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SC2-04-82-PT
D11141 - D11138
01 February 2007**Case No. IT-04-82-PT****Prosecutor v. Ljube Boškosi****DECISION****THE DEPUTY 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 the Assignment of Defence Counsel as adopted by the Tribunal on 28 July 1994, as subsequently amended ("Directive");

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

NOTING that Mr. Ljube Boškosi ("Accused") was transferred to the seat of the Tribunal on 24 March 2005 and that his initial appearance was held on 1 April 2005;

NOTING that the Accused waived his right to have duty counsel assigned choosing instead to represent himself at his initial appearance;

CONSIDERING that on 28 March 2005, pursuant to Article 7(A) of the Directive, the Accused requested the assignment of a Tribunal paid counsel on the basis that he did not possess sufficient means to remunerate counsel, and in doing so submitted a Declaration of Means pursuant to Article 7(B) of the Directive;

CONSIDERING that on 21 April 2005, the Accused requested the assignment of Mr. Dragan Godzo, attorney at law from Ohrid, Macedonia, as his permanent counsel pursuant to Rule 45 of the Rules;

CONSIDERING that on 6 May 2005, the Registrar assigned Mr. Godzo as counsel to the Accused pursuant to Article 11(B) of the Directive, pending the assessment of the Accused's ability to remunerate counsel;

CONSIDERING that on 21 September 2005, Mr. Godzo requested the assignment of Ms. Edina Rešidović as his co-counsel, and that on 29 September 2005, the Registrar assigned Ms. Rešidović as Mr. Godzo's co-counsel pursuant to Article 16(C)(i) of the Directive;

CONSIDERING that on 13 April 2006, pursuant to Article 19(A)(i) of the Directive, the Registrar withdrew Mr. Godzo's assignment as lead counsel to the Accused, and further to Article 11(A)(ii) of the Directive, assigned Ms. Rešidović as lead counsel to the Accused, and in doing so also found the Accused able to contribute US\$575,621 to the cost of his defence;

CONSIDERING that on 19 April 2006, the Accused informed the Registry that he was withdrawing his request for the assignment of Tribunal-paid counsel, but that the Accused failed to specify whether he would be conducting his own defence before the Tribunal, or whether he intended to retain a counsel at his own expense;

CONSIDERING that on 20 April 2006, Ms. Rešidović requested that her assignment as counsel to the Accused be withdrawn on the basis that the Accused had withdrawn his request for Tribunal-paid counsel;

CONSIDERING that on 26 April 2006, the Registrar requested that the Accused clarify his request for the withdrawal of Tribunal-paid counsel by indicating whether he intended to conduct his own defence before the Tribunal, or retain a counsel at his own expense;

CONSIDERING that on 1 May 2006, the Accused informed the Registrar that at present, he intended to conduct his own defence before the Tribunal;

CONSIDERING that on 1 May 2006, the Registrar withdrew Ms. Rešidović's assignment as counsel to the Accused;

CONSIDERING that on 18 July 2006 the Accused executed a power of attorney in favor of Ms. Rešidović, authorizing Ms. Rešidović to represent him as a privately retained counsel under Rule 44(A) of the Rules;

CONSIDERING that on 19 July 2006, the Registrar admitted Ms. Rešidović to represent the Accused pursuant to Rule 44(A) of the Rules;

CONSIDERING that on 6 November 2006, Ms. Rešidović requested the appointment of Mr. Guénäel Mettraux as her co-counsel pursuant to Rule 44(A) of the Rules;

CONSIDERING that on 9 September 2003, Mr. Mettraux was assigned as co-counsel in the case of Sefer Halilović, currently in appellate proceedings before the Tribunal;

NOTING that on 28 July 2004, Rules 44 and 45 of the Rules were amended, setting new higher qualification standards for counsel practicing before the Tribunal, especially for counsel assigned by the Registrar under the Tribunal's legal aid system ("Amended Rules");

NOTING that Mr. Mettraux has not applied for admission to the Registrar's list of counsel eligible for assignment to indigent suspects and accused ("Rule 45 list") under the Amended Rules;

CONSIDERING however that in the present case, Mr. Mettraux has been privately retained by the Accused, and that therefore, his qualifications are assessed under Rule 44(A) of the Rules;

CONSIDERING that the Registrar requested Mr. Mettraux to submit documentation showing that he fulfilled the qualification requirements of Rule 44(A) of the Rules, namely evidence that he is admitted to the practice of law or is a university professor of law, that he has not been found guilty in relevant criminal and disciplinary proceedings, and that he is a member of good standing of an association of counsel practicing at the Tribunal;

CONSIDERING that on 22 December 2006, Ms. Rešidović submitted a contract dated 1 December 2006, signed by Mr. Mettraux and the Law Faculty of the University of Sarajevo, showing that as of the date of the contract, Mr. Mettraux was a visiting professor of International Criminal Law at the said Law Faculty, a certificate from the University of Sarajevo to that effect, and a certificate from the relevant Swiss authorities showing that Mr. Mettraux does not have a criminal record;

CONSIDERING that Mr. Mettraux is seeking appointment as co-counsel in the Accused's case on the basis that he is a university professor of law;

CONSIDERING that in the Registrar's view, not all professors of law are necessarily qualified to represent an accused before this Tribunal under Rule 44(A) of the Rules;

CONSIDERING in particular that employment as a visiting professor would normally be insufficient to qualify a person as counsel under Rule 44(A) of the Rules, unless it is coupled with established competence, knowledge and skills of relevance to the proceedings before this Tribunal;

CONSIDERING that Mr. Mettraux has published extensively in the field of International Criminal Law, is a member of the Editorial Committee of the Journal of International Criminal Justice, Oxford University Press and of the Board of Editors of the International Criminal Law Review, Kluwer Law International, that he has been working in the field of International Criminal Law in different

capacities since 1999, including as defence counsel, has trained defence counsel appearing before the Tribunal in the context of a training provided by the Association of Defence Counsel Practising before the ICTY (“ADC-ICTY”), and has been commended for his work by experienced defence counsel such as the lead counsel in the *Halilović* case;

CONSIDERING that on 25 January 2007, the Accused executed a power of attorney on behalf of Mr. Mettraux stating that he seeks his appointment under Rule 44(A) of the Rules as a professor of law and not as an attorney at law;

CONSIDERING the right of the Accused to choose counsel, enshrined in Article 21 of the Statute;

CONSIDERING that the Accused’s trial is scheduled to start on 16 April 2007;

CONSIDERING that both the Accused and Mr. Halilović have agreed in writing to Mr. Mettraux’s dual representation, and that the Registrar is satisfied that the rights of neither of them will be adversely affected, nor will a conflict of interests or a scheduling conflict arise as a result of Mr. Mettraux’s dual representation;

CONSIDERING that on 23 January 2007, the ADC-ICTY issued a certificate of good standing to Mr. Mettraux;

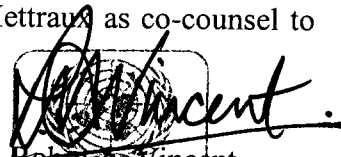
CONSIDERING therefore, that, based on the above, the Registrar is satisfied that Mr. Mettraux is qualified for appointment under Rule 44(A) of the Rules as co-counsel to Ms. Rešidović in the case of the Accused;

NOTING Mr. Mettraux’s obligations under the Statute, the Rules (in particular Rule 44(C)) and the Code of Conduct;

NOTING that Mr. Mettraux’s contract with the University of Sarajevo is valid until the end of the academic year and that he needs to update the Registrar on his status as a professor of law after this date if he wishes to continue representing the Accused;

HEREBY DECIDES pursuant to Rule 44(A) of the Rules, to admit Mr. Mettraux as co-counsel to Ms. Rešidović, effective as of the date of this decision.

Dated this 31st day of January 2007
At The Hague,
The Netherlands.


Robin A. Vincent
Acting Deputy Registrar
