article 11(B) of the Directive, and thereafter, extended his temporary assignment on 19 November 2008 and 3 April 2009, for a period of 120 days, 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. Igor Pantelić as replacement Lead Counsel to the Accused and assigned Mr. Dragan Krgović as Co-counsel;

CONSIDERING that on 31 March 2010, the Accused requested the Registry to exchange the positions of his counsel and thereafter, both Mr. Pantelić and Mr. Krgović requested to exchange positions on the Accused's defence;

NOTING that on 23 July 2010, the Deputy Registrar withdrew the assignment of Mr. Pantelić as Lead Counsel, assigned Mr. Krgović as replacement Lead Counsel to the Accused and reassigned Mr. Pantelić as Co-counsel;

CONSIDERING that pursuant to Article 10(A) of the Directive, the eligibility of an accused for legal aid is determined by taking into account "means of all kinds of which he has direct or indirect enjoyment or freely disposes, including but not limited to direct income, bank accounts, real or personal property, pensions, and stocks, bonds, or other assets held, but excluding any family or social benefits to which he may be entitled", that "in assessing such means, account shall also be taken of the means of the spouse of a suspect or accused, as well as those of persons with whom he habitually resides", and that "account may also be taken of the apparent lifestyle of a suspect or accused, and of his enjoyment of any property, movable or immovable, and whether or not he derives income from it";

CONSIDERING that the Registry determines the eligibility of an accused for legal aid in accordance with Article 10 of the Directive and the "Registry Policy for Determining the Extent to which an Accused is able to Remunerate Counsel" ("Registry Policy");

NOTING that under the Registry Policy, the Registry first determines the disposable means of an applicant for legal aid and then deducts from the disposable means the estimated living expenses of the Accused, his family and dependents during the estimated period in which the applicant will require representation before the Tribunal, the amount remaining being the contribution to be made by the applicant to the costs of his defence;

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 the Accused owns a dwelling in [REDACTED], which is used as principal family home for the Accused and the persons he habitually resides with and that [REDACTED] of equity can be included in the Accused's disposable means for the purpose of calculating the Accused's ability to remunerate counsel;

CONSIDERING that the persons with whom the Accused habitually resides own a company in [REDACTED], which is not operating since 2007 and has outstanding liabilities of [REDACTED];

CONSIDERING that the persons with whom the Accused habitually resides are further encumbered with [REDACTED];

CONSIDERING that the Accused currently receives a monthly pension of [REDACTED], which is benefited to [REDACTED];

CONSIDERING that the Accused's spouse does receive a monthly income of [REDACTED];

CONSIDERING that the Accused's [REDACTED];

CONSIDERING that the Accused's father receives a monthly pension of [REDACTED];

CONSIDERING that neither the Accused nor any person with whom he habitually resides do receive any additional financial assistance from the Government of Republika Srpska, Bosnia and Herzegovina;

CONSIDERING that the total income of the Accused, his spouse and the persons with whom he habitually resides are included in the Accused's disposable means in accordance with Article 8(B) of the Directive and Section 7 of the Registry Policy;

CONSIDERING that in accordance with the Registry Policy, the estimated living expenses of the Accused and the persons with whom he habitually resides during the estimated period in which the Accused will require Tribunal-paid representation are deducted from his disposable means which are further decreased for any pending liabilities, the amount remaining being the contribution to be made by the Accused to his defence costs;

CONSIDERING that in determining the extent to which the Accused is able to remunerate counsel, the Registry applies the formula in Section 11 of the Registry Policy, which reads:

$$\mathbf{DM - ELE = C}$$

Where:

DM represents an applicant's disposable means as calculated under Sections 5-8 of the Registry Policy;

ELE represents the estimated living expenses of an applicant, his spouse, his dependants and the persons with whom he habitually resides as calculated under Section 10 of the Registry Policy; and

C represents the contribution to be made by an applicant to his defence.

CONSIDERING that in applying the formula $DM - ELE = C$, the Registry is satisfied that the Accused does not have any means available to him to pay for the costs of his defence before the International Tribunal;

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 the Registry is satisfied that the Accused does not have any means available to him to pay for the costs of his defence before the International Tribunal;

REMINDING 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;

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;

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 International Tribunal.



Ken Roberts
Deputy Registrar

Dated this 2nd day of March 2011
At The Hague,
The Netherlands.