



Mechanism for International Criminal Tribunals

Case No. MICT-13-52-R.1

Date: 24 February 2014

Original: English

**THE PRESIDENT OF THE MECHANISM**

**Before: Judge Theodor Meron, President**

**Registrar: Mr. John Hocking**

**Order of: 24 February 2014**

**PROSECUTOR**

**v.**

**MILAN LUKIĆ**

***PUBLIC***

**ORDER ASSIGNING JUDGES TO A CASE BEFORE THE  
APPEALS CHAMBER**

**The Office of the Prosecutor:**

Hassan Bubacar Jallow

**Counsel for Milan Lukić:**

Rodney Dixon

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

**NOTING** the “Judgement” in *Prosecutor v. Milan Lukić and Sredoje Lukić*, Case No. IT-98-32/1-T, issued by Trial Chamber III of the International Criminal Tribunal for the former Yugoslavia (“ICTY”) on 20 July 2009 (“Trial Judgement”);

**NOTING** the “Judgement” in *Prosecutor v. Milan Lukić and Sredoje Lukić*, Case No. IT-98-32/1-A, issued by the Appeals Chamber of the ICTY on 4 December 2012 (“Appeal Judgement”), as corrected by the “Corrigendum to Judgement of 4 December 2012” issued on 4 March 2013;

**NOTING** the “Application on Behalf of Milan Lukić for Review of the Trial Judgement of 20 July 2009” filed publicly with confidential annexes by Milan Lukić (“Lukić”) on 6 February 2014 (“Application”), by which Lukić requests review of the Trial Judgement;<sup>1</sup>

**NOTING** that Lukić addresses his request for review of the Trial Judgement to the Appeals Chamber of the Mechanism (“Appeals Chamber”);<sup>2</sup>

**RECALLING** Article 12(4) of the Statute of the Mechanism (“Statute”), which provides, *inter alia*, that where there is an application for review of judgement rendered by a single Judge or by a trial chamber, the President shall appoint three Judges to compose a trial chamber on review;

**RECALLING**, however, that the Appeals Chambers of the International Criminal Tribunal for the former Yugoslavia (“ICTY”) and the International Criminal Tribunal for Rwanda (“ICTR”) have held that the proper forum for the filing of a request for review is the judicial body which rendered the final judgement and that this body “may be either the Trial Chamber (when the parties have not lodged an appeal) or the Appeals Chamber, when the judgement has been appealed”;<sup>3</sup>

**FURTHER RECALLING** that, in light of the normative continuity between the Mechanism and its predecessor tribunals (the ICTY and the ICTR), the Statute as well as the Mechanism’s Rules of Procedure and Evidence (“Rules”) should be interpreted in such a manner as to be consistent with the jurisprudence and practice of both the ICTY and the ICTR as a matter of “due process and fundamental fairness”;<sup>4</sup>

<sup>1</sup> See Application, paras. 1, 5, 21, 68.

<sup>2</sup> Application, p. 1, paras. 5, 16, 21, 68.

<sup>3</sup> *Prosecutor v. Duško Tadić*, Case No. IT-94-1-R, Decision on Motion for Review, filed in French on 30 July 2002, English translation filed on 8 August 2002, para. 22. See also *The Prosecutor v. Aloys Simba*, Case No. ICTR-01-76-A, Decision on Aloys Simba’s Requests for Suspension of Appeal Proceedings and Review, 9 January 2007, para. 7.

<sup>4</sup> See *Phénéas Munyarugarama v. Prosecutor*, Case No. MICT-12-09-AR14, Decision on Appeal against the Referral of Phénéas Munyarugarama’s Case to Rwanda and Prosecution Motion to Strike, 5 October 2012, paras. 5-6.

**RECALLING**, moreover, that Rule 146 of the Rules envisages that only a final judgement shall be subject to review, and that where a request for review is filed, the President of the Mechanism shall compose a bench with the same number of Judges as the original bench to decide the motion and, to the extent possible, appoint the Judges who constitute the original Chamber;<sup>5</sup>

**RECALLING** that a final judgement is one that terminates the proceedings;<sup>6</sup>

**CONSIDERING** that the Appeal Judgement constitutes the final judgement in the case against Lukić,<sup>7</sup> and that it is therefore appropriate to assign the Application to the Appeals Chamber;

**PURSUANT TO** Rules 23(A) and 146(B) of the Rules,

**HEREBY ORDER** that the Bench in *Prosecutor v. Milan Lukić*, Case No. MICT-13-52-R.1, shall be composed as follows:

Judge Theodor Meron, Presiding

Judge Jean-Claude Antonetti


Judge William Hussein Sekule

Judge Carmel Agius

Judge Liu Daqun

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

Done this 24th day of February 2014,  
At The Hague,  
The Netherlands.

  
 Judge Theodor Meron  
 President

**[Seal of the Mechanism]**

<sup>5</sup> See Rule 146(A)-(B) of the Rules.

<sup>6</sup> See, e.g., *Jean Bosco Barayagwiza v. The Prosecutor*, Case No. ICTR-97-19-AR72, Decision (Prosecutor's Request for Review or Reconsideration), filed in French on 31 March 2000, English translation filed on 7 April 2000, para. 49.

<sup>7</sup> See also *Prosecutor v. Milan Lukić and Sredoje Lukić*, Case No. IT-98-32/1-A, Decision on Sredoje Lukić's Motion Seeking Reconsideration of the Appeal Judgement and on the Application for Leave to Submit an *Amicus Curiae* Brief, 30 August 2013, p. 3.