



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-04-74-A  
Date: 4 April 2014  
Original: English

**IN THE APPEALS CHAMBER**

**Before:** Judge Theodor Meron, Presiding  
Judge Carmel Agius  
Judge Patrick Robinson  
Judge Fausto Pocar  
Judge Liu Daqun

**Registrar:** Mr. John Hocking

**Decision:** 4 April 2014

**PROSECUTOR**

**v.**

**JADRANKO PRLIĆ  
BRUNO STOJIĆ  
SLOBODAN PRALJAK  
MILIVOJ PETKOVIĆ  
VALENTIN ĆORIĆ  
BERISLAV PUŠIĆ**

***PUBLIC***

**DECISION ON PRALJAK'S MOTIONS FOR STAY OF  
PROCEDURE AND ASSIGNMENT OF COUNSEL IN THE  
INTEREST OF JUSTICE**

**The Office of the Prosecutor:**

Mr. Douglas Stringer  
Mr. Mathias Marcussen

**Counsel for the Defence:**

Mr. Michael G. Karnavas and Ms. Suzana Tomanović for Mr. Jadranko Prlić  
Ms. Senka Nožica and Mr. Karim A. A. Khan QC for Mr. Bruno Stojić  
**Ms. Nika Pinter and Ms. Natacha Fauveau-Ivanović for Mr. Slobodan Praljak**  
Ms. Vesna Alaburić and Mr. Guénaél Mettraux for Mr. Milivoj Petković  
Ms. Dijana Tomašegović-Tomić and Mr. Dražen Plavec for Mr. Valentin Ćorić  
Mr. Fahrudin Ibrišimović and Mr. Roger Sahota for Mr. Berislav Pušić

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1. The Appeals 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 ("Appeals Chamber" and "Tribunal", respectively) is seised of "Slobodan Praljak's Urgent Motion for Stay of Procedure with Confidential Annexes" ("Motion for Stay") and "Slobodan Praljak's Motion for Assignment of Counsel in the Interest of Justice" ("Motion for Assignment of Counsel", and together with the Motion for Stay, "Motions") filed publicly with public and confidential annexes by Slobodan Praljak ("Praljak") on 3 and 4 October 2013, respectively. On 11 October 2013, the Office of the Prosecutor ("Prosecution") filed confidentially a consolidated response.<sup>1</sup> Praljak filed his reply on 14 October 2013.<sup>2</sup>

2. Pursuant to Rule 33(B) of the Tribunal's Rules of Procedure and Evidence ("Rules"), the Registrar of the Tribunal ("Registry") filed submissions in response to the Motions on 17 and 22 October 2013, respectively.<sup>3</sup> Praljak filed replies on 21 and 23 October 2013, respectively.<sup>4</sup>

## I. BACKGROUND

3. On 13 September 2004, Praljak submitted a declaration of means pursuant to Article 7 of the Directive on the Assignment of Defence Counsel,<sup>5</sup> requesting the assignment of Tribunal-paid counsel on the basis that he lacked the means to remunerate counsel.<sup>6</sup> On 17 June 2005, the Registry denied the request, finding that Praljak had failed to establish his inability to remunerate counsel.<sup>7</sup> Upon Praljak's request, on 15 February 2006 Trial Chamber II of the Tribunal directed the Registry to assign counsel to Praljak in the interests of justice.<sup>8</sup> It also ordered Praljak to provide further information in order to enable an adequate assessment of his financial means.<sup>9</sup> The Registry assigned Tribunal-paid counsel to Praljak on 6 March 2006, noting that the assignment was made

<sup>1</sup> Prosecution Consolidated Response to Slobodan Praljak's Urgent Motion for Stay of Procedure and to his Motion for Assignment of Counsel in the Interest of Justice, 11 October 2013 (confidential) ("Consolidated Response").

<sup>2</sup> Slobodan Praljak's Reply to Prosecution's Consolidated Response to Motions for Stay of Procedure and for Assignment of Counsel in the Interest of Justice, 14 October 2013 ("Reply").

<sup>3</sup> Deputy Registrar's Submission in Response to Slobodan Praljak's Urgent Motion for Stay of Procedure, 17 October 2013 ("Registry's Submission on Motion for Stay"); Registrar's Submission Pursuant to Rule 33(B) Regarding Slobodan Praljak's Motion for Assignment of Counsel in the Interest of Justice, 22 October 2013 ("Registry's Submission on Motion for Assignment of Counsel").

<sup>4</sup> Slobodan Praljak's Reply to Deputy Registrar's Submission in Response to Motion for Stay of Procedure, 21 October 2013 ("Reply to Registry's Submission on Motion to Stay"); Slobodan Praljak's Reply To Registrar's Submission in Response to Motion for Assignment of Counsel in the Interest of Justice, 23 October 2013 ("Reply to Registry's Submission on Motion for Assignment of Counsel").

<sup>5</sup> IT/73/Rev. 11, 11 July 2006 ("Directive").

<sup>6</sup> See *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, Decision, 17 June 2005 (public with confidential and *ex parte* Appendix I) ("Deputy Registrar's Decision on Assignment of Counsel"), p. 2. See also *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-T, Decision, 22 August 2012 (public with confidential and *ex parte* Appendix I and public Appendix II) ("Decision on Means"), p. 1.

<sup>7</sup> Deputy Registrar's Decision on Assignment of Counsel, p. 3. See also Decision on Means, p. 2.

<sup>8</sup> *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, Decision on Assignment of Defence Counsel, 15 February 2006 (public with a confidential annex) ("Decision on Assignment of Counsel"), para. 12. See also Decision on Means, p. 2.



without prejudice to Rule 45(E) of the Rules and Article 18 of the Directive.<sup>10</sup> However, on 22 August 2012, the Registry determined that Praljak was able to fully remunerate counsel and was ineligible for the assignment of Tribunal-paid counsel.<sup>11</sup> Accordingly, the Registry withdrew the assignment of Praljak's counsel effective on the date of the rendering of the judgement by Trial Chamber III of the Tribunal ("Trial Chamber") and further decided that Praljak must bear, and reimburse the Tribunal for, the cost of his defence.<sup>12</sup> On 29 May 2013, the President of the Tribunal issued an interim order staying the withdrawal of Tribunal-paid counsel, pending resolution of Praljak's motion challenging the Decision on Means.<sup>13</sup> On 25 July 2013, the President confirmed the Decision on Means as far as Praljak's ability to remunerate counsel was concerned.<sup>14</sup> Consequently, the payment of legal aid to Praljak was discontinued.<sup>15</sup> On 3 October 2013, upon Praljak's request and in accordance with the Decision of 25 July 2013, the Registry appointed Ms. Nika Pinter and Ms. Natacha Fauveau-Ivanović as privately retained counsel ("Counsel") pursuant to Rule 44(A) of the Rules to represent Praljak before the Tribunal.<sup>16</sup>

4. The Trial Chamber rendered its judgement in this case in French on 29 May 2013.<sup>17</sup> On 21 June 2013, the Pre-Appeal Judge ordered that the notices of appeal of Jadranko Prlić, Bruno Stojić, Valentin Ćorić, and Milivoj Petković be filed within 60 days of the issuance of the English translation of the Trial Judgement and, without prejudice, that any notices of appeal of the remaining parties be filed within 90 days of the issuance of the Trial Judgement.<sup>18</sup> On 28 June 2013, Praljak and Berislav Pušić ("Pušić") filed their notices of appeal.<sup>19</sup> The Prosecution filed its notice of appeal on 27 August 2013.<sup>20</sup> On 22 August 2013, the Pre-Appeal Judge ordered Praljak, Pušić, and the Prosecution to file their respective appeal briefs no later than 135 days from the issuance of the official English translation of the Trial Judgement.<sup>21</sup>

<sup>9</sup> Decision on Assignment of Counsel, para. 13, p. 7. *See also* Decision on Means, p. 2.

<sup>10</sup> *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, Decision, 7 March 2006, p. 2. *See also* Decision on Means, p. 2.

<sup>11</sup> Decision on Means, p. 6.

<sup>12</sup> Decision on Means, pp. 6-7.

<sup>13</sup> Order Regarding Assignment of Defence Counsel to Slobodan Praljak, 29 May 2013 (confidential and *ex parte*), p. 1.

<sup>14</sup> Decision on Slobodan Praljak's Motion for Review of the Registrar's Decision on Means, 25 July 2013 (confidential and *ex parte*) ("Decision of 25 July 2013"), paras 81-83. A public redacted version was filed on 28 August 2013. The Decision on Means was reversed in so far as it ordered Praljak to reimburse the Tribunal for the cost of his defence (*see* Decision of 25 July 2013, paras 82-83). On 7 October 2013, the President denied Praljak's request for review of the Decision of 25 July 2013 (*see* Decision on Slobodan Praljak's Request for Further Review, 7 October 2013 ("Decision on Request for Further Review"), p. 2).

<sup>15</sup> Decision, 3 October 2013 ("Registry Decision of 3 October 2013"), p. 3.

<sup>16</sup> Registry Decision of 3 October 2013, p. 4.

<sup>17</sup> *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-T, *Jugement*, 29 May 2013 ("Trial Judgement").

<sup>18</sup> Decision on Motions for an Extension of Time to File Notices of Appeal and Other Relief, 21 June 2013, pp. 4-5.

<sup>19</sup> Slobodan Praljak's Notice of Appeal, 28 June 2013 ("Praljak's Notice of Appeal"); Notice of Appeal on Behalf of Berislav Pušić, 28 June 2013 ("Pušić's Notice of Appeal").

<sup>20</sup> Prosecution's Notice of Appeal, 27 August 2013.

<sup>21</sup> Decision on Motions for Extension of Time to File Appeal Briefs and for Authorization to Exceed Word Limit, 22 August 2013, para. 18.

5. In the Motion for Assignment of Counsel, Praljak requests that counsel be assigned to him in the interests of justice pursuant to Article 21(4)(d) of the Statute and Rule 45*ter* of the Rules.<sup>22</sup> In the alternative, he requests that the Appeals Chamber grant his Motion for Stay and stay proceedings against him until he receives the translation of “essential” documents, including the Trial Judgement, in a language he understands, *i.e.*, BCS.<sup>23</sup>

## II. APPLICABLE LAW

6. Pursuant to Article 20(1) of the Statute of the Tribunal (“Statute”), an accused is entitled to a fair and expeditious trial. In accordance with Article 21(4) of the Statute, an accused is also entitled to certain minimum guarantees, including: (i) “to be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him”;<sup>24</sup> (ii) “to have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing”;<sup>25</sup> (iii) to defend himself in person or through legal assistance of his own choosing; and (iv) to have legal assistance assigned to him, 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.<sup>26</sup>

7. Rule 45*ter* of the Rules provides that “[t]he Trial 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.” Pursuant to Rule 107 of the Rules, Rule 45*ter* of the Rules applies *mutatis mutandis* to proceedings before the Appeals Chamber.

## III. DISCUSSION

### 1. Arguments of the parties

8. Praljak submits that Counsel are representing him *pro bono* for a limited period of time and are not authorised to deal with substantive issues pertaining to his appeal or to participate in any way in the drafting of his appeal brief.<sup>27</sup> Praljak maintains that he has no disposable means to remunerate counsel<sup>28</sup> and that, “[i]f the question of the Defence remuneration is not resolved, it is very likely that [he] will assure himself his own Defence.”<sup>29</sup>

<sup>22</sup> Motion for Assignment of Counsel, paras 11, 27.

<sup>23</sup> Reply, para. 13; Motion for Stay, paras 14, 23, 27, 37.

<sup>24</sup> Statute, Article 21(4)(a).

<sup>25</sup> Statute, Article 21(4)(b).

<sup>26</sup> Statute, Article 21(4)(d).

<sup>27</sup> Motion for Stay, paras 8, 11, 13, 18; Motion for Assignment of Counsel, paras 9, 20.

<sup>28</sup> Motion for Stay, para. 12; Motion for Assignment of Counsel, para. 10.

<sup>29</sup> Motion for Stay, para. 18. *See also ibid.*, paras 11, 26, 28; Motion for Assignment of Counsel, para. 9; Reply to Registry’s Submission on Motion for Assignment of Counsel, para. 7.



9. In his Motion for Assignment of Counsel, Praljak contends that the circumstances of his case warrant that counsel be assigned to him in the interests of justice.<sup>30</sup> He submits that the appeal proceedings are governed by strict rules and involve complex legal and factual issues requiring legal knowledge and professional advocacy skills, which he does not possess.<sup>31</sup> Praljak maintains that since the beginning of his trial, he requested the assistance of counsel and claims that, due to the “specific nature and requirements of the appeals proceedings”, conducting his own defence at this stage would be “even more complicated”.<sup>32</sup> According to Praljak, the assignment of counsel would ensure both his rights and the rights of the other appellants in this case to a fair and expeditious trial and would contribute to the “good administration of justice”.<sup>33</sup>

10. Praljak contends that Rule 45<sup>ter</sup> of the Rules allows for the assignment of a Tribunal-paid counsel to an accused who is either self-represented or otherwise without counsel.<sup>34</sup> He adds that, unlike Rule 45 of the Rules, the only requirement under Rule 45<sup>ter</sup> of the Rules is that the assignment of counsel be in the interests of justice, irrespective of whether the accused is indigent.<sup>35</sup> Praljak submits that such assignment would not cause any financial prejudice to the Tribunal as it may order him to reimburse the amount paid, should he have sufficient means.<sup>36</sup> Consequently, Praljak requests the assignment of his Counsel and their remuneration pursuant to legal aid provisions for level III cases.<sup>37</sup>

11. In relation to the “possibility” that he might elect to conduct his own defence,<sup>38</sup> Praljak requests a stay of proceedings until the receipt of the BCS translations of the Trial Judgement and Praljak’s Notice of Appeal.<sup>39</sup> In addition, he requests BCS translations of all documents filed by the parties in the appeal proceedings to date, including the Prosecution’s Notice of Appeal and Pušić’s Notice of Appeal,<sup>40</sup> as well as the continuous provision in BCS of all documents filed by the parties “in the case against him”.<sup>41</sup> Praljak also requests BCS translations of the following documents for the purposes of the preparation of his appeal brief: (i) the Prosecution’s pre-trial brief; (ii) Praljak’s pre-trial brief; (iii) all final trial briefs; and (iv) all trial transcripts containing witness testimony.<sup>42</sup>

<sup>30</sup> Motion for Assignment of Counsel, paras 11, 27.

<sup>31</sup> Motion for Assignment of Counsel, paras 16-18.

<sup>32</sup> Motion for Assignment of Counsel, para. 19.

<sup>33</sup> Motion for Assignment of Counsel, para. 25. See also *ibid.*, paras 21-24.

<sup>34</sup> Motion for Assignment of Counsel, para. 14. See also *ibid.*, paras 12-13.

<sup>35</sup> Motion for Assignment of Counsel, para. 14.

<sup>36</sup> Motion for Assignment of Counsel, para. 26; Reply, para. 9.

<sup>37</sup> Motion for Assignment of Counsel, para. 27.

<sup>38</sup> Motion for Stay, paras 11, 32.

<sup>39</sup> Motion for Stay, para. 37(a). See also *ibid.*, paras 14, 22-23, 25-27. Praljak submits that after he receives the BCS translation of the Trial Judgement he will be in a position to decide whether to request an extension of time for the filing of his appeal brief. See *ibid.*, para. 27.

<sup>40</sup> Motion for Stay, paras 29-30.

<sup>41</sup> Motion for Stay, para. 31. See also *ibid.*, para. 37(b).

<sup>42</sup> Motion for Stay, paras 33-34. See also *ibid.*, para. 37(c).

Relying on Article 21(4) of the Statute, Praljak submits that the above documents are “essential” for the preparation of his defence<sup>43</sup> and that their provision in BCS is necessary, as he does not understand either of the working languages of the Tribunal.<sup>44</sup>

12. The Prosecution responds that it is in the interests of justice that Praljak be represented by counsel during the appeal proceedings.<sup>45</sup> It argues that the assignment of counsel is justified in light of the magnitude and complexity of the case, Praljak’s inability to understand key documents and the voluminous trial transcripts, as well as his own preference to have legal representation.<sup>46</sup> The Prosecution underlines, however, that Praljak is in a position to cover the costs of his legal representation, or at least to make a substantial contribution thereto.<sup>47</sup> The Prosecution further submits that the Motion for Stay is premature because the issue of Praljak’s legal representation has not yet been decided and the time-limit for the filing of his appeal brief has been suspended pending the filing of the English translation of the Trial Judgement, thus allowing him ample time to dispose of sufficient assets to fund his legal representation.<sup>48</sup> The Prosecution requests that the Appeals Chamber therefore deny Praljak’s Motion for Stay and direct him to dispose of such assets as are necessary to enable him to fund his defence.<sup>49</sup>

13. Praljak replies that the assignment of counsel pursuant to Rule 45*ter* of the Rules and his own ability to remunerate counsel are two separate issues and that, contrary to the Prosecution’s submission, he has never admitted to having the means to pay for his legal representation.<sup>50</sup> Praljak further argues that he cannot be forced to engage counsel<sup>51</sup> and opposes the Prosecution’s submission that the Motion for Stay is premature.<sup>52</sup>

14. In relation to Praljak’s Motion for Assignment of Counsel, the Registry submits that assigning counsel to a non-indigent appellant would be contrary to the interests of justice and have an adverse impact on the legitimacy and functioning of the Tribunal.<sup>53</sup> It argues that Rule 45*ter* of the Rules does not modify the requirements of Article 21(4) of the Statute and Rule 45 of the Rules, pursuant to which only an accused with insufficient means to remunerate counsel is entitled to legal

<sup>43</sup> Motion for Stay, para. 23. *See also ibid.*, paras 15-22, 35-36.

<sup>44</sup> Motion for Stay, para. 28.

<sup>45</sup> Consolidated Response, paras 1-2, 6.

<sup>46</sup> Consolidated Response, paras 2-3.

<sup>47</sup> Consolidated Response, para. 4, *referring to* Decision on Means, Decision of 25 July 2013, para. 82, and Motion for Stay, Annex 4, p. 2.

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

<sup>49</sup> Consolidated Response, para. 6.

<sup>50</sup> Reply, paras 5-7.

<sup>51</sup> Reply, para. 8.

<sup>52</sup> Reply, paras 11-12.

<sup>53</sup> Registry’s Submission on Motion for Assignment of Counsel, paras 4, 35, 38-39, 43.



aid.<sup>54</sup> The Registry also contends that to grant Praljak further legal aid with the expectation of a possible recovery of the funds in the future “is imprudent and jeopardises public funds”.<sup>55</sup>

15. The Registry further argues that Praljak’s Motion for Stay is premature as Praljak has not decided whether he will represent himself in the appeal proceedings.<sup>56</sup> It adds that, in view of Praljak’s ability to contribute to his defence, he should bear the costs of any translations sought beyond those provided under the Registry Policy Governing Translation Services Provided by the Registry.<sup>57</sup> Finally, the Registry contends that it has neither the legal obligation nor the resources to translate all court filings for a self-represented accused.<sup>58</sup>

16. Praljak responds that the Registry failed to comply with the requirements for the filing of Registry submissions as it should have included a word count in its submissions and filed them no later than ten days after the filing of the relevant motions.<sup>59</sup> He further claims that the Registry’s interpretation of Rule 45<sup>ter</sup> of the Rules is erroneous<sup>60</sup> and that in case of a conflict between the financial interests of the Tribunal and the interests of justice, the latter shall prevail.<sup>61</sup> He further maintains that his Motion for Stay is not premature<sup>62</sup> and argues that his ability to remunerate counsel has no bearing on the Tribunal’s duty to ensure that his rights under Article 21(4)(b) and (f) of the Statute are respected.<sup>63</sup> Consequently, Praljak contends that, if he elects to be self-represented, he must not bear the costs for the translation of documents which are “essential and indispensable” for the preparation of his appeal brief and for ensuring his right to a fair trial.<sup>64</sup>

## 2. Analysis

17. As a preliminary matter, the Appeals Chamber observes that the Registry filed its Rule 33(B) submissions without including a word count and after the expiration of the time-limit for filing responses to motions on appeal.<sup>65</sup> The Appeals Chamber acknowledges that neither the Rules nor the relevant Practice Directions require the inclusion of a word count or provide for a

<sup>54</sup> Registry’s Submission on Motion for Assignment of Counsel, paras 4, 31-34.

<sup>55</sup> Registry’s Submission on Motion for Assignment of Counsel, para. 41. See also *ibid.*, para. 40.

<sup>56</sup> Registry’s Submission on Motion to Stay, para. 6.

<sup>57</sup> Registry’s Submission on Motion to Stay, paras 1, 11-14. See also *ibid.*, paras 7-10.

<sup>58</sup> Registry’s Submission on Motion to Stay, paras 3, 10.

<sup>59</sup> Reply to Registry’s Submission on Motion for Assignment of Counsel, paras 5-6, referring to *Prosecutor v. Momčilo Krajišnik*, Case No. IT-00-39-A, Decision on Krajišnik Request and on Prosecution Motion, 11 September 2007 (“*Krajišnik* Decision of 11 September 2007”), paras 23, 25.

<sup>60</sup> Reply to Registry’s Submission on Motion for Assignment of Counsel, paras 9-14.

<sup>61</sup> Reply to Registry’s Submission on Motion for Assignment of Counsel, para. 22. See also *ibid.*, paras 15-21.

<sup>62</sup> Reply to Registry’s Submission on Motion for Stay, paras 12-14.

<sup>63</sup> Reply to Registry’s Submission on Motion for Stay, para. 5.

<sup>64</sup> Reply to Registry’s Submission on Motion for Stay, para. 8. See also *ibid.*, paras 6-7, 9-11.

<sup>65</sup> See Practice Direction on the Length of Briefs and Motions, IT/184 Rev. 2, 16 September 2005, para. 8; Practice Direction on Procedure for the Filing of Written Submissions in Appeal Proceedings Before the International Tribunal, IT/155 Rev. 4, 4 April 2012, para. 13 (collectively “Practice Directions”).



time-limit for the filing of Registry submissions pursuant to Rule 33(B) of the Rules. However, the Appeals Chamber has previously imposed time-limits and required the inclusion of a word count in Registry submissions where it found it necessary for the efficient administration of the proceedings and for ensuring equality.<sup>66</sup> Guided by the same considerations, the Appeals Chamber requests the Registry to include a word count in future Rule 33(B) submissions in response to motions filed in the present case and to make such submissions within ten days of the filing of the respective motion.

18. Further, in relation to Praljak's replies to the Registry submissions, the Appeals Chamber notes that the Rules do not specify whether and under what circumstances a party is entitled to file a reply to Registry submissions made pursuant to Rule 33(B) of the Rules.<sup>67</sup> Nonetheless, considering that the contentions before the Appeals Chamber concern issues central to Praljak's right to a fair trial, the Appeals Chamber accepts his replies to the Registry submissions as validly filed.

19. Turning to the merits of Praljak's Motion for Assignment of Counsel, the Appeals Chamber recalls that under Article 21(4)(d) of the Statute, an accused is entitled to conduct his own defence or to be represented by counsel of his own choosing.<sup>68</sup> Pursuant to Rules 45ter and 107 of the Rules, the Appeals Chamber may instruct the Registry to assign counsel to an appellant if it is in the interests of justice to do so. Rule 45ter of the Rules has been construed as being solely applicable to self-represented accused.<sup>69</sup> By contrast, Praljak is currently represented by Counsel, privately-retained and of his own choosing.<sup>70</sup> In this respect, the modalities of Counsel's involvement with Praljak's defence are a matter between Counsel and Praljak and have limited relevance to the issue at hand. While Praljak points out that in future stages of the proceedings he might elect to conduct his own defence, for present purposes he is not self-represented. Consequently, Rule 45ter of the Rules does not apply.

20. Moreover, the Appeals Chamber notes that even if Praljak would conduct his own defence, thus claiming eligibility for Tribunal-assigned counsel under Rule 45ter of the Rules, he would still not be entitled to legal aid. The jurisprudence of the Tribunal clearly establishes that Rule 45ter of the Rules does not fall within the ambit of the Directive, which deals with the provision of legal aid to indigent accused.<sup>71</sup> The Appeals Chamber recalls that Praljak was found to have disposable

<sup>66</sup> See *Krajišnik* Decision of 11 September 2007, paras 23, 25.

<sup>67</sup> See *Krajišnik* Decision of 11 September 2007, para. 24.

<sup>68</sup> See also *Prosecutor v. Radovan Karadžić*, Case No. IT-95-5/18-AR73.6, Decision on Radovan Karadžić's Appeal from Decision on Motion to Vacate Appointment of Richard Harvey, 12 February 2010 ("*Karadžić* Decision of 12 February 2010"), para. 26, referring to *Krajišnik* Decision of 11 September 2007, para. 40.

<sup>69</sup> See *Karadžić* Decision of 12 February 2010, para. 28.

<sup>70</sup> See Registry Decision of 3 October 2013, pp. 3-4.

<sup>71</sup> *Karadžić* Decision of 12 February 2010, para. 28. See also Directive, Article 1(A).



means to remunerate counsel.<sup>72</sup> In these circumstances, there will be no violation of Praljak's rights if he is required to pay the cost of his legal representation.<sup>73</sup>

21. Turning to Praljak's Motion for Stay, the Appeals Chamber notes that Praljak's request for stay of proceedings is based on his assertion that he does not understand either of the working languages of the Tribunal, thus requiring translation into BCS of documents which he considers to be "essential" for the conduct of his defence.<sup>74</sup> The Appeals Chamber notes that no formal determination has been made as to whether Praljak understands sufficiently English or French in order to allow for the effective exercise of his right to conduct his defence.<sup>75</sup> Moreover, the issue would become relevant only if Praljak elects to be self-represented and there are no circumstances warranting a curtailment of his right to self-representation.<sup>76</sup> In light of these circumstances, Praljak's request for translations and his related request for stay of proceedings are premature. Accordingly, the Appeals Chamber need not consider the merits of Praljak's Motion for Stay at this stage.

<sup>72</sup> Decision on Means, p. 6; Decision of 25 July 2013, paras 81, 83. See also Decision on Request for Further Review, p. 2.

<sup>73</sup> See ECtHR, *Morris v. The United Kingdom*, no. 38784/97, Judgment, 26 February 2002, para. 88; ECtHR, *Croissant v. Germany*, no. 13611/88, Judgment, 25 September 1992, paras 33-38.

<sup>74</sup> See Motion for Stay, para. 28.

<sup>75</sup> Cf. *Prosecutor v. Radovan Karadžić*, Case No. IT-95-5/18-AR73.3, Decision on Interlocutory Appeal of the Trial Chamber's Decision on Prosecution Motion Seeking Determination that the Accused Understands English, 4 June 2009, para. 13. The determination of whether an accused possesses a sufficient level of understanding is a factual question and must be made on a case-by-case basis (see *ibid.*, para. 12, referring to *Prosecutor v. Zdravko Tolimir*, Case No. IT-05-88/2-AR73.1, Decision on Interlocutory Appeal Against Oral Decision of the Pre-Trial Judge of 11 December 2007, 28 March 2008, para. 15).

<sup>76</sup> *Prosecutor v. Momčilo Krajišnik*, Case No. IT-00-39-A, Decision on Momčilo Krajišnik's Request to Self-Represent, on Counsel's Motions in relation to Appointment of *Amicus Curiae*, and on the Prosecution Motion of 16 February 2007, 11 May 2007, para. 9, referring to *Slobodan Milošević v. Prosecutor*, Case No. IT-02-54-AR73.7, Decision on Interlocutory Appeal of the Trial Chamber's Decision on the Assignment of Defense Counsel, 1 November 2004, paras 12-13; *Prosecutor v. Vojislav 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.

#### IV. DISPOSITION

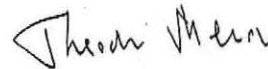
22. For the foregoing reasons, the Appeals Chamber:

**DISMISSES** the Motions in their entirety; and

**REQUESTS** the Registry to include a word count in future Rule 33(B) submissions in response to motions filed in the present case and to make such submissions within ten days of the filing of the respective motion.

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

Dated this 4th day of April 2014  
At The Hague  
The Netherlands



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Judge Theodor Meron  
Presiding Judge

[Seal of the Tribunal]