

**UNITED
NATIONS**



Mechanism for International Criminal Tribunals

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

Date: 22 October 2014

Original: English

BEFORE THE PRESIDENT

Before: Judge Theodor Meron

Registrar: Mr. John Hocking

THE PROSECUTOR

v.

ZORAN ŽIGIĆ

PUBLIC

**PROSECUTION'S RESPONSE TO ZORAN ŽIGIĆ'S MOTION
TO DISMISS PROSECUTION'S RESPONSE TO EARLIER
REQUEST**

The Office of the Prosecutor:


Mr. Hassan B. Jallow, Prosecutor
Mr. Mathias Marcussen, Senior Legal Officer

Counsel for Zoran Žigić:

Mr. Slobodan Stojanović

1. Zoran Žigić's Motion¹ for the President to dismiss the Prosecution's Response² to Žigić's Request³ should be dismissed.
2. Even if the Request was "filed *ex parte*",⁴ a party's filing classification does not determine standing.
3. The Prosecution has standing to make submissions regarding compliance with the principle of *non-bis-in-idem*.⁵ The Prosecution may trigger the procedure under Rule 16 of the Rules of Procedure and Evidence and can respond to submissions made by the Defence. In addition, the Prosecution has standing because Žigić in reality challenges the Trial Chamber's finding that his BiH sentence concerns different crimes than those covered by his ICTY judgement.⁶
4. The Prosecution also has standing to make submissions regarding the Mechanism's competence. The Prosecution therefore has standing to respond to Žigić's arguments aimed at extending the competence of the Mechanism to include review of extradition decisions by national authorities.⁷ In addition, it was the ICTY Prosecution's indictment that caused Žigić to be transferred to the ICTY from BiH where he was detained in connection with other crimes than those charged in the ICTY indictment. The Prosecution must be allowed to respond to Žigić's attempt to block his extradition to serve his BiH sentence.

Word Count: 373


 Mathias Marcussen
 Senior Legal Officer

Dated this 22nd day of October, 2014
 At The Hague, The Netherlands.

¹ *Prosecutor v. Zoran Žigić*, Case No. MICT-14-81-ES.1, Motion of the Convicted Zoran Žigić for Dismissing of Prosecution's Response to Zoran Žigić's Request for Non-compliance with Republic Austria Extradition Decision, dated 10 October 2014 and filed on 14 October 2014 ("Motion").

² *Prosecutor v. Zoran Žigić*, Case No. MICT-14-81-ES.1, Prosecution's Response to Zoran Žigić's Request for Non-Compliance with the Republic of Austria's Extradition Decision, 3 October 2014 ("Response").

³ *Prosecutor v. Zoran Žigić*, Case No. MICT-14-81-ES.1, Request of the Convicted Zoran Žigić for Non-compliance with Republic of Austria's Extradition Decision ("Request"), dated 10 September 2014 and filed on 23 September 2014.

⁴ Motion, para.2. *Contrast* Response, fn.1, indicating that the Request "appears to have been filed confidentially and *ex parte* the Prosecution on 23 September 2014 and made public on 24 September 2014, when the Prosecution received it." The Prosecution was copied on the Request's cover page.

⁵ *Contra* Motion, paras.2-3.

⁶ See Request, para.13. See also Response, para.4, citing to Request, para.13 and to the Trial and Appeal Judgements in *Prosecutor v. Kvočka et al.*, Case No.IT-98-30/1.

⁷ See Response, paras.2-5.