

INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIACHURCHILLPLEIN, 1. P.O. Box 13888
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A35-A34
13 January 2009

Case No. IT-04-84-R77.4
Prosecutor v. Astrit Haraqija

PUBLIC

DECISION

THE ACTING 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.2);

NOTING that on 8 January 2008, an indictment was filed against Mr. Astrit Haraqija ("Accused"), charging him with contempt of the Tribunal under Rule 77 of the Rules and that this indictment was made public on 25 April 2008;

CONSIDERING that the Accused was transferred to the seat of the Tribunal on 28 April 2008 and that his initial appearance was held on 29 April 2008;

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

CONSIDERING that on 29 April 2008 and pursuant to Rule 45(C) of the Rules, the Registrar assigned Mr. Karim Khan, Attorney at Law from the United Kingdom, as duty counsel to the Accused for the purposes of his initial appearance and for other such matters as necessary until permanent counsel is assigned;

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, submitted a declaration of means pursuant to Article 7(B) of the Directive and also requested the assignment of Mr. Khan, as his permanent counsel;

CONSIDERING that on 20 May 2008, acting pursuant to Article 11(B) of the Directive, the Registrar assigned Mr. Khan as counsel to the Accused for a period of 120 days, determining that an interim assignment of counsel was necessary to ensure that the Accused’s right to counsel was not affected while the Registry examined his ability to remunerate counsel;

CONSIDERING that on 17 December 2008, the Trial Chamber rendered its Judgement in the case against the Accused and found him guilty of contempt of Court;

CONSIDERING that on 2 January 2009, both the Accused and the Office of the Prosecutor filed Notices of Appeal against the Judgement;

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;

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. Khan as permanent counsel to the Accused;

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.


John Hocking
Acting Registrar


Dated this 13th day of January 2009
At The Hague,
The Netherlands.