

**UNITED
NATIONS**



International Tribunal for the
Prosecution of Persons
Responsible for Serious Violations of
International Humanitarian Law
Committed in the Territory of the
Former Yugoslavia since 1991

Case No.: IT-04-74-A
Date: 22 November 2017
Original: English

IN THE APPEALS CHAMBER

Before: Judge Carmel Agius, Presiding
Judge Liu Daqun
Judge Fausto Pocar
Judge Theodor Meron
Judge Bakone Justice Moloto

Registrar: Mr. John Hocking

Order of: 22 November 2017

PROSECUTOR

v.

**JADRANKO PRLIĆ
BRUNO STOJIĆ
SLOBODAN PRALJAK
MILIVOJ PETKOVIĆ
VALENTIN ČORIĆ
BERISLAV PUŠIĆ**

PUBLIC

**INSTRUCTION TO REGISTRAR
ON RECOVERY OF LEGAL AID FUNDS**

The Office of the Prosecutor

Mr. Douglas Stringer
Ms. Barbara Goy
Ms. Laurel Baig

Government of Bosnia and Herzegovina

Government of Croatia

Counsel for the Accused

Mr. Michael G. Karnavas and Ms. Suzana Tomanović for Mr. Jadranko Prlić
Ms. Senka Nožica and Mr. Karim A. A. Khan for Mr. Bruno Stojić
Ms. Nika Pinter and Ms. Natacha Fauveau-Ivanović for Mr. Slobodan Praljak
Ms. Vesna Alaburić and Mr. Davor Lazić for Mr. Milivoj Petković
Ms. Dijana Tomašegović-Tomić and Mr. Dražen Plavec for Mr. Valentin Čorić
Mr. Fahrudin Ibrišimović and Mr. Roger Sahota for Mr. Berislav Pušić

THE APPEALS CHAMBER of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991 (“Appeals Chamber” and “Tribunal”, respectively);

RECALLING that, pursuant to Rule 45(E) of the Tribunal’s Rules of Procedure and Evidence (“Rules”), “[w]here a person is assigned counsel and is subsequently found not to be lacking the means to remunerate counsel, the Chamber may, on application by the Registrar, make an order of contribution to recover the cost of providing counsel”;

RECALLING the Registrar’s public decision of 22 August 2012 (with a confidential and *ex parte* Appendix I and public Appendix II) (“Registrar’s Decision on Means”) that Slobodan Praljak (“Praljak”) was ineligible for the assignment of Tribunal-paid counsel, that he was able to fully remunerate counsel, and that he should bear the entirety of the costs of his defence, including the cost of legal aid funds previously incurred by the Tribunal;¹

RECALLING that the Registrar’s Decision on Means was upheld, in relevant part, by the President of the Tribunal on 25 July 2013,² following which the Registrar invited Praljak to voluntarily comply with his obligation to reimburse the Tribunal for the costs of his defence, indicating that the total amount paid by the Tribunal for Praljak’s defence up to 25 July 2013 was €2,807,611.10;³

RECALLING the “Order on the Registrar’s Application Pursuant to Rule 45(E) of the Rules”, filed publicly by the Appeals Chamber on 13 May 2014 (“Order of Contribution”), in which it, *inter alia*, ordered Praljak “to reimburse the Tribunal the amount of €2,807,611.10 for the costs it sustained in providing him with legal aid” up until 25 July 2013, either within 90 days of notification of that order or, in the alternative, “in monthly instalments over a three-year period, provided a minimum payment of 10% is received within 90 days of notification of this [O]rder [of Contribution]”;⁴

RECALLING further the “Order Concerning Non-Receipt of Funds” filed publicly by the Appeals Chamber on 26 October 2016 (“Order on Funds”), in which it, *inter alia*: (1) reiterated Praljak’s obligation to reimburse the Tribunal and ordered him to do so in the total amount of €2,807,611.10 within 30 days of notification of that order or, in the alternative, “in monthly instalments over a one

¹ Registrar’s Decision on Means, p. 6. The confidential and *ex parte* status of Appendix I was lifted by the Appeals Chamber’s Order Lifting Confidential and *Ex Parte* Status of Documents, 1 June 2017 (confidential and *ex parte*).

² Decision on Slobodan Praljak’s Motion for Review of the Registrar’s Decision on Means, 25 July 2013 (confidential and *ex parte*). A public redacted version was filed on 28 August 2013.

³ Registrar’s Application for the Recovery of Legal Aid Funds, 20 January 2014 (public with confidential and *ex parte* annex), paras 7-8.

year-period, provided a minimum of 10% is received within 30 days of notification of this [Order on Funds]”; and (2) warned Praljak that if he failed to comply with this order, the Appeals Chamber would take “all appropriate action for its enforcement and the recovery of the amount due”;⁵

NOTING, at the closing of the appellate stage of the *Prlić et al.* proceedings, the amount owed by Praljak, encompassing pre-trial, trial and appellate proceedings now stands at €3,020,542.75;

RECALLING the efforts by the Appeals Chamber subsequent to the Order on Funds to recover the funds owed to the Tribunal;⁶

NOTING that the entirety of the funds owed by Praljak remain outstanding;

CONSIDERING the imminent closure of the Tribunal and the Appeals Chamber’s serious concern with the non-recovery of this sizeable amount of money owed to the United Nations;

PURSUANT to Rules 54 and 107 of the Rules;

HEREBY INSTRUCTS the Registrar, in view of Articles 17(1) and 32 of the Statute of the Tribunal and Rule 33 of the Rules, to take all the necessary steps to ensure that the International Residual Mechanism for Criminal Tribunals (“Mechanism”)⁷ is apprised of this outstanding matter stemming from the *Prlić et al.* proceedings in order for the funds to be recovered to the United Nations.

Done in English and French, the English text being authoritative.

Dated this twenty-second day of November 2017,
At The Hague,
The Netherlands.



Judge Carmel Agius
Presiding Judge

⁴ Order of Contribution, para. 24. See Order of Contribution, para. 13.

⁵ Order on Funds, pp. 1-2.

⁶ See, e.g., Invitation to Bosnia and Herzegovina, The Republic of Croatia, and the Registrar, 22 March 2017.

⁷ The Appeals Chamber notes that Article 1 of the Statute of the Mechanism provides that it “shall continue the [...] rights and obligations, of the ICTY”. The Appeals Chamber further notes Article 6 of the Transitional Arrangements attached to UN Security Council Resolution 1966 (2010) establishing the Mechanism, which provide for the “Coordinated Transition of other Functions” such that “[t]he ICTY [...] shall make the necessary arrangements to ensure [...] a coordinated transition of the other functions of the Tribunal[] to the Mechanism”.