



International Tribunal for the
Prosecution of Persons
Responsible for Serious Violations of
International Humanitarian Law
Committed in the Territory of the
Former Yugoslavia since 1991

Case No. IT-09-92-AR73.6
Date: 13 October 2016
Original: English

THE PRESIDENT OF THE TRIBUNAL

Before: Judge Carmel Agius, President

Registrar: Mr. John Hocking

Order of: 13 October 2016

PROSECUTOR

v.

RATKO MLADIĆ

PUBLIC

ORDER ASSIGNING MOTIONS TO A JUDGE

The Office of the Prosecutor:

Mr. Peter McCloskey
Mr. Alan Tieger

Counsel for the Accused:

Mr. Branko Lukić
Mr. Miodrag Stojanović

I, CARMEL AGIUS, President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991 (“Tribunal”);

NOTING the “Interlocutory Appeal Brief Challenging the Decision of the Trial Chamber on the Defence Motion for a Fair Trial and Presumption of Innocence”, filed by Ratko Mladić (“Mladić”) on 4 October 2016;

NOTING the “Order Assigning Judges to a Case Before the Appeals Chamber”, issued on 6 October 2016, whereby I ordered that the Bench in *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-AR73.6, shall be composed of myself as Presiding Judge, Judge Liu Daqun, Judge Fausto Pocar, Judge Theodor Meron, and Judge Burton Hall (“Appeals Bench”);¹

BEING SEISED OF the: (i) “Appellant’s Motion Pursuant to Rule 15(B) Seeking Disqualification of Judge Carmel Agius from the Appeals Chamber”; (ii) “Appellant’s Motion Pursuant to Rule 15(B) Seeking Disqualification of Judge Fausto Pocar from the Appeals Chamber”; and (iii) “Appellant’s Motion Pursuant to Rule 15(B) Seeking Disqualification of Judge Theodor Meron from the Appeals Chamber”, filed by Mladić on 10 October 2016 (together “Disqualification Motions”), whereby Mladić requests *inter alia* the voluntary withdrawal or, in the alternative, the disqualification from the Appeals Bench of myself, Judge Fausto Pocar and Judge Theodor Meron, respectively, pursuant to Rule 15(B) of the Tribunal’s Rules of Procedure and Evidence (“Rules”);²

NOTING that Mladić further requests that my responsibilities in respect of the Disqualification Motions shall be assumed by the Vice-President of the Tribunal (“Vice-President”) or, if he is unable to act, the most senior permanent Judge, in accordance with Rule 15(B)(iv) of the Rules;³

NOTING that, pursuant to Rule 15(B)(iv) of the Rules, if the Judge subject to a request for disqualification and withdrawal is the President of the Tribunal (“President”), the responsibility of the President in accordance with Rule 15(B) of the Rules shall be assumed by the Vice-President or, if he is unable to act, the most senior permanent Judge;

¹ Order Assigning Judges to a Case Before the Appeals Chamber, 6 October 2016, p. 1.

² Appellant’s Motion Pursuant to Rule 15(B) Seeking Disqualification of Judge Carmel Agius from the Appeals Chamber, 10 October 2016 (“Motion Seeking Disqualification of Judge Agius”), p. 10; Appellant’s Motion Pursuant to Rule 15(B) Seeking Disqualification of Judge Fausto Pocar from the Appeals Chamber, 10 October 2016 (“Motion Seeking Disqualification of Judge Pocar”), p. 11; Appellant’s Motion Pursuant to Rule 15(B) Seeking Disqualification of Judge Theodor Meron from the Appeals Chamber, 10 October 2016 (“Motion Seeking Disqualification of Judge Meron”), p. 9. On 12 October 2016, the Office of the Prosecutor filed a “Consolidated Prosecution Response to Mladić’s Motions Pursuant to Rule 15(B) Seeking Disqualification of Judges Carmel Agius, Theodor Meron and Fausto Pocar”.

³ Motion Seeking Disqualification of Judge Agius, para. 2; Motion Seeking Disqualification of Judge Pocar, para. 2; Motion Seeking Disqualification of Judge Meron, para. 2.

CONSIDERING therefore that the Vice-President, Judge Liu Daqun, shall assume the responsibility of the President in respect of the Motion Seeking Disqualification of Judge Agius;

NOTING that Rule 15(A) of the Rules provides that a Judge shall withdraw from any case in which he has a personal interest or concerning which he has or has had any association which might affect his or her impartiality, and that following such withdrawal the President shall assign another Judge to the case;

NOTING further that Rule 21 of the Rules provides that, if the President is unable to exercise his functions, these shall be assumed by the Vice-President;

CONSIDERING that, as the Motion for Disqualification of Judge Agius is pending against me, my adjudication of or any other involvement in the Motion Seeking Disqualification of Judge Pocar and the Motion Seeking Disqualification of Judge Meron could give rise to a perception of a conflict of interest;

CONSIDERING therefore that, pursuant to Rule 15(A) of the Rules, I shall withdraw from considering the Motion Seeking Disqualification of Judge Pocar and the Motion Seeking Disqualification of Judge Meron, both as President pursuant to Rule 15(B)(ii) of the Rules and as Presiding Judge pursuant to Rule 15(B)(i) of the Rules;

PURSUANT to Rules 15 and 21 of the Rules;

HEREBY ASSIGN, with immediate effect, Vice-President Liu Daqun to consider the Disqualification Motions in place of myself, both with respect to my function as President pursuant to Rule 15(B)(ii) of the Rules, and as Presiding Judge pursuant to Rule 15(B)(i) of the Rules.

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

Dated this thirteenth day of October 2016,
At The Hague,
The Netherlands.



Judge Carmel Agius
President

[Seal of the Tribunal]