



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-03-67-R77.3

Date: 28 May 2010

Original: English

THE PRESIDENT OF THE INTERNATIONAL TRIBUNAL

Before: Judge Patrick Robinson, President

Registrar: Mr. John Hocking

Order of: 28 May 2010

PROSECUTOR

v.

VOJISLAV ŠEŠELJ

PUBLIC

ORDER REASSIGNING MOTION

Amicus Curiae Prosecutor

Mr. Bruce McFarlane, Q.C.

The Accused

Mr. Vojislav Šešelj

I, PATRICK ROBINSON, 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 (“International Tribunal”);

NOTING the “Motion By Professor Vojislav Šešelj for the Disqualification of Judges O-Gon Kwon and Kevin Parker”, filed confidentially on 27 April 2010 (“Motion for Disqualification”);¹

NOTING that in the Motion for Disqualification Vojislav Šešelj requests that the President of the International Tribunal: (1) “issue a decision on the merits of this application and hear the opinion of the judges whose disqualification is being sought pursuant to Rule 15(B)(i)” of the Rules of Procedure and Evidence (“Rules”), (2) appoint, pursuant to Rule 15(B)(ii) of the Rules, a panel of three Judges to consider the Motion for Disqualification, and (3) pursuant to Rules 15 and 19 of the Rules “assign another two judges to the Trial Chamber that will sit in Case IT-03-67.R77.3”;²

NOTING that pursuant to Rule 15(B)(i) of the Rules where a party has applied to the Presiding Judge of a Chamber for the disqualification and withdrawal of a Judge of that Chamber, “[t]he Presiding Judge shall confer with the Judge in question and report to the President”;

NOTING that Judge O-Gon Kwon, Vice-President of the International Tribunal, is also the Presiding Judge in the present matter;

NOTING the memorandum issued by Judge Burton Hall dated 6 May 2010 (“Memorandum”) in which he states that “[i]n the instant case the Accused is seeking the disqualification of the Presiding Judge himself” and that consequently “the Presiding Judge is not in a position to report to the President pursuant to Rule 15(B)(i)”;³

NOTING that the Memorandum further states that “[a]s the one Judge on the Panel whose disqualification the Accused is not seeking” Judge Burton Hall refers the Motion for Disqualification to the President of the International Tribunal “for further proceedings pursuant to Rule 15”;⁴

NOTING that at the time the Motion for Disqualification was filed I was absent from the International Tribunal;

¹ The public redacted version of the “Motion By Professor Vojislav Šešelj for the Disqualification of Judges O-Gon Kwon and Kevin Parker” was filed on 29 April 2010.

² Motion for Disqualification, para. 10.

³ Memorandum, p. 1.

⁴ *Id.*

NOTING that pursuant to Rule 21 of the Rules the Vice-President shall exercise the functions of the President in case of the latter's absence or inability to act;

NOTING that on 7 May 2010 Judge O-Gon Kwon issued an order assigning the Motion for Disqualification to Judge Mehmet Güney pursuant to Rule 15(A) and Rule 22 of the Rules;⁵


NOTING that in the Order Assigning Motion Judge O-Gon Kwon reasoned that his status as one of the two Judges impugned in the Motion for Disqualification gave rise to a conflict of interest warranting his withdrawal from considering the Motion for Disqualification pursuant to Rule 15(A) of the Rules;⁶

CONSIDERING that the Motion for Disqualification remains to be resolved;

HEREBY REASSIGN myself, with immediate effect, to consider the Motion for Disqualification in place of Judge Mehmet Güney.

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

Done this 28th day of May 2010,
At The Hague,
The Netherlands.



Judge Patrick Robinson
President

[Seal of the International Tribunal]

⁵ *Prosecutor Vojislav Šešelj*, Case No. IT-03-67-R77.3, Order Assigning Motion, 7 May 2010 ("Order Assigning Motion").

⁶ *Id.*, p. 3.