

**UNITED
NATIONS**



International Residual Mechanism for Criminal
Tribunals

Case No.: MICT-13-55-A

Date: 2 October 2018

Original: French

THE SENIOR JUDGE

Before: Judge Jean-Claude Antonetti, Senior Judge

Registrar: Mr Olufemi Elias

Order of: 2 October 2018

THE PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

**ORDER ON MOTION TO DISQUALIFY JUDGE THEODOR
MERON**

Office of the Prosecutor:

Mr Serge Brammertz
Ms Laurel Baig
Ms Barbara Goy
Ms Katrina Gustafson

Counsel for Mr Radovan Karadžić:

Mr Peter Robinson
Ms Kate Gibson

I, JEAN-CLAUDE ANTONETTI, Judge of the International Residual Mechanism for Criminal Tribunals (“Mechanism”), and Senior Judge in this case,¹

NOTING the decision I issued on 3 September 2018 granting the motions filed by Ratko Mladić to disqualify Judges Theodor Meron, Carmel Agius and Liu Daqun from the appeal filed against the Judgement of 22 November 2017 for reasons of apparent bias (“Decision of Judge Antonetti of 3 September 2018”),²

NOTING the motion for the disqualification of Judge Meron for apparent bias, filed before me on 25 September 2018 by Radovan Karadžić, emphasising that Judge Meron has sat in 13 appeals cases and presided over six appeals cases involving facts relevant to the *Prosecutor v. Radovan Karadžić*, Case No. IT-95-5/18 and MICT-13-55-A (“Karadžić Case”), and adjudicated the request for early release for Prosecution witness Momir Nikolić (“Motion”),³

NOTING Judge Meron’s decision of 27 September 2018, wherein the judge recalls that the Decision of 3 September 2018 cannot be appealed and decided to withdraw from the appeal in the Karadžić Case (“Decision of Judge Meron of 7 September 2018”),⁴

STATING that the Decision of Judge Meron of 27 September 2018 renders the Motion moot,

OBSERVING that the Decision of Judge Meron of 27 September 2018 states that the Decision of Judge Antonetti of 3 September 2018 contradicts established jurisprudence in matters of disqualification but consider that the Decision of Judge Meron of 27 September 2018 does not seem to me to be the appropriate mechanism for giving a personal opinion on a decision which concerns him directly,

RECALLING that the Decision of Judge Antonetti of 3 September 2018 contains an analysis of the applicable jurisprudence at international, European and national level, that it addresses in depth the allegations made against Judge Meron and explains specifically why there are reasons to believe that a reasonable observer, duly informed, might apprehend bias by Judge Meron against Ratko Mladić,⁵

¹ Rules 18 (B) (iv) and 22 (B) of the Rules of Evidence and Procedure of the Mechanism (“Rules”).

² *The Prosecutor v. Ratko Mladić*, Case No. MICT-13-56-A, Decision on Defence Motions for Disqualification of Judges Theodor Meron, Carmel Agius and Liu Daqun, 3 September 2018, para. 85.

³ Motion to Disqualify Judge Theodor Meron, 25 September 2018, paras 1, 9 and 42.

⁴ Decision, 27 September 2018, p. 2.

⁵ Decision of Judge Antonetti of 3 September 2018, paras 17-28, 34-52.

NOTING the Order of Judge Meron of 27 September 2018 wherein the Judge decided to replace himself with Judge Ivo Nelson de Caires Batista Rosa on the Bench of the Appeals Chamber seised of the present case (“Order of 27 September 2018”),⁶

OBSERVING however that it is appropriate to invite Judge Meron to withdraw his Order of 27 September 2018 because a reading together of paragraphs (A) and (B) (iv) of Rule 18 of the Rules indicates that the responsibility for assigning another Judge to replace Judge Meron falls to me as Senior Judge,⁷

HEREBY,

DECLARE the Motion moot and proceedings regarding the disqualification of Judge Meron for reasons of apparent bias to adjudicate the Appeal in the *Karadžić* Case closed,

INVITE Judge Meron to withdraw his Order of 27 September 2018 for lack of jurisdiction.

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

Done this 2nd day of October 2018

Senior Judge

At The Hague,
The Netherlands

/signed/

Jean-Claude Antonetti

[Seal of the Mechanism]

⁶ Order Replacing a Judge in a Case before the Appeals Chamber, p. 1.

⁷ Rules 18 (A) and (B) (iv) of the Rules.