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IT-05-88-T  
D 20476- D 20474  
05 JUNE 2008

Case No. IT-05-88-T

*Prosecutor v. Ljubiša Beara*

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 (“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 and 20 thereof;

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

**CONSIDERING** that that on 11 November 2004, the Deputy Registrar assigned Mr. John Ostojic, attorney at law from the United States, as counsel to the accused Mr. Ljubiša Beara (“Accused”) for a period of 120 days pending the completion of the Registry’s inquiry into the Accused’s ability to remunerate counsel;

**CONSIDERING** that on 18 April 2005, the Deputy Registrar issued a decision finding that the Accused was able to remunerate counsel in part and assigned Mr. Ostojic as his counsel permanently;

**CONSIDERING** that on 3 April 2006, the Deputy Registrar issued a decision assigning Mr. Christopher Meek, Attorney at Law from the United States, as co-counsel to Mr. Ostojic;

**CONSIDERING** that on 25 March 2008, Mr. Meek submitted a written request to the Registrar requesting his withdrawal as co-counsel;

**CONSIDERING** that the Registrar informed Mr. Ostojic that pursuant to Article 20(A)(ii) of the Directive the Registrar may only consider a request for the withdrawal of assignment of co-counsel on the request of lead counsel, in the interests of justice, and that in any event, given the advanced stage of the trial proceedings, a withdrawal of co-counsel can only be permitted if a qualified replacement co-counsel is assigned;

**CONSIDERING** that on 11 April 2008, Mr. Ostojic submitted a written request to the Registrar for the withdrawal of his co-counsel Mr. Meek pursuant to Article 20(A)(ii) of the Directive, and for the assignment of Mr. Predrag Nikolic, Attorney from Belgrade, Serbia, further indicating that the Accused had agreed to his assignment;

**CONSIDERING** that on the basis of information provided by both lead and co-counsel and other information obtained by the Registrar, the Registrar is satisfied that replacing co-counsel Mr. Meek will further the interests of justice in this particular case;

**NOTING** Articles 20(A)(ii) and 20(E) of the Directive, which provide that in the interests of justice, the Registrar may withdraw the assignment of co-counsel at the request of lead counsel and assign replacement 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. Nikolic meets all the qualification requirements for counsel under Rule 45 of the Rules, but does not fulfil the language requirement contained in Rule 44(A)(ii) of the Rules, and that the Registrar requested Mr. Ostojic to provide further information as to why it is in the interests of justice to waive this requirement in this particular case;

**CONSIDERING** that Mr. Ostojic submitted a written response to this request to the Registrar on 22 May 2008;

**CONSIDERING** that whilst not all arguments submitted by Mr. Ostojic were relevant in relation to a determination by the Registrar pursuant to Article 16(D) of the Directive but noting in particular that Mr. Nikolić was assigned as an investigator to the Defence team of the Accused on 18 September 2007, in accordance with Article 16(E) of the Directive, and, based on information provided by lead counsel, has worked with proposed Defence witnesses, many of whom will be examined by him in court, as well as the Accused, possesses unique expertise and skills that are of significant importance to the preparation of the defence case, and has a professional background that complements that of lead counsel;

**CONSIDERING** that the Registrar is satisfied, based on all the information before him, that waiving the language requirement on behalf of Mr. Nikolić in order to assign him as co-counsel is in the interests of justice in this case;

**CONSIDERING** the on 1 June 2008, lead counsel provided written assurance to the Registrar that Mr. Nikolić is sufficiently prepared to immediately take over the role of co-counsel in this case, which is currently in the trial phase, and act as lead counsel if the need were to arise;

**CONSIDERING** further that after consultation with lead counsel, the Registrar has taken steps to ensure the continuity of the defence, including reassigning Mr. Meek in a different position to the defence team for a period of at least thirty (30) days after his replacement as co-counsel;

**FINDING** that the interests of justice would be served in allowing the replacement of co-counsel under these circumstances;

**HEREBY DECIDES** to withdraw the assignment of Mr. Meek and to assign Mr. Predrag Nikolic as co-counsel to Mr. Ostojic, effective as of the date of this Decision;

**DIRECTS** Mr. Meek, in accordance with Article 9(D) of the Code of Conduct to surrender to Mr Ostojic any case-related materials he received during his assignment as co counsel.



Dated this fourth day of June 2008

At The Hague,

The Netherlands.