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Decision on Motion for Review of Decision on Assignment of Counsel on Appeal, submitted by President on 4 February 2016			
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Mechanism for International Criminal Tribunals

Case No. MICT-13-55

Date: 4 February 2016

Original: English

THE PRESIDENT OF THE MECHANISM

Before: Judge Theodor Meron, President

Registrar: Mr. John Hocking

Decision of: 4 February 2016

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

**DECISION ON MOTION FOR REVIEW OF DECISION ON
ASSIGNMENT OF COUNSEL ON APPEAL**

The Office of the Prosecutor

Mr. Hassan Bubacar Jallow
Mr. Mathias Marcussen
Ms. Laurel Baig
Ms. Barbara Goy
Ms. Katrina Gustafson

The Accused

Mr. Radovan Karadžić

1. I, Theodor Meron, President of the International Residual Mechanism for Criminal Tribunals (“Mechanism”), am seised of the “Motion for Review of Decision on Assignment of Counsel on Appeal” filed by Mr. Radovan Karadžić (“Karadžić”) on 13 January 2016 with annexes (“Motion”), which requests review of the Registrar of the Mechanism’s (“Registrar”) decision of 11 January 2016, attached to the Motion as Annex B (“Impugned Decision”),¹ denying Karadžić’s request for assignment of counsel and legal aid for appeal proceedings prior to the issuance of the trial judgement in his case. The Registrar responded to the Motion on 22 January 2016, including by requesting leave to file submissions on the merits of the Motion if it is not dismissed in its entirety (“Request for Leave to File Submissions”).² Karadžić filed his reply on 25 January 2016.³ On the same day, the Prosecutor of the Mechanism (“Prosecution”) filed a submission, stating that the Prosecution takes no position on the Motion.⁴

I. BACKGROUND

2. On 7 October 2014, the trial proceedings in the case against Karadžić at the International Criminal Tribunal for the former Yugoslavia (“ICTY”) came to a close.⁵ The President of the ICTY has informed the U.N. Security Council that the trial chamber of the ICTY (“ICTY Trial Chamber”) will deliver the judgement in the case of *Prosecutor v. Radovan Karadžić*, Case No. IT-95-5/18-T at the latest by the end of March 2016.⁶

3. On 8 December 2015, Karadžić wrote to the Registrar requesting that, effective immediately, he be assigned counsel and legal aid for appeal proceedings before the Mechanism.⁷ Karadžić submitted that since the Prosecution had informed the U.N. Security Council that it has established a team to prosecute the anticipated appeal before the Mechanism in his case, the

¹ Letter from Ms. Fiana Reinhardt, Head of the Office for Legal Aid and Defence Matters, on behalf of the Registrar, to Mr. Radovan Karadžić, dated 11 January 2016.

² Registrar’s Submission on the Motion for Review of Decision on Assignment of Counsel on Appeal, 22 January 2016 (“Response”).

³ Reply to Registrar’s Submission Re: Motion for Review of Decision on Assignment of Counsel on Appeal, 25 January 2016 (“Reply”).

⁴ Prosecution’s Response to Karadžić’s Motion for Review of Decision on Assignment of Counsel on Appeal, 25 January 2016, para. 1.

⁵ *Prosecutor v. Radovan Karadžić*, Case No. IT-95-5/18-T, Transcript, 7 October 2015, p. 48098.

⁶ Letter dated 16 November 2015 from the President 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, addressed to the President of the Security Council, S/2015/874, p. 5. See also U.N. Security Council Resolution, U.N. Doc. S/RES/2256 (2015), 22 December 2015, para. 5 (whereby the U.N. Security Council decided to extend the term of office of the Judges of the ICTY Trial Chamber in, *inter alia*, Karadžić’s case until 31 March 2016 or until the completion of the case, if sooner).

⁷ Motion, Annex A, p. 1.

principle of equality of arms necessitated that Karadžić be assigned counsel and that his defence team receive funding to prepare for the anticipated appeal.⁸

4. On 11 January 2016, the Registrar denied Karadžić's request for assignment of counsel and legal aid for appeal proceedings.⁹ Specifically, the Registrar determined that in the absence of a trial judgement in Karadžić's case, appeal proceedings remained speculative.¹⁰ The Registrar determined that "there is not currently an entitlement to counsel or legal aid for an appeal before the Mechanism" and therefore considered Karadžić's request to be premature at this stage.¹¹ The Registrar stated, however, that the Registry of the Mechanism shall revisit this matter upon the issuance of the trial judgement and in the event either Karadžić or the Prosecution wish to challenge the trial judgement.¹²

II. APPLICABLE LAW

5. Article 2(2) of the Transitional Arrangements provides that the Mechanism "shall have competence to conduct, and complete, all appellate proceedings for which the notice of appeal against the judgment or sentence is filed on or after the commencement date of the respective branch of the Mechanism".¹³

6. Rule 43 of the Rules of Procedure and Evidence of the Mechanism ("Rules") provides that "[w]hensoever the interests of justice so demand, Defence Counsel shall be assigned to suspects or accused who lack the means to remunerate such Counsel".

7. Article 6(A) of the Directive on the Assignment of Defence Counsel of the Mechanism¹⁴ ("Directive") provides that "[a] suspect or accused who lacks the means to remunerate counsel shall have the right to have counsel assigned to him and paid for by the Mechanism in accordance with [the] Directive".

8. Article 13(A) of the Directive provides that a "suspect whose request for assignment of counsel has been denied, may [...] file a motion before the President for review of that decision. The President may either confirm the Registrar's decision or rule that a counsel should be assigned". Article 13(B) of the Directive provides that the accused whose request for assignment of

⁸ Motion, Annex A, p. 1. *See also* Letter dated 17 November 2015 from the President of the International Residual Mechanism for Criminal Tribunals, addressed to the President of the Security Council, S/2015/883, p. 15.

⁹ Impugned Decision.

¹⁰ Impugned Decision.

¹¹ Impugned Decision.

¹² Impugned Decision.

¹³ Annex 2 to U.N. Security Council Resolution 1966, U.N. Doc. S/RES/1966 (2010), 22 December 2010 ("Transitional Arrangements").

¹⁴ MICT/5, 14 November 2012.

counsel has been denied may file a motion to the Chamber before which he is due to appear for review of the Registrar's decision.

III. JURISDICTION

A. Submissions

9. In response to the Motion, the Registrar asserts that the Motion should be dismissed in its entirety, for apparent lack of jurisdiction. Specifically, the Registrar, referring to Article 1 of the Transitional Arrangements, which provides, *inter alia*, that the ICTY shall have competence to complete all trial proceedings which are pending with it as of the date of the commencement of the respective branch of the Mechanism, states that Karadžić's case is currently pending before the ICTY.¹⁵ According to the Registrar, the Mechanism's jurisprudence provides that the ICTY and the Mechanism cannot have jurisdiction in the same case at the same time.¹⁶ The Registrar further states that there are currently no appeal proceedings in Karadžić's case before the Mechanism, the trial judgment in his case at the ICTY has not yet been rendered, and no notice of appeal has been filed.¹⁷ Finally, the Registrar requests that if the Motion is not dismissed in its entirety, he be granted leave to file submissions on the merits of the Motion.¹⁸

10. Karadžić replies that the *Sagahutu* Decision, upon which the Registrar relies to suggest that the Mechanism lacks jurisdiction over this matter, is inapposite, and does not support the Registrar's contention that the ICTY and the Mechanism cannot have jurisdiction in the same case at the same time.¹⁹ Karadžić contends that the Registrar's suggestion that the Mechanism does not have jurisdiction over this matter would deprive him of any avenue to obtain a review of the Impugned Decision and would be unfair.²⁰ Lastly, Karadžić asserts that if the Registrar is granted leave to make submissions on the merits of the Motion, the Registrar should be directed to provisionally appoint appellate counsel to Karadžić.²¹

B. Discussion

11. At the outset, I note that in accordance with Article 2(2) of the Transitional Arrangements, the appeal proceedings in the *Karadžić* case, if any, shall be conducted and completed before the

¹⁵ Response, para. 2, referring to Article 1 of the Transitional Arrangements.

¹⁶ Response, para. 2, citing *Augustin Ndingiyimana et al. v. The Prosecutor*, Case No. MICT-13-43, Decision on Innocent Sagahutu's Notice of Eligibility for Early Release and the Prosecution's Objection Thereto, 16 September 2013 ("*Sagahutu* Decision"), p. 3.

¹⁷ Response, paras. 2-4.

¹⁸ Response, para. 4.

¹⁹ Reply, para. 7.

²⁰ Reply, paras. 11-12.

²¹ Reply, para. 13.

Mechanism. Accordingly, procedural and collateral matters raised in direct anticipation or in necessary furtherance of instituting or advancing such appeal proceedings, including Karadžić's request for review of the Registrar's decision to deny him the assignment of counsel and legal aid on appeal, appropriately fall within the competence of the Mechanism. Indeed, to find otherwise would deprive Karadžić of any venue before which he could file a request for review of the Impugned Decision. Such a conclusion would open a lacuna in the Mechanism's competence that would be inconsistent with the overall scheme of the Mechanism's Statute and Transitional Arrangements and with the interests of justice generally.

12. The Registrar's reliance on the *Sagahutu* Decision to suggest that the Mechanism does not have jurisdiction over this matter is inapposite. Rather than finding that the ICTY and the Mechanism cannot have jurisdiction over the same case at the same time, as the Registrar asserts,²² the *Sagahutu* Decision clarified the appropriate procedural means for requesting release from detention in circumstances where the Appeals Chamber of the International Criminal Tribunal for Rwanda ("ICTR") remained seised of the case.²³ I further note that the Impugned Decision itself supports the conclusion that the Mechanism has jurisdiction over this matter. Indeed, the Registrar did not deny the Motion on the basis that he, as Registrar of the Mechanism, had no power to decide upon Karadžić's request for assignment of counsel on appeal and legal aid.²⁴ Instead, the Registrar denied Karadžić's request on the basis that appeals proceedings in his case before the Mechanism remain speculative and Karadžić's request was therefore deemed premature.²⁵

13. Turning to the separate question of who within the Mechanism has the authority to review the Impugned Decision, I note that Karadžić's request for review of the Impugned Decision does not, on its face, fall within the category of review envisioned by either Article 13(A) or 13(B) of the Directive. Specifically, Karadžić is neither a "suspect" in the sense of Article 13(A) of the Directive,²⁶ nor is there, at present, a Chamber before which he is due to appear and before which he can file his motion for review of the Registrar's decision. Nevertheless, I note that Rule 31 of the Rules provides that the Registrar "[u]nder the authority of the President, shall be responsible for the administration and servicing of the Mechanism".²⁷ In view of the nature of the Impugned Decision and its connection with and potential impact on the fairness of judicial proceedings, I find that in

²² Response, para. 2.

²³ See *Sagahutu* Decision, pp. 2-3.

²⁴ See Impugned Decision.

²⁵ See impugned Decision.

²⁶ Article 2 of the Directive defines a suspect as "a person concerning whom the Mechanism possesses reliable information tending to show that the person may have committed a crime".

²⁷ Emphasis added. Cf. *Prosecutor v. Radovan Karadžić*, Case No. IT-95-5/18-T, Decision of the President on the Complaint of Milan Martić Regarding the Assignment of Counsel, 8 April 2013, p. 2.

the particular circumstances of this case, and in the absence of a Chamber before which Karadžić is due to appear, the Rules confer upon me the authority to review the Impugned Decision.

14. Turning to the Registrar's request for leave to file submissions on the merits of the Motion, I am of the view that the Registrar could have included in the Response his submissions on the merits as an alternative to his request that the Motion be dismissed in its entirety for lack of jurisdiction. In so doing, the Registrar would have prevented any unnecessary delay in the adjudication of this matter, and allowed Karadžić to address the Registrar's submissions on the merits in his Reply. Accordingly, I hereby deny the Registrar's request for leave to file further submissions on the merits of the Motion.²⁸

IV. STANDARD OF REVIEW

15. An administrative decision of the Registrar is subject to review by the President of the Mechanism for procedural or substantive unfairness.²⁹ However, a judicial review of an administrative decision is not a rehearing.³⁰ Nor is it an appeal, or in any way similar to the review which a Chamber may undertake of its own judgement.³¹ Rather, a judicial review of an administrative decision made by the Registrar is concerned initially with the propriety of the procedure by which the Registrar reached the particular decision and the manner in which he reached it.³²

16. Accordingly, the President of the Mechanism may quash an administrative decision if the Registrar:

- (a) failed to comply with [...] legal requirements [...], or
- (b) failed to observe any basic rules of natural justice or to act with procedural fairness towards the person affected by the decision, or
- (c) took into account irrelevant material or failed to take into account relevant material, or
- (d) reached a conclusion which no sensible person who has properly applied his mind to the issue could have reached (the "unreasonableness" test).³³

²⁸ Cf. Practice Direction on Formal Requirements for Requests for Review of Administrative Decisions, MICT/9, 23 April 2013, para. 4.

²⁹ *Augustin Ngirabatware v. The Prosecutor*, Case No. MICT-12-29-A, Decision on Motion to Quash and Revise a Decision of the Registrar on Level of Complexity and Seeking Further Relief, 26 February 2014 (public redacted version) ("*Ngirabatware* 26 February 2014 Decision"), para. 6, citing *The Prosecutor v. Augustin Ngirabatware*, Case No. MICT-12-29-A, Decision on Motion to Quash Decision of Suspension and to Re-Instate Defence Team Legal Assistant, 19 March 2013 ("*Ngirabatware* 19 March 2013 Decision"), para. 7.

³⁰ *Ngirabatware* 26 February 2014 Decision, para. 6; *Ngirabatware* 19 March 2013 Decision, para. 7.

³¹ *Ngirabatware* 26 February 2014 Decision, para. 6; *Ngirabatware* 19 March 2013 Decision, para. 7.

³² *Ngirabatware* 26 February 2014 Decision, para. 6; *Ngirabatware* 19 March 2013 Decision, para. 7.

³³ *Ngirabatware* 26 February 2014 Decision, para. 6; *Ngirabatware* 19 March 2013 Decision, para. 8.

17. Unless unreasonableness has been established, there can be no interference with the margin of appreciation of the facts or merits of that case to which the maker of such an administrative decision is entitled.³⁴ The party challenging the administrative decision bears the burden of demonstrating that an error of the nature enumerated above has occurred and that this error significantly affected the administrative decision to his detriment.³⁵

V. THE IMPUGNED DECISION

A. Submissions

18. As a general matter, Karadžić contends that the principle of equality of arms entitles him to the assignment of counsel on appeal before the rendering of the trial judgement in his case, given that the Prosecution has already started to assemble its team to work on the appeal in his case.³⁶ Karadžić submits that the Registrar took into account irrelevant information, was unreasonable, and failed to consider relevant material when he decided to deny Karadžić's request for the assignment of counsel and legal aid for appeal proceedings.³⁷

19. More specifically, Karadžić asserts that the Registrar's consideration that any appeal proceedings in his case "remain speculative" is irrelevant in view of the fact that the Prosecution has already started assembling a team for any appeal in his case.³⁸ Accordingly, Karadžić submits that it is "simply unfair not to assign a team for the other side to begin working on the same appeal".³⁹

20. Karadžić further contends that the Impugned Decision is unreasonable, given that the Prosecution has already determined that an appeal is likely and has assigned a team to begin reviewing the voluminous record in his case prior to the rendering of the trial judgement.⁴⁰ Karadžić points out that "the U.N. General Assembly and the Security Council has approved a budget and allocated the resources for the [P]rosecution to do so".⁴¹ Karadžić asserts that the Prosecution has already appealed the judgement of acquittal on count one of the indictment against him, and it is therefore "unimaginable" that one or both sides would not file an appeal following the rendering of

³⁴ *Ngirabatware* 26 February 2014 Decision, para. 8; *Ngirabatware* 19 March 2013 Decision, para. 9.

³⁵ *Ngirabatware* 26 February 2014 Decision, para. 8; *Ngirabatware* 19 March 2013 Decision, para. 9.

³⁶ Motion, para. 13. *See also* Motion, para. 15.

³⁷ *See* Motion, paras. 14-15, 18. *See also* Motion, paras. 13, 16-17, 19-30.

³⁸ Motion, para. 14, *citing* Impugned Decision. *See also* Motion, para. 17.

³⁹ Motion, para. 14.

⁴⁰ Motion, para. 15.

⁴¹ Motion, para. 15.

the trial judgement in his case.⁴² To further illustrate his point, Karadžić submits that of the 41 trials that have taken place at the ICTY, an appeal has been filed in 40 of those cases.⁴³

21. Karadžić further asserts that the Registrar's position that counsel cannot be assigned before appellate proceedings have commenced is "belied by [the Registrar's] own practice in the *Ngirabatware* case, where he provisionally assigned appellate counsel to the accused the day following the Trial Chamber's delivery of the oral summary of its judgement".⁴⁴ Karadžić submits that in the *Ngirabatware* case, the ICTR retained jurisdiction over the case, given that the written trial judgement had yet to be filed and no notices of appeals had been filed in that case.⁴⁵ Similarly, Karadžić submits that the Rules provide that counsel can be assigned to a suspect before the filing of an indictment, and thus before the Mechanism "technically has 'jurisdiction' over the case in the sense that there is a judicial proceeding before it".⁴⁶

22. According to Karadžić, the Registrar also failed to consider relevant material, namely the principle of equality of arms.⁴⁷ Karadžić submits that he is at a disadvantage when presenting his case if he is required to file his grounds of appeal with only 30 days to prepare and his appeal brief with only 75 days to prepare, while the Prosecution has had an additional five months.⁴⁸ Karadžić asserts that, at a minimum, "a fair trial, which includes a fair appeal, must entitle the accused to adequate time and facilities for his defence under conditions that do not place him at a substantial disadvantage as regards his opponent".⁴⁹

23. Karadžić acknowledges that the principle of equality of arms does not translate into equality of resources; however, he contends that this reasoning is based on the fact that an accused is presumed innocent during the trial proceedings, and the burden of proof lies with the Prosecution.⁵⁰ Karadžić submits that he would lose the presumption of innocence if convicted by the ICTY Trial Chamber and would bear the burden of persuading the Appeals Chamber of the Mechanism, as well as carry the burden of identifying and producing new evidence on appeal that could not have been discovered at trial.⁵¹ On this basis, Karadžić asserts that he should be entitled to "proportionally greater time and resources" than the Prosecution.⁵² Conversely, if Karadžić is acquitted by the

⁴² Motion, para. 16.

⁴³ Motion, para. 16.

⁴⁴ Reply, para. 9, citing *Prosecutor v. Augustin Ngirabatware*, Case No. MICT-12-29-A, Decision, 24 December 2012 ("*Ngirabatware* 24 December 2012 Decision").

⁴⁵ Reply, para. 9.

⁴⁶ Reply, para. 10.

⁴⁷ Motion, para. 18.

⁴⁸ Motion, para. 19.

⁴⁹ Motion, para. 18.

⁵⁰ Motion, para. 20.

⁵¹ Motion, paras. 22, 24.

⁵² Motion, para. 25.

ICTY Trial Chamber and the Prosecution appeals, Karadžić contends that he would “nevertheless be entitled to a proportionate amount of time and resources allotted to the [P]rosecution”.⁵³

24. Karadžić asserts that the question is not just a financial one but also relates to his access to the facilities “of the Tribunal during this period”, including access to confidential filings, transcripts of closed and/or private sessions, and exhibits under seal.⁵⁴ Karadžić contends that assigning him counsel at this stage of the proceedings would assist the Mechanism in its quest to continue to seek ways to improve its operations so as to facilitate the smooth and efficient fulfilment of its mandate.⁵⁵ Lastly, Karadžić submits that the Registrar never referenced Karadžić’s argument related to the equality of arms in the Impugned Decision, thereby evincing the fact that the Registrar never took this relevant information into account when reaching his decision.⁵⁶

B. Discussion

25. At the outset, I note that neither the Rules nor the Directive confer upon Karadžić the right to the assignment of counsel on appeal or legal aid before the trial judgement in his case has been rendered. In accordance with Rule 43 of the Rules, the Registrar’s decision to assign counsel or legal aid on appeal is therefore a discretionary one. After careful consideration of the circumstances of this case, I am not convinced that Karadžić has met his burden of establishing that the Registrar committed an error as enumerated above that would call for the Impugned Decision to be quashed.

26. Contrary to Karadžić’s assertion,⁵⁷ the Registrar’s consideration of the stage of the proceedings in Karadžić’s case in determining whether to assign counsel and legal aid on appeal is relevant. While the Prosecution may have started assembling resources in anticipation of potential appeal proceedings, this does not detract from the fact that in the absence of a trial judgement by the ICTY Trial Chamber, any appeal proceedings in his case remain speculative at this stage. On this same basis, it was therefore reasonable for the Registrar to conclude that in the absence of a trial judgement it cannot be determined whether there will be an appeal and what scope, if any, such an appeal would have.

27. I am further of the view that, while the Prosecution may have started assembling its team, this does not mean, without more, that it started working on a specific appeal in Karadžić’s case. Neither the Prosecution nor Karadžić will know what the parameters of any appeal would be or whether one or both parties would be likely to appeal until the trial judgement has been issued. The

⁵³ Motion, para. 26.

⁵⁴ Motion, para. 27.

⁵⁵ Motion, para. 30.

⁵⁶ Motion, para. 28.

⁵⁷ See Motion, para. 14.

fact that past experience may suggest that an appeal in this case can be expected, as Karadžić points out,⁵⁸ is therefore irrelevant in determining what resources are to be appropriately allocated at this stage of the proceedings prior to delivery of trial judgment. Similarly, the fact that the Mechanism's budget, consistent with sound budgetary practice and financial administration, includes funds for the Prosecution, including, *inter alia*, for any possible appeal proceeding in Karadžić's case, is not inconsistent with Karadžić being assigned counsel and allocated legal aid for appeal proceedings, if any, at an appropriate time once the trial judgement has been rendered.

28. I am also not persuaded that the Registrar's decision to assign Mr. Augustin Ngirabatware ("Ngirabatware") counsel prior to the filing of the notice of appeal in that case demonstrates that the Registrar acted unreasonably when rendering the Impugned Decision.⁵⁹ In that case, the judgement had already been pronounced orally, thus allowing for a preliminary determination as to the necessity of an appeal.⁶⁰ Indeed, the counsel in that case informed the Registrar of Ngirabatware's intent to file a notice of appeal, and counsel was provisionally assigned accordingly.⁶¹ With respect to Karadžić, the Registrar has already indicated that the question of assignment of counsel and legal aid for appeal proceedings will be revisited once the trial judgement is rendered in the case against Karadžić.⁶² To prevent delay, the Registrar further informed Karadžić "that the Mechanism will, in principle, recognise the indigency determination made by the ICTY".⁶³

29. In an attempt to draw an analogy with his own situation, Karadžić points out that the Rules and the Directive provide for assignment of counsel to a suspect who lacks the means to remunerate counsel.⁶⁴ However, the fact that counsel can be assigned prior to the issuance of an indictment does not mean that the same holds true with respect to the assignment of counsel on appeal prior to the issuance of a trial judgement. Indeed, neither the Rules nor the Directive confer upon an accused the right to assignment of counsel and legal aid on appeal in the absence of a trial judgement in that case. Accordingly, the Registrar acted in compliance with the Rules when deciding against the assignment of counsel and legal aid for appeal proceedings where the trial judgement has yet to be issued.

30. Finally, I am not convinced that the Registrar abused his discretion by failing to take into account the principle of equality of arms.⁶⁵ I recall that the principle of equality of arms requires

⁵⁸ See Motion, para. 16.

⁵⁹ See Reply, para. 9, citing *Ngirabatware* 24 December 2012 Decision.

⁶⁰ See *Prosecutor v. Augustin Ngirabatware*, ICTR-99-44-T, Transcript, 20 December 2012.

⁶¹ *Ngirabatware* 24 December 2012 Decision, p. 2.

⁶² See Impugned Decision.

⁶³ See Impugned Decision.

⁶⁴ See Motion, para. 10. See also Rule 43(A) of the Rules; Directive, para. 6.

⁶⁵ See Motion, para. 18.

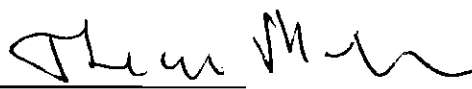
“that neither party is put at a disadvantage when presenting its case”.⁶⁶ I further recall the finding that the Registrar did not abuse his discretion by determining that the presentation of a case on appeal remains speculative at this stage in the absence of a trial judgement. Similarly, it is not clear what the scope of an appeal, if any, will be. Accordingly, it was reasonable for the Registrar to refrain from entering into an analysis regarding the equality of arms in determining that the assignment of counsel and legal aid for the appeal proceedings at this stage was premature.

VI. DISPOSITION

31. For the foregoing reasons, I hereby **DENY** the Request for Leave to File Submissions, and **DENY** the Motion.

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

Done this 4th day of February 2016,
At The Hague,
The Netherlands.



Judge Theodor Meron
President

[Seal of the Mechanism]

⁶⁶ See, e.g., *Prosecutor v. Nikola Šainović et al.*, Case No. IT-05-87-A, Judgement, 23 January 2014, para. 123; *Callixte Kalimanzira v. The Prosecutor*, ICTR-05-88-A, Judgement, 20 October 2010, para. 34.