

**UNITED
NATIONS**



**International Residual Mechanism
for Criminal Tribunals**

Case No.: **MICT-13-55-ES**

Date: **12 May 2021**

Original English

THE PRESIDENT

Before: **Judge Carmel Agius, President**

Registrar: **Abubacarr Tambadou**

THE PROSECUTOR

v.

RADOVAN KARADZIC

Public

**PUBLIC REDACTED VERSION OF DEFENCE SUBMISSIONS ON
DESIGNATION OF ENFORCEMENT STATE**

The Office of the Prosecutor:
Serge Brammertz

Embassy of the United Kingdom

Counsel for Radovan Karadzic:
Peter Robinson

1. Radovan Karadzic respectfully requests that the President decline to designate the United Kingdom as the State in which his sentence must be served.¹ Given the experiences of General Radislav Krstic and President Charles Taylor, President Karadzic's safety and well-being cannot be guaranteed in the United Kingdom.

Relevant Procedural History

2. On 24 March 2016, Radovan Karadzic was convicted of genocide, crimes against humanity, and war crimes at the ICTY and sentenced to 40 years in prison.²

3. On 21 April 2016, Counsel for President Karadzic wrote to the Registrar requesting that his safety be of paramount concern when seeking an enforcement State in which he would serve his sentence if his conviction was affirmed on appeal, and suggesting Finland or Denmark as an appropriate enforcement State.³

4. On 20 March 2019, the Mechanism's Appeals Chamber affirmed President Karadzic's convictions and increased his sentence to life imprisonment.⁴

5. On 21 March 2019, Counsel for President Karadzic wrote to the new Registrar again requesting that President Karadzic's safety be given consideration when seeking an enforcement State and suggesting that Finland be approached as a potential enforcement State.⁵

6. On 26 October 2020, Counsel for President Karadzic wrote to the new Registrar by e-mail, again reiterating President Karadzic's safety concerns and requesting that Finland be considered.

7. On 5 May 2021, the Registry informed President Karadzic that the United Kingdom had indicated its willingness to enforce his sentence and solicited President Karadzic's views on the designation of the United Kingdom as the State in which President Karadzic would serve his sentence.

8. On 5 May 2021, Counsel for President Karadzic requested information as to the place within the United Kingdom where President Karadzic would serve his sentence, as

¹ The two-day time frame set by the Registrar for President Karadzic's comments did not allow for the more complete submissions found here. [REDACTED].

² *Prosecutor v Karadzic*, No. IT-95-5/18-T, *Judgement* (24 March 2016)

³ This letter is attached as Annex A. It has been redacted to remove reference to the Mechanism staff members.

⁴ *Prosecutor v Karadzic*, No. MICT-13-55-A, *Judgement* (24 March 2016)

⁵ The letter is attached as Annex B.

well as the steps that the United Kingdom planned to take to secure his safety while at the same time allowing him humane treatment.⁶

9. On 6 May 2021, the Registry refused to provide the requested information.

10. On 6 May 2021, in a letter to the Registry, President Karadzic expressed his opposition to serving his sentence in the United Kingdom.⁷

Relevant Provisions

11. Article 25 of the Mechanism's Statute provides as follows:

1. Imprisonment shall be served in a State designated by the Mechanism from a list of States with which the United Nations has agreements for this purpose. Such imprisonment shall be in accordance with the applicable law of the State concerned, subject to the supervision of the Mechanism.

2. The 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, and other agreements with international and regional organizations and other appropriate organisations and bodies.

12. Rule 127 of the Mechanism's Rules of Procedure and Evidence provides that:

(A) Imprisonment shall be served in a State designated by the President of the Mechanism from a list of States 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.

(B) Transfer of the convicted person to that State shall be effected as soon as possible after the time-limit for appeal has elapsed.

(C) Pending the finalisation of arrangements for his transfer to the State where his sentence will be served, the convicted person shall remain in the custody of the Mechanism

13. The *Practice Direction on the Procedure for Designation of the State in which the Convicted Person is to Serve his or her Sentence of Imprisonment* (24 April 2014) provides, *inter alia*, that:

5. The President of the Mechanism, shall, on the basis of the submitted information and of 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.

⁶ The letter is attached as Annex C. It has been redacted to remove reference to the Mechanism staff member.

⁷ The letter is attached as Annex D. It has been redacted to remove reference to the Mechanism staff member.

Before making the designation, the President may consult with any Judges of the Sentencing Chamber who are Judges of the Mechanism. The President may also request the views of the Prosecutor and may further consult with the Registrar.

Argument

14. President Karadzic objects to serving his sentence in the United Kingdom. He contends he would be a prisoner of war because the United Kingdom was a belligerent in the Bosnian war on the side of the Bosnian Muslims, and that he would be in danger from Muslim extremists there.

15. This submission by his Counsel focuses on the danger President Karadzic would face if imprisoned in the United Kingdom and the harsh conditions of confinement that will result from seeking to mitigate that danger.

16. The experience of General Radislav Krstic is instructive. General Krstic was sent to the United Kingdom to serve his sentence. On 7 May 2010, while imprisoned at HMP Wakefield, his throat was cut by 3 murderous Muslim fellow-prisoners. He was fortunate to escape with his life. After this, there were other, but less serious incidents at HMP Long Lartin and HMP Woodhill, to which institutions he was successively transferred.⁸

17. General Krstic was finally transferred out of the United Kingdom and back to the United Nations Detention Unit in The Hague on 4 October 2011. He was then sent to Poland to serve the remainder of his sentence.⁹ General Krstic was found to have suffered from such a severe case of PTSD as a result of the attack that he could not testify at President Karadzic's trial.¹⁰

18. On 6 October 2015, a court in the United Kingdom awarded General Krstic 35,000 pounds in damages for the attack that he suffered while serving his sentence in the United Kingdom. The Court noted that:

It is self-evident that a genocidal atrocity directed at Muslims on the scale of what occurred in Srebrenica, even in times of other ethnic and religious violence and recurrent atrocities, would provoke a sense of great outrage at all levels of society, and especially within the Muslim community of this (and any other) country. And

⁸ *Krstic v Ministry of Justice*, No. 2YJ09540, *Judgment* (Central London County Court, 6 October 2015), para. 8

⁹ *Prosecutor v Krstic*, No. MICT-13-46-ES,1, *Order Designating the State in which Radislav Krstic is to Serve the Remainder of his Sentence* (19 July 2013)

¹⁰ *In the Contempt Case of Radislav Krstic*, No. IT-95-05/18-R77.3, *Judgement* (18 July 2013)

there are a significant number of Muslim prisoners serving sentences of imprisonment in this country, many for crimes of great seriousness and of exceptionally unpleasant kinds, as in the case of the Claimant's 3 attackers at HMP Wakefield.¹¹

19. The experience of General Krstic while serving his sentence in the United Kingdom is likely to be repeated in President Karadzic's case. President Karadzic is far more notorious than General Krstic and there are now an even greater number of Muslim prisoners in the United Kingdom. Sending President Karadzic to the United Kingdom under these circumstances is tantamount to a death sentence.

20. The experience of Liberian President Charles Taylor is also instructive. On 26 April 2012, President Taylor was convicted by the Special Court of Sierra Leone of war crimes and crimes against humanity and sentenced to imprisonment for 50 years.¹² On 26 September 2013, his conviction and sentence was affirmed on appeal.¹³ He was thereafter designated to serve his sentence in the United Kingdom on 4 October 2013.¹⁴

21. Upon his arrival in the United Kingdom, President Taylor was segregated from the prison population because the authorities believed he was too much of a target to be placed safely amongst the general prison population. The prison authorities subsequently intercepted a letter from within the prison threatening the life of President Taylor. He was confined in a hospital ward, having little or no contact with other prisoners.¹⁵

22. While the authorities of the United Kingdom are to be commended for keeping President Taylor safe, the only way to protect him was to place him in conditions tantamount to solitary confinement. It is submitted that President Karadzic is even more notorious than Charles Taylor, and because of the religious aspect of his case, is more of a target from a larger group of people. Assuring his safety will require extraordinary isolation of President Karadzic, making his conditions of confinement unreasonably onerous in the United Kingdom.

¹¹ *Krstic v Ministry of Justice*, No. 2YJ09540, *Judgment* (Central London County Court, 6 October 2015), para. 15

¹² *Prosecutor v. Taylor*, No. SCSL-03-01-T, *Judgement* (26 April 2012)

¹³ *Prosecutor v. Taylor*, No. SCSL-03-01-A, *Judgement* (26 September 2013)

¹⁴ *Prosecutor v. Taylor*, No. SCSL-03-01-ES, *Order Designating the State In Which Charles Ghankay Taylor Is To Serve His Sentence* (4 October 2013)

¹⁵ *In Re Charles Ghankay Taylor*, No. SCSL-03-01-ES, *Motion for Termination of Enforcement of Sentence in the United Kingdom and for Transfer to Rwanda* (24 June 2014), paras. 50-51

23. It was for that reason that President Karadzic has repeatedly asked the Registrar to find a country with a small Muslim prison population in which he could serve his sentence. The number of Muslim prisoners in United Kingdom prisons has doubled in the last decade and is now in excess of 13,000, comprising 16% of all prisoners.¹⁶

24. Designation of the United Kingdom as the State where President Karadzic is to serve his sentence would disproportionately and unnecessarily place him in danger of being killed, and subject him to disproportionate and unnecessarily harsh conditions of confinement when compared to other States with fewer Muslims in their prisons. Therefore, the designation of the United Kingdom would be unwise and unjust in President Karadzic's case.

Conclusion

25. President Karadzic understands that he does not get to choose his place of confinement. Nevertheless, it would be irresponsible for the Mechanism to send him to a State where he would be in danger or have to serve his sentence in solitary confinement, when alternative States, in which these conditions do not exist, are available. Should he be killed in prison in the United Kingdom, the Mechanism will have created a martyrdom for President Karadzic that will forever undermine its work.

26. For all of these reasons, it is respectfully requested that the President decline to designate the United Kingdom as the State in which President Karadzic is to serve his sentence.

Word count: 1876

¹⁶ UK Prison Population statistics, p. 11 (3 July 2020) located at <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKewiyhsqI0bfwAhWRhOAKHWTrAAQ4ChAWMAZ6BAgJEAM&url=http%3A%2F%2Fresearchbriefings.files.parliament.uk%2Fdocuments%2FSN04334%2FSN04334.pdf&usg=AOvVaw1LI3I0pgIYMf64k8KAR6cM>

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Peter Robinson". The signature is fluid and cursive, with the first name "Peter" and last name "Robinson" clearly distinguishable.

PETER ROBINSON

Counsel for Radovan Karadzic

ANNEX A

PETER ROBINSON
Defence Counsel
Residual Mechanism for
International Criminal Tribunals
Churchillplein 1
2517JW The Hague
Netherlands
E-mail: peter@peterrobinson.com

21 April 2016

The Honorable John Hocking
Registrar
Residual Mechanism for
International Criminal Tribunals
Churchillplein 1
2517JW The Hague

Re: *Prosecutor v Radovan Karadzic*
No. MICT-13-55-A

Dear Mr. Hocking,

Yesterday I met with [REDACTED] of your office and they explained to me the procedure and timing of the decision on where my client Radovan Karadzic would serve his sentence in the event the Appeals Chamber affirms his conviction.

I was very impressed with their professionalism, knowledge, and judgment and came away from the meeting with a sense that you have very good people doing that job.

I would like to take this opportunity to point out some of President Karadzic's concerns at the outset of your office's long and complicated process of determining the willingness of States to host him.

First and foremost is his safety. While President Karadzic has no problem living with people who practice Islam, he is a lightning rod and symbol for people in the Islamic world and would be in danger in an environment where Muslims had the opportunity to harm him. Given the huge influx of persons of the Islamic faith into Europe over the past few years, it will be difficult to find a place where the prison population will not include Muslims during the time that President Karadzic is serving his sentence.

The Honorable John Hocking
--page two--

After studying the population statistics for persons of the Islamic faith in Europe, it appears that Finland would be the safest place for President Karadzic. I note that the two MICT prisoners in Finland will have likely reached the 2/3 mark of their sentences before President Karadzic's appeal is adjudicated.

Another relatively safe place might be Denmark, where President Karadzic and his wife lived briefly many years ago. I note that the two MICT prisoners in Denmark will also have likely reached the 2/3 mark of their sentences before President Karadzic's appeal is adjudicated.

I know that your office will do everything in your power to ensure that what happened to General Krstic in the United Kingdom will not happen to President Karadzic, and that he will not be placed in a location where the conditions of his incarceration would be highly restrictive because of the existence of Muslims in the prison population.

I hope that you will take these concerns and observations into account when undertaking the process of locating a State. In the meantime, if we can be of any assistance to you during this process, please do not hesitate to call upon us.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Peter Robinson". The signature is fluid and cursive, with the first name "Peter" and last name "Robinson" clearly distinguishable.

PETER ROBINSON
Counsel for Radovan Karadzic

cc: MICT President

ANNEX B

PETER ROBINSON
Defence Counsel
Residual Mechanism for
International Criminal Tribunals
Churchillplein 1
2517JW The Hague
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E-mail: peter@peterrobinson.com

21 March 2019

The Honorable Olufemi Elias
Registrar
Residual Mechanism for
International Criminal Tribunals
Churchillplein 1
2517JW The Hague

Re: *Prosecutor v Radovan Karadzic*
No. MICT-13-55-A

Dear Mr. Elias,

Some three years ago, I sent the attached letter to your predecessor concerning the State in which Radovan Karadzic is to serve his sentence. Now that the Appeals Chamber has affirmed his convictions, I wish to reiterate the requests made in that letter and provide you some further information.

President Karadzic once again requests that the Registry approach the Government of Finland to see if it is willing to accept him. I have been in contact with the Serbian Ambassador to Finland, Sasa Obradovic, who formerly was the Legal Advisor for the Serbian Embassy here in The Hague. He tells me that he believes that the Government of Finland would look favorably on such a request from the Mechanism, and has offered his assistance to the Mechanism if needed.

Since 2016, the migration of Muslims to Europe and consequently the percentage of Muslims in European prisons has also increased. Our concerns for President Karadzic's safety remain, and we emphatically do not want to see him sent to a country where he will be in danger or where concerns for his security will cause him to have to be isolated or in harsh conditions of detention.

The Honorable Olufemi Elias
--page two--

While we fully understand that President Karadzic does not get to choose his place of service of sentence, we are prepared to challenge a designation to a country where his safety cannot be assured, even in the courts of the country involved. So, I hope you and your staff will work with us throughout this process to reach a mutually acceptable solution.

Please don't hesitate to contact me or President Karadzic if you have any questions or need any further information.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Peter Robinson". The signature is fluid and cursive, with the first name "Peter" and last name "Robinson" clearly distinguishable.

PETER ROBINSON
Counsel for Radovan Karadzic

cc: MICT President

ANNEX C

PETER ROBINSON
Defence Counsel
International Residual Mechanism
for Criminal Tribunals
 Churchillplein 1
 2517JW The Hague
 Netherlands
 E-mail: peter@peterrobinson.com

5 May 2021

[REDACTED]
 International Residual Mechanism
 for Criminal Tribunals
 Churchillplein 1
 2516JW The Hague
 The Netherlands

Re: *Prosecutor v Radovan Karadzic*
No. MICT-13-55-ES

Dear [REDACTED],

President Karadzic and I are in receipt of your letter of today requesting our views on the proposed designation of the United Kingdom as the State in which he will serve his sentence. We have discussed it preliminarily on the telephone this morning.

President Karadzic will be writing you a letter setting forth his objections to the designation. He considers it unacceptable that he be imprisoned in a country that entered the war on the side of the Bosnian Muslims, considers that he would be in great danger if sent to that country given what happened there to General Krstic and the large number of Muslim prisoners who would see glorification by killing him, and he considers that it would be a great hardship to him and his family because of the restrictions that he would have to be under there for his own protection as well as the distance from his family, making the costs of family visits prohibitive.

However, I have advised him that before taking a final position on this issue, we should be informed of the identity and location of the facility within the United Kingdom where it is proposed that he serve his sentence, and what steps the United Kingdom authorities are planning to take to secure his safety while at the same time allowing him the humane treatment he is entitled to.

[REDACTED]

--page two--

Therefore, before providing the President with our final position, as part of the consultation process, I would request that you provide me the name of the institution where he is to serve his sentence within the United Kingdom, the steps that the United Kingdom plans to take to ensure his safety, and the contact details of a person in the United Kingdom to whom I can address more detailed questions.

Thank you very much for your consideration.

Respectfully submitted,

A handwritten signature in dark ink, reading "Peter Robinson". The signature is written in a cursive style with large, flowing loops for the first and last names.

PETER ROBINSON
Counsel for Radovan Karadzic

ANNEX D

Dr. Radovan Karadžić, UN DU

6 May 2021

Hague branch IRMCT

This is in response to your letter of May 5, 2021, pertaining to a State of a possible serving my sentence

I regret to inform you that the United Kingdom as a “State in which I may serve my sentence of imprisonment imposed by the Appeals Chamber...” is not acceptable, for a several reasons. country Taking into account the fact that my late father had been a great admirer (an Anglophile) of the British system and society, I do not want to give any publicity to this rejection, and I will not if possible. My reasons are as follows:

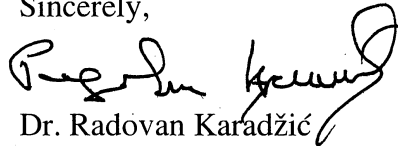
- The Great Britain (Government) was a very active participant in the Yugoslav crisis, with the significant engagement on the side of the Serb opponents, in spite of the International Law and it's obligations towards the Serbs, the British allies in all the wars in the region and Europe.
- Particularly in the conflict in Bosnia the Great Britain took a hostile stance towards the Serbs, and significantly supported the Islamic-fundamentalist Party (SDA) and its regime, rejecting to support even the Muslim secular parties, which were in accord with the Serbs, in trying to avoid the war.
- Also, I had been falsely accused, indicted and sentenced for an alleged “taking UN soldiers as hostages” and among them the British soldiers too.
- In addition, the Great Britain Government has all the evidence on responsibilities for the events in Bosnia, but it demonstrated a very poor interest for establishing the truth and for a triumph of justice. There will come a time that it would be known to everyone, and the countries that participated in this unjust endeavor will be ashamed, which I do not want to the Great Britain.
- We didn't fight against the Great Britain, nor I was a war prisoner of this Empire and it's troops, but my serving the sentence in this country would make me so.
- One of the most important reasons is a matter of security. Namely, the example of jeopardy of life of General Radislav Krstić in the British prison

Cc: Mr. Peter Robinson

is sufficiently illustrative, and the fact that he had to be transferred to other country only supports my standpoint. My personality would be a greater temptation for some extremists.

- Even now some think that the Great Britain had killed Napoleon Bonaparte. This is not comparable with my humble person, but the Great Britain does not need something like that. Otherwise, the Serbs will once forget and forgive the British betrayal if there will be no a new, additional reasons to remember, like the British attempts in the UN to have the Serbs labeled as a genocidal nation.
- Still, the main jeopardy would be the foreign extremists. The only measure against this jeopardy would be a solitary cell for me, but that would not be a humane conditions for the rest of my life. The verdict does not codify this additional punishment, and no one else is entitled to impose it.
- Beside that, I do not intend to give up any of my humane attributes, or cultural, or professional needs and interests, which means that I would need many books and publications, as well as a computer for writing and an axes to Internet, thou in a controlled conditions. I do intend to continue to fight for the justice, for my freedom, as well as to continue to write my books (poetry, proses, dramas, memoires) I am not sure I would have an understanding for these needs in the British prisons.

Sincerely,



Dr. Radovan Karadžić



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Date Created/ Daté du :	12 May 2021	Date transmitted/ Transmis le :	12 May 2021	No. of Pages/ Nombre de pages : 19
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