

**Cour
Pénale
Internationale**



**International
Criminal
Court**

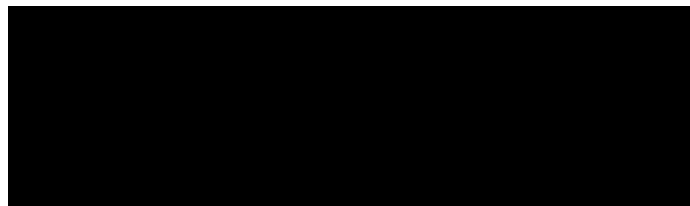
Original: English

No.: [REDACTED]

Date: 24 July 2015

PRESIDENCY

Before: Judge Silvia Alejandra Frenández de Gurmendi, President
Judge Joyce Aluoch, First Vice-President
Judge Kuniko Ozaki, Second Vice-President



URGENT

Confidential *ex parte* Presidency, Registrar and Applicant Only

**Defence Request for Review of the Denial of an Applicant to the List of Assistant
to Counsel Pursuant to Regulation 125(4) of the Regulations of the Court**

Source: Defence for [REDACTED]

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

Counsel for the Defence



Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

Unrepresented Applicants
 (Participation/Reparation)

The Office of Public Counsel for
 Victims

The Office of Public Counsel for the
 Defence

States' Representatives

Amicus Curiae

REGISTRY

Registrar
 Herman Von Hebel

Counsel Support Section
 Esteban Peralta Losilla

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations
 Section

Other



I. INTRODUCTION

1. The Defence for [REDACTED] ('Defence') files this request for review of the application of [REDACTED] ('Applicant') to be admitted to the List of Assistants to Counsel. It is the contention of both the Applicant and the Defence that the Applicant qualifies to be admitted to the List of Assistants to Counsel and should be admitted to the list immediately.

II. CONFIDENTIALITY LEVEL

2. Pursuant to Regulation 23*bis* of the Regulations of the Court, the Defence files this request confidential *ex parte* Presidency and Registrar only because it contains detailed personal information of the Applicant and is an issue almost identical in nature to human resource issues, which are not for the public domain or any other body/unit/section outside of the Presidency and Registry.

III. REQUEST PURSUANT TO REGULATION 35 OF THE REGULATIONS OF THE COURT

3. The Defence requests that the time limit for the Registrar's response, as prescribed by Regulation 125(5) of the Regulations of the Registry, be reduced from 15 days to Tuesday, 28 July 2015.
4. The Defence insists this request meets the requirements under Regulation 35(2) of the Regulations of the Court because the Applicant has waited for two weeks to receive notification and instructions on filing an appeal against the Registrar's decision. The Applicant's revised appointment to the Defence is scheduled to begin on 3 August 2015.¹

¹ The Applicant was originally supposed to begin on 13 July 2015, but was unable to because of the rejection of her application.

5. The Defence requires someone in The Hague to regularly visit [REDACTED] for extended periods of time to [REDACTED]. Under the Regulations of the Court and Registry, case managers do not receive privileged visits. It is imperative that this decision is taken with the utmost urgency so the Defence can [REDACTED] whilst getting real-time assistance from [REDACTED]. This is the job of the Assistant to Counsel based in The Hague.²
6. Considering [REDACTED] and that Counsel or Assistant to Counsel cannot be required to fly to The Hague [REDACTED] especially since the Registrar has approved funds for a second Assistant to Counsel for the Defence, the Defence feels that the reduction in the time limit is warranted pursuant Regulation 35(2) of the Regulations of the Court.

IV. PROCEDURAL HISTORY

7. On 18 May 2015, and after reading through hundreds of motivation letters and curriculum vitae, the Defence interviewed the Applicant for a position as an Assistant to Counsel, with her primary functions being to conduct meetings with [REDACTED] and to draft pleadings. The Defence emailed a request to CSS that day for an increase in funds, requesting a second “full time employment” salary to start on 15 July 2015.
8. On 30 June 2015, the Applicant submitted the soft copy of her Letter of Good Standing from the [REDACTED].³ This was the final document

² On 4 June 2015 at 12h45 GMT+1, the Defence was notified by CSS via email that meeting with the client on a regular basis for notifications was the job of the locally based Assistant to Counsel. The information came via a response for a request for CSS to purchase a flight for Counsel to come and visit [REDACTED].

³ The Letter of Good Standing including the ICC version and the [REDACTED].

which the CSS needed from the Applicant to make a determination on her eligibility to be admitted to the List of Assistants to Counsel.⁴

9. On 8 July 2015, [REDACTED] Assistant to Counsel, emailed Mr Esteban Peralta Losilla, Chief of CSS, requesting a decision on the Applicant's application to the List of Assistants to Counsel because the Applicant was to begin her contract on Monday, 13 July 2015.
10. On 9 July 2015, Mr Esteban Peralta Losilla emailed [REDACTED] and informed him that the Applicant "does not have five years of experience in criminal proceedings (she declares 4.5) and she does not have specific competence justifying her admission." He also informed [REDACTED] that the Applicant would be notified in due course, which has not happened.
11. On 16 July 2015, the Applicant wrote the Chief of CSS requesting that the "decision to reject my application be communicated to me with reasons and that the information on how to apply to the Presidency for review of this decision be provided." As of the date of this filing, the Applicant has not received the required communication.
12. On Monday, 20 July 2015, per the instructions of Counsel, [REDACTED] spoke with [REDACTED] about this situation and forwarded to him two emails, one being the rejection email on 9 July 2015 and the other being a reply to requesting reconsideration of the decision in light of what appears on the Applicant's CV.⁵ [REDACTED] visit to The Hague from [REDACTED] was prompted by the Applicant's rejection and the Defence inability to have anyone directly talk to [REDACTED] [REDACTED] [REDACTED] [REDACTED] about the case.⁷

⁴ The Applicant received the hard copy of the Letter of Good Standing on 9 July 2015. She was to bring it with her on her first day of work, but because of the denial of her application, she still maintains possession of the document.

⁵ The Defence realises that [REDACTED] recently came over to help CSS in its functioning. The part of the meeting dealing with the Applicant was only to make him aware of the Defence's concerns and this issue.

⁶ The Defence contends that telephone discussions are suitable for updates, but it needs longer, protracted discussions with [REDACTED] [REDACTED] the case properly, which cannot be done over the telephone.

⁷ [REDACTED]
[REDACTED]

V. SUBMISSIONS

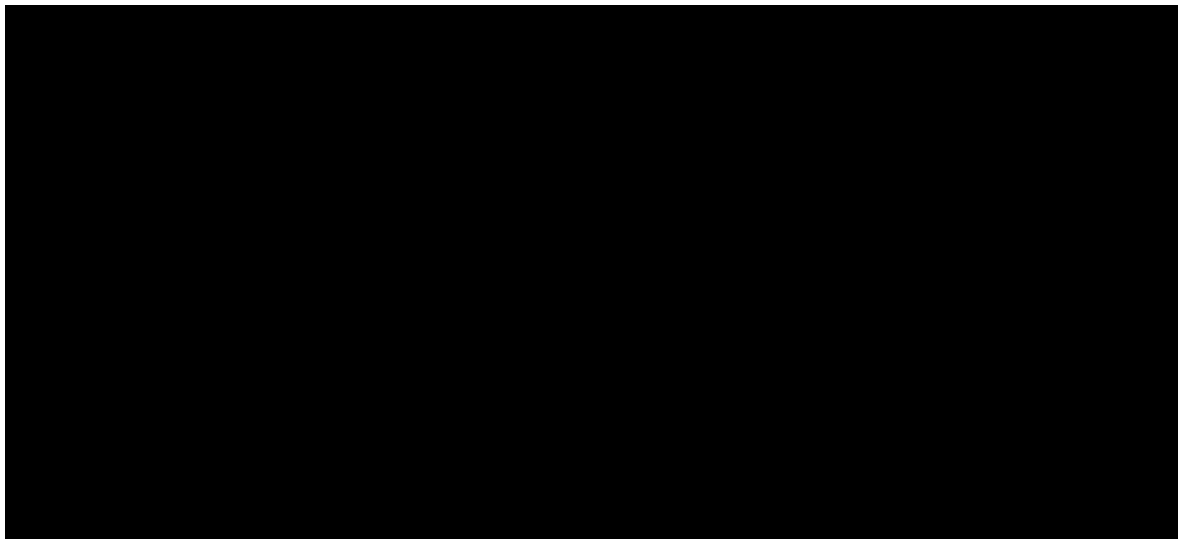
13. None of the abovementioned parties claim that the Applicant has five years of experience in criminal law. The dispute put forth by the Applicant in Annex A, and supported by the Defence, is that she has “specific competence in international or criminal law and procedure.”⁸
14. The below list is merely a few of the reasons why the Defence chose the Applicant and knows that she meets the requirements in Regulation 124 of the Regulations of the Registry.
- a. The Applicant has worked in the [REDACTED] for four and one-half years.
 - b. She has an LL.M. in public international law from [REDACTED] niversity.
 - c. She has experience overseeing dozens of persons as an [REDACTED] at [REDACTED]
 - d. She has been a licensed attorney in [REDACTED] since [REDACTED] 2008.
 - e. Most importantly, she is certified to the Sexual and Gender Based Violence investigation roster by Justice Rapid Response in partnership with UN Women.
15. For the complete scope of the Applicant’s special competence to be admitted into the List of Assistants to Counsel, the Defence yields its arguments to the Applicant’s submission in confidential *ex parte* Annex A and her supporting documents.
16. Finally, since this is obviously outside of the normal appellate procedure pursuant to Regulation 125(5) of the Regulations of the Registry, the Defence is willing and able to notify the Applicant of all the filings until such time that the Registrar can contact her. Her personal email address, as written on her CV, is [REDACTED]

VI. RELIEF

17. The Defence respectfully requests the Presidency, as a matter of extreme urgency, to:

- a. Order the Registrar to file his response no later than Tuesday, 28 July 2015;
- b. Rule that the Applicant has the specific competence in international or criminal law and procedure as required by Regulation 124 of the Regulations of the Registry; and
- c. Order the Registrar to admit the Applicant to the List of Assistants to Counsel on or before 3 August 2015.

Respectfully submitted,



Dated this 24th day of July 2015

At

