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A441-A438
03 October 2013

Case No. IT-04-74-A

Prosecutor v. Slobodan Praljak

DECISION

PUBLIC

THE DEPUTY 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");

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;

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;

CONSIDERING that on 13 September 2004, Mr. Slobodan Praljak ("Accused") submitted a declaration of means to the Registrar, thereby applying for the assignment of Tribunal-paid counsel on the basis that he did not have sufficient means to remunerate counsel;

CONSIDERING that on 17 June 2005, the 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 establish that he was unable to remunerate counsel,¹ and that the Registrar's decision was reviewed by Trial Chamber I at the request of the Accused and upheld by that Chamber;²

CONSIDERING that the Accused then elected to represent himself while requesting a reassessment of his legal aid application in parallel;³

NOTING that on 31 October 2005, the case of the Accused was reassigned from Trial Chamber I to Trial Chamber II ("Trial Chamber");⁴

¹ *Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Public with Confidential and *Ex Parte* Appendix I, Decision [on Assignment of Counsel], 17 June 2005. See also Article 8(B) of the Directive.

² *Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Public Redacted Version, Decision on (Redacted) Request for Review of the Deputy Registrar's Decision dated (Redacted) 2005 Regarding the Accused's Request for Assignment of Counsel, 21 September 2005, filed on 5 October 2005.

³ This request was made by way of a letter sent from the Accused to the Registry on 15 November 2005.

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 previously-requested information that was necessary to complete the indigency determination;

NOTING that the Accused then applied to the Trial Chamber for the assignment of counsel "in the interests of fairness" on 12 January 2006;⁵

CONSIDERING that on 15 February 2006, the Trial Chamber issued a decision granting the Accused's request and ordered the Registrar 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";⁶

CONSIDERING that on 6 March 2006, the Registrar assigned Mr. Božidar Kovačić and Ms. Nika Pinter, attorneys at law from Croatia, as Tribunal-paid counsel and co-counsel to the Accused respectively in accordance with the Trial Chamber's decision, while noting that the Accused had not yet met his burden of establishing his legal aid eligibility and that the Registrar's determination on the Accused's legal aid eligibility remained outstanding;⁷

CONSIDERING that following the decision of 6 March 2006, the Accused's defence team began receiving full legal aid allotments, without prejudice to Rule 45 (E) of the Rules;

NOTING that on 11 April 2011, Ms. Nika Pinter was assigned as lead counsel to the Accused;⁸

NOTING that on 26 May 2011, Ms. Nataša Fauveau-Ivanović was assigned as co-counsel to the Accused;⁹

CONSIDERING that on 22 August 2012, the Registrar issued a decision finding, *inter alia*, that the Accused was able to fully remunerate the costs of his defence and was therefore ineligible for the assignment of Tribunal-paid counsel ("Decision on Means");¹⁰

CONSIDERING that in the Decision on Means, the Registrar decided to, *inter alia*, "[...] withdraw the assignment of counsel as of the date on which the Trial Chamber renders its judgement";¹¹

CONSIDERING that on 22 January 2013, the Accused filed a confidential and *ex parte* request for review of the Decision on Means ("Motion for Review");¹²

⁴ *Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Public, Order Reassigning a Case to a Trial Chamber, 31 October 2005.

⁵ *Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Public, 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.

⁶ *Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Public with Confidential Annex, Decision on Assignment of Defence Counsel, 15 February 2006, para. 12.

⁷ *Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Public, Decision [Assigning Defence Counsel], 6 March 2006.

⁸ *Prosecutor v. Prlić et al.*, Case No. IT-04-74-T, Public, Decision [Assigning Defence Counsel], 11 April 2011.

⁹ *Prosecutor v. Prlić et al.*, Case No. IT-04-74-T, Public, Decision [Assigning Defence Counsel], 26 May 2011.

¹⁰ *Prosecutor v. Slobodan Praljak*, Case No. IT-04-74-T, Public with Confidential and *Ex Parte* Appendix I and Public Appendix II, Decision [of the Registrar], 22 August 2012.

¹¹ *Id.*, page 6.

¹² *Prosecutor v. Prlić et al.*, Case No. IT-04-74-T, Confidential and *Ex Parte* with Confidential and *Ex Parte* Annexes, Slobodan Praljak's Motion for Review of the Registrar's Decision with a Request to Exceed Word Limit, 22 January 2013.

CONSIDERING that on 24 January 2013, the Trial Chamber referred the Motion for Review and related issues to the President of the Tribunal;

CONSIDERING that on 29 May 2013, the Trial Chamber rendered its judgement in the case of *Prosecutor v. Prlić et al.* in French, sentencing the Accused to 20 years of imprisonment;¹³

CONSIDERING that on 29 May 2013, the President issued an interim order staying the withdrawal of counsel, pending resolution of the Motion for Review (“Interim Order”);¹⁴

CONSIDERING that in accordance with the Interim Order, the withdrawal of the Accused’s Tribunal-paid counsel was stayed pending a final decision of the President with respect to the Motion for Review;

NOTING that on 28 June 2013, a notice of appeal against the trial judgement was filed on behalf of the Accused;¹⁵

CONSIDERING that on 25 July 2013, the President issued his decision on the Motion for Review (“President’s Decision”);¹⁶

CONSIDERING that the President’s Decision denied the Motion for Review and upheld the Decision on Means in all respects save for the order for reimbursement;

CONSIDERING that in accordance with the President’s Decision, the Registrar’s Decision on Means is no longer stayed;

CONSIDERING that on 29 July 2013, the Accused was informed that in accordance with the President’s Decision, the Registrar’s Decision on Means had come into effect, save for the order for reimbursement, and that therefore the payment of legal aid had been discontinued;

CONSIDERING that on 29 July 2013, the Accused was asked to inform the Registrar whether he wished to: i) privately retain Ms. Pinter and Ms. Fauveau-Ivanović as counsel pursuant to Rule 44 of the Rules; ii) privately retain alternate counsel pursuant to Rule 44 of the Rules; or iii) conduct his own defence pursuant to Rule 45(F) of the Rules;

CONSIDERING that on 27 August 2013, the Accused executed a power of attorney in favour of Ms. Pinter and Ms. Fauveau-Ivanović to enable them to continue to represent him in proceedings before the Tribunal;¹⁷

CONSIDERING that on 28 August 2013 and 2 September 2013, Ms. Pinter and Ms. Fauveau-Ivanović submitted additional correspondence to the Registry in relation to their representation;

CONSIDERING that in correspondence submitted to the Registry dated 25 September 2013, Ms. Pinter and Ms. Fauveau-Ivanović indicated their consent to continue representing the Accused for a limited duration and with a limited scope;

¹³ *Prosecutor v. Prlić et al.*, Case No. IT-04-74-T, Public, Jugement, 29 May 2013.
¹⁴ *Prosecutor v. Prlić et al.*, Case No. IT-04-74-T, Confidential and *Ex Parte*, Order Regarding Assignment of Defence Counsel to Slobodan Praljak, 29 May 2013.
¹⁵ *Prosecutor v Prlić et al.*, Case No. IT-04-74-A, Public, Slobodan Praljak’s Notice of Appeal, 28 June 2013; Public, Corrigendum to Slobodan Praljak’s Notice of Appeal, 29 July 2013.
¹⁶ *Prosecutor v Prlić et al.*, Case No. IT-04-74-A, Public Redacted Version of the 25 July 2013 Decision on Slobodan Praljak’s Motion for Review of the Registrar’s Decision on Means, 28 August 2013.
¹⁷ Although the Accused submitted a power of attorney to enable his continued representation before the Tribunal by Ms. Pinter and Ms. Fauveau-Ivanović, the Accused does not concede that he is able to remunerate counsel.

NOTING that the scope and duration of representation by privately retained counsel and any remuneration therefor is solely a matter between counsel and the Accused;

CONSIDERING that the Registrar is satisfied that the conditions for admission of counsel under Rule 44(A) of the Rules are fulfilled;

NOTING Ms. Pinter and Ms. Fauveau-Ivanović's obligations under the Statute, the Code of Conduct and the Rules, in particular Rule 44(C);

HEREBY DECIDES pursuant to Rule 44(A) of the Rules to admit Ms. Pinter and Ms. Fauveau-Ivanović as counsel to represent the Accused before the Tribunal.



Dated this 2nd day of October 2013
At The Hague,
The Netherlands.