

INTERNATIONAL CRIMINAL TRIBUNAL
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Case No. IT-98-32/1-PT
Prosecutor v. Milan Lukić

PUBLIC

DECISION

THE DEPUTY REGISTRAR,

NOTING the Statute of the Tribunal as adopted by the Security Council under Resolution 827 (1993) ("Statute"), and in particular Articles 20 and 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 16(B) and (C), and 20(A) thereof;

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

CONSIDERING that Mr. Milan Lukić ("Accused") was transferred to the seat of the Tribunal on 21 February 2006, and that his initial appearance was held on 24 February 2006;

CONSIDERING that the Accused applied for the assignment of Tribunal-paid counsel pursuant to Article 7 of the Directive on the basis that he does not have sufficient means to remunerate counsel;

CONSIDERING that on 23 February 2006, at the request of the Accused and pursuant to Rule 62(B) of the Rules, the Registrar assigned Mr. Michael Karnavas, attorney-at-law from the United States, as duty counsel to the Accused for the purposes of his initial appearance and for such other matters as necessary until replacement counsel is assigned;

CONSIDERING that on 20 March 2006, the Registry informed the Accused that Mr. Karnavas could not be assigned as his permanent counsel due to a scheduling conflict;

CONSIDERING that on 6 April 2006, at the Accused's request and pursuant to Article 11(B) of the Directive, the Deputy Registrar assigned Mr. Alan Yatvin, attorney-at-law from the United States, 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 examines his ability to remunerate counsel;

CONSIDERING that Mr. Yatvin's assignment as counsel to the Accused was extended on three occasions, on 16 August 2006, 22 November 2006 and 9 March 2007, in order to ensure that the

Accused's right to counsel is not affected while the Registry conducts its inquiry into the Accused's financial means, and that the inquiry is still ongoing;

CONSIDERING that in September 2006, the Accused started to raise allegations against Mr. Yatvin and requested his withdrawal from the case;

CONSIDERING that the Registry conducted an inquiry in the allegations raised by the Accused, found them completely unsubstantiated, and denied the withdrawal of Mr. Yatvin;

CONSIDERING that on 18 January 2007, the Deputy Registrar assigned Ms Jelena Lopičić-Jancić, attorney-at-law from the Republic of Serbia, as co-counsel to Mr. Yatvin, in accordance with the expressed wishes of the Accused;

CONSIDERING that shortly thereafter, the Accused unilaterally interrupted all communications with his defence team and refused to co-operate with either of his defence counsel;

CONSIDERING that on 10 October 2007, the Accused requested the assignment of Mr. Bojan Sulejić, attorney-at-law from the Republic of Serbia, as replacement counsel;

CONSIDERING that on 5 December 2007, pursuant to Article 20 of the Directive and without prejudice to Article 19(B) of the Directive, the Registrar decided to withdraw the assignments of Mr. Yatvin and Ms Lopičić-Jancić as lead and co-counsel respectively, and to assign Mr. Sulejić as counsel to the Accused, in order to ensure that the Accused receives an effective legal representation and to protect the integrity of the judicial process;

CONSIDERING that on 22 February 2008, Mr. Sulejić requested the assignment of Mr. Jason Alarid, attorney-at-law from the United States, as his co-counsel, and that on 10 March 2008, the Registrar assigned Mr. Alarid as co-counsel to Mr. Sulejić;

CONSIDERING that on 24 March 2008, the Accused stated that problems had arisen between him and Mr. Sulejić and requested the exchange of positions between Mr. Sulejić and Mr. Alarid, namely for Mr. Alarid to become lead-counsel and for Mr. Sulejić to be reassigned as co-counsel;

CONSIDERING that on 15 April 2008, Mr. Sulejić submitted a corresponding request to the Registry, stating that such an exchange of positions is in the interests of justice in the circumstances of this case, in particular given the specific qualifications and experience of both counsel;

CONSIDERING that Mr. Alarid agreed with the request and indicated his willingness and availability to take over the position of lead-counsel for the Accused;

CONSIDERING that shortly thereafter, the Accused wrote to the Registry reiterating the allegations made previously against Mr. Sulejić and raising others, and requested his complete withdrawal from the case;

CONSIDERING that the Registry has commenced an inquiry into the allegations made by the Accused, and that the inquiry is still ongoing;

NOTING that in accordance with Article 20(A)(i) of the Directive the Registrar may withdraw the assignment of counsel at the request of the accused, if he finds that this is in the interests of justice;

NOTING that if the Registry's inquiry establishes that the allegations made against Mr. Sulejić are substantiated and warrant his withdrawal as counsel, the Registrar will be prepared to do so;

CONSIDERING, however, the fundamental right of the Accused to a fair and expeditious trial as enshrined in Article 20(1) of the Statute;

CONSIDERING that the start of trial in this case is imminent and that, therefore, continuity of the defence team is of utmost importance for the protection of the rights of the Accused and the integrity of the trial proceedings at this stage;


CONSIDERING that Mr. Sulejić, who has represented the Accused as counsel over the past six months, is fully familiar with the case, and is therefore expected to facilitate the preparation of the case for trial;

CONSIDERING further the history of this Accused's representation as outlined above and in previous decisions of the Registrar and the fact that no finding has been made yet as to the allegations made by the Accused against Mr. Sulejić;

FINDING therefore that at the present stage of the proceedings, a withdrawal of Mr Sulejić from the case would not further the interests of justice, but that exchanging Mr. Sulejić and Mr. Alarid's positions as initially requested by the Accused and Mr. Sulejić is warranted in the circumstances of this case;

HEREBY DECIDES to assign Mr. Alarid as lead-counsel to the Accused, and Mr. Sulejić as co-counsel to Mr. Alarid for a period of 120 days pursuant to Article 11(B) of the Directive, effective as of the date of this decision;

RESERVES the right to withdraw the assignment of Mr. Sulejić, should it become necessary as a result of the Registry's inquiry into the allegations made against him.


John Hocking
Deputy Registrar

Dated this twelfth day of June 2008
At The Hague,
The Netherlands.