

MICT-14-81-ES.1
D53 - D51
14 OCTOBER 2014

53
Rj

UNITED
NATIONS

International Residual Mechanism
for Criminal Tribunals

Case No: MICT-14-81-ES.1

Date 10 October 2014

THE PRESIDENT OF THE MECHANISM

Before: Judge Theodor Meron, President of the Mechanism

Registrar: Mr. John Hocking

THE PROSECUTOR

v.

ZORAN ZIGIC

P u b l i c

MOTION OF THE CONVICTED ZORAN ZIGIC FOR DISMISSING OF
PROSECUTION'S RESPONSE TO ZORAN ŽIGIĆ'S REQUEST FOR NON-
COMPLIANCE WITH REPUBLIC AUSTRIA EXTRADITION DECISION

Office of the Prosecutor:
Mr Hassan Bubacar Jallow

Counsel for Zoran Zigic
Mr. Stojanovic Slobodan,

P u b l i c

MOTION OF THE CONVICTED ZORAN ŽIGIĆ FOR DISMISSING OF PROSECUTION'S RESPONSE TO ZORAN ŽIGIĆ'S REQUEST OF THE FOR NON COMPLIANCE WITH REPUBLIC AUSTRIA EXTRADITION DECISION

1. Prosecution filed Response to Zoran Zigic's Request¹ for non-compliance with Republic Austria's Extradition decision. (Response) on 3 October 2014.
2. Prosecution is no party in any proceeding that concerns Zoran Zigic's Request, filed *ex parte*. Prosecution never participated in proceedings against Zigic in Bosnia in Herzegovina, nor in the extradition proceeding between Austria and Bosnia in Herzegovina. Finally, it has no competence in regards to supervision of enforcement of sentences.
3. Therefore Prosecution has no standing to participate in this proceedings and its Response should be dismissed.
4. The reason more for such decision could be seen in the groundless allegations of the Response.
5. So, for instance, in paragraph 3 of the Response, the argument is that the extradition decision shall take effect only after a convicted person has been released from serving his ICTY sentence.
However, such argument nothing changes in regards to power of MICT to supervise enforcement. Under such circumstances only physical enforcement of the decision and proceedings that completely fall within MICT supervision has been postponed. Even more, that should be circumventing of obligatory norms.
6. For the difference to the allegation in paragraph 4 of the Response, ICTY never treated offences contained in extradition decision. Just simply, ICTY never had indictment, judgements or any other act from proceedings in Bosnia and Herzegovina. Furthermore, the term "petty criminal"² confirms such position of ICTY.
7. Finally, for the difference to the allegation in paragraph 5 of the Response, Extradition decision does breach the Enforcement Agreement with Austria. It is not only in question provision of Article 5.1, but Articles 3.2 and 3.3 of the said Agreement. Extradition procedure and decision during the period of enforcement clearly fall under the supervision of MICT. Even more clearly, the term "proceeding" against the convicted person for conduct committed prior to his transfer to Austria, pertains to extradition proceedings.

¹ Zoran Žigic's Request for non-compliance with Republic of Austria's extradition decision filed on 23 September 2014, Case No: MICT-14-81-ES.1

² Paragraph 746 of the Trial Chamber Judgement, 2 November 2001, Case No. IT-98-30&1-T.

8. For the foregoing reasons Prosecution's Response should be dismissed.

Counsel for Zoran Žigić
Stojanović Slobodan

Word count: 431.

