

INTERNATIONAL CRIMINAL TRIBUNAL  
FOR THE FORMER YUGOSLAVIACHURCHILLPLEIN, 1, P.O. Box 13888  
2301 EW THE HAGUE, NETHERLANDS  
TELEPHONE: 31 70 512-5000  
FAX: 31 70 512-8637TRIBUNAL PÉNAL INTERNATIONAL  
POUR L'EX-YOUGOSLAVIECHURCHILLPLEIN, 1, B.P. 13888  
2501 EW LA HAYE, PAYS-BAS  
TÉLÉPHONE: 31 70 512-5000  
FAX: 31 70 512-8637**Case No. IT-04-74-T*****Prosecutor v. Slobodan Praljak*****DECISION****PUBLIC WITH CONFIDENTIAL *EX PARTE* APPENDIX I & PUBLIC APPENDIX II****THE REGISTRAR,**

**NOTING** the Statute of the Tribunal as adopted by the Security Council under Resolution 827 (1993), as subsequently amended, 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 Assignment of Defence Counsel, as adopted by the Tribunal on 8 July 1994, as subsequently amended (“Directive”), and in particular, Articles 6, 7, 8, 9, 10, 11(A), 13, 19, and 21(A) thereof;<sup>1</sup>

**NOTING** the Code of Professional Conduct for Counsel Appearing before the International Tribunal as adopted by the Tribunal on 12 June 1997, as subsequently amended, and in particular Article 9 thereof;

**NOTING** the Registry Policy for Determining the Extent to which a Suspect or an Accused is able to Remunerate Counsel”, as applicable from 8 February 2007 (“Registry Policy”), Appendix II to this Decision;

**NOTING** that on 5 April 2004, Slobodan Praljak (“Accused”) arrived at the Tribunal and announced that he would not request the assignment of Tribunal-paid counsel as he had retained counsel privately to represent him;

**NOTING** that on 13 September 2004, the Accused submitted a Declaration of Means to the Registry, thereby applying for the assignment of Tribunal-paid counsel on the basis that he did not have sufficient means to remunerate counsel;

**CONSIDERING** that the Accused’s privately retained counsel continued to represent him at that time;

**NOTING** that between 13 September 2004 and 17 June 2005, there were exchanges between the Accused and the Registry in regards to the documentation that the Accused should provide in relation to his application for Tribunal-paid counsel;

---

<sup>1</sup> 11 July 2006 (IT/73/Rev.11).

**NOTING** that on 17 June 2005, the Deputy Registrar issued a decision denying the Accused's request for legal aid on the basis that the Accused had not met his burden of proof to allow the Registry to determine if the Accused was in fact unable to remunerate counsel;<sup>2</sup>

**NOTING** that the Denial of Assignment was reviewed by Trial Chamber I at the request of the Accused<sup>3</sup> and upheld by that Chamber ("Review Decision");<sup>4</sup>

**CONSIDERING** that after the Review Decision was issued, the Accused elected to represent himself while requesting a reassessment of his legal aid application in parallel;<sup>5</sup>

**NOTING** that the case of the Accused was reassigned from Trial Chamber I to Trial Chamber II on 31 October 2005;<sup>6</sup>

**CONSIDERING** that on 22 December 2005, the Accused's request for a reassessment of his legal aid application was denied as the Accused had failed to provide the outstanding information previously requested, which was necessary to complete an indigency determination;

**NOTING** that the Accused then applied to Trial Chamber II for the assignment of counsel "in the interests of fairness" on 12 January 2006;<sup>7</sup>

**CONSIDERING** that on 15 February 2006, Trial Chamber II issued a decision granting the Accused's request, and ordered the Registry to assign counsel in the interests of justice, while ordering the Accused to answer 23 questions in relation to his financial status as "[...] the information so far provided by the Accused remains incomplete and does not enable an adequate assessment of the financial means available to the Accused for his own defence costs" ("Decision on Assignment of Counsel");<sup>8</sup>

**CONSIDERING** that, pursuant to the Decision on Assignment of Counsel, the Registry assigned counsel to the Accused, and from that point forward the Accused's defence team has been paid full legal aid allotments for the duration of the proceedings ("Decision Assigning Counsel");<sup>9</sup>

**CONSIDERING** that the Decision Assigning Counsel highlighted that such decision was made without prejudice to Rule 45(E) of the Rules and Article 18 of the Directive;<sup>10</sup>

<sup>2</sup> *Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, "Decision [on Assignment of Counsel]" (Public, with Confidential *Ex Parte* Appendix), 17 June 2005 ("Denial of Assignment"). See also Article 8 (B) of the Directive.

<sup>3</sup> See *Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, "Decision on Assignment of Defence Counsel (Confidential Annex)", 15 February 2006, para. 4.

<sup>4</sup> *Ibid.*

<sup>5</sup> This request was made by way of a letter sent from the Accused to the Registry on 15 November 2005.

<sup>6</sup> *Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, "Order Reassigning a Case to a Trial Chamber", 31 October 2005.

<sup>7</sup> *Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, "Request by Slobodan Praljak for the Review of an Opinion of the Registrar of the Tribunal and Request for Assignment of Defence Counsel", 12 January 2006.

<sup>8</sup> *Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, "Decision on Assignment of Defence Counsel (Confidential Annex)", 15 February 2006, para. 12.

<sup>9</sup> *Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, "Decision [Assigning Defence Counsel]", 6 March 2006.

<sup>10</sup> Article 18 of the Directive applicable at that time (IT/73/Rev.10, 28 July 2004,) in pertinent part provided that the "[a]ssignment of counsel or partial remuneration of counsel and/or payment of counsel's expenses may be withdrawn by the Registrar if [...] information is obtained which establishes that the suspect or accused has sufficient means to allow him to pay for the cost of his defence." Revision 11 of the Directive currently in force (IT/73/Rev.11, 29 June 2006) similarly provides, in Article 19, that "[w]here counsel has been assigned, the Registrar may withdraw the assignment of counsel if information is obtained which establishes that the suspect or accused has sufficient means to remunerate counsel. In such cases, the Registrar may recover the cost of providing counsel in accordance with Rule 45(E) of the Rules."

**NOTING** that Ms. Nika Pinter and Ms. Nataša Fauveau-Ivanović are currently assigned as Lead Counsel and Co-counsel to the Accused, respectively;<sup>11</sup>

**CONSIDERING** that throughout its investigation into the Accused's financial means, the Registry continued to query the Accused to substantiate the existence and disposition of various assets that had come to the Registry's attention during said investigation, and continued to evaluate the complex information regarding the disposition and value of various assets reported by the Accused, as outlined more fully in Appendix I;

**CONSIDERING** the complexity of the investigation and its geographical scope spreading over several countries;

**CONSIDERING** that the Accused was given ample opportunity to comment on the findings of the Registry's inquiries into his means before the Registry made a final determination on his ability to remunerate counsel;<sup>12</sup>

**CONSIDERING** that according to Article 10(A) of the Directive,

“The Registrar shall determine whether and to what extent the suspect or accused is able to remunerate counsel by taking into account means of all kinds of which the suspect or accused has direct or indirect enjoyment or freely disposes, including but not limited to direct income, bank accounts, real or personal property, pensions, and stocks, bonds, or other assets held, but excluding any family or social benefits to which he may be entitled. In assessing such means, account shall also be taken of the means of the spouse of a suspect or accused, as well as those of persons with whom he habitually resides, provided that it is reasonable to take such means into account. [...] Account may also be taken of the apparent lifestyle of a suspect or accused, and of his enjoyment of any property, movable or immovable, and whether or not he derives income from it”;

**CONSIDERING** that the eligibility of an Accused for legal aid is determined according to the Registry Policy;

**NOTING** that according to the Registry Policy, the Registry deducts from the Accused's disposable means the estimated living expenses of his household members for the period beginning on the date of this Decision until the conclusion of the estimated period in which the applicant will require representation before the Tribunal,<sup>13</sup> the amount remaining, if any, being the contribution to be made by the Accused to the cost of his defence;<sup>14</sup>

### **Principal Family Home**

**CONSIDERING** that the Accused and his spouse reside in a house in Zagreb, Croatia (“Principal Family Home”);

<sup>11</sup> *Prosecutor v. Prlić et al.*, Case No. IT-04-74-T, “Decision [Assigning Defence Counsel]” (Public), 11 April 2011; *Prosecutor v. Prlić et al.*, Case No. IT-04-74-T, “Decision [Assigning Defence Counsel]” (Public), 26 May 2011.

<sup>12</sup> Confidential and *Ex Parte* Appendix I, para. 39.

<sup>13</sup> Registry Policy, Section 10.

<sup>14</sup> Appendix II, Sections 2 and 11.

**CONSIDERING** that equity in the Accused's Principal Family Home is included in his disposable means to the extent that it exceeds the reasonable needs of the Accused and his spouse;<sup>15</sup>

**Items of Extraordinary Value in the Principal Family Home**

**CONSIDERING** that since the Registry is not in a position to ascertain whether the Accused's Principal Family Home contains luxury items of extraordinary value, the Registry includes no equity related to the furnishings in the Accused's disposable means, noting that, in light of the ultimate determination, such exclusion will have no impact on the outcome;<sup>16</sup>

**Real Property excluding the Principal Family Home Owned or Freely Disposed of by the Accused**

**CONSIDERING** that the Accused disposed of an apartment and a garage located in Zagreb, Croatia and did not provide satisfactory evidence to demonstrate that he did not have direct or indirect enjoyment of the proceeds thereof, as set forth with particularity in Appendix I hereto;<sup>17</sup>

**CONSIDERING** that the Accused owns real property in Bosnia Herzegovina;<sup>18</sup>

**CONSIDERING** that the Accused owns real property in Croatia;<sup>19</sup>

**CONSIDERING** that the equity in these three assets is included in the Accused's disposable means;<sup>20</sup>

**Business Interests**

**CONSIDERING** that the Accused maintains continued control and ownership in a business enterprise ("Enterprise");<sup>21</sup>

**NOTING** that this interest in the Enterprise includes a substantial interest in real property located in Zagreb, Croatia ("Enterprise Property");<sup>22</sup>

**NOTING** that there is sufficient reason to believe that the Accused has significant interests in additional enterprises as set forth with particularity in Appendix I attached hereto;<sup>23</sup>

**CONSIDERING** that the specifically identified portions of equity in the Enterprise and the Enterprise Property are included in the Accused's disposable means;<sup>24</sup>

<sup>15</sup> Confidential and *Ex Parte* Appendix I, paras. 42-78.

<sup>16</sup> Confidential and *Ex Parte* Appendix I, paras. 75-77.

<sup>17</sup> Confidential and *Ex Parte* Appendix I, paras. 80-99.

<sup>18</sup> Confidential and *Ex Parte* Appendix I, paras. 100-103.

<sup>19</sup> Confidential and *Ex Parte* Appendix I, paras. 104-107.

<sup>20</sup> Confidential and *Ex Parte* Appendix I, paras. 99, 103, and 107.

<sup>21</sup> Confidential and *Ex Parte* Appendix I, paras. 111-124, 125-128, and 129-143.

<sup>22</sup> Confidential and *Ex Parte* Appendix I, paras. 133-142.

<sup>23</sup> Confidential and *Ex Parte* Appendix I, para. 153 *et seq.*

<sup>24</sup> Confidential and *Ex Parte* Appendix I, para. 158.

**Principal Family Vehicle**

**CONSIDERING** that the Accused disposed of his Principal Family Vehicle for a *de minimis* sum, the Registry includes no equity related to the Principal Family Vehicle in the Accused's disposable means;<sup>25</sup>

**Yacht**

**CONSIDERING** that the Accused has an ownership interest in a yacht as set forth in Appendix I ("Yacht");<sup>26</sup>

**CONSIDERING** that equity in the Yacht is therefore included in the Accused's disposable means;<sup>27</sup>

**Stocks, Bonds, and Bank Accounts**

**CONSIDERING** that the Accused maintained a number of bank accounts both within the former Yugoslavia and in the Federal Republic of Germany;<sup>28</sup>

**CONSIDERING** that identified equity in bank accounts owned by the Accused are included in the Accused's disposable means as set forth more particularly in Appendix I;<sup>29</sup>

**Income**

**NOTING** that according to the Registry Policy, the Registry includes in an applicant's disposable means the income of the applicant, his spouse and the persons with whom he habitually resides and that such income is calculated on the basis that it will continue to be received from the date the Registry files its decision on the extent to which an applicant is able to remunerate counsel until the conclusion of the estimated period in which the applicant will require representation before the Tribunal;<sup>30</sup>

**CONSIDERING** that the Accused and his spouse are considered to be an inseparable financial unit;<sup>31</sup>

**CONSIDERING** that both the Accused and his spouse receive a regular monthly pension payment from the Croatian Government;<sup>32</sup>

**Liabilities**

**CONSIDERING** that in accordance with the Registry practice, any personal debts on behalf of the Accused and the member(s) of his household are included in the Registry's calculation as an offset to his disposable means, thereby reducing the total contribution;<sup>33</sup>

<sup>25</sup> Confidential and *Ex Parte* Appendix I, paras. 166-168.

<sup>26</sup> Confidential and *Ex Parte* Appendix I, paras. 169-188.

<sup>27</sup> Confidential and *Ex Parte* Appendix I, para. 189.

<sup>28</sup> Confidential and *Ex Parte* Appendix I, paras. 190-206.

<sup>29</sup> Confidential and *Ex Parte* Appendix I, para. 206.

<sup>30</sup> Registry Policy, Section 7.

<sup>31</sup> Registry Policy, Section 7; Confidential and *Ex Parte* Appendix I, para. 209.

<sup>32</sup> Confidential and *Ex Parte* Appendix I, para. 207. See also, Registry Policy, Section 7.

<sup>33</sup> Confidential and *Ex Parte* Appendix I, paras. 213 *et seq.*

**CONSIDERING** that the Accused has not proven the existence of any such liabilities, the Registry does not include any such items into the calculation of the Accused's disposable means;<sup>34</sup>

**The Accused's Estimated Living Expenses**

**CONSIDERING** that in accordance with the Registry Policy, the estimated living expenses of the Accused and his spouse during the period in which the Accused requires Tribunal-paid representation are deducted from his disposable means, the amount remaining being the contribution to be made by the Accused to his defence costs;<sup>35</sup>

**The Accused's Contribution**

**CONSIDERING** that in determining the extent to which the Accused is able to remunerate counsel, the Registry applies the formula in Section 11 of the Registry Policy, which reads:

$$DM - ELE = C$$

Where:

**DM** represents an applicant's disposable means as calculated under Sections 5-8 of the Registry Policy;

**ELE** represents the estimated living expenses of an applicant, his spouse, his dependants and the persons with whom he habitually resides as calculated under Section 10 of the Registry Policy;

**C** represents the contribution to be made by an applicant to his defence;

**CONSIDERING** that by applying the formula, and as of the date of this Decision, the Accused is able to contribute to his defence, at a minimum, €6,456,980.00;

**CONSIDERING** that the total cost the Tribunal incurred for funding the Accused's defence amounts to €3,293,347.49 which includes payment covering the pre-trial and trial stages of the proceedings;

**CONSIDERING** that in accordance with the applicable remuneration policies, the Accused's defence team has received full remuneration in the form of a lump sum for any and all work performed on behalf of the Accused until the rendering of the judgement by the Trial Chamber;

**DECIDES** in light of the foregoing that the Accused is entirely able to remunerate counsel in full and, in accordance with Article 19(B)(ii) of the Directive, that he is ineligible for the assignment of Tribunal-paid counsel;

**DECIDES**, in accordance with Article 19(A) of the Directive, to withdraw the assignment of counsel as of the date on which the Trial Chamber renders its judgement;

**DECIDES** that the Accused shall bear the entirety of the costs of his defence, including all funds previously expended by the Tribunal, namely €3,293,347.49;

<sup>34</sup> Confidential and *Ex Parte* Appendix I, paras. 218 and 225.

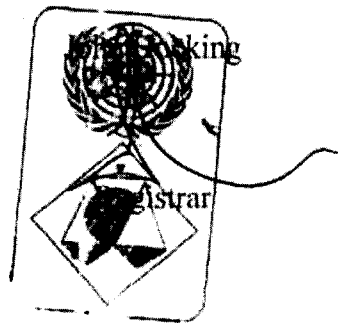
<sup>35</sup> Confidential and *Ex Parte* Appendix I, paras. 228-235.

**DECIDES** that the Accused shall reimburse the Tribunal in the amount of €3,293,347.49 and directs the Accused to do so promptly, but in any event within ninety (90) days of the date upon which he is notified of this Decision;

**REMINDS** the Accused that he may, within fifteen (15) days from the date upon which he is notified of this Decision, file a motion to the Trial Chamber for review of this Decision, in accordance with Article 13(B) of the Directive;

**DECIDES *proprio motu*** and in the interests of justice, to stay this decision until the expiration of the Accused's time to appeal this decision pursuant to Article 13(B) of the Directive, or, should the Accused choose to exercise his right to appeal under Article 13(B) of the Directive, to stay the withdrawal of counsel until the Trial Chamber has determined such appeal or delivered the trial judgement, whichever comes first;

**REMINDS** Counsel and Co-Counsel of their obligation under Article 21(A) of the Directive to continue to act after their withdrawal until a replacement counsel has been retained by the Accused or the Accused has elected to conduct his own defence, and of the obligation to protect the Accused's interests pursuant to Article 9(D) of the Code of Conduct.



Dated this 22<sup>nd</sup> day of August 2012  
At The Hague,  
The Netherlands.

# **APPENDIX II**

**PUBLIC**



## **REGISTRY POLICY FOR DETERMINING THE EXTENT TO WHICH AN ACCUSED IS ABLE TO REMUNERATE COUNSEL**

### **1**

#### **Entry into force**

This policy applies from 8 February 2007

### **2**

#### **General provisions**

Without prejudice to discretion afforded by Article 10 of the Directive on Assignment of Defence Counsel (“**Directive**”), the Registry uses the following policy to determine the extent to which an applicant for legal aid is able to remunerate counsel. When an applicant for legal aid submits a declaration of means pursuant to Article 7(B) of the Directive, the Registry assesses the income and assets of the applicant, his spouse and the persons with whom he habitually resides. In doing so the Registry may rely on the applicant’s declaration of means or undertake an inquiry into the applicant’s means pursuant to Article 9 of the Directive. From the established pool of income and assets, the Registry calculates the applicant’s disposable means, according to Sections 5-8 of this policy. From the disposable means, the Registry deducts the estimated living expenses of the applicant’s family and dependents during the estimated period in which the applicant will require representation before the International Tribunal. The amount remaining is the contribution to be made by the applicant to his defence.

### **3**

#### **Legislative Authority**

The legislative authority for this policy is enshrined in Articles 8 to 10 of the Directive.

### **4**

#### **Definitions**

Under this policy, the following terms shall mean:

- |               |                                                                                                                                                   |
|---------------|---------------------------------------------------------------------------------------------------------------------------------------------------|
| Accused:      | a person against whom one or more counts in his indictment have been confirmed in accordance with Rule 47 of the Rules of Procedure and Evidence; |
| Applicant:    | an accused who has applied for legal aid before the International Tribunal;                                                                       |
| Child:        | a person under 18 years of age who habitually resides in the principal family home;                                                               |
| Contribution: | the extent to which an applicant is able to remunerate counsel. That is, the amount the applicant is expected to contribute to his defence;       |

**Dependent:** a person who derives his or her main financial support from the applicant, his spouse or persons with whom he habitually resides but who does not habitually reside in the principal family home;

**Disposable means:** income and assets of the applicant, his spouse and the persons with whom he habitually resides that in the opinion of the Registry exceed the reasonable needs of the applicant, his spouse, his dependents and the persons with whom he habitually resides. The Registry's calculation of the disposable means is based on Sections 5-8 of this policy;

**Estimated living expenses:**

the living costs likely to be incurred by the applicant, his spouse, his dependents and the persons with whom he habitually resides during the period from when the Registry issues its decision on the extent to which an applicant is able to remunerate counsel until the conclusion of the estimated period in which the applicant will require representation before the International Tribunal, as calculated under Section 10 of this policy;

**Marital property:** Property acquired by the applicant and his spouse during their marital union, excluding gifts made to one spouse specifically;

**Persons with whom he habitually resides:**

individuals who usually live with the applicant or who would live with the applicant if he were not in custody, and with whom the applicant is financially co-dependent; meaning, that there is evidence of a pooling of financial resources such that the applicant and the individual constitute one financial unit;

**Principal family home:**

the principal place of residence of the applicant, his spouse or persons with whom he habitually resides, owned by the applicant, his spouse or persons with whom he habitually resides; usually where the applicant would reside if he were not in custody;

**Principal family vehicle:**

a vehicle habitually used as a primary form of transport for the applicant, his spouse and persons with whom he habitually resides, owned by the applicant, his spouse or persons with whom he habitually resides;

**Readily disposable asset:**

an asset owned by the applicant, the applicant's spouse or the persons with whom he habitually resides that can be sold, mortgaged or leased in order to raise money for the applicant's defence;

- Spouse: an adult who is living with the applicant as husband or wife, regardless of legal marital status;
- Tools of the trade: standard tools or equipment needed in a particular trade, profession or business.

## 5

### **Assets included in disposable means**

In determining the applicant's disposable means, the Registry includes the following:

- (a) the equity in the principal family home that exceeds the reasonable needs of the applicant, his spouse and the persons with whom he habitually resides. The principal family home will exceed the reasonable needs of the applicant, his spouse and the persons with whom he habitually resides, if it is of greater value than the average family home in the region in which it is located. The Registry determines the extent to which the principal family home exceeds the reasonable needs of the applicant, his spouse and the persons with whom he habitually resides in accordance with the formula in Section 9;
- (b) the equity in furnishings contained in the principal family home and owned by the applicant, his spouse or the persons with whom he habitually resides that exceed the reasonable needs of the applicant, his spouse and the persons with whom he habitually resides. The furnishings in the principal family home will exceed the reasonable needs of the applicant, his spouse and the persons with whom he habitually resides if they are luxury items of extraordinary value, including but not limited to art collections, antique collections;
- (c) the equity in the principal family vehicle or principal family vehicles that exceeds the reasonable needs of the applicant, his spouse and persons with whom he habitually resides. The principal family vehicle or principal family vehicles will exceed the reasonable needs of the applicant, his spouse and the persons with whom he habitually resides if their combined value is greater than the value of one average automobile in the state in which the applicant's family resides. In determining the value of the average automobile in the state in which the applicant's family resides, the Registry relies on official documentation from the governments of the republics of the former Yugoslavia;
- (d) the equity in stocks, bonds or bank accounts owned by the applicant, his spouse and persons with whom he habitually resides, including but not limited to the applicant's TULP account at the United Nations Detention Unit, less allowances paid by the United Nations into that account;
- (e) the equity in any other assets, not listed in Section 6, owned by the applicant, his spouse or the persons with whom he habitually resides;
- (f) any assets previously owned by the applicant, his spouse and persons with whom he habitually resides, including those listed in Section 5(a)-(e), where the applicant, his spouse or the persons with whom he habitually resides assigned or transferred any interest in those assets to another person for the purpose of concealing those assets.

## 6

### **Assets excluded from disposable means**

In determining the applicant's disposable means, the Registry excludes the following:

- (a) the equity in the principal family home to the extent that the principal family home is reasonably necessary for the applicant, his spouse and the persons with whom he habitually resides;
- (b) the equity in furnishings contained in the principal family home and owned by the applicant, his spouse or the persons with whom he habitually resides, to the extent that those furnishings are reasonably necessary for the applicant, his spouse and the persons with whom he habitually resides;
- (c) the equity in the principal family vehicle to the extent that the principal family vehicle is reasonably necessary for the applicant, his spouse and persons with whom he habitually resides;
- (d) the equity in assets owned by the applicant, his spouse and persons with whom he habitually resides that are not readily disposable;
- (e) the equity in assets owned by the applicant's spouse that do not constitute marital property, including those assets listed in Section 5. The Registry determines whether assets constitute marital property according to the marital property regime of the state in which the applicant and his spouse were wed or reside unless proof is offered to the contrary;
- (f) the equity in tools of the trade owned by the applicant, his spouse and persons with whom he habitually resides that are reasonably necessary to the livelihood of the applicant, his spouse, his dependents or the persons with whom he habitually resides.

## 7

### **Income included in disposable means**

In determining the applicant's disposable means the Registry considers that the applicant, his spouse and the persons with whom he habitually resides will continue to receive their personal income from when the Registry issues its decision on the extent to which an applicant is able to remunerate counsel until the conclusion of the estimated period in which the applicant will require representation before the International Tribunal at the pre-trial, trial or appeals stage.

In determining the applicant's disposable means, the Registry includes the following income of the applicant, his spouse and the persons with whom he habitually resides:

- (a) salaries, wages and commissions;
- (b) business income after deducting reasonable expenses;
- (c) investment income;
- (d) government pensions;
- (e) government allowances other than welfare payments;
- (f) workers' compensation payments;
- (g) alimony, separation and maintenance payments owed to the applicant;

- (h) regular payments received under any annuity, pension or insurance scheme;
- (i) regular payments received from a mortgage, agreement of sale or loan agreement;
- (j) any other regular income that is not excluded in Section 8.

## 8

### Income excluded from disposable means

In determining the applicant's disposable means the Registry does not include the following income of the applicant, his spouse and the persons with whom he habitually resides:

- (a) government welfare payments;
- (b) earnings of the applicant's child or children;
- (c) alimony, separation or maintenance payments owed to the applicant's spouse, his dependents or persons with whom he habitually resides.

## 9

### Formula for calculating the extent to which the equity in the applicant's principal family home exceeds the needs of the applicant, his spouse and the persons with whom he habitually resides

Given the official data available from the governments within the republics of the former Yugoslavia, the following formula is used to determine the extent to which the applicant's principal family home exceeds the needs of the applicant, his spouse and the persons with whom he habitually resides:

$$\left( \frac{V}{LS} \times LSE \right) - EN = E$$

Where-

**V** represents the valuation of the principal family home obtained by the Registry;

**LS** represents the living space in square meters in the principal family home;

**EN** represents any encumbrances registered against the principal family home;

**E** represents the equity in the principal family home that exceeds the reasonable needs of the applicant, his spouse and the persons with whom he habitually resides. If this amount is greater than zero, it is included in the applicant's disposable means in accordance with Section 5(a);

**LSE** represents the living space in the principal family home that exceeds the average living space for the number of persons who habitually reside in the principal family home in the state in which it is located, according to official documentation of the governments of the republics of the former Yugoslavia. The following formula is used to calculate LSE:

$$LS - (ALS \times M) = LSE$$

Where-

**ALS** represents the average number of square meters of living space per person in the state in which the principal family home is located, obtained from official documentation of the governments of the republics of the former Yugoslavia;

**M** represents the number of persons who habitually reside in the principal family home, including the applicant, the applicant's spouse and the persons with whom he habitually resides.

## 10

### Formula for calculating the estimated living expenses

The following formula is used to calculate the estimated living expenses of the applicant, his spouse, his dependents and the persons with whom he habitually resides:

$$\frac{[AE \times (M + D) + EE] \times T}{4} = ELE$$

Where-

**AE** represents the average monthly expenditure for a four-person household, obtained from official documentation of the governments of the republics of the former Yugoslavia. The index includes accommodation and living costs;

**EE** represents additional monthly living expenses of the applicant, his spouse, his dependents and the persons with whom he habitually resides. These additional living expenses are expenses that are particular to the applicant, his spouse, his dependents and the persons with whom he habitually resides and are accordingly not foreseen in the AE index. Additional living expenses will include but not be limited to tuition fees and the costs of extraordinary medical care.

**M** represents the number of people who habitually reside in the principal family home, including the applicant, the applicant's spouse and the persons with whom he habitually resides;

**D** represents the applicant's dependents who do not habitually reside in the principal family home;

**T** represents the period from when the Registry issues its decision on the extent to which an applicant is able to remunerate counsel until the conclusion of the estimated period in which the applicant will require representation before the International Tribunal at the pre-trial, trial or appeals stage;

**ELE** represents the estimated living expenses for the applicant, his spouse, his dependents and the persons with whom he habitually resides, during the period from when the Registry issues its decision on the extent to which an applicant is able to remunerate counsel until the conclusion of the estimated period in which the applicant will require representation before the International Tribunal at the pre-trial, trial or appeals stage.

**11****Formula for calculating the extent to which an applicant is able to remunerate counsel**

The following formula is used to calculate the extent to which an applicant is able to remunerate counsel:

$$\mathbf{DM - ELE = C}$$

Where-

**DM** represents the applicant's disposable means as calculated under Sections 5-8;

**ELE** represents the estimated living expenses for the applicant, his spouse, his dependents and the persons with whom he habitually resides as calculated under Section 10;

**C** represents the contribution to be made by the applicant to his defence.

**12****Deduction of Contribution**

The Registry shall deduct the value of the contribution from defence team allotments.

\*\*\*\*