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D16815-D16812  
07 July 2008

**Prosecutor v Mićo Stanišić**  
**Case No. IT-04-79-PT**

**PUBLIC****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, 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 16 and 20 thereof;

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

**CONSIDERING** that Mićo Stanišić ("Accused") was transferred to the seat of the Tribunal on 11 March 2005 and that on or about that date, he applied for the assignment of Tribunal-paid counsel on the basis that he did not have sufficient means to remunerate counsel;

**NOTING** that on or about 24 March 2005, the Accused requested that the Registrar assign Mr. Branko Lukić, an attorney from Serbia and Montenegro, as his Tribunal-paid counsel, but because Mr. Lukić was engaged in two other cases before the Tribunal at that time, the Registrar refused to assign him and invited the Accused to select an alternate counsel from the Registrar's list of counsel qualified for assignment to indigent suspects and accused ("Rule 45 list");

**NOTING** that on 5 April 2005, the Accused provided the Registrar with a power of attorney in which he authorized Mr. Lukić to represent him before the International Tribunal in a *pro bono* capacity;

**NOTING** that on 9 March 2006, the Registrar received a letter from Mr. Lukić in which he informed the Registrar that he wished to terminate his representation of the Accused;

**CONSIDERING** that on 2 May 2006, the Accused informed the Registrar that he wanted Mr. Stevo Bezbradica, a Barrister and Solicitor from Australia, to replace Mr. Lukić;

**CONSIDERING** that on 5 May 2006, acting pursuant to Article 11(B) of the Directive, the Registrar assigned Mr. Bezbradica 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 Registrar examines the Accused's ability to remunerate counsel;

**CONSIDERING** that in a letter dated 30 June 2006, Mr. Bezbradica requested the assignment of Mr. Slobodan Cvijetić, attorney from Bijeljina, Bosnia and Herzegovina, as a legal consultant and co-counsel on the Accused's defence team;

**CONSIDERING** that on 12 July 2006, the Registry granted the request for the assignment of Mr. Cvijetić as a legal consultant to the Accused's defence team;

**CONSIDERING** that in a communication to the Registry of 6 August 2006 Mr. Bezbradica confirmed his request for the assignment of Mr. Cvijetić as his Co-Counsel;

**CONSIDERING** that on 11 August 2006, the Registry denied Mr. Cvijetić's assignment as co-counsel on the basis Mr. Cvijetić did not fulfill the language requirement contained in Rule 44(A)(ii) of the Rules, and that the interests of justice test set out in Article 16(D) of the Directive had not been satisfied;

**CONSIDERING** that on 18 August 2006 the Registry denied Mr. Cvijetić's application for admission to the Rule 45 List;

**CONSIDERING** that on 18 August 2006 Mr. Bezbradica filed the "Defence Counsel's Motion for Review of the Registrar's Refusal to Assign Mr. Slobodan Cvijetić as Co-Counsel" ("Motion") with the Trial Chamber;

**CONSIDERING** that on 9 February 2007 the Registrar issued a decision determining that the Accused is able to remunerate counsel in part, and assigning Mr. Bezbradica as counsel to the Accused permanently;

**CONSIDERING** that in the "Decision on Review of Registrar's Decision Re Co-Counsel for Mićo Stanišić" of 24 April 2007, the Trial Chamber upheld the Registrar's denial of assignment of Mr. Cvijetić as co-counsel and dismissed the Motion;

**CONSIDERING** that on 5 March 2008 the Registry received notification from Mr. Bezbradica advising that he had been asked by his client to immediately cease all work on his client's behalf, and that the Accused had elected to represent himself;

**CONSIDERING** that on 5 March 2008 a notification from the Accused was received by the Registry, in which the Accused requested Mr. Bezbradica's withdrawal as counsel from his case and further notified that he would conduct his own defence ("Withdrawal Request");

**NOTING** certain confidential filings;

**CONSIDERING** that during a meeting with the Deputy Registrar on 5 May 2008, the Accused requested the assignment of Mr. Slobodan Zečević, attorney at law from Serbia, as replacement counsel;

**CONSIDERING** that after indicating his willingness to represent the Accused as lead counsel, Mr. Zečević provided several written submissions to the Registry detailing a plan for the defence of the Accused, including how he proposed to allocate his time and that of other defence team members in order to complete any remaining preparatory work and be fully ready to defend the Accused at trial, which was expected to commence in the coming months;

**CONSIDERING** that Mr. Zečević's proposed work plan comprised the assignment of several defence team members, including Mr. Cvijetić as his Co-Counsel and a non-BCS speaking legal consultant, noting that the immediate and substantial contribution of both was essential in order to ensure a smooth transition of the defence and to complete any remaining preparatory work in order to be ready for the commencement of trial;

**NOTING** the decision of the Deputy Registrar of 13 June 2008 withdrawing the assignment of Mr. Bezbradica as lead counsel and assigning Mr. Zečević as counsel to the Accused;

**CONSIDERING** that Mr. Zečević formally requested the assignment of Mr. Cvijetić as his Co-Counsel in accordance with the work plan previously submitted to the Registry;

**NOTING** Article 16(C) of the Directive, which provides that in the interests of justice and at the request of lead counsel, the Registrar may assign a second counsel to assist with the defence of the suspect or accused;

**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. Cvijetić previously represented Mr. Miroslav Deronjić (IT-02-61) before this Tribunal;

**CONSIDERING** that on 18 June 2008, the Registrar wrote to the Accused and provided independent legal advice in relation to Mr. Cvijetić's potential assignment as Co-Counsel in light of his former representation of Mr. Deronjić;

**CONSIDERING** that on 26 June 2008, the Registry received a response from the Accused, dated 23 June 2008, stating that he understood the advice provided by the Registrar, and confirmed his consent for the assignment of Mr. Cvijetić as Mr. Zečević's Co-Counsel;

**CONSIDERING** that in circumstances where lead counsel has been replaced shortly before the commencement of trial, retaining 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;

**CONSIDERING** that Mr. Cvijetić has been assigned as a legal consultant to the Defence team of the Accused since 12 July 2006, is fully familiar with the case, and is therefore expected to facilitate the transition of the defence and the preparation of the case for trial;

**CONSIDERING** that based on information provided by lead counsel, Mr. Cvijetić's knowledge and experience of the case will be crucial in order for the newly composed defence team of the Accused to be fully prepared and ready to defend the Accused at trial;

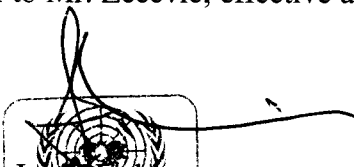

**CONSIDERING** that the mere fact that someone has acted in a support staff capacity on a defence team for an extended period of time does not in and of itself justify a waiver of the language requirement under Article 16(D) of the Directive;

**CONSIDERING** however, the change in circumstances surrounding the Defence team of the Accused since 11 August 2006 are such that the Registrar is satisfied, based on all the information before him, that waiving the language requirement on behalf of Mr. Cvijetić in order to assign him as co-counsel is, in this particular case now in the interests of justice;

**CONSIDERING** that the Trial Chamber was consulted on the assignment of Co-Counsel;

**FINDING** that the interests of justice would be served in assigning Co-Counsel under these circumstances;

**HEREBY DECIDES** to assign Mr. Cvijetić as co-counsel to Mr. Zečević, effective as of the date of this decision.

  
  
Jonathan Fielding  
Deputy Registrar

Dated this fourth day of July 2008,  
At The Hague,  
The Netherlands.