

**UNITED  
NATIONS**



Mechanism for International Criminal Tribunals

Case No.: MICT-17-111-R90

Date: 22 March 2018

Original: English

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**BEFORE A SINGLE JUDGE**

**Before: Judge Aydin Sefa Akay**

**Registrar: Mr. Olufemi Elias**

**Order of: 22 March 2018**

**IN THE CASE AGAINST**

**PETAR JOJIĆ  
VJERICA RADETA**

***PUBLIC***

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**ORDER FOR SUBMISSIONS**

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**Office of the Prosecutor**

Mr. Serge Brammertz

**Amicus Curiae Prosecutor**

Ms. Diana Ellis

**Government of the Republic of Serbia**

I, AYDIN SEFA AKAY, 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, *inter alios*, 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** the warrants of arrest and orders for surrender in relation to the Accused that were issued by the ICTY and directed to the authorities of the Republic of Serbia (“Serbia”) and all United Nations Member States;<sup>3</sup>

**NOTING** that, on 29 November 2017, the ICTY President, noting that Serbia had failed to cooperate with the ICTY to arrest and surrender the Accused, and that it was ultimately for the Mechanism to decide whether it has jurisdiction, ordered that the case against the Accused, as well as all judicial records in the custody of the ICTY concerning this case, be transferred to the Mechanism;<sup>4</sup>

<sup>1</sup> Order Assigning a Single Judge to Consider a Matter, 24 January 2018, p. 2.

<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*), Annex (“Order in Lieu of Indictment”), p. 3. *See In the Case Against Petar Jojić, Jovica 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. I note that the Order *in Lieu* of Indictment was further revised, including due to the deaths of other co-accused, and that 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, Annex B (confidential) (“Indictment”); *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*).

<sup>3</sup> *See In the Case Against Petar Jojić, Jovo Ostojić, and Vjerica Radeta*, Case No. IT-03-67-R77.5, International Arrest Warrant and Order for Surrender [re Jojić], 5 October 2016 (confidential and *ex parte*); *In the Case Against Petar Jojić, Jovo Ostojić, and Vjerica Radeta*, Case No. IT-03-67-R77.5, International Arrest Warrant and Order for Surrender [re Radeta], 5 October 2016 (confidential and *ex parte*); *Prosecutor v. Petar Jojić, Jovo Ostojić, and Vjerica Radeta*, Case No. IT-03-67-R77.5, Warrant of Arrest and Order for Surrender of Petar Jojić, 19 January 2015 (confidential); *Prosecutor v. Petar Jojić, Jovo Ostojić, and Vjerica Radeta*, Case No. IT-03-67-R77.5, Warrant of Arrest and Order for Surrender of Vjerica Radeta, 19 January 2015 (confidential). *See also In the Case Against Petar Jojić, Jovo Ostojić, and Vjerica Radeta*, Case No. IT-03-67-R77.5, Order Lifting Confidentiality of International Arrest Warrants, 29 November 2016, p. 2, Annexes A and B (public redacted); *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, p. 1, Annexes C and D (public redacted).

<sup>4</sup> *In the Case Against Petar Jojić and Vjerica Radeta*, Case No. IT-03-67-R77.5, Order of Transfer to the International Residual Mechanism for Criminal Tribunals, 29 November 2017, pp. 1, 4. *See also Prosecutor v. Petar Jojić and Vjerica Radeta*, Case Nos. MICT-17-111-R90 & IT-03-67-R77.5, Certificate, 4 December 2017, Annex (confidential and *ex parte*) (certifying, *inter alia*, that all judicial records in the case against the Accused – case number IT-03-67-R77.5 – have been “transferred, considered cross-filed and shall form part of the case number MICT-17-111-R90”).

**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>5</sup>

**NOTING** that Article 1(4) of the Statute provides, in relevant part, that before proceeding to try persons for contempt, the Mechanism shall consider referring the case to the authorities of a State in accordance with Article 6 of the Statute, taking into account the interests of justice and expediency;

**NOTING** that pursuant to Article 6(2) of the Statute, the Mechanism shall determine whether the case should be referred to the authorities of a State: (i) in whose territory the crime was committed; or (ii) in which the accused was arrested; or (iii) having jurisdiction and being willing and adequately prepared to accept such a case;

**NOTING** that the crimes charged in the Indictment were allegedly committed in Serbia;<sup>6</sup>

**NOTING** that, on 15 February 2018, Serbia was invited to provide written submissions on its jurisdiction, willingness, and preparedness to accept this case for trial,<sup>7</sup> and that, on 14 March 2018, the Minister of Justice of Serbia responded that Serbia “is prepared to conduct criminal proceedings” against the Accused;<sup>8</sup>

**NOTING** that Article 6(4) of the Statute provides that the Mechanism may order referral *proprio motu* or at the request of the Prosecutor, after having given to the Prosecutor and, where applicable, the accused, the opportunity to be heard and after being satisfied, *inter alia*, that the accused will receive a fair trial;

**NOTING** that, on 18 February 2018, the *Amicus Curiae* Prosecutor in this case requested to be permitted to respond to any submissions made by Serbia on this matter “before a decision is taken on the correct venue for the trial”;<sup>9</sup>

**CONSIDERING** that written submissions from the *Amicus Curiae* Prosecutor would be of assistance to determine whether referring this case to Serbia would: (i) serve the interests of justice and the expediency of the proceedings and; (ii) respect the right of the Accused to a fair trial;

<sup>5</sup> Decision on Jurisdiction, 18 January 2018, p. 2.

<sup>6</sup> See Indictment, Registry Pagination (“RP.”) 861-858.

<sup>7</sup> Order for Submissions, 15 February 2018, p. 2.

<sup>8</sup> Letter signed by Ms. Nela Kuburović, Minister of Justice of the Republic of Serbia, 14 March 2018 (confidential), RP. 41.

<sup>9</sup> Note to the Single Judge, Re: Referral of the Case to Serbia, 18 February 2018, paras. 2, 7.

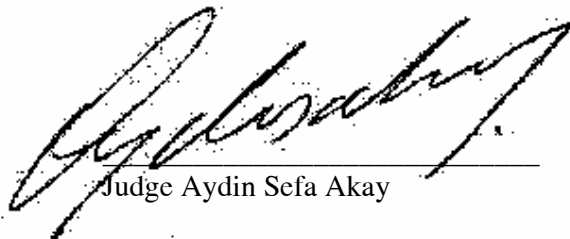
**FOR THE FOREGOING REASONS,**

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

**INVITE** the *Amicus Curiae* Prosecutor to provide, within 30 days of the present Order, written submissions on whether referring this case to Serbia would serve the interests of justice, the expediency of the proceedings, and respect the right of the Accused to a fair trial.

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

Done this 22<sup>nd</sup> day of March 2018,  
At The Hague,  
The Netherlands



Judge Aydin Sefa Akay

**[Seal of the Mechanism]**



**TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH THE  
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<b>Case Name/ Affaire :</b>	<b>IN THE CASE AGAINST PETAR JOJIĆ AND VJERICA RADETA</b>	<b>Case Number/ Affaire n° :</b>	<b>MICT-17-111-R90</b>
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	<input type="checkbox"/> Decision/ <i>Décision</i>	<input type="checkbox"/> Submission from non-parties/ <i>Écritures déposées par des tiers</i>	<input type="checkbox"/> Warrant/ <i>Mandat</i>
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