

**UNITED
NATIONS**



Mechanism for International Criminal Tribunals

MICT/2

5 July 2012

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**PRACTICE DIRECTION
ON THE PROCEDURE FOR DESIGNATION OF THE STATE
IN WHICH A CONVICTED PERSON IS TO SERVE
HIS OR HER SENTENCE OF IMPRISONMENT**

(MICT/2)

INTRODUCTION

1. In accordance with Rule 23(B) of the Rules of Procedure and Evidence; pursuant to Article 25 of the Statute and Rule 127(A) of the Rules of Procedure and Evidence; considering the ICTR Practice Direction on the Procedure for Designation of the State in which a Convicted Person Is To Serve His/Her Sentence of Imprisonment, and the ICTY Practice Direction on the Procedure for the International Tribunal's Designation of the State in which a Convicted Person Is To Serve His/Her Sentence of Imprisonment; and having consulted with the Registrar and the Prosecutor, I hereby issue this Practice Direction in order to establish an internal procedure for the Mechanism's designation of the State in which a convicted person is to serve his or her sentence of imprisonment.

THE REGISTRAR'S COMMUNICATIONS TO STATES

2. The Registrar of the Mechanism shall engage in a communication process with any of the States that have declared their willingness to accept convicted persons and with which the United Nations has agreements for this purpose or with States which have indicated their willingness to accept convicted persons under any other arrangement. This engagement may commence upon the issuance of the trial judgement and conviction of an accused at first instance. At the preliminary stage of the communication process, the Registrar shall request the Government(s) concerned to give, before a certain date, an indication of their readiness, as a practical matter, to receive a person convicted by the respective Tribunal or by the Mechanism, and where appropriate to state the availability of any necessary medical assistance.

3. Upon receiving positive response(s) from any of the concerned Government(s) to the preliminary inquiry, the Registrar shall give to any of these Government(s) relevant information concerning the particular person convicted who the Mechanism is considering transferring to the State(s) concerned for purposes of serving the sentence of imprisonment as imposed. At this stage of the communication, the Registrar shall provide to the Government(s) concerned the following documents:

(a) A certified copy of the judgement;

(b) A statement indicating the length of the sentence that has already been served, including information on pre-trial detention; and

- (c) Any other documents of relevance including certified copies of identification papers of the convicted person in the Mechanism's possession and, when appropriate and taking into account confidentiality requirements, any medical or psychological reports on the convicted person and any recommendation for his or her further treatment in the receiving State.

THE REGISTRAR'S REPORT TO THE PRESIDENT

4. On the basis of the indication(s) of the willingness and readiness by the concerned Government(s) to accept the convicted person as described in paragraph 2, the Registrar shall prepare and transmit a confidential memorandum to the President of the Mechanism. This memorandum shall enumerate the State(s) in which the sentence of the convicted person may be carried out and shall contain information concerning:

- (a) The convicted person's marital status, his or her dependants and other family relations, their usual place(s) of residence and, when appropriate and practicable, the financial resources that may be available to visit the convicted person;
- (b) Whether the convicted person is expected to serve as a witness in further proceedings of the respective Tribunal and/or the Mechanism;
- (c) Whether the convicted person is expected to be relocated as a witness and, in such case, which State(s) has or have entered into relocation agreement(s) with the respective Tribunal and/or the Mechanism;
- (d) When appropriate, any medical or psychological reports on the convicted person;
- (e) The linguistic skills of the convicted person;
- (f) The general conditions of imprisonment and the rules governing security and liberty in the State(s) concerned;
- (g) The national law of the State(s) concerned in relation to early release, pardon and commutation of sentence;

- (h) Whether the State(s) concerned has or have undertaken to facilitate the stay in that State of the convicted person if he or she has completed his or her sentence and who, for security reasons, cannot immediately return to the country where he or she enjoys the status of legal resident, while waiting to find a solution to the repatriation of the person;
- (i) Any relevant views expressed by the convicted person to the Registrar prior to the transmission of the report; and
- (j) Any other information that the Registrar considers may be of assistance to the President in relation to the case.

THE PRESIDENT'S DESIGNATION

5. The President of the Mechanism shall, on the basis on the submitted information and on any other inquiries he or she chooses to make, designate the State in which imprisonment shall be served. In his or her designation, the President shall take into account the desirability of serving sentences in States that are within close proximity or accessibility of the relatives of the convicted person. Before making the designation, the President may consult with the Sentencing Chamber and/or its Presiding Judge. The President may also request the views of the Prosecutor and may further consult with the Registrar.

6. The President shall transmit the decision to the Registrar. The President may decide that the designation of the State shall not be made public.

REQUEST TO THE DESIGNATED STATE

7. The Registrar shall, in accordance with the relevant provisions of the agreement on the enforcement of sentences between the United Nations and the State that has been designated by the President, request the Government of the State concerned to enforce the sentence of the convicted person. A formal request shall be made by the Registrar with the approval of the President.

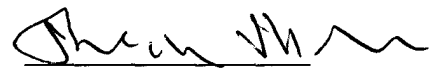
THE REGISTRAR'S NOTIFICATIONS

8. If the requested Government accepts the Mechanism's request to receive the convicted person, the Registrar shall notify the President and, whenever appropriate and practicable, the Sentencing Chamber or its Presiding Judge. The Registrar shall further inform the convicted person of the State designated for the enforcement of the sentence, the contents of the agreement on the enforcement of sentences between the Mechanism and the State concerned, and any other issues of relevance.

REFERRAL BACK TO THE PRESIDENT

9. If the requested Government declines the Mechanism's request to enforce the sentence of the convicted person, the Registrar shall refer the issue back to the President, who will designate another State in accordance with paragraph 5 of this Practice Direction.

Done this 5th day of July 2012,
At The Hague,
The Netherlands.



Judge Theodor Meron
President

[Seal of the Mechanism]