

**INTERNATIONAL RESIDUAL MECHANISM FOR CRIMINAL TRIBUNALS**

**Case No: MICT-17-112-ES.5 (ICTY IT-04-74)**

**Date: September 06 2021**

**PRESIDENT OF THE MECHANISM**

In the Case of

**THE PROSECUTOR**

**v.**

**MILIVOJ PETKOVIĆ**

***PUBLIC***

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**MILIVOJ PETKOVIĆ'S SUBMISSION PURSUANT TO PARAGRAPH 13 OF THE  
PRACTICE DIRECTION ON THE PROCEDURE FOR THE DETERMINATION OF  
APPLICATIONS FOR PARDON, COMMUTATION OF SENTENCE OR EARLY  
RELEASE**

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**The Office of the Prosecutor**

Mr. Serge Brammertz

**Counsel for Milivoj Petković**

Ms. Vesna Alaburić

Mr. Davor Lazić

**MILIVOJ PETKOVIĆ'S SUBMISSION PURSUANT TO PARAGRAPH 13 OF THE  
PRACTICE DIRECTION ON THE PROCEDURE FOR THE DETERMINATION OF  
APPLICATIONS FOR PARDON, COMMUTATION OF SENTENCE OR EARLY  
RELEASE**

**I. BACKGROUND**

1. On 25 November 2020 Milivoj Petković, through his counsel, respectfully submitted to the President of the IRMCT the Application for early release. Application was submitted pursuant to Articles 25(2) and 26 of the IRMCT Statute, Rules 150 and 151 of the IRMCT Rules of Procedure and Evidence (“the Rules”) and relevant provisions of the Practice Direction on the Procedure for the Determination of Applications for Pardon, Commutation of Sentence, and Early Release of Persons Convicted by the ICTR, the ICTY or the Mechanism (“Practice direction”).
2. On 23 August 2021 counsel for Mr. Petković received by e-mail from the IRMCT Registry the Letter to Mr. Petković containing six attachments.
3. Mr. Petković personally received this Letter (with the accompanying attachments) by mail on 26 August 2021.
4. This is Mr. Petković Submission in relation to the documents provided in the Registry Letter, pursuant to paragraph 13 of the Practice Direction on the Procedure for the Determination of Applications for Pardon, Commutation of sentence or Early Release.

## II. ARGUMENT

5. This Submission is prepared in consultation with Mr. Petković and in accordance with his instructions where appropriate.

**Attachments to the Registry Letter under b) - containing the public redacted version of the memorandum provided by the Office of the Prosecutor and its annexes**

6. Mr. Petković recognizes and respects the institution of the ICTY/IRMCT Prosecutor and understands its important role in the system of international justice. During the trial he always requested from his counsel to treat the prosecutors with utmost respect and courtesy. The members of the Prosecution team can confirm this.
7. However, the Defence considers necessary to address and briefly respond to certain arguments contained in the Prosecutor's Memorandum relating to gravity of crimes, signs of rehabilitation, nature of crimes, and conditions of release if early release is granted.
8. Mr. Petković did not and does not dispute, deny or in any way relativise the gravity of the crimes he has been convicted for. It was clearly stated in his Application for early release. It is clearly repeated here, as well.
9. As regards the signs of rehabilitation, it is hereby submitted that Mr. Petković's Application for early release contains clear signs of his rehabilitation. In addition, the content of his personal letter to the IRCMT President, attached to this Submission, is particularly telling in this regard.
10. As regards the specific nature of crimes against humanity, it must be noted and reminded that every human being deserves a chance to be rehabilitated and upon showing sufficient signs of rehabilitation to be granted early release. It all depends on the personal and specific circumstances of each particular case. This principle is recognized and respected by all legal and penal systems of the civilized nations, irrespective of the nature of the crimes committed. It is

the requirement of basic humanity and there is no need to further discuss the reasons justifying it, or examples proving it.

11. Finally, if granted early release, Mr. Petković will accept and respect any condition the President may find appropriate and necessary.

**Attachment to the Registry Letter under c) – containing the overview of media reports provided by the External Relations Office**

12. Mr. Petković has been a military person all his professional life. He has never been politically engaged, nor held any political function. Moreover, the relevant laws in former Yugoslavia and Croatia strictly forbade political engagement of military personnel.
13. Croatian press and TV programs are not available to Mr. Petković. He is not sufficiently familiar with the political situation in Croatia and Bosnia and Herzegovina at the moment. He had no knowledge of various media reports provided. He does not know their authors, and has no influence over them.
14. In such circumstances Mr. Petković can only point out to all concerned to the content of his Application for early release and, in particular, to his letter to Honorable Judge Agius (attached to this Submission), where he clearly stated his personal views regarding his judgement and his sentence. It is also his personal comment under this heading.

**Attachments to the Registry Letter under a) and d) - relating to Responses from the Kingdom of Belgium**

15. Considering the content of the documents provided under these headings there is no need for any comment.
16. However, it must be noted in this connection that Mr. Petković served the most of his sentence at the UN Detention Unit in The Hague (from April 2004

until September 2020). He currently serves his sentence in Belgium prison, where he was transferred in September 2020. Defence is confident that all reports from the respective prison authorities on Mr. Petković's behavior while serving his sentence (at the UNDU in The Hague and in Belgium as well) will confirm that his behaviour has been exemplary in all respects.

**Attachment to the Registry letter under e) – containing the Reply of the Republic of Croatia**

17. No comment.

18. Republic of Croatia has always consistently respected its obligations, guarantees and commitments in relation to the ICTY and IRMCT. It has been clearly confirmed in all (numerous) cases of provisional or early releases previously granted to various accused or convicted persons, including Mr. Petković's provisional releases during trial. There is no reason to believe that the Croatian authorities will not act the same in this case, if early release is granted to Mr. Petković.

**Attachment to the Registry letter under f) - containing the psychological evaluation**

19. No comment.

**III. CONCLUSION**

20. It is respectfully requested that this Submission, with the attachment to it containing Mr. Petković's personal letter to the IRMCT President, be taken into consideration in assessing his Application for early release. Mr. Petković remains available to Mr. President for any additional information or requests.

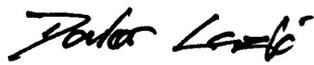
Word count: 1061

Respectfully submitted,



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Vesna Alaburić  
*Pro bono* Counsel for Milivoj Petković



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Davor Lazić  
*Pro bono* Counsel for Milivoj Petković

## PUBLIC ANNEX

Poštovani gospodine Agius,

Moji su branitelji uz moj pristanak podnijeli molbu za moje privremeno puštanje na slobodu. U tom kontekstu osjećam potrebu da vam se obratim i izrazim svoj stav o mojoj presudi i dosudenoj kazni, posebno zato što je ovo i prva prilika da to osobno i učini.

Ja doista nisam osoba koja lako iskazuje emocije, ali to ne znači da ih nemam ili da ih ne priznavam.

Moja sudržanost u pokazivanju emocija vjerojatno je posljedica moj vojничког iskustva i odgoja jer sam jako cijeli život bio vojnik.

Kako god bilo uvjeravam Vas gospodine predsjednice, da to ne znači i moju bezosjećajnost ili nedostatak empatije prema drugima.

Poštovani gospodine predsjednice, od ratnih događaja u Republici Hrvatskoj i Republici Bosni i Hercegovini u kojima sam sudjelovao prošle skoro 30 godina. Od Tada mi je prošao na jedan jedini dan a da mi se slike ratnih strahota ne vraćaju u spćanja. Znam da će Tada biti do kraja moj život. Time žirim i time se nosim kako najbolje mogu.

Rat je ljudski tragedija, zlo. U ratu i dobri ljudi mogu izvršiti djelima ili propustiti pridonijeti početku zločina.

Danas osam, godina nakon prvostupaj-  
 sne presude i četiri godine nakon konačne  
 presude imam potrebu reći i Vama i svima  
 drugima da ja prihvatam presudu i osobnu  
 odgovornost za svoje djelo ili prijestupe koji su  
 doveli do počinjenja zločina zbog kojih sam  
 osuđen.

Prihvatio sam i kaznu koji slušam.  
 Za počinjene zločine nema opravdanje ni  
 izlike. Zbog toga oštećen iskreno kajanje  
 i izražavanje, i ova pokajna, duboka sućut  
 svim stranim, pripadnicima bosnjačkog  
 naroda, njihovim roditeljima i prijateljima.

Imam ljudsku potrebu da to kažem iako  
 sam svestan da su moje riječi i osjećaji  
 sućuti. Stalo mi je svima koji su žrtvi  
 svoje republike.

Prihvataju počinjene zločine, iskreno  
 kajanje i izražavanje sućuti. Stalo mi je  
 stradalim ljudima je nekim iskrene poistite,  
 očuvanja mira i mirne među narodima  
 u BiH i cijeloj brzoj zajednici.

Nadam se da će ova moja izjava barem  
 malo tome pomoći.

To je moj prvi step u ovim okolnostima  
 koji učiniti. Vjerujem da se svaki konflikt  
 ili nesporazum među narodima na području  
 BiH može i mora riješiti iskrenim priporukama  
 i odgovorima. Nikada i nikad više moramo i biti

Ovo kažem kao vojnik i to moje  
 urjenje nije od jučer.  
 U tom kontekstu i zbog toga vam, gospodine  
 predsjednice i pišem.

Poštovani gospodine Agius, molam  
 se da ovo moje pismo recite do znanja  
 na bilo koji način neprijatelju ili  
 protivnom interesima naša i suždrate protiv  
 naroda BiH.

U protivnom vas molim da ga završite.

S poštovanjem  
 MILIVOJ PETKOVIĆ



Leuze-en-Hainaut / Prison  
 Belgium  
 30.08.2021

Honorable Judge Agius,

My counsel submitted, with my consent, the Application for my early release. In this context I feel a need to write you in person, in order to make known my views regarding my judgement and the sentence imposed, in particular because this is the first opportunity for me to do so.

Truly, I am not a person who easily expresses emotions, but that does not mean I do not have them, or that I do not experience them. My restraint, when it comes to expressing emotions, is probably the consequence of my military education and training, since I have been a soldier almost all my life. Whatever the reason, I assure you Mr. President, that my restraint in showing emotions does not mean my insensitivity or lack of empathy for others.

Your Honor, Mr. President, almost thirty years have passed since the war events in Croatia and BiH I had participated in. Not a single day has passed since then without images of war horrors returning to my memory. I know that it will be so to the end of my life. I live with it and I deal with it as best I can.

War is human tragedy. Evil. In war even good people may, with their deeds or omissions, commit crimes, or contribute to commission of crimes.

Today, eight years since the first-instance judgement and four years since the final judgement, I have a need to say to you, Mr. President, and to all others, that I accept my judgement and personal responsibility for my acts or omissions which led to the commission of crimes I was convicted for. I also accepted the punishment which I serve. There is no justification, nor excuse, for the crimes committed. Because of that I feel sincere remorse and express my deep condolences to all victims of Bosniaks ethnicity, and to their relatives and friends. I feel a human need to say this, although I am aware that my regret and expression of condolences offer weak consolation to those who have lost their love ones.

Admitting the crimes committed, sincere remorse and expression of condolences to the families of victims is the only way to reconciliation, preserving peace and coexistence among the peoples of Bosnia and Herzegovina and ex-Yugoslavia. I hope this statement of mine will contribute to that goal at least a little bit. It is the most I can do in the circumstances.

I believe that any conflict or misunderstanding among nations in the territory of Bosnia and Herzegovina can and must be solved exclusively by negotiations and agreements. By no means and never again by force or by war. I say this as a soldier and that belief of mine is not from yesterday. In this context and for this reason I write to you, Mr. President.

Honorable Judge Agius, I hope that you will not find my letter in any way inappropriate or in any way contrary to the interests of piece and coexistence among the peoples of BiH. Otherwise, please disregard it.

Respectfully,

Milivoj Petković [signed]

30 August 2021

Prison de Leuze-en-Hainaut – Greffe, Belgium



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