



International Residual Mechanism
for Criminal Tribunals

Case No.: MICT-13-55-A

Date: 17 October 2018

Original: English

THE PRESIDENT OF THE MECHANISM

Before: Judge Theodor Meron, President

Registrar: Mr. Olufemi Elias

Order of: 17 October 2018

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

**ORDER ASSIGNING JUDGES TO THE APPEALS
CHAMBER TO CONSIDER A MATTER**

Office of the Prosecutor:

Ms. Laurel Baig
Ms. Barbara Goy
Ms. Katrina Gustafson

Counsel for Mr. Radovan Karadžić:

Mr. Peter Robinson
Ms. Kate Gibson

I, THEODOR MERON, President of the International Residual Mechanism for Criminal Tribunals (“Mechanism”);

NOTING the “Motion to Disqualify Judge Theodor Meron” filed by Mr. Radovan Karadžić on 25 September 2018 before Judge Jean-Claude Antonetti as the most senior Judge able to act;

NOTING the “Decision” issued by me on 27 September 2018 (“Decision”), wherein I, in the interests of justice and so as not to impede the progress of the appeals in this case, withdrew from the Bench seized of the present case with immediate effect;¹

NOTING the “Order Replacing a Judge in a Case Before the Appeals Chamber” issued by me on 27 September 2018 (“Assignment Order”), wherein I assigned Judge Ivo Nelson de Caires Batista Rosa to replace myself, Judge Theodor Meron, on the Bench seized of the present case;²

NOTING the “Order on Motion to Disqualify Judge Theodor Meron” filed by Judge Antonetti on 2 October 2018 (“Order on Motion to Disqualify”),³ wherein Judge Antonetti considered that a proper reading of Rule 18(A) and (B)(iv) of the Mechanism’s Rules of Procedure and Evidence (“Rules”) suggest that the responsibility for the assignment of a Judge in the present case to replace myself lies with the most senior Judge able to act, and invited me to withdraw the Assignment Order for lack of jurisdiction;⁴

NOTING the “Decision in Response to Order on Motion to Disqualify” filed by me on 3 October 2018 (“Decision in Response”), wherein I declined Judge Antonetti’s invitation to withdraw the Assignment Order on the basis that I was not disqualified from the present case pursuant to Rule 18 of the Rules and that there was thus nothing that precluded me from continuing to exercise my functions as President to coordinate the case, including by issuing the Assignment Order;⁵

NOTING the “Decision on Motion to Reconsider Order Replacing a Judge” issued by me on 10 October 2018 (“Decision”), wherein I denied Karadžić’s motion for reconsideration of the Assignment Order on the basis, *inter alia*, that I was not disqualified from participating in the present case under Rule 18 of the Rules, and that, pursuant to Rule 23(A) of the Rules, the President shall coordinate the work of Chambers;⁶

NOTING the “Second Motion to Disqualify Judge Theodor Meron, Motion to Disqualify Judge William Sekule, and For Related Orders” filed by Karadžić on 12 October 2018 before Judge

¹ Decision, pp. 2-3.

² Assignment Order, p. 1.

³ The English translation of the Order on Motion to Disqualify was filed on 4 October 2018.

⁴ Order on Motion to Disqualify, p. 2.

⁵ Decision in Response, pp. 1-2.

⁶ Decision, pp. 1-2.

Antonetti (“Karadžić’s Motion”), wherein Karadžić, *inter alia*, requests, pursuant to Rule 18 of the Rules, that Judge Antonetti: (i) disqualify me from “participating in any decisions” related to the present case; and (ii) disqualify Judge William H. Sekule from the bench in this case;⁷

BEING SEISED OF the “Prosecution Motion to Strike Karadžić’s Second Motion to Disqualify Judge Theodor Meron, Motion to Disqualify Judge William Sekule, and For Related Orders” filed by the Office of the Prosecutor (“Prosecution”) on 15 October 2018 (“Prosecution Motion”), wherein the Prosecution requests that I strike Karadžić’s Motion on the basis that Judge Antonetti lacks the jurisdiction to consider the matters presented in Karadžić’s Motion;⁸

NOTING that there exists a dispute between the parties in this case as to the jurisdiction over the matters presented in Karadžić’s Motion;

FINDING that it is in the interests of justice that the Prosecution Motion be assigned to a bench of the Appeals Chamber to resolve the question of jurisdiction;⁹

CONSIDERING that it would be in the interests of justice and judicial certainty to allow the Appeals Chamber to resolve the question of jurisdiction before Judge Antonetti renders a decision on Karadžić’s Motion;

⁷ Karadžić’s Motion, para. 1. *See also* Karadžić’s Motion, paras. 8-42.

⁸ *See generally* Prosecution Motion.

⁹ Since the question presented by the Prosecution Motion and Karadžić’s Motion relates to my jurisdiction to continue to exercise my administrative functions as President in this case, it would not be appropriate for me to serve as presiding Judge on the Bench. *Cf.* Article 12(3) of the Statute of the Mechanism.

FOR THE FOREGOING REASONS,

HEREBY REQUEST Judge Antonetti to stay any action on Karadžić's Motion pending a ruling by the Appeals Chamber on the Prosecution Motion and **ASSIGN** the Prosecution Motion to a bench composed as follows:

Judge Joseph E. Chiondo Masanche

Judge Lee G. Muthoga

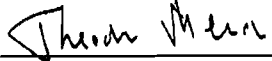
Judge Burton Hall

Judge Seon Ki Park

Judge Ben Emmerson

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

Done this 17th day of October 2018,
At The Hague,
The Netherlands.



Judge Theodor Meron
President

[Seal of the Mechanism]