

INTERNATIONAL CRIMINAL TRIBUNAL
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29 November 2010
TRIBUNAL PÉNAL INTERNATIONAL
POUR L'EX-YOUGOSLAVIECHURCHILLPLEIN, 1, B.P. 13888
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SF

Prosecutor v. Milivoj Petković
Case No. IT-04-74-T**PUBLIC****DECISION****THE DEPUTY REGISTRAR,**

NOTING the Statute of the Tribunal as adopted by the Security Council under Resolution 827 (1993), as subsequently amended (“Statute”), 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 14, 16, 20 and 21 thereof;

NOTING the Code of Professional Conduct for Counsel Appearing before the International Tribunal (IT/125/Rev.3) (“Code of Conduct”);

CONSIDERING that on 31 March 2004, Mr. Milivoj Petković (“Accused”) submitted a power of attorney for Ms. Vesna Alaburić, attorney at law from Croatia, to represent him in proceedings before the Tribunal pursuant to Rule 44 of the Rules;

CONSIDERING that on 6 April 2004, the Accused informed the Registrar that he would not apply for Tribunal legal aid;

CONSIDERING however, that on 29 September 2004, the Accused submitted a declaration of means pursuant to Article 7 of the Directive and requested the assignment of Ms. Alaburić as his counsel pursuant to Rule 45 of the Rules;

CONSIDERING that on 20 May 2005, the Registrar assigned Ms. Alaburić as counsel to the Accused effective as of 29 September 2004, the date upon which the Accused applied for Tribunal legal aid;¹

NOTING the Registrar’s Decision of 20 October 2006, assigning Mr. Stewart as co-counsel to Ms. Alaburić;²

¹ *Prosecutor v. Milivoj Petković*, IT-04-74-PT, “Decision”, 20 May 2005.

NOTING that pursuant to Article 20(A)(ii) of the Directive, in the interests of justice and at the request of lead counsel, the Registrar may withdraw the assignment of co-counsel;

NOTING that pursuant to Article 21(A)(i) of the Directive, counsel shall continue to act until a replacement counsel has been assigned by the Registrar;

CONSIDERING that on 16 July 2010, Mr. Stewart requested that the Registrar withdraw his assignment as co-counsel to Ms. Alaburić;

CONSIDERING that on 20 July 2010, Ms. Alaburić requested that the Registrar approve the withdrawal of Mr. Stewart's assignment;

CONSIDERING that on 28 July 2010, the Registrar requested that Mr. Stewart submit an explanation detailing his reasons for requesting the withdrawal of his assignment, in light of his professional obligations to his client and his statement of availability at the time of his assignment;

CONSIDERING that on 24 August 2010, Mr. Stewart submitted an explanation as requested, and that the Registrar is satisfied that the reasons set forth in Mr. Stewart's explanation provide an adequate basis for the withdrawal of his assignment as co-counsel to Ms. Alaburić;

CONSIDERING that on 1 November 2010, Ms. Alaburić requested the assignment of Mr. Zoran Ivanišević, attorney at law from Croatia, as her co-counsel;

NOTING Article 16(D) of the Directive, which provides that where the interests of justice so require, the Registrar may assign co-counsel who does not speak either of the two working languages of the Tribunal but who speaks the native language of the suspect or accused;

CONSIDERING that Mr. Ivanišević meets all the qualification requirements for counsel under Rule 45 of the Rules, but does not fulfil the language requirement under Rule 44(A)(ii) of the Rules, and that the Registrar is satisfied that a waiver of this requirement is in the interests of justice;

CONSIDERING that Mr. Ivanišević has been assigned as a legal assistant to the Accused's Defence team since October 2005, and that Ms. Alaburić has provided written assurance to the Registrar that Mr. Ivanišević is sufficiently prepared to immediately take over the role of co-counsel in this case, which is in the trial phase;

CONSIDERING that Mr. Ivanišević has given his consent to be assigned as co-counsel to Ms. Alaburić;

CONSIDERING that the Registrar is satisfied that the withdrawal of Mr. Stewart and the assignment of Mr. Ivanišević as co-counsel to Ms. Alaburić is in the interests of justice;

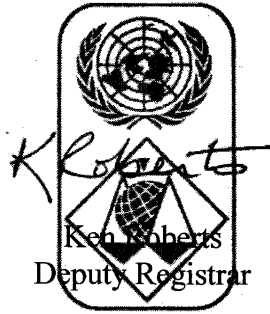
² *Prosecutor v. Milivoj Petković*, IT-04-74-T, "Decision", 20 October 2006.

HEREBY DECIDES

- 1) pursuant to Article 20(A)(ii) of the Directive, to withdraw the assignment of Mr. Stewart as co-counsel to Ms. Alaburić;
- 2) pursuant to Article 16(C) and (D) of the Directive, to assign Mr. Ivanišević as co-counsel to Ms. Alaburić;

effective as of the date of this decision;

DIRECTS Mr. Stewart to hand over to Ms. Alaburić any case-related materials he received or produced during his assignment, in accordance with his duties under Article 9(D) of the Code of Conduct.



Dated this 29th day of November 2010,
At The Hague,
The Netherlands.