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21 July 2016

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20 July 2016

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UNITED
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Mechanism for International Criminal Tribunals

Case No.: MICT-13-56
IT-09-92-T

Date: 20 July 2016

Original: ENGLISH

THE PRESIDENT OF THE MECHANISM

Before: Judge Theodor Meron, President
Registrar: Mr. John Hocking
Decision of: 20 July 2016

PROSECUTOR

v.

RATKO MLADIĆ

PUBLIC

DECISION ON TWO DEFENCE MOTIONS

The Office of the Prosecutor:

Mr. Peter McCloskey
Mr. Alan Tieger

Counsel for Mr. Ratko Mladić:

Mr. Branko Lukić
Mr. Miodrag Stojanović



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

BEING SEISED of the “Defence Motion Seeking to Disqualify the Honourable Judge Alphons Orié and the Honourable Judge Christoph Flügge Under this Trial Chamber’s Enunciated Standard for Judicial Bias”, filed by Counsel for Mr. Ratko Mladić (“Mladić”) on 20 July 2016 (“Disqualification Motion”), which requests that Judge Alphons Orié and Judge Christoph Flügge be disqualified from sitting on the case of *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-T (“Mladić Case”), pursuant to Rule 15 of the Rules of Procedure and Evidence of the International Criminal Tribunal for the former Yugoslavia (“ICTY”);¹

BEING ALSO SEISED of the “Defence Motion for Stay of Proceedings for Systematic Bias”, also filed by Mladić on 20 July 2016 (“Stay of Proceedings Motion”), which requests a stay of proceedings in the *Mladić* Case on the basis that the fair trial rights of Mladić, enshrined in Article 21 of the ICTY Statute, have been violated;²

NOTING that Trial Chamber I of the ICTY is currently seized of all proceedings in the Mladić Case;³

RECALLING that according to Article 1(1) of the Transitional Arrangements annexed to the Statute of the Mechanism stipulates that the ICTY shall have competence to complete all trial and referral proceedings which are pending before the ICTY, including corollary interlocutory matters that arise in the course of and are related to those proceedings;

FINDING thus that all corollary matters related to the proceedings in the Mladić Case fall within the jurisdiction of the ICTY and not the Mechanism;

RECALLING that Rule 15 of the ICTY Rules concerning the disqualification of an ICTY Judge from a case to which the Judge has been assigned does not include any reference to actions to be taken by the President of the Mechanism;

FINDING therefore that I have no competence to adjudicate a motion for the disqualification of an ICTY Judge;

FINDING FURTHER that I, as President of the Mechanism, do not have jurisdiction to consider the Disqualification Motion and the Stay of Proceedings Motion;

¹ Disqualification Motion, paras. 10, 29–30.


² Stay of Proceedings Motion, paras. 1, 3, 21, 74.

³ *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-I, Order Assigning Judges to a Case Before a Trial Chamber, 27 May 2011.

HEREBY DISMISS the Disqualification Motion and Stay of Proceedings Motion before me for lack of jurisdiction.

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

Done this 20th day of July 2016,
At The Hague,
The Netherlands.


Judge Theodor Meron
President

[Seal of the Mechanism]

