



Mechanism for International
Criminal Tribunals

Case no.: MICT-13-52-R.1

Date: 20 July 2015

Original: FRENCH

IN THE BENCH

Before: Judge Theodor Meron, Presiding
Judge Jean-Claude Antonetti
Judge William Hussein Sekule
Judge Carmel Agius
Judge Liu Daqun

Registrar: Mr John Hocking

Order of: 20 July 2015

In the proceedings of

THE PROSECUTOR

v.

MILAN LUKIĆ

PUBLIC DOCUMENT

**FIRST PART OF THE DISSENTING OPINION OF JUDGE JEAN-CLAUDE
ANTONETTI TO THE DECISION OF 7 JULY 2015**

Office of the Prosecutor:

Mr Hassan Bubacar Jallow, Prosecutor

Counsel for the Accused:

Mr Rodney Dixon

The majority of the review Chamber has decided to dismiss the request filed by the convicted person **Milan Lukić**. As I am dissenting, I will endeavour to file my opinion as soon as possible.

Milan Lukić submitted his request for review on **6 February 2014** and a decision was rendered on **7 July 2015**. Juxtaposing these two dates could make it seem that the judges had ample time within which to deal with this case. Unfortunately, because of the cases pending before the ICTY and the *Mechanism for International Criminal Tribunals* the judges were only able to take up their positions once a draft text was submitted to them for consideration. The said draft text was submitted on **21 May 2015**.

I was unable to attach my opinion to the decision due to the fact that the majority wished to render this decision as quickly as possible.

As I profoundly disagree with the procedure followed, I must explain the reasons for my dissent on both this procedure and on the merits.

In regard to the procedure followed, I deem it is necessary to hear both the applicant and the witnesses named in support of his request.

The applicant disputes his presence at the scenes of the crimes. As a **judge with integrity**, I must review all of the written proceedings before the Trial Chamber and the Appeals Chamber, which is a considerable task in view of all of the transcripts and other documents... This work must be done since it is an integral part of the oath I took as a judge, and it is the reason why I will be issuing the second part of my opinion as soon as possible.

I am attaching the following outline to this first part:

- 1. The compatibility of Rule 146 of the Rules of Procedure and Evidence with the Statute**
- 2. The presence of a judge who has already ruled**
- 3. “The new fact”**
- 4. The scope of authority of the review panel: judgement, appeals judgement or both?**
- 5. The guilty verdict issued against Milan Lukić**

