

**UNITED  
NATIONS**



International Residual Mechanism  
for Criminal Tribunals

Case No.: MICT-17-111-R90

Date: 14 September 2020

Original: English

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**BEFORE A SINGLE JUDGE**

**Before:** Judge Liu Daqun

**Registrar:** Mr. Abubacarr Tambadou

**Order of:** 14 September 2020

**IN THE CASE AGAINST**

**PETAR JOJIĆ  
VJERICA RADETA**

***PUBLIC***

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**ORDER FOR SUBMISSIONS**

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***Amicus Curiae* Prosecutor:**

Ms. Diana Ellis

Mr. Sam Blom-Cooper

**Government of the Republic of Serbia**

I, **LIU DAQUN**, Judge of the International Residual Mechanism for Criminal Tribunals (“Mechanism”) and Single Judge in this case;<sup>1</sup>

**NOTING** that, on 30 October 2012, a Trial Chamber of the International Criminal Tribunal for the former Yugoslavia (“ICTY”) issued an order *in lieu* of an indictment charging Petar Jojić and Vjerica Radeta (collectively, “Accused”) with contempt of the ICTY for having threatened, intimidated, offered bribes to or otherwise interfered with witnesses in the case of *Prosecutor v. Vojislav Šešelj*, Case No. IT-03-67;<sup>2</sup>

**NOTING** that, on 18 January 2018, a Single Judge of the Mechanism found that the Mechanism has jurisdiction over the case against the Accused in accordance with Article 1(4) of the Statute of the Mechanism (“Statute”);<sup>3</sup>

**NOTING** that, on 5 February 2018, the Registrar appointed an *Amicus Curiae* Prosecutor in the case against the Accused;<sup>4</sup>

**NOTING** that, on 12 June 2018, a Single Judge of the Mechanism ordered the case against the Accused to be referred to the authorities of the Republic of Serbia (“Serbia”) for trial;<sup>5</sup>

**NOTING** that, on 12 December 2018, the Appeals Chamber of the Mechanism found that the *Amicus Curiae* Prosecutor had not raised before the Single Judge the issue of “the unwillingness of witnesses to testify if this case is tried in Serbia” and remanded the matter to me to consider further submissions on this issue from the *Amicus Curiae* Prosecutor, Serbia, and, if necessary, the Witness Support and Protection Unit of the Mechanism (“WISP”);<sup>6</sup>

**RECALLING** the Decision of 13 May 2019, in which, having considered that each of the counts contained in the operative Indictment critically relies for support on the evidence of the witnesses who have declared their unwillingness to cooperate with the authorities of Serbia due to serious

<sup>1</sup> Order Replacing a Single Judge, 17 December 2018.

<sup>2</sup> *Prosecutor v. Svetozar Džigurski et al.*, Case No. IT-03-67-R77.5, Decision Issuing Order in Lieu of Indictment, 30 October 2012 (confidential and *ex parte*), p. 3, 6-8. See *Prosecutor v. Svetozar Džigurski et al.*, Case No. IT-03-67-R77.5, Further Decision on Order in Lieu of Indictment, 5 December 2014 (confidential and *ex parte*); *In the Case Against Petar Jojić, Jovo Ostojić, and Vjerica Radeta*, Case No. IT-03-67-R77.5, Order Lifting Confidentiality of Order in Lieu of Indictment and Arrest Warrants, 1 December 2015. The Order *in Lieu* of Indictment was further revised, in part due to the deaths of the other co-accused, and the operative indictment in this case is dated 17 August 2017. See *In the Case Against Petar Jojić, Jovo Ostojić, and Vjerica Radeta*, Case No. IT-03-67-R77.5, Revised Order in Lieu of Indictment, 17 August 2017 (public with confidential and *ex parte* annex A, confidential annex B, and public annex C), Annex C (“Indictment”).

<sup>3</sup> Decision on Jurisdiction, 18 January 2018, p. 2.

<sup>4</sup> Decision, 5 February 2018 (confidential), Registry Pagination (“RP.”) 29.

<sup>5</sup> Public Redacted Version of the 12 June 2018 Order Referring a Case to the Republic of Serbia, 12 June 2018 (“Referral Order”), p. 5.

concerns regarding their safety and security as well as that of their family members, I revoked the Referral Order, issued new international arrest warrants and requested the authorities of Serbia to transfer the Accused to the seat of the Mechanism in The Hague without delay;<sup>7</sup>

**NOTING** that, on 24 February 2020, the Appeals Chamber affirmed the Decision of 13 May 2019;<sup>8</sup>

**RECALLING** that, on 22 July 2020, I ordered the authorities of Serbia to report on action they have taken to execute the arrest warrants against the Accused and related transfer orders and, if applicable, state the reasons for Serbia's inability to execute the warrants and orders;<sup>9</sup>

**NOTING** Serbia's submission filed confidentially on 13 August 2020, arguing that the reasons it has not undertaken measures to execute the arrest warrants against the Accused are of a legal nature<sup>10</sup> and submitting that the mandates of the Accused as deputies of the National Assembly of Serbia have ceased as of 3 August 2020 and that the authorities of Serbia are "fully prepared" to accept the responsibility of trying this case;<sup>11</sup>

**NOTING** the *Amicus Curiae* Prosecutor's submission filed on 7 September 2020, requesting that I: (i) certify that Serbia continues to refuse to cooperate with the Mechanism, pursuant to its obligations under Article 28 of the Statute, and that no new or acceptable justification has been advanced by Serbia; and (ii) notify the President of the Mechanism of Serbia's ongoing refusal to cooperate with the Mechanism and give effect to the arrest warrants against the Accused and related transfer orders, despite being given ample opportunity to do so;<sup>12</sup>

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<sup>6</sup> Decision on *Amicus Curiae's* Appeal Against the Order Referring a Case to the Republic of Serbia, 12 December 2018 ("Decision of 12 December 2018"), paras. 22-24.

<sup>7</sup> Decision Re-examining the Referral of a Case to the Republic of Serbia, 13 May 2019 (public with confidential and public redacted Annexes) ("Decision of 13 May 2019"), pp. 5, 6.

<sup>8</sup> *In the Case Against Petar Jojić and Vjerica Radeta*, Case No. MICT-17-111-R90-AR14.1, Decision on Republic of Serbia's Appeal Against the Decision Re-examining the Referral of a Case to Serbia, 24 February 2020 ("Decision of 24 February 2020"), paras. 18, 19.

<sup>9</sup> Order for Submissions, 22 July 2020, p. 3.

<sup>10</sup> Letter from the Ministry of Justice of the Republic of Serbia, 13 August 2020 (confidential) ("Serbia's Submission"), RP. 647, 646. Serbia, specifically, submits that it was not under an obligation to transfer the Accused since: (i) the alleged criminal offense was committed at a time when it was not prescribed by the ICTY Statute; and (ii) the High Court of Belgrade decided that the requirements for arrest and surrender of the Accused were not fulfilled and this decision remains in effect.

<sup>11</sup> Serbia's Submission, RP. 646, 645.

<sup>12</sup> Response of *Amicus Curiae* Prosecutor to the Update from the Republic of Serbia & Request to Notify the President of the Mechanism of Serbia's Ongoing Non-Cooperation (confidential with confidential Annex), 7 September 2020 (public redacted version filed on 8 September 2020), paras. 5-13.

**RECALLING** the submission filed in 2019 that the witnesses were unwilling to testify should this case be referred to Serbia;<sup>13</sup>

**CONSIDERING** that the witnesses' core fears expressed in 2019 related, *inter alia*, to the Accused being high-profile political figures in Serbia;<sup>14</sup>

**CONSIDERING** that, according to Serbia's Submission, the Accused have recently ceased to hold positions as deputies in the National Assembly of Serbia;<sup>15</sup>

**CONSIDERING** that the witnesses' views were last heard in March 2019, prior to the changed circumstances of the Accused;<sup>16</sup>

**FINDING** that, in these circumstances, it is appropriate to obtain submissions from the WISP as to the willingness of the witnesses to participate in proceedings in Serbia, in light of the fact that the Accused no longer hold positions as deputies in the National Assembly of Serbia;

**FOR THE FOREGOING REASONS,**

**PURSUANT TO** Articles 1(4) and 6 of the Statute and Rule 55 of the Rules of Procedure and Evidence of the Mechanism,

**ORDER** the WISP to file, within 30 days of the filing of the present Order, submissions as to the willingness of the witnesses to participate in proceedings in Serbia, in light of the fact that the Accused no longer hold positions as deputies in the National Assembly of Serbia; and

**ORDER** the *Amicus Curiae* Prosecutor to file a response, if any, to the forthcoming submission from the WISP within 14 days of the date of its filing.

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<sup>13</sup> See Registrar Submission in Compliance with the Order of 20 February 2019, 20 March 2019 (public with confidential and *ex parte* annex) (Registrar's Submission"), Annex. See also Referral Order, p. 5; Decision of 12 December 2018, paras. 22, 23; Decision of 13 May 2019, pp. 5, 6.

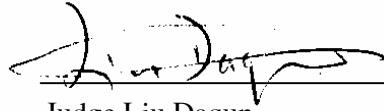
<sup>14</sup> See Decision of 24 February 2020, para. 16, *referring to* Submissions Pursuant to the Decision of the Appeals Chamber Dated 12 December 2018, 8 February 2019 (confidential and *ex parte*), paras. 6(b), 10, RP. 405, 404, 400-397, 393, 392. See also Leave to Reply and Submissions in Reply to the Response of the Republic of Serbia Concerning Witness Protection, 21 March 2019, paras. 13-16.

<sup>15</sup> See Serbia's Submission, RP. 645.

<sup>16</sup> See Registrar's Submission, Annex.

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

Done this 14<sup>th</sup> day of September 2020,  
At The Hague,  
The Netherlands

A handwritten signature in black ink, appearing to read 'Liu Daqun', is written over a horizontal line.

Judge Liu Daqun  
Single Judge

**[Seal of the Mechanism]**



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