

**UNITED
NATIONS**



International Residual Mechanism
for Criminal Tribunals

Case No.: MICT-17-112-ES.5

Date: 14 July 2020

Original: English

THE PRESIDENT OF THE MECHANISM

Before: Judge Carmel Agius, President

Registrar: Mr. Abubacarr Tambaou

Order of: 14 July 2020

PROSECUTOR

v.

MILIVOJ PETKOVIĆ

CONFIDENTIAL

**ORDER DESIGNATING THE STATE IN WHICH
MILIVOJ PETKOVIĆ IS TO SERVE HIS SENTENCE**

The Office of the Prosecutor:

Mr. Serge Brammertz

Counsel for Mr. Milivoj Petković:

Ms. Vesna Alaburić

I, CARMEL AGIUS, President of the International Residual Mechanism for Criminal Tribunals (“President” and “Mechanism”, respectively);

NOTING that, on 29 November 2017, the Appeals Chamber of the International Criminal Tribunal for the former Yugoslavia (“ICTY”), *inter alia*, affirmed the sentence of 20 years of imprisonment imposed on Mr. Milivoj Petković (“Petković”), subject to credit being given for the period already spent in detention;¹

CONSIDERING that the Kingdom of Belgium (“Belgium”), through a letter sent by the Head of the Belgian Central Authority for the Cooperation with the International Criminal Court and the other International Criminal Tribunals, has informed the Mechanism of its willingness to enforce the remainder of the sentence imposed upon Petković by the ICTY;²

CONSIDERING the memorandum conveyed to me by the Registrar of the Mechanism (“Registrar”) on 13 July 2020 pursuant to the Practice Direction on the Procedure for Designation of the State in Which a Convicted Person is to Serve His or Her Sentence of Imprisonment (“Practice Direction”),³ whereby the Registrar: (i) refers to the communications received from Belgium; (ii) attaches the views expressed by Petković through his counsel in relation to the possible designation of Belgium as the State in which he may serve his sentence; (iii) provides other information set out in the Practice Direction; and (iv) recommends Belgium as the State in which Petković is to serve his sentence;⁴

CONSIDERING the Agreement between the United Nations and the Government of the Kingdom of Belgium on Enforcement of Sentences Handed Down by the International Criminal Tribunal for the former Yugoslavia, concluded on 2 May 2007, which continues in force, *mutatis mutandis*, in relation to the Mechanism;⁵

¹ *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-A, Judgement, 29 November 2017, pp. 1404-1406.

² See Letter from the Head of the Belgian Central Authority for the Cooperation with the International Criminal Court and the other International Criminal Tribunals, to the then-Registrar of the Mechanism, dated 26 February 2020. See also Email communication from the Head of the Belgian Central Authority for the Cooperation with the International Criminal Court and the other International Criminal Tribunals, to the Registry of the Mechanism, dated 20 May 2020.

³ MICT/2/Rev. 1, 24 April 2014.

⁴ Internal Memorandum from the Registrar to the President, dated 13 July 2020.

⁵ See Security Council Resolution 1966 (2010), 22 December 2010, para. 4 (“[T]he Mechanism shall continue the jurisdiction, rights and obligations and essential functions of the ICTY and the ICTR, respectively, subject to the provisions of this resolution and the Statute of the Mechanism, and all contracts and international agreements concluded by the United Nations in relation to the ICTY and the ICTR, and still in force as of the relevant commencement date, shall continue in force *mutatis mutandis* in relation to the Mechanism[.]”). According to Article 25(2) of the Statute of the Mechanism, “[t]he Mechanism shall have the power to supervise the enforcement of sentences pronounced by the ICTY, the ICTR or the Mechanism, including the implementation of sentence enforcement agreements entered into by the United Nations with Member States”.

HAVING CONSIDERED all the factors enumerated in the Practice Direction, including the views expressed by Petković, as well as the recommendation of the Registrar;

PURSUANT TO Article 25 of the Statute of the Mechanism, Rule 127 of the Rules of Procedure and Evidence of the Mechanism (“Rules”), and paragraphs 5 through 7 of the Practice Direction;

HEREBY DECIDE that Petković shall serve his sentence in Belgium;

INSTRUCT the Registrar to officially request the Government of Belgium to enforce the sentence of Petković and, should the Government of Belgium accede to this request, inform Petković thereof and take all necessary measures to facilitate Petković’s transfer as expeditiously as possible to Belgium;

ORDER, pursuant to Rule 127(C) of the Rules, that Petković shall remain in the custody of the Mechanism while awaiting his transfer to Belgium; and

INSTRUCT the Registrar to lift the confidential status of the present order and recirculate it as a public filing once Petković’s transfer to Belgium has been completed.

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

Done this 14th day of July 2020,
At The Hague,
The Netherlands.



Judge Carmel Agius
President



I - FILING INFORMATION / INFORMATIONS GÉNÉRALES

To/ À :	IRMCT Registry/ <i>Greffe du MIFRTP</i>	<input type="checkbox"/> Arusha/ <i>Arusha</i>	<input checked="" type="checkbox"/> The Hague/ <i>La Haye</i>
From/ De :	<input checked="" type="checkbox"/> President / <i>Président</i>	<input type="checkbox"/> Chambers / <i>Chambre</i>	<input type="checkbox"/> Prosecution/ <i>Bureau du Procureur</i>
	<input type="checkbox"/> Registrar / <i>Greffier</i>	<input type="checkbox"/> Other/ <i>Autre</i>	<input type="checkbox"/> Defence / <i>Défense</i>
Case Name/ Affaire :	Prosecutor v. Milivoj Petković	Case Number/ Affaire n° :	MICT-17-112-ES.5
Date Created/ Daté du :	14 July 2020	Date transmitted/ Transmis le :	14 July 2020
			No. of Pages/ Nombre de pages : 3
Original Language / Langue de l'original :	<input checked="" type="checkbox"/> English/ <i>Anglais</i>	<input type="checkbox"/> French/ <i>Français</i>	<input type="checkbox"/> Other/Autre (specify/préciser) :
		<input type="checkbox"/> Kinyarwanda <input type="checkbox"/> B/C/S	
Title of Document/ Titre du document :	Order designating the State in which Milivoj Petković is to serve his sentence		
Classification Level/ Catégories de classification :	<input type="checkbox"/> Unclassified/ <i>Non classifié</i>	<input type="checkbox"/> Ex Parte Defence excluded/ <i>Défense exclue</i>	
	<input checked="" type="checkbox"/> Confidential/ <i>Confidentiel</i>	<input type="checkbox"/> Ex Parte Prosecution excluded/ <i>Bureau du Procureur exclu</i>	
	<input type="checkbox"/> Strictly Confidential/ <i>Strictement confidentiel</i>	<input type="checkbox"/> Ex Parte R86(H) applicant excluded/ <i>Art. 86 H) requérant exclu</i>	
		<input type="checkbox"/> Ex Parte Amicus Curiae excluded/ <i>Amicus curiae exclu</i>	
		<input type="checkbox"/> Ex Parte other exclusion/ <i>autre(s) partie(s) exclue(s)</i> (specify/préciser) :	
Document type/ Type de document :			
<input type="checkbox"/> Motion/ <i>Requête</i>	<input type="checkbox"/> Judgement/ <i>Jugement/Arrêt</i>	<input type="checkbox"/> Book of Authorities/ <i>Recueil de sources</i>	<input type="checkbox"/> Warrant/ <i>Mandat</i>
<input type="checkbox"/> Decision/ <i>Décision</i>	<input type="checkbox"/> Submission from parties/ <i>Écritures déposées par des parties</i>	<input type="checkbox"/> Affidavit/ <i>Déclaration sous serment</i>	<input type="checkbox"/> Notice of Appeal/ <i>Acte d'appel</i>
<input checked="" type="checkbox"/> Order/ <i>Ordonnance</i>	<input type="checkbox"/> Submission from non-parties/ <i>Écritures déposées par des tiers</i>	<input type="checkbox"/> Indictment/ <i>Acte d'accusation</i>	

II - TRANSLATION STATUS ON THE FILING DATE/ ÉTAT DE LA TRADUCTION AU JOUR DU DÉPÔT

<input type="checkbox"/> Translation not required/ <i>La traduction n'est pas requise</i>
<input checked="" type="checkbox"/> Filing Party hereby submits only the original, and requests the Registry to translate/ <i>La partie déposante ne soumet que l'original et sollicite que le Greffe prenne en charge la traduction :</i> (Word version of the document is attached/ <i>La version Word est jointe</i>)
<input type="checkbox"/> English/ <i>Anglais</i> <input checked="" type="checkbox"/> French/ <i>Français</i> <input type="checkbox"/> Kinyarwanda <input checked="" type="checkbox"/> B/C/S <input type="checkbox"/> Other/Autre (specify/préciser) :
<input type="checkbox"/> Filing Party hereby submits both the original and the translated version for filing, as follows/ <i>La partie déposante soumet l'original et la version traduite aux fins de dépôt, comme suit :</i>
Original/ Original en <input type="checkbox"/> English/ <i>Anglais</i> <input type="checkbox"/> French/ <i>Français</i> <input type="checkbox"/> Kinyarwanda <input type="checkbox"/> Other/Autre (specify/préciser) :
Translation/ Traduction en <input type="checkbox"/> English/ <i>Anglais</i> <input type="checkbox"/> French/ <i>Français</i> <input type="checkbox"/> Kinyarwanda <input type="checkbox"/> Other/Autre (specify/préciser) :
<input type="checkbox"/> Filing Party will be submitting the translated version(s) in due course in the following language(s)/ <i>La partie déposante soumettra la (les) version(s) traduite(s) sous peu, dans la (les) langue(s) suivante(s) :</i>
<input type="checkbox"/> English/ <i>Anglais</i> <input type="checkbox"/> French/ <i>Français</i> <input type="checkbox"/> Kinyarwanda <input type="checkbox"/> B/C/S <input type="checkbox"/> Other/Autre (specify/préciser) :

Send completed transmission sheet to/ *Veillez soumettre cette fiche dûment remplie à :*

JudicialFilingsArusha@un.org OR/ *OU* JudicialFilingsHague@un.org

Rev: August 2019/ *Rév. : Août 2019*