

**UNITED
NATIONS**



International Residual Mechanism
for Criminal Tribunals

Case No.: MICT-14-67-ES.4

Date: 7 October 2021

Original: English

THE PRESIDENT OF THE MECHANISM

Before: Judge Carmel Agius, President

Registrar: Mr. Abubacarr Tambaou

Decision of: 7 October 2021

PROSECUTOR

v.

SRETEN LUKIĆ

***CONFIDENTIAL REDACTED VERSION
WITH CONFIDENTIAL ANNEX***

**DECISION ON THE APPLICATION
FOR EARLY RELEASE OF SRETEN LUKIĆ**

The Office of the Prosecutor:

Mr. Serge Brammertz

Counsel for Mr. Sreten Lukić:

Mr. Dragan Ivetić

Mr. Boris Zorko

1. I, Carmel Agius, President of the International Residual Mechanism for Criminal Tribunals (“President” and “Mechanism”, respectively), am seised of a direct petition for early release filed by Mr. Sreten Lukić (“Lukić”) before my predecessor, Judge Theodor Meron, on 19 November 2018.¹

I. BACKGROUND

2. On 4 April 2005, Lukić surrendered to the International Criminal Tribunal for the former Yugoslavia (“ICTY”) and was transferred to the United Nations Detention Unit (“UNDU”) in The Hague, Kingdom of the Netherlands (“Netherlands”).² On 4 May 2005, Lukić pleaded not guilty to all charges against him in the Indictment.³

3. On 26 February 2009, Trial Chamber III of the ICTY (“Trial Chamber”) convicted Lukić of murder, persecution, deportation, and other inhumane acts (forcible transfer) as crimes against humanity, and murder as a violation of the laws or customs of war.⁴ The Trial Chamber sentenced Lukić to 22 years of imprisonment.⁵

4. On 23 January 2014, the Appeals Chamber of the ICTY (“Appeals Chamber”): (i) affirmed Lukić’s convictions for murder, persecution, deportation, and other inhumane acts (forcible transfer) as crimes against humanity, and murder as a violation of the laws or customs of war; (ii) reversed, in part, Lukić’s convictions for these crimes insofar as they concerned specific incidents; (iii) granted, in part, the appeals of Lukić and the Office of the Prosecutor of the ICTY (“ICTY Prosecution”) concerning sentencing; and (iv) reduced Lukić’s sentence from 22 to 20 years of imprisonment.⁶

¹ Sreten Lukić’s Submissions Pursuant to the Practice Direction on the Procedure for the Determination of Applications of Pardon, Commutation of Sentence, and Early Release, 19 November 2018 (confidential) (“Application”). I note that Lukić filed a public redacted version of the Application on 19 August 2019. See Sreten Lukić’s Submissions Pursuant to the Practice Direction on the Procedure for the Determination of Applications of Pardon, Commutation of Sentence, and Early Release, 19 August 2019 (public redacted).

² Decision of the President on the Early Release of Sreten Lukić, 17 September 2018 (confidential) (“Lukić Decision of 17 September 2018”), para. 3; Decision of the President on the Early Release of Sreten Lukić, 30 May 2017 (confidential) (“Lukić Decision of 30 May 2017”), para. 2. On 17 September 2018 and 11 August 2017, respectively, my predecessor filed public redacted versions of the Lukić Decision of 17 September 2018 and Lukić Decision of 30 May 2017. See Decision of the President on the Early Release of Sreten Lukić, 17 September 2018 (public redacted); Public Redacted Version of 30 May 2017 Decision of the President on the Early Release of Sreten Lukić, 11 August 2017. See also *Prosecutor v. Milan Milutinović et al.*, Case No. IT-05-87-T, Judgement, 26 February 2009 (“Trial Judgement”), vol. 1, para. 2; *Prosecutor v. Nikola Šainović et al.*, Case No. IT-05-87-A, Judgement, 23 January 2014 (“Appeal Judgement”), paras. 79, 1828.

³ *Prosecutor v. Sreten Lukić*, Case No. IT-03-70-I, Transcript of 4 May 2005, T. 42-43.

⁴ Trial Judgement, vol. 1, para. 6, vol. 3, para. 1212.

⁵ Trial Judgement, vol. 3, para. 1212.

⁶ Appeal Judgement, paras. 1845, 1847.

5. On 27 October 2015, Lukić was transferred to the Republic of Poland (“Poland”) to serve his sentence.⁷ Lukić has since been transferred to the UNDU on a temporary basis.⁸

6. On 30 May 2017, my predecessor denied Lukić’s first application for early release.⁹ In so doing, he: (i) considered that the high gravity of Lukić’s offences weighed against his early release;¹⁰ (ii) took into account that Lukić had not yet served two-thirds of his sentence;¹¹ (iii) “acknowledge[d] the indicia of Lukić’s acceptance of his responsibility” as well as “the demonstration by Lukić of signs of rehabilitation”;¹² and (iv) took into account Lukić’s cooperation with the ICTY Prosecution [REDACTED] as “another factor advancing relevant interests of justice and weighing somewhat in favour of his early release”.¹³

7. On 17 September 2018, my predecessor rendered a second decision denying Lukić early release.¹⁴ In this decision he considered, *inter alia*, that: (i) while Lukić had demonstrated some signs of rehabilitation, this did “not constitute exceptional circumstances that would justify his early release prior to having served two-thirds of his sentence”;¹⁵ and (ii) although “some weight” was to be placed on Lukić’s assistance and cooperation with the ICTY Prosecution [REDACTED], this factor was “insufficient to [constitute] exceptional circumstances justifying his early release”.¹⁶

II. APPLICATION

8. On 19 November 2018, Lukić submitted the Application. In it, Lukić requests that he be released early upon having served two-thirds of his sentence.¹⁷ He states that, if released early, he plans to reside in [REDACTED], Republic of Serbia (“Serbia”).¹⁸

9. On 11 April 2019, the Registry of the Mechanism (“Registry”) transmitted to me: (i) a memorandum from the Office of the Prosecutor of the Mechanism (“Prosecution”), dated 14 December 2018, concerning Lukić’s cooperation and the significance thereof; and (ii) a letter from the Embassy of Poland to the Netherlands addressed to the Registrar of the Mechanism

⁷ See *Lukić* Decision of 17 September 2018, para. 5; *Lukić* Decision of 30 May 2017, para. 4; Order Designating State in which Sreten Lukić is to Serve his Sentence, 6 August 2015, p. 1.

⁸ See *infra*, para. 28.

⁹ *Lukić* Decision of 30 May 2017, para. 57.

¹⁰ *Lukić* Decision of 30 May 2017, paras. 28, 56.

¹¹ *Lukić* Decision of 30 May 2017, paras. 33, 56.

¹² *Lukić* Decision of 30 May 2017, para. 42.

¹³ *Lukić* Decision of 30 May 2017, para. 49.

¹⁴ *Lukić* Decision of 17 September 2018, para. 38.

¹⁵ *Lukić* Decision of 17 September 2018, para. 28.

¹⁶ *Lukić* Decision of 17 September 2018, para. 32.

¹⁷ Application, paras. 8, 11, 29(c).

¹⁸ [REDACTED].

(“Registrar”), dated 15 March 2019, containing information on Lukić’s behaviour and his physical and mental health.¹⁹ The Registry indicated that it would translate this material into Bosnian/Croatian/Serbian (“BCS”) and would thereafter transmit it to Lukić for his comments in accordance with paragraphs 5 and 6 of the relevant Practice Direction.²⁰

10. On 12 April 2019, Lukić filed a notice that he had completed a course titled “Aggression Replacement Training”.²¹

11. On 24 May 2019, Lukić filed submissions concerning the material provided by the Prosecution and the Polish authorities.²²

12. On 17 June 2019, I requested the Registrar to obtain further information in relation to the Application in line with paragraph 4(d) of the Practice Direction (MICT/3/Rev.2), namely: (i) any updated information on Lukić’s conduct in prison, as well as any updated medical and psychological information; (ii) an explanation of the Prison’s system of awards and concessions; (iii) a risk assessment, inclusive of psychological considerations, should Lukić be released early; (iv) any further views from the Prosecution with regard to the Application; (v) comprehensive information from the Witness Support and Protection Unit of the Mechanism (“WISP”) concerning

¹⁹ Internal Memorandum from Deputy Chief, Registry, Hague branch, to the President, dated 11 April 2019 (confidential) (“Registry Memorandum of 11 April 2019”), *transmitting* an Internal Memorandum from the Senior Legal Officer, Officer-in-Charge, Office of the Prosecutor, Hague branch, to the Deputy Chief, Registry, Hague branch, dated 14 December 2018 (confidential) (“Prosecution Memorandum of 14 December 2018”), and a letter from the Embassy of Poland to the Netherlands to the Registrar, dated 15 March 2019, enclosing: (i) an opinion from the Senior Inspector of the Reference Department of the Remand Prison in Piotrków Trybunalski (“Prison”), dated 22 January 2019; (ii) an undated document from the Deputy Director of the Prison (“Prison Deputy Director” and “Prison Deputy Director Report”, respectively); (iii) a memorandum from the Junior Psychologist of the Prison, dated 21 January 2019 (“Prison Psychologist” and “Prison Psychologist Memorandum of 21 January 2019”, respectively); (iv) an opinion from the Physician at the Outpatient Clinic and Infirmary of the Prison, dated 11 January 2019 (“Prison Physician Report”); and (v) information on incarcerations and rulings from the Senior Inspector of the Reference Department of the Prison, dated 21 January 2019 (collectively, “Prison Documents dated January 2019”). Throughout this Decision, all references are to the English version of documents where available.

²⁰ Registry Memorandum of 11 April 2019, para. 4; 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, MICT/3/Rev.2, 20 February 2019. This Practice Direction has since been revised. *See* Practice Direction on the Procedure for the Determination of Applications for Pardon, Commutation of Sentence, or Early Release of Persons Convicted by the ICTR, the ICTY, or the Mechanism, MICT/3/Rev.3, 15 May 2020 (“Practice Direction”). Unless otherwise indicated, references will be made to the current Practice Direction.

²¹ Notice of Completion of Rehabilitation Course, 12 April 2019 (confidential) (“Notice of Completion of Rehabilitation Course”). Lukić filed a public redacted version of this document on 19 August 2019. *See* Notice of Completion of Rehabilitation Course, 19 August 2019 (public redacted, confidential annex excluded).

²² Sreten Lukić’s Submissions in Accord with Article 6 of the Practice Direction on the Procedure for the Determination of Applications for Pardon, Commutation of Sentence, and Early Release, 24 May 2019 (confidential) (“Submissions of 24 May 2019”), para. 6. Lukić filed a public redacted version of this document on 19 August 2019. *See* Sreten Lukić’s Submissions Pursuant to the Practice Direction on the Procedure for the Determination of Applications of Pardon, Commutation of Sentence, and Early Release, 19 August 2019 (public redacted). On 31 May 2019, Lukić confirmed that he had received a physical copy of relevant material and that he had no further submissions with respect to it. *See* Notice as to Sreten Lukić’s Submissions in Accord with Article 6 of the Practice Direction on the Procedure for the

the victims of the crimes for which Lukić was convicted and who testified in his case, as well as whether any such victims are currently residing in the vicinity of [REDACTED]; (vi) whether any victims' associations or other groups exist in relation to the crimes for which Lukić was convicted; and (vii) any media reports concerning Lukić that have been published in Serbia in the past two years.²³

13. On 19 July 2019, the Registry communicated to me information regarding the existence of any relevant victims' associations or other groups in relation to the crimes for which Lukić was convicted, as well as an overview of six articles concerning Lukić, published in Serbia in the previous two years.²⁴

14. On 29 July 2019, the Registry transmitted to me the further views of the Prosecutor of the Mechanism ("Prosecutor") with respect to the Application.²⁵

15. On 13 August 2019, I rendered a Decision ordering Lukić to file public redacted versions of the Application and related documents, which he did on 19 August 2019.²⁶

16. On 19 August 2019, Lukić filed a request seeking that, in the event his early release is granted, I request the Polish authorities to ensure his safe conduct to Serbia.²⁷

17. On 13 September 2019, the Registry transmitted to me further information received from the Polish authorities, including updated information on Lukić's conduct in prison, a further psychological assessment concerning Lukić, and the explanation on the Prison's system of awards and concessions.²⁸

Determination of Applications for Pardon, Commutation of Sentence, and Early Release, 31 May 2019 ("Notice of 31 May 2019"), para. 2.

²³ Internal Memorandum from the President to the Registrar, dated 17 June 2019 (confidential) ("Memorandum of 17 June 2019"), paras. 2-7.

²⁴ Internal Memorandum from the Deputy Chief, Registry, Hague branch, to the President, dated 19 July 2019 (confidential) ("Registry Memorandum of 19 July 2019"), paras. 1-2, Annex.

²⁵ Internal Memorandum from the Chief, Registry, Hague branch, to the President, dated 29 July 2019 (confidential), *transmitting* an Internal Memorandum from the Prosecutor to the Registrar, dated 23 July 2019 (confidential) ("Prosecutor Memorandum of 23 July 2019").

²⁶ Decision on Prosecution Request for Public Redacted Versions of Early Release Application and Related Documents, 13 August 2019, p. 2. *See supra*, fns. 1, 21-22. The Notice of 31 May 2019 was subsequently reclassified from confidential to public following my Order instructing the Registrar to do so. *See infra*, para. 26.

²⁷ Sreten Lukić's Request for Safe Conduct, 19 August 2019 (confidential), p. 5. Since Lukić is no longer serving his sentence in Poland, I consider that this request is moot and hereby dismiss it accordingly. *See infra*, para. 28.

²⁸ Internal Memorandum from the Deputy Chief, Registry, Hague branch, to the President, dated 13 September 2019 (confidential), *transmitting*: (i) a letter from the Prison Director, dated 31 July 2019 ("Prison Director Report of 31 July 2019"); (ii) a memorandum from the Prison Psychologist, dated 31 July 2019 ("Prison Psychologist Memorandum of 31 July 2019"); and (iii) Section 8 of the Polish Penalty Execution Code (collectively, "Prison Documents dated 31 July 2019"). The Registry indicated that it received these documents in Polish on 8 August 2019, and that the English translation was received on 9 September 2019.

18. On 18 September 2019, the Registrar provided me with a strictly confidential memorandum from the Head of WISP, conveying information relating to 81 witnesses who testified in the case concerning Lukić.²⁹

19. On 19 March 2020, I directed the Registrar to immediately request information from the Mechanism's enforcement States, including Poland, on the measures taken thus far in their detention facilities in response to the unfolding situation regarding the COVID-19 pandemic.³⁰

20. On 27 March 2020, Lukić filed a motion seeking immediate provisional release or early release.³¹ The Prosecution opposed this motion on 30 March 2020.³²

21. In a *note verbale* dated 2 April 2020, Poland assured the Mechanism that its prison authorities had introduced numerous special measures to minimise the risk posed by COVID-19 and to guarantee high safety standards.³³

22. On 30 April 2020, I invited the authorities of Serbia to, *inter alia*, provide any views that they may wish to offer with regard to the Application and indicate their willingness to monitor any conditions imposed by the Mechanism in case of Lukić's early release and to provide guarantees to this effect.³⁴

23. On 1 May 2020, I dismissed Lukić's motion seeking immediate release, after considering, *inter alia*, that Lukić's submissions were speculative insofar as he submitted that he would certainly become infected with COVID-19 if he remained in prison in Poland and that his only chance to survive would be to avoid infection by self-isolating in Serbia.³⁵

²⁹ Internal Memorandum from the Registrar to the President, dated 18 September 2019 (confidential) ("Registrar Memorandum of 18 September 2019"), *transmitting* Internal Memorandum from the Head of WISP to the Registrar, dated 18 September 2019 (strictly confidential) ("WISP Memorandum"). The Registrar also observed that this information was provided on a strictly confidential basis and should not be made available to Lukić or the Prosecution. *See* Registrar Memorandum of 18 September 2019, para. 3.

³⁰ *See* Case No. MICT-12-01-ES, Order for COVID-19 Updates from Enforcement States, 24 April 2020 (public redacted), p. 1.

³¹ Notice of Filing: Sreten Lukić's Personal Plea to the President in Light of COVID-19 Situation, 27 March 2020 (confidential) ("Motion of 27 March 2020"), Annex B. Lukić filed a public redacted version of this filing on 16 July 2020. *See* Public Redacted Version of "Notice of Filing: Sreten Lukić's Personal Plea to the President in Light of COVID-19 Situation" Originally Filed 27 March 2020, 16 July 2020.

³² Prosecution Response to Sreten Lukić's Request for Release in Light of COVID-19 Situation, 30 March 2020 ("Response of 30 March 2020"), paras. 1-2.

³³ Registrar's Submission of Information Transmitted by the Republic of Poland, 24 April 2020 (confidential), Annex. On 21 April 2020, I had requested that the Registrar file this communication confidentially on the judicial record. *See* Internal Memorandum from the President to the Registrar, dated 21 April 2020 (confidential), para. 2.

³⁴ Invitation to the Republic of Serbia Related to the Application for Early Release of Sreten Lukić, 30 April 2020 (confidential and *ex parte*), p. 2.

³⁵ Decision on Motion for Immediate Provisional Release or Early Release, 1 May 2020 (confidential), pp. 4-5. I issued a public redacted version of this Decision on 14 August 2020. *See* Public Redacted Version of the "Decision on Motion for Immediate Provisional Release or Early Release" of 1 May 2020, 14 August 2020.

24. On 11 May 2020, a *note verbale* from the Embassy of Serbia to the Netherlands, transmitting a letter from the State Secretary of the Serbian Ministry of Justice related to the Application, was filed on the judicial record.³⁶

25. On 11 June 2020, I requested the Registrar to communicate to Lukić relevant material with respect to the Application, in the original language, as well as in BCS.³⁷

26. On 1 July 2020, I directed the Registrar to reclassify as public certain filings related to the Application, ordered Lukić to file a public redacted version of the Motion of 27 March 2020, and ordered the Prosecution to file a public redacted version, if any, of the Response of 30 March 2020.³⁸

27. On 3 July 2020, Lukić filed submissions in relation to the material he had received from the Registry on 26 June 2020.³⁹

28. On 12 January 2021, after Poland had informed the Mechanism that the maximum enforceable sentence for Lukić under Polish law is 15 years and consequently that his sentence would cease being enforceable in Poland as of a certain day in January 2021, I instructed the Registrar to arrange for Lukić to be transferred to the UNDU on a temporary basis.⁴⁰ Lukić was transferred accordingly from Poland to the UNDU on 20 January 2021.

29. On 15 March 2021, I issued a further invitation to Serbia to provide: (i) a timeline detailing how soon Lukić's final conviction by the ICTY would be registered in his criminal record in Serbia and when any licenses for firearms or other weapons that Lukić may possess will be revoked, if Lukić is granted early release; (ii) confirmation that Serbia is both willing and able to monitor any conditions imposed by the Mechanism, and to designate a Monitoring Authority that will act in line with the necessary requirements, if Lukić is granted early release; (iii) Serbia's

³⁶ *Note verbale* from the Embassy of Serbia to the Netherlands, dated 6 May 2020, transmitting Letter from the Ministry of Justice of Serbia to the President, dated 5 May 2020 (confidential and *ex parte*) ("Serbia *Note Verbale* of 6 May 2020").

³⁷ Internal Memorandum from the President to the Registrar, dated 11 June 2020 (confidential), paras. 2, 4. On 18 June 2020, I provided further clarification as to the material to be provided to Lukić. See Internal Memorandum from the President to the Registrar, dated 18 June 2020 (confidential), paras. 3-4.

³⁸ Order on Status of Filings Related to Early Release Proceedings, 1 July 2020, pp. 2-3.

³⁹ See Sreten Lukić's Submissions Pursuant to Paragraph 13 of the Practice Direction on the Procedure for the Determination of Applications for Pardon, Commutation of Sentence or Early Release, 3 July 2020 (confidential) ("Final Submissions"), para. 1. Lukić filed a public redacted version of the Final Submissions on 13 August 2020. See Public Redacted Version of "Sreten Lukić's Submissions Pursuant to Paragraph 13 of the Practice Direction on the Procedure for the Determination of Applications for Pardon, Commutation of Sentence or Early Release" Filed on 2 July 2020, 13 August 2020.

⁴⁰ Order for the Transfer of Sreten Lukić to the United Nations Detention Unit on a Temporary Basis, 12 January 2021, p. 2.

undertakings both to report to the Mechanism within 24 hours any failure by Lukić to comply with the conditions of his early release and, in line with the necessary requirements, to arrest Lukić and transfer him immediately to the custody of the Mechanism; and (iv) binding and unequivocal guarantees to this effect.⁴¹

30. On 16 April 2021, I received a letter from the Serbian Minister of Justice dated 12 April 2021, affirming that Serbia was ready to act in accordance with the Further Invitation.⁴²

31. On 6 July 2021, I received a further letter from the Serbian Minister of Justice dated 28 June 2021, officially informing me that Lukić's final verdict by the ICTY had been entered into his criminal records in Serbia. The Serbian Minister of Justice also informed me that Serbia had taken all steps identified in the Further Invitation, and enclosed a copy of the binding guarantees issued by the Government of Serbia in this respect.⁴³

32. On 17 August and 1 September 2021, respectively, and further to the Mechanism's request,⁴⁴ I received the original and authoritative versions of the Conclusion of the Government of Serbia and the Guarantee of the Government of Serbia, as well as the Serbian Minister of Justice Letter of 28 June 2021.⁴⁵ Following their translation by the Mechanism, the Registry filed these documents on the judicial record in this case on 7 October 2021.⁴⁶

⁴¹ Further Invitation to the Republic of Serbia Related to the Application for Early Release of Sreten Lukić, 15 March 2021 (confidential and *ex parte*) ("Further Invitation"), p. 3.

⁴² *Note verbale* from the Embassy of Serbia to the Netherlands, dated 16 April 2021, *transmitting* Letter from the Minister of Justice of Serbia to the President, dated 12 April 2021 ("Serbian Minister of Justice Letter of 12 April 2021"). I subsequently received the original and authoritative version of this letter. *See Note verbale* from the Embassy of Serbia to the Netherlands, dated 26 April 2021.

⁴³ *Note verbale* from the Embassy of Serbia to the Netherlands, dated 5 July 2021 (confidential), *transmitting* Letter from the Minister of Justice of Serbia to the President, dated 28 June 2021 (confidential) ("Serbian Minister of Justice Letter of 28 June 2021"), *enclosing* Conclusion of the Government of Serbia, dated 24 June 2021 (confidential), *appending* Guarantee of the Government of Serbia, dated 24 June 2021 (confidential). This guarantee was subsequently amended slightly following further communication with the Government of Serbia. *See e.g. Note verbale* from the Embassy of Serbia to the Netherlands, dated 30 July 2021 (confidential), *transmitting* Letter from the Minister of Justice of Serbia to the President, dated 30 July 2021, *enclosing* Conclusion of the Government of Serbia, dated 29 July 2021 (confidential) ("Conclusion of the Government of Serbia"), *appending* Guarantee of the Government of Serbia, dated 29 July 2021 (confidential) ("Guarantee of the Government of Serbia").

⁴⁴ *Note verbale* from the Mechanism to the Embassy of Serbia to the Netherlands, dated 14 July 2021 (confidential), p. 1.

⁴⁵ *Note verbale* from the Embassy of Serbia to the Netherlands to the President, dated 13 August 2021 (confidential), *transmitting, inter alia*, the original versions as well as certified translations into English of the Conclusion of the Government of Serbia and the Guarantee of the Government of Serbia; *Note verbale* from the Embassy of Serbia to the Netherlands to the President, dated 31 August 2021 (confidential), *transmitting* the original version of the Serbian Minister of Justice Letter of 28 June 2021.

⁴⁶ *See* Internal Memorandum from the President to the Registrar, dated 6 October 2021 (confidential), paras. 1-3.

33. With regard to the Application, I have consulted with Judge Liu Daqun and Judge Iain Bonomy in their capacity as Judges of the respective sentencing Chambers,⁴⁷ as foreseen under Rule 150 of the Rules of Procedure and Evidence of the Mechanism (“Rules”).

III. APPLICABLE LAW

34. Pursuant to Article 26 of the Statute of the Mechanism (“Statute”), there shall only be pardon or commutation of sentence if the President so decides on the basis of the interests of justice and the general principles of law. While Article 26 of the Statute, like the equivalent provisions in the Statutes of the International Criminal Tribunal for Rwanda (“ICTR”) and the ICTY before it, does not specifically mention requests for early release of convicted persons, the Rules reflect the President’s power to deal with such requests and the longstanding practice of the ICTR, the ICTY, and the Mechanism in this regard.

35. Rule 150 of the Rules provides that the President shall, upon receipt of a direct petition from the convicted person, determine, in consultation with any Judges of the sentencing Chamber who are Judges of the Mechanism, whether pardon, commutation of sentence, or early release is appropriate. If none of the Judges who imposed the sentence are Judges of the Mechanism, the President shall consult with at least two other Judges.

36. The general standards for granting early release are set out in Rule 151 of the Rules, which provides that in making a determination on pardon, commutation of sentence, or early release, the President shall take into account, *inter alia*, the gravity of the crime or crimes for which the prisoner was convicted, the treatment of similarly-situated prisoners, the prisoner’s demonstration of rehabilitation, and any substantial cooperation of the prisoner with the Prosecution.

37. Paragraph 5 of the Practice Direction provides that a convicted person may apply directly to the President for pardon, commutation of sentence, or early release, if he or she believes that he or she is eligible. Paragraph 10 of the Practice Direction indicates that the President may direct the Registry to collect information which he or she considers may be relevant to the determination of whether pardon, commutation of sentence, or early release is appropriate. Paragraph 13 of the Practice Direction states that the convicted person shall be given 14 days to examine the information received by the Registrar, following which he or she may provide any written submissions in response.

⁴⁷ See generally Trial Judgement; Appeal Judgement. Judge Liu served as the Presiding Judge of the Appeals Chamber, and Judge Bonomy served as the Presiding Judge of the Trial Chamber.

38. Paragraph 19 of the Practice Direction specifies that the President shall determine whether early release is to be granted on the basis of the interests of justice and the general principles of law, having regard to the criteria specified in Rule 151 of the Rules, and any other information, as well as the views of the Judges consulted in accordance with Rule 150 of the Rules. If early release is granted, it may be subject to conditions.⁴⁸

IV. ANALYSIS

A. Eligibility

39. All convicted persons serving a sentence under the Mechanism's supervision are eligible to be considered for early release upon having served two-thirds of their sentence, irrespective of: (i) whether the person was convicted by the ICTR, the ICTY, or the Mechanism; (ii) where the sentence is being served; and (iii) whether the matter is brought before the President through a direct petition by the convicted person or a notification from the relevant enforcement State.⁴⁹ Serving two-thirds of a sentence has been described as being "in essence, an admissibility threshold".⁵⁰ As Lukić passed this two-thirds threshold on 12 May 2019,⁵¹ he is eligible to be considered for early release.

B. General Standards for Granting

40. A convicted person having served two-thirds of his or her sentence shall be merely eligible to apply for early release and not entitled to such release, which may only be granted by the President as a matter of discretion, after considering the totality of the circumstances in each case, as required by Rule 151 of the Rules.⁵² I recall that Rule 151 of the Rules provides a non-exhaustive list of factors to be considered by the President, which I will address in turn below.

⁴⁸ See e.g. Practice Direction, para. 20; *Prosecutor v. Valentin Ćorić*, Case No. MICT-17-112-ES.4, Decision on Motions Related to Valentin Ćorić's Request for Variation of Early Release Conditions, 21 February 2020, para. 39; *Prosecutor v. Valentin Ćorić*, Case No. MICT-17-112-ES.4, Further Redacted Public Redacted Version of the Decision of the President on the Early Release of Valentin Ćorić and Related Motions, 16 January 2019, paras. 74, 76, 78; *Prosecutor v. Aloys Simba*, Case No. MICT-14-62-ES.1, Public Redacted Version of the President's 7 January 2019 Decision on the Early Release of Aloys Simba, 7 January 2019, paras. 81-82, Annex A.

⁴⁹ *Prosecutor v. Radivoje Miletić*, Case No. MICT-15-85-ES.5, Decision on the Early Release of Radivoje Miletić, 5 May 2021 (public redacted) ("*Miletić Decision*"), para. 29; *Prosecutor v. Théoneste Bagosora*, Case No. MICT-12-26-ES.1, Decision on the Early Release of Théoneste Bagosora, 1 April 2021 (public redacted) ("*Bagosora Decision*"), para. 26; *Prosecutor v. Stanislav Galić*, Case No. MICT-14-83-ES, Decision on the Early Release of Stanislav Galić, 24 March 2021 (public redacted) ("*Galić Decision*"), para. 21.

⁵⁰ *Miletić Decision*, para. 29; *Prosecutor v. Jadranko Prlić*, Case No. MICT-17-112-ES.2, Decision on the Early Release of Jadranko Prlić, 23 March 2021, p. 4; *Prosecutor v. Paul Bisengimana*, Case No. MICT-12-07, Decision of the President on Early Release of Paul Bisengimana and on Motion to File a Public Redacted Application, 11 December 2012 (public redacted), para. 19.

⁵¹ *Lukić Decision* of 17 September 2018, para. 18; *Lukić Decision* of 30 May 2017, para. 33.

⁵² *Miletić Decision*, para. 32; *Bagosora Decision*, para. 30; *Galić Decision*, para. 21.

1. Gravity of Crimes

41. Lukić committed his crimes with the intent to “forcibly displace the Kosovo Albanian population, both within and without Kosovo, and thereby ensure continued control by the [Federal Republic of Yugoslavia] and Serbian authorities over the province”, an intent he shared with other members of a joint criminal enterprise (“JCE”).⁵³ Lukić did not merely contribute significantly to this JCE, but he was “an important member” of it, serving as “the bridge between the policy-planners in Belgrade [...] and those on the ground in Kosovo” and being “directly involved in the planning process and in ensuring that day-to-day operations were conducted [...] in accordance with those plans”.⁵⁴ Lukić exercised both *de jure* and *de facto* responsibility over Serbian Ministry of Internal Affairs (“MUP”) forces that committed crimes on a massive scale, and he was involved in the coordination of Yugoslav Army (“VJ”) and MUP activities as well.⁵⁵ Lukić was found responsible for the crimes committed by MUP and VJ personnel in accordance with the common plan,⁵⁶ and he also bore criminal responsibility when it was foreseeable to him that another JCE member or a person used by a JCE member might commit a crime in furtherance of the common purpose and he willingly took this risk.⁵⁷

42. In addressing the gravity of Lukić’s crimes, the Trial Chamber found that they were “of a high level of gravity”.⁵⁸ The Trial Chamber emphasised that Lukić and other co-accused in his case were:

[G]uilty of committing or aiding and abetting the forcible displacement of hundreds of thousands of Kosovo Albanians. These crimes were not isolated instances, but rather part of a widespread and systematic campaign of terror and violence over a period of just over two months. Some of the victims were of a particularly vulnerable nature, such as young women, elderly people, and children.⁵⁹

43. The Appeals Chamber, even after reversing some of Lukić’s convictions, considered that the crimes for which he remained convicted were “very serious crimes” that warranted a 20-year sentence.⁶⁰

44. Turning to the specific crimes, Lukić was found responsible for committing deportation and other inhumane acts (forcible transfer) as crimes against humanity at multiple locations.⁶¹ Lukić

⁵³ Trial Judgement, vol. 3, para. 1130. *See* Appeal Judgement, para. 1512.

⁵⁴ Trial Judgement, vol. 3, para. 1131. *See* Appeal Judgement, paras. 1412, 1436, 1446.

⁵⁵ Trial Judgement, vol. 3, para. 1132. *See* Appeal Judgement, para. 1451. *See also* Trial Judgement, vol. 1, para. 8.

⁵⁶ Trial Judgement, vol. 3, para. 1132. *See* Appeal Judgement, para. 1521.

⁵⁷ *See e.g.* Trial Judgement, vol. 3, para. 1133-1134, 1136, 1138, 1140; Appeal Judgement, para. 1557.

⁵⁸ Trial Judgement, vol. 3, para. 1174.

⁵⁹ Trial Judgement, vol. 3, para. 1173. Lukić was sentenced for committing these crimes through his participation in the JCE. Trial Judgement, vol. 3, para. 1138. *See also* Appeal Judgement, paras. 1838, 1842.

⁶⁰ Appeal Judgement, para. 1845.

committed these crimes in accordance with the common plan shared by him and other members of the JCE.⁶²

45. Lukić was also found responsible for murder and persecution as crimes against humanity, murder as a violation of the laws or customs of war, and persecution as a crime against humanity for the destruction of or damage to religious property.⁶³

46. In determining Lukić's sentence, the Trial Chamber considered that he abused his superior position in the MUP and that this was an aggravating factor.⁶⁴ In mitigation of his sentence, the Trial Chamber acknowledged Lukić's "deportment [...] throughout the trial and while in detention", that he had no prior criminal record, and that he was "of apparent good character" prior to the events at issue in his case.⁶⁵ The Trial Chamber further considered "that on the balance of probabilities Lukić contributed to law and order in a number of cases connected [with] the crimes in the Indictment".⁶⁶

47. Lukić offers only limited comments regarding the gravity of the crimes for which he was convicted. He recognises that this factor weighed against his early release in the past.⁶⁷ He also recalls his statements of regret and remorse, as well as his previous efforts to arrest perpetrators, but Lukić does not specify why, in his view, these matters are relevant to an assessment of the gravity of his crimes.⁶⁸

48. Lukić was convicted of very serious crimes, and their high gravity is reflected throughout the Trial Judgement and Appeal Judgement in his case. In this respect, I share the view of my

⁶¹ See Trial Judgement, vol. 3, para. 1138; Appeal Judgement, p. 742.

⁶² See e.g. Trial Judgement, vol. 3, para. 1133; Appeal Judgement, para. 283.

⁶³ Trial Judgement, vol. 3, para. 1138; Appeal Judgement, paras. 1523, 1541, 1549, p. 742. The Appeals Chamber also found that Lukić was incorrectly acquitted for persecution as a crime against humanity through sexual assaults, but declined to enter a new conviction against Lukić on this basis. See Appeal Judgement, paras. 1592, 1604, p. 742.

⁶⁴ Trial Judgement, vol. 3, para. 1201 ("[...] Lukić continued to instruct the MUP to engage in joint operations with the VJ in Kosovo, despite his knowledge of crimes being committed against Kosovo Albanians during previous joint operations. This conduct, which was undertaken by Lukić in his official capacity as the Head of the MUP Staff, constitutes an abuse of his superior position and thus aggravates his sentence. This finding is made despite the Chamber's acknowledgement that Lukić was acting in the midst of a complicated situation, including the defence of the country against NATO bombing and some combat operations against the [Kosovo Liberation Army]."). See Appeal Judgement, para. 1823.

⁶⁵ Trial Judgement, vol. 3, paras. 1178-1179. See Appeal Judgement, para. 1841.

⁶⁶ Trial Judgement, vol. 3, para. 1202. See Appeal Judgement, paras. 1826, 1841. The Appeals Chamber also found that Lukić's surrender to the ICTY should be considered a mitigating factor. Appeal Judgement, paras. 1828, 1841, 1845.

⁶⁷ Application, para. 13.

⁶⁸ Application, para. 14. See Submissions of 24 May 2019, paras. 21-22. Lukić also avers that he "incorporates [his prior submissions] as if set forth fully herein". Application, para. 14. In so doing, he does not identify which prior submissions he has in mind. In this respect I consider that it will not suffice to incorporate arguments by reference. It is incumbent upon Lukić to put before me the information that he considers to be relevant to the adjudication of the Application.

predecessor that the high gravity of Lukić's crimes militates against his early release and must be considered as part of the overall assessment.⁶⁹

2. Treatment of Similarly-Situated Prisoners

49. Persons sentenced by the ICTY, like Lukić, are considered "similarly-situated" to all other prisoners under the Mechanism's supervision.⁷⁰ As noted above, all convicted persons supervised by the Mechanism are considered eligible to apply for early release upon the completion of two-thirds of their sentences, irrespective of the tribunal that convicted them and where they serve their sentence.⁷¹ Having passed this two-thirds threshold on 12 May 2019, Lukić is eligible to be considered for early release.⁷²

3. Demonstration of Rehabilitation

50. Before turning to an individualised assessment of Lukić's demonstration of rehabilitation, I recall that I have set forth some of the considerations that will guide my assessment of whether a convicted person has demonstrated rehabilitation under Rule 151 of the Rules.⁷³

51. In my view, it is not appropriate to look at the rehabilitation of perpetrators of genocide, crimes against humanity, or war crimes through exactly the same paradigm as rehabilitation of perpetrators of ordinary domestic crimes.⁷⁴ For instance, while good behaviour in prison may generally be a positive indicator of rehabilitation in a national context, given the particular nature and scope of the crimes within the jurisdiction of the ICTR, the ICTY, and the Mechanism, I do not consider that such behaviour can on its own demonstrate rehabilitation of a person convicted for some of the most heinous international crimes.⁷⁵

52. There are, however, a number of positive indicators of rehabilitation of persons convicted by the ICTR, the ICTY, or the Mechanism which have been recognised as such in the past or may be of persuasive relevance.⁷⁶ Such indicators include: (i) the acceptance of responsibility for the crimes a person was convicted for or for actions which enabled the commission of the crimes; (ii) signs of critical reflection of the convicted person upon his or her crimes; (iii) public or private

⁶⁹ *Lukić* Decision of 17 September 2018, paras. 24, 37; *Lukić* Decision of 30 May 2017, paras. 28, 56.

⁷⁰ *Miletić* Decision, para. 41; *Bagosora* Decision, para. 39; *Prosecutor v. Dragoljub Kunarac*, Case No. MICT-15-88-ES.1, Decision on Dragoljub Kunarac's Application for Early Release, 31 December 2020 (public redacted) ("*Kunarac* Decision"), para. 39.

⁷¹ *See supra*, para. 39.

⁷² *See supra*, para. 39.

⁷³ *Miletić* Decision, paras. 43-47; *Bagosora* Decision, paras. 41-45; *Kunarac* Decision, paras. 41-45.

⁷⁴ *Miletić* Decision, para. 44; *Bagosora* Decision, para. 42; *Kunarac* Decision, para. 42.

⁷⁵ *Miletić* Decision, para. 44; *Bagosora* Decision, para. 42; *Kunarac* Decision, para. 42.

expressions of genuine remorse or regret; (iv) actions taken to foster reconciliation or seek forgiveness; (v) evidence that a convicted person has a positive attitude towards persons of other backgrounds, bearing in mind the discriminatory motive of some of the crimes; (vi) participation in rehabilitation programmes in prison; (vii) a convicted person's mental health status; and (viii) a positive assessment of a convicted person's prospects to successfully reintegrate into society.⁷⁷ This is a non-exhaustive list and I do not expect convicted persons to fulfil all of these indicators in order to demonstrate rehabilitation.⁷⁸ It falls, however, upon the convicted person to convince me that sufficient progress has been made in his or her rehabilitation, and that granting release before the full sentence is served would be a responsible exercise of my discretion.⁷⁹

53. Rehabilitation entails that a convicted person may be trusted to successfully and peacefully reintegrate into a given society.⁸⁰ Consequently, I consider that rehabilitation involves indicators of readiness and preparedness to reintegrate into society.⁸¹ I will, therefore, generally consider the convicted person's post-release plans, including the envisaged place of residence.⁸² If the convicted person intends to return to the region where his or her crimes were committed, extra scrutiny will be called for, keeping in mind that the ICTR, the ICTY, and the Mechanism were established under Chapter VII of the United Nations Charter to contribute to the restoration and maintenance of peace and security.⁸³ Bearing this in mind, I generally do not consider it appropriate to enable convicted persons to return to the affected regions before they have served their full sentence without having demonstrated a greater degree of rehabilitation.⁸⁴

54. Rehabilitation is a process rather than a definite result, and it is just one factor that I will consider alongside other factors when deciding on the early release of a convicted person who is eligible to be considered for such relief.⁸⁵ Conversely, there may be instances where, despite a lack of sufficient evidence of rehabilitation, I may consider pardon, commutation of sentence, or early release to be appropriate in light of the prevalence of other factors.⁸⁶

⁷⁶ *Miletić* Decision, para. 45; *Bagosora* Decision, para. 43; *Kunarac* Decision, para. 43.

⁷⁷ *Miletić* Decision, para. 45; *Bagosora* Decision, para. 43; *Kunarac* Decision, para. 43.

⁷⁸ *Miletić* Decision, para. 45; *Bagosora* Decision, para. 43; *Kunarac* Decision, para. 43.

⁷⁹ *Miletić* Decision, para. 45; *Bagosora* Decision, para. 43; *Kunarac* Decision, para. 43.

⁸⁰ *Miletić* Decision, para. 46; *Bagosora* Decision, para. 44; *Kunarac* Decision, para. 44.

⁸¹ *Miletić* Decision, para. 46; *Bagosora* Decision, para. 44; *Kunarac* Decision, para. 44.

⁸² *Miletić* Decision, para. 46; *Bagosora* Decision, para. 44; *Kunarac* Decision, para. 44.

⁸³ *Miletić* Decision, para. 46; *Bagosora* Decision, para. 44; *Kunarac* Decision, para. 44.

⁸⁴ *Miletić* Decision, para. 46; *Bagosora* Decision, para. 44; *Kunarac* Decision, para. 44.

⁸⁵ *Miletić* Decision, para. 47; *Bagosora* Decision, para. 45; *Kunarac* Decision, para. 45.

⁸⁶ *Miletić* Decision, para. 47; *Bagosora* Decision, para. 45; *Kunarac* Decision, para. 45.

(a) General Comments

55. At the outset, I observe that my predecessor rendered two decisions that positively assess the rehabilitation demonstrated by Lukić,⁸⁷ and that Lukić relies on these assessments as part of his submissions on rehabilitation.⁸⁸ While I have taken this into account, I consider that the receipt of updated and additional information necessarily entails that I assess Lukić's demonstration of rehabilitation anew, in light of the entirety of the information now available.

56. I note that of the new material before me, the most probative as to Lukić's demonstration of rehabilitation include the Application, the Prison Documents dated January 2019, Lukić's personal statement communicated as part of the Submissions of 24 May 2019,⁸⁹ the Notice of Completion of Rehabilitation Course, the Prison Documents dated 31 July 2019, and the Final Submissions. With respect to the material received from Poland, I consider that this material remains relevant notwithstanding Lukić's transfer to the UNDU, as it is based upon Poland's experience in enforcing Lukić's sentence since 2015.

(b) Behaviour in Prison

57. The Prison Deputy Director states that Lukić "displays exemplary observance of the established order and discipline rules", that "[n]o breaches of order or discipline have been noted", and that "[n]o disciplinary punishments have been administered".⁹⁰ In fact, Lukić has "received 54 awards, primarily for proper performance of employment duties" and "requested and received 16 concessions".⁹¹

58. This account has been seconded by the Prison Director,⁹² who further elaborated that the system of rewards and concessions is based on the Polish Penalty Execution Code⁹³ and observed that in the six months after the Prison Deputy Director Report was transmitted in January 2019, Lukić had been further "rewarded eleven times for outstanding behaviour and proper employment service, as well as received four concessions at his request".⁹⁴

⁸⁷ *Lukić* Decision of 17 September 2018, paras. 28, 37; *Lukić* Decision of 30 May 2017, paras. 42, 56.

⁸⁸ Application, paras. 23-25; Submissions of 24 May 2019, paras. 16, 20; Final Submissions, para. 13.

⁸⁹ Submissions of 24 May 2019, para. 23.

⁹⁰ Prison Deputy Director Report, p. 1. *See* Prison Director Report of 31 July 2019, p. 1.

⁹¹ Prison Deputy Director Report, p. 1.

⁹² Prison Director Report of 31 July 2019, p. 1.

⁹³ Prison Director Report of 31 July 2019, p. 2, *referring to* Articles 137-138, 141§1 of the Polish Penalty Execution Code.

⁹⁴ Prison Director Report of 31 July 2019, p. 1.

59. While I attach only minimal weight to the rewards and concessions earned by Lukić, I place greater emphasis on the description of his outstanding behaviour offered by the Prison Director and Prison Deputy Director. While recognising the limitations that a convicted person's behaviour in prison may have in demonstrating rehabilitation,⁹⁵ I nevertheless note that many of the Prison Director's and Prison Deputy Director's positive comments also pertain to Lukić's mental state, personality, and the risk of his reoffending, which will be discussed further below.

(c) Acceptance of Responsibility, Signs of Critical Reflection, and Genuine Expressions of Remorse

60. The Prison Deputy Director reports that "[i]n educational sessions, [Lukić] presents a critical view of the crimes he perpetrated",⁹⁶ which Lukić has since clarified should refer to "the crimes he [was] convicted of".⁹⁷ I consider the fact that Lukić has presented a critical view of the crimes to be a positive indicator of his rehabilitation.

61. Lukić also refers to his public apology to the victims during his appeal hearing in 2013,⁹⁸ in which he stated "Your Honours, I'm truly sorry and I truly regret all the casualties, especially the civilian ones, and the suffering of the citizens caused by the unfortunate war in Kosovo".⁹⁹ This expression of remorse is to be given positive weight in considering the Application. In this regard, I note that during the consultation process, Judge Liu indicated that the Appeals Chamber considered this expression of remorse to be genuine.

(d) Mental State, Personality, and Participation in a Rehabilitation Programme

62. The Prison Psychologist states that [REDACTED],¹⁰⁰ [REDACTED],¹⁰¹ and [REDACTED].¹⁰² Lukić has been [REDACTED].¹⁰³ In addition, Lukić "[REDACTED]".¹⁰⁴ According to the Prison Psychologist, Lukić "[REDACTED]".¹⁰⁵

⁹⁵ See *supra*, para. 51.

⁹⁶ Prison Deputy Director Report, p. 1.

⁹⁷ Submissions of 24 May 2019, para. 19.

⁹⁸ Final Submissions, para. 13, referring to Sreten Lukić's Request for Early Release or in the Alternative, Pardon, or Commutation of Sentence, 17 January 2017 (confidential), Annex D.

⁹⁹ *Prosecutor v. Nikola Šainović et al.*, Case No. IT-05-87-A, Transcript of 15 March 2013, T. 686.

¹⁰⁰ Prison Psychologist Memorandum of 21 January 2019, p. 1,

¹⁰¹ Prison Psychologist Memorandum of 21 January 2019, p. 1.

¹⁰² Prison Psychologist Memorandum of 31 July 2019, p. 1.

¹⁰³ Prison Psychologist Memorandum of 31 July 2019, p. 1.

¹⁰⁴ Prison Psychologist Memorandum of 31 July 2019, p. 1.

¹⁰⁵ Prison Psychologist Memorandum of 21 January 2019, p. 1. See Prison Psychologist Memorandum of 31 July 2019, p. 1.

63. Both the Prison Director and Prison Psychologist refer to Lukić's completion of a programme devoted to preventing aggression and violence,¹⁰⁶ and they report that Lukić's participation was "assessed positively".¹⁰⁷ Even though Lukić's completion of the course does not in and of itself demonstrate rehabilitation,¹⁰⁸ I consider that this, together with his willingness to participate in the course, is a further, positive indicator of his rehabilitation.

(e) Risk of Reoffending and Prospects of Successful Reintegration into Society

64. Lukić states that if released early, he would reside in [REDACTED], Serbia, [REDACTED].¹⁰⁹ He indicates that he would support himself financially through his existing MUP pension, and his only involvement with the MUP would be if he has to provide pension-related paperwork.¹¹⁰ According to Lukić, his "absolute priority is [his] family and preservation of [his] health".¹¹¹

65. I have taken particular note of Lukić's personal statements disowning any interest in politics and in cooperating with "politicians in the region that are engaged in embellishing their political stature and advancing political goals and careers[, e]specially those politicians [he has] seen in the media playing upon or propagandizing for their advantage by the use of public glamorization of other former ICTY convicted persons (including persons released by the Mechanism)".¹¹² Lukić further avers that he has "no wish nor desire to take part in any of that", does not condone or support it, and that he "will refuse [his] permission to any politician or political party to utilize [his] name, image or circumstance in such a purely political manner".¹¹³

66. Notably, these statements are supported by the Prison Director, who reports that Lukić "speaks of his crimes unwillingly" and "continues to refuse interviews, does not want to provide any information to the media".¹¹⁴ The Prison Deputy Director also reports that Lukić "speaks reluctantly about his crimes" and "does not agree to press interviews, does not provide information to the media".¹¹⁵ Likewise, the Registry identified only a limited number of media reports on Lukić

¹⁰⁶ Prison Director Report of 31 July 2019, p. 2; Prison Psychologist Memorandum of 31 July 2019, p. 1. *See* Notice of Completion of Rehabilitation Course, paras. 4-7, Annex. The Prison Director reports that this programme was conducted by a certified coach who "is also a translator/interpreter of the Serb language, which removed the language barrier".

¹⁰⁷ Prison Director Report of 31 July 2019, p. 2. *See* Prison Psychologist Memorandum of 31 July 2019, p. 1.

¹⁰⁸ *See* Prosecutor Memorandum of 23 July 2019, para. 7.

¹⁰⁹ [REDACTED].

¹¹⁰ [REDACTED].

¹¹¹ Submissions of 24 May 2019, para. 23.

¹¹² Submissions of 24 May 2019, para. 23. *See* Final Submissions, para. 14.

¹¹³ Submissions of 24 May 2019, para. 23. *See* Application, para. 27(f); Final Submissions, para. 14.

¹¹⁴ Prison Director Report of 31 July 2019, p. 1.

¹¹⁵ Prison Deputy Director Report, p. 1.

that were published in Serbia during the previous two-year period, none of which give cause for concern.¹¹⁶

67. Lukić has also volunteered to: (i) refrain from interfering with the administration of justice in relation to his case or any other case before the Mechanism;¹¹⁷ (ii) refrain from contact with any victims or prosecution witnesses known to him to have testified in his trial before the ICTY;¹¹⁸ (iii) honour and adhere to all orders on protective measures and confidential information in his case;¹¹⁹ (iv) refrain from any visits “to Kosovo and Metohija”;¹²⁰ (v) not engage in any public appearances either in the media or otherwise, and refrain from commenting or discussing his convictions or trial with the media;¹²¹ (vi) refrain from “and has no intention of” entering into or engaging in politics, and “shall not advocate nor promote any political party”;¹²² and (vii) abide by all laws if he is released early.¹²³

68. I further observe that the Serbian Ministry of Justice and [REDACTED] have responded positively to Lukić’s stated intention to reside in [REDACTED] if granted early release,¹²⁴ which supports the notion that Lukić would be able to reintegrate into society there. In addition, Serbia has confirmed that it “would be prepared to monitor the fulfilment of any conditions imposed by the Mechanism should early release be granted”.¹²⁵ I am appreciative of Serbia’s willingness in this regard, and consider this to be an important element in my determination as to whether Lukić could be expected to reintegrate successfully and peacefully into society.

69. With regard to the support that Lukić could expect to receive from his family if released early, I observe that the Prison Director states that Lukić’s family relationships “are correct” and that Lukić “has emotional ties with his close ones”.¹²⁶ He also reports that Lukić has maintained external contacts with [REDACTED] by way of visits at the Prison, correspondence, and Skype or

¹¹⁶ Registry Memorandum of 19 July 2019, Annex, pp. 2-5 (there were four articles in 2017, all of which concerned the *Lukić* Decision of 30 May 2017; none in 2018; and two in 2019, one reporting on an alleged new investigation into Lukić and his co-accused, the other observing that Lukić had completed serving two-thirds of his sentence and could be eligible for early release, upon which Lukić’s Counsel declined to make any comment to the media). *See* Final Submissions, para. 9(a).

¹¹⁷ Application, para. 27(c). *See also* Final Submissions, para. 15.

¹¹⁸ Application, para. 27(c).

¹¹⁹ Application, para. 27(d).

¹²⁰ Application, para. 27(e).

¹²¹ Application, para. 27(e).

¹²² Application, para. 27(f). *See* Application, fn. 20; Submissions of 24 May 2019, para. 23; Final Submissions, para. 14.

¹²³ Application, para. 27(g).

¹²⁴ Serbia *Note Verbale* of 6 May 2020, Registry Pagination (“RP”) 5233-5232.

¹²⁵ Serbia *Note Verbale* of 6 May 2020, RP 5232 (emphasis omitted).

¹²⁶ Prison Director Report of 31 July 2019, p. 1. *See also* Prison Deputy Director Report p. 1.

telephone conversations.¹²⁷ This information provides further reassurance that Lukić would be able to reintegrate successfully and peacefully into society, and it supports his own statement that if released early his family, along with his health, would be his “absolute priority”.¹²⁸

70. Finally, I observe that the Prison Deputy Director reports that if released, Lukić “will not require post-penitentiary assistance”.¹²⁹

(f) Overall Assessment

71. A number of positive indicators demonstrating Lukić’s rehabilitation have been independently verified and are mutually reinforcing. Lukić shows some signs of critical reflection, apologised publicly during his appeal hearing, has received unqualified praise from the Prison Director and Prison Deputy Director, [REDACTED], has denounced politicians who engage in the glorification of persons convicted by the ICTY, refuses to discuss his case with the media, voluntarily enrolled himself in, and completed a, rehabilitation programme, has maintained close ties with his family, can be expected to be able to reintegrate successfully and peacefully into society, and has affirmed his commitment to comport with all reasonable conditions and to uphold the administration of justice.

72. After considering these indicators and the information before me both individually and cumulatively, I conclude that Lukić has demonstrated a fair level of rehabilitation.

4. Substantial Cooperation with the Prosecutor

73. With respect to Lukić’s cooperation, the Prosecution states that the ICTY Prosecution interviewed Lukić over three days in 2002, but that there has been no further cooperation.¹³⁰ The Prosecution also submits that because Lukić received credit for this cooperation in mitigation of his sentence, it should not be double-counted as a factor supporting early release.¹³¹ Finally, the Prosecution notes that [REDACTED].¹³²

74. Lukić observes that on two separate occasions, my predecessor, President Meron, stated that Lukić’s cooperation with the ICTY Prosecution [REDACTED] advanced the interests of justice

¹²⁷ Prison Director Report of 31 July 2019, p. 1. *See also* Prison Deputy Director Report, p. 1.

¹²⁸ Submissions of 24 May 2019, para. 23.

¹²⁹ Prison Deputy Director Report, p. 1.

¹³⁰ Prosecution Memorandum of 14 December 2018, paras. 2-3.

¹³¹ *See* Prosecution Memorandum of 14 December 2018, para. 2. *See also* Prosecutor Memorandum of 23 July 2019, para. 6.

¹³² Prosecution Memorandum of 14 December 2018, para. 2.

and favours his early release.¹³³ Lukić adds that he expressed his readiness to cooperate both before he was indicted, [REDACTED].¹³⁴ [REDACTED].¹³⁵

75. I find no merit in the Prosecution's submission that Lukić's cooperation should not be considered in support of the Application because it was already taken into account as a mitigating factor. The Mechanism's legal framework and practice explicitly allow for factors taken into account at the sentencing stage to also be considered when determining whether early release is appropriate.¹³⁶ Some factors, such as substantial cooperation with the Prosecutor or expressions of genuine remorse or regret, may be in the convicted person's favour, while the gravity of the crimes may be to the convicted person's detriment.¹³⁷ Moreover, Rule 151 of the Rules provides that the President "shall take into account [...] any substantial cooperation of the prisoner with the Prosecutor" when making an early release determination. Finally, I observe that my predecessor considered a similar argument by the Prosecution, but also deemed it appropriate to place some weight upon Lukić's assistance and cooperation.¹³⁸

76. With regard to Lukić's cooperation with the Prosecutor in 2002 [REDACTED], I note that my predecessor favourably assessed his cooperation in reference to this aspect of Rule 151 of the Rules, i.e. "substantial cooperation with the Prosecutor".¹³⁹ I likewise consider Lukić's cooperation in a favourable light, even if it does not rise to the level of "substantial".¹⁴⁰ In my view, less-than-substantial cooperation with the Prosecutor, [REDACTED],¹⁴¹ merit consideration as part of the overall assessment of an application for early release.

77. In this respect, I find it highly commendable that Lukić chose to cooperate with the Prosecution in 2002, before he was under the ICTY's jurisdiction, and that he [REDACTED]. This complements the Trial Chamber's finding "that on the balance of probabilities Lukić contributed to law and order in a number of cases connected [with] the crimes in the Indictment".¹⁴² Lukić's [REDACTED] merits positive weight in my consideration of the Application.

¹³³ Application, paras. 20-22; Final Submissions, para. 11.

¹³⁴ [REDACTED].

¹³⁵ Final Submissions, Annex A, RP 5254.

¹³⁶ *Kunarac* Decision, para. 73.

¹³⁷ *Kunarac* Decision, para. 73.

¹³⁸ *Lukić* Decision of 17 September 2018, para. 32.

¹³⁹ *Lukić* Decision of 17 September 2018, para. 32; *Lukić* Decision of 30 May 2017, para. 49.

¹⁴⁰ I note that neither the Trial Chamber nor the Prosecution described Lukić's cooperation as rising to such a level. Trial Judgement, vol. 3, para. 1202. See Appeal Judgement, paras. 1826, 1841, 1845. See also Prosecution Memorandum dated 14 December 2018, para. 2.

¹⁴¹ [REDACTED].

¹⁴² Trial Judgement, vol. 3, para. 1202. See Appeal Judgement, paras. 1826, 1841.

C. Other Considerations

1. Views of the Prosecutor

78. I have previously explained that I will use my discretion to receive and consider general comments from the Prosecution with regard to early release applications.¹⁴³ In doing so, I will exercise caution to avoid any unreasonable imbalance to the detriment of the convicted person, and will carefully assess on a case-by-case basis which submissions are of actual relevance in a given case, mindful of the rights of the convicted person.¹⁴⁴

79. The Prosecutor opposes early release and submits that Lukić has not demonstrated that his early release is warranted due to the high gravity of his crimes and insufficient evidence of his rehabilitation.¹⁴⁵ The Prosecutor recalls the crimes Lukić was convicted of,¹⁴⁶ and observes that Lukić has “completely denied responsibility, claiming that he did not have the necessary authority, will nor knowledge to commit any crimes”.¹⁴⁷ In addition, the Prosecutor submits that Lukić’s “self-serving claims of rehabilitation” should be weighed against his conduct and statements,¹⁴⁸ and argues that little to no weight should be afforded to Lukić’s purported good conduct during the indictment period or the rehabilitation course he completed recently.¹⁴⁹ Finally, the Prosecutor suggests that I seek the input of victims and communities affected by Lukić’s crimes,¹⁵⁰ that I ought to consider the security of victims and witnesses and the impact that Lukić’s release might have on them,¹⁵¹ and that I should contemplate the impact of Lukić’s release into a community that features a “climate of denial and glorification [...] of crimes in Kosovo”.¹⁵²

80. If early release is granted, the Prosecutor proposes that it be subject to certain conditions, along with a requirement that Serbia designate an authority to monitor and enforce Lukić’s compliance with all conditions.¹⁵³

81. Throughout my consideration of this matter, I have given due regard to the views expressed by the Prosecutor. I have also taken note of the conditions he proposes and his comments

¹⁴³ *Miletić* Decision, para. 62; *Bagosora* Decision, para. 54; *Kunarac* Decision, para. 76.

¹⁴⁴ *Miletić* Decision, para. 62; *Bagosora* Decision, para. 54; *Kunarac* Decision, para. 76.

¹⁴⁵ Prosecutor Memorandum of 23 July 2019, paras. 2, 15.

¹⁴⁶ Prosecutor Memorandum of 23 July 2019, para. 4.

¹⁴⁷ Prosecutor Memorandum of 23 July 2019, para. 5.

¹⁴⁸ Prosecutor Memorandum of 23 July 2019, para. 2.

¹⁴⁹ Prosecutor Memorandum of 23 July 2019, paras. 6-7.

¹⁵⁰ Prosecutor Memorandum of 23 July 2019, paras. 2, 8, 15.

¹⁵¹ Prosecutor Memorandum of 23 July 2019, para. 9.

¹⁵² Prosecutor Memorandum of 23 July 2019, para. 10.

¹⁵³ Prosecutor Memorandum of 23 July 2019, paras. 2, 11-15.

on guarantees and orders relevant to Serbia,¹⁵⁴ and in this respect have also taken into account Lukić's submissions on these proposals.¹⁵⁵

2. Views of Serbia

82. Serbia, through a letter sent by the State Secretary of the Ministry of Justice, has expressed its support for the Application, shared its view that the sentence has served its purpose, and confirmed that there would be no obstacles for Lukić to reside in [REDACTED].¹⁵⁶ Moreover, Serbia has affirmed that relevant Serbian institutions are prepared to monitor the fulfilment of any conditions imposed by the Mechanism should early release be granted, and has provided binding and unequivocal guarantees that it will do so, including its obligation to arrest Lukić immediately and transfer him to the custody of the Mechanism in line with the underlying conditions.¹⁵⁷

83. I am appreciative of Serbia's willingness to express its views on this matter, in particular with regard to Lukić's stated desire to reside in [REDACTED] if released early, as well as Serbia's willingness and ability to monitor any conditions imposed by the Mechanism should early release be granted. These views make clear the Serbian authorities' support for the Application and Lukić's post-release plans, as does the fact that Serbia has now entered Lukić's final conviction by the ICTY onto his criminal record in Serbia.¹⁵⁸ I have taken this information into account with respect to Lukić's prospects of successfully reintegrating into society,¹⁵⁹ and moreover have relied on Serbia's communications and guarantees in considering whether to grant the Application and the conditions to be imposed if I do so.

3. Impact on Witnesses and Victims

84. A total of 242 witnesses gave evidence in the proceedings involving Lukić.¹⁶⁰ WISP conveyed information concerning 81 witnesses who were identified as either victims or "sensitive witnesses" in view of their testimony or other factors.¹⁶¹ For the victim witnesses, although WISP considers that a number of them are "particularly vulnerable", none of the victim witnesses are residing in the area of [REDACTED] according to WISP's records.¹⁶² WISP also observed that its

¹⁵⁴ Prosecutor Memorandum of 23 July 2019, paras. 12-14.

¹⁵⁵ Final Submissions, paras. 15-17.

¹⁵⁶ Serbia *Note Verbale* of 6 May 2020, RP 5233-5232.

¹⁵⁷ Conclusion of the Government of Serbia; Guarantee of the Government of Serbia.

¹⁵⁸ Serbian Minister of Justice Letter of 28 June 2021, p. 1.

¹⁵⁹ *See supra*, para. 68.

¹⁶⁰ *See* Trial Judgement, vol. 1, paras. 21, 28, 31, vol. 4, Annex D; *Prosecutor v. Milan Milutinović et al.*, Case No. IT-05-87-T, Transcript of 26 February 2009, T. 27495.

¹⁶¹ Registrar Memorandum of 18 September 2019, para. 2; WISP Memorandum, paras. 3-5, pp. 3-22.

¹⁶² WISP Memorandum, paras. 6-7.

records do not reflect any direct link between Lukić and any protection or support-related issues raised by any of these witnesses.¹⁶³

85. WISP stated that a more comprehensive assessment of the overall situation would require that each witness be contacted individually.¹⁶⁴ In this regard, I remain cognisant that contacting witnesses too frequently could negatively impact them, particularly in terms of their need to move on with their lives, and especially if some years have passed since they have been contacted by the Mechanism or its predecessor tribunals.¹⁶⁵ Having taken into account the detailed material already provided by WISP, I do not consider it necessary for the Mechanism to disturb former witnesses in order to solicit further information from them with respect to the Application.

86. In light of the importance I place on receiving the views of victims' associations where feasible, I inquired with the Registry about the existence of any such associations or groups that exist in relation to the crimes for which Lukić was convicted.¹⁶⁶ The Registry responded that although there are a number of such organisations, they are mostly local only and "have no public presence, not even a website", or otherwise focus on specific aspects of support for victim communities.¹⁶⁷ The Prosecutor likewise did not identify a victims' association that could be approached for this purpose.¹⁶⁸ In light of this, I have only been able to take into account the views expressed by the Prosecutor, as well as by WISP. These views do not alter my conclusions on the high gravity of Lukić's crimes or the extent to which he has demonstrated rehabilitation, nor do they suggest that his early release to [REDACTED] would constitute a danger to victims and is therefore not warranted.

4. Health of the Convicted Person

87. Previous decisions on early release have determined that the state of the convicted person's health may be taken into account in the context of an application for early release, especially when the seriousness of the condition makes it inappropriate for the convicted person to remain in prison any longer.¹⁶⁹

¹⁶³ WISP Memorandum, para. 7.

¹⁶⁴ WISP Memorandum, para. 8.

¹⁶⁵ *Prosecutor v. Radoslav Brđanin*, Case No. MICT-13-48-ES, Decision on the Application of Radoslav Brđanin for Early Release, 28 February 2020 (public redacted), para. 90.

¹⁶⁶ Memorandum of 17 June 2019, para. 6.

¹⁶⁷ Registry Memorandum of 19 July 2019, Annex, pp. 1-2.

¹⁶⁸ See Prosecutor Memorandum of 23 July 2019, paras. 2, 8, 15.

¹⁶⁹ *Miletić* Decision, para. 67; *Bagosora* Decision, para. 60; *Kunarac* Decision, para. 79.

88. Lukić requests that I give particular attention to [REDACTED].¹⁷⁰ According to Lukić, his early release would [REDACTED].¹⁷¹

89. I have taken note of this document, but place no weight upon it in light of the more recent and comprehensive medical report authored by a Physician at the Outpatient Clinic and Infirmary of the Prison. Notably this report [REDACTED].¹⁷²

90. Therefore, in light of the information before me, I consider that there are no sufficiently compelling humanitarian grounds which in and of themselves would warrant Lukić's early release.

5. Consultation

91. In coming to my decision on whether to grant the Application I have consulted with two other Judges of the Mechanism.¹⁷³ Judge Liu and Judge Bonomy both agree that the Application should be granted, notwithstanding the gravity of the crimes for which Lukić was convicted, in view of the positive indicators of rehabilitation that demonstrate that Lukić could reintegrate successfully and peacefully into society.

92. I am grateful for my Colleagues' views on these matters, and have taken them into account in my ultimate assessment of the Application.

V. CONCLUSION

93. I consider that the Application should be granted subject to the conditions set out in the annexed Conditional Early Release Agreement ("Agreement"). The gravity of Lukić's crimes is high and weighs heavily against granting early release. Notwithstanding this consideration, there are a number of positive factors that, taken together, have convinced me that Lukić could be trusted to reintegrate successfully and peacefully into society.

94. Of particular note is that Lukić cooperated with the Prosecution in 2002, surrendered to the ICTY in 2005, apologised publicly in 2013, and [REDACTED]. Among other positive indicators of rehabilitation, he is reported to present a critical view of the crimes, accepts that he must serve his sentence, and displays exemplary behaviour in prison. He also states that he has not cooperated and will not cooperate with those seeking to glamourise ICTY convicted persons, such

¹⁷⁰ Application, paras. 17-19; Submissions of 24 May 2019, paras. 12-14; Final Submissions, para. 20, Annex B. See also Motion of 27 March 2020, Annex B, RP 5197-5196.

¹⁷¹ Submissions of 24 May 2019, para. 14.

¹⁷² Prison Physician Report, p. 2.

¹⁷³ See *supra*, para. 33.

as himself, and he refuses interviews with the media. Importantly, no witness-related concerns have been identified were Lukić to be released early, and Serbia has guaranteed its willingness and ability to monitor any conditions imposed by the Mechanism.

95. As a result, I consider it is in the interests of justice and the general principles of law to grant Lukić's early release, subject to strict conditions which will remain in force until the completion of Lukić's sentence on 7 January 2026. Having considered the views of Lukić, the Prosecutor, and Serbia with respect to the conditions, as well as those of the Judges with whom I consulted on this matter, I have set forth necessary and appropriate conditions in the annexed Agreement. I emphasise that Lukić's agreement with these conditions forms a prerequisite for his being released early, and that any failure by Lukić to strictly adhere to these conditions would immediately jeopardise his conditional early release.


VI. DISPOSITION

96. For the foregoing reasons, and pursuant to Article 26 of the Statute and Rules 150 and 151 of the Rules, I hereby **GRANT** the Application, **SUBJECT TO** the conditions set forth in the Agreement.

97. The Registrar is hereby **DIRECTED** to provide the authorities of the Netherlands and Serbia with the confidential redacted version of this Decision as soon as practicable. In the event that Lukić agrees with, signs, and submits to the Registry the original signed Agreement (both the authoritative English version and the official BCS translation), the Registrar is hereby **DIRECTED** to take all necessary measures to facilitate Lukić's transfer as expeditiously as possible to Serbia. Should Lukić be transferred to Serbia, and following receipt of information from the Serbian authorities that Lukić has arrived at his place of residence in Serbia, the Registrar is further **DIRECTED** to recirculate as a public filing the confidential redacted version of this Decision and to file the signed Agreement as a public document.

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

Done this 7th day of October 2021,
At The Hague,
The Netherlands.



Judge Carmel Agius
President

[Seal of the Mechanism]



ANNEX

CONDITIONAL EARLY RELEASE AGREEMENT

Name: _____

Date of Birth: _____

I, the undersigned, declare that:

1. I have received the authoritative English version of this document, as well as the official translation into Bosnian/Croatian/Serbian (“BCS”), and have been advised by my Counsel with regard to its contents, including the individual conditions set forth herein.
2. I have read, understand, and agree to comply fully with all conditions of my early release, as set forth below.
3. I agree to comply fully with all of the following conditions:
 - A. I shall remain under the supervision of a Monitoring Authority designated by the Republic of Serbia (“Monitoring Authority” and “Serbia”, respectively) during the remainder of my sentence until its completion on 7 January 2026;
 - B. I shall comply with any requirement made of me by the Monitoring Authority, including contacting an agent of the Monitoring Authority as requested;
 - C. If required by the Monitoring Authority or if so directed by the President of the International Residual Mechanism for Criminal Tribunals (“President” and “Mechanism”, respectively), I shall report in person to the Monitoring Authority, a local police station, or any other location designated by the Monitoring Authority or the President for this purpose;
 - D. I shall notify the Mechanism and the Monitoring Authority of my address of residence in Serbia, as well as give 14 days’ notice of any proposed change of residence;
 - E. I shall have no contact whatsoever with, or directly or indirectly try to harm, intimidate, or otherwise interfere with, victims or witnesses who testified in my case or other cases before the International Criminal Tribunal for the former Yugoslavia (“ICTY”) or the Mechanism and/or members of their respective families, with the sole exception being contact with witnesses who testified in my own defence;
 - F. I shall not interfere in any way with the proceedings of the Mechanism or the administration of justice;
 - G. I shall not violate any orders issued by the ICTY or the Mechanism, and shall not otherwise reveal the identities of witnesses or potential witnesses in any way;
 - H. I shall not discuss my case, including any aspect of the events in the former Yugoslavia that were the subject of my case, with the media, through social media, or with anyone other than my legal counsel recognised by the Mechanism, if any, unless this has been specifically authorised in advance by the President;



- I. I shall not make any statement denying the crimes over which the ICTY had jurisdiction, and over which the Mechanism retains jurisdiction, that were committed during the conflict in the former Yugoslavia;
 - J. I shall under no circumstances directly or indirectly express publicly any agreement with, or otherwise contribute in any way to, the glorification of persons convicted by the ICTY or the Mechanism;
 - K. If I intend to travel outside Serbia, I will notify the Monitoring Authority beforehand so that it may seek a direction from the President, who will ultimately have the discretion to approve or not approve such travel;
 - L. I shall under no circumstances visit Kosovo;¹
 - M. I shall conduct myself honourably and peacefully in the community in which I will reside, and shall not engage in meetings or associations intended to plan civil unrest or actively engage in any political activities except for voting;
 - N. I shall deposit any firearms and other weapons requiring a licence with the Serbian authorities as designated by the Monitoring Authority, and shall not purchase, possess, use, or handle any firearms or other weapons requiring a license;
 - O. I shall not commit any offence that is punishable by any term of imprisonment, nor shall I publicly or privately incite or promote such an offence;
 - P. I shall notify the Monitoring Authority of any arrest, summons, or questioning by a law enforcement officer; and
 - Q. I shall continue to make efforts to contribute to my rehabilitation and resocialisation.
4. I understand and agree that I shall be subject to the conditions stated herein, unless they are revoked or modified, until the completion of my sentence on 7 January 2026.
5. I understand and agree that any change in the foregoing conditions can only be authorised by the President.
6. I understand and agree that if I violate or otherwise fail to comply fully with any of the conditions set out in this agreement, then my early release may be revoked at the sole discretion of the President.
7. I understand and accept that as a condition of my early release, Serbia is obligated to: (a) register my final conviction by the ICTY in my criminal record in Serbia; (b) revoke any licenses for firearms or other weapons that I may possess and ensure that no new licenses are issued

¹ This reference to "Kosovo" is to be understood in line with Security Council resolution 1244 (1999).



to me until the expiration of my sentence; and (c) transfer me immediately to the custody of the Mechanism following a request by the Mechanism to do so.

8. In addition, I understand and accept that as a condition of my early release, Serbia is obligated to designate as the Monitoring Authority an agent or entity to: (a) monitor and enforce the above-mentioned conditions; (b) report to the Mechanism, within 24 hours, any failure by me to comply with these conditions; (c) arrest me immediately upon request of the Mechanism; (d) arrest me immediately if I pose a threat to victims or witnesses, commit any crime under Serbian law that is punishable by any term of imprisonment, or seek to leave the territory of Serbia without the necessary permission in accordance with these conditions, or if Serbia or the Monitoring Authority otherwise consider it necessary to ensure compliance with each of the conditions set out herein; and (e) submit quarterly reports to the Mechanism on the implementation of these conditions.

9. I understand that once I have signed the authoritative English version of this document, as well as the official BCS translation, the original signed document (in both languages) is to be provided to the Registry of the Mechanism, which will subsequently file it publicly on the judicial record in *Prosecutor v. Sreten Lukić*, Case No. MICT-14-67-ES.4, and that until I have been transferred to my place of residence in Serbia, this matter must remain confidential for reasons of security.

Signature: _____

Name: _____

Date: _____

Witnessed by (for Sreten Lukić):

Signature: _____

Name: _____

Date: _____

Witnessed by (for the Mechanism):

Signature: _____

Name: _____

Date: _____



SPORAZUM O USLOVNOM PREVREMENOM PUŠTANJU NA SLOBODU

Ime i prezime: _____

Datum rođenja: _____

Ja, dole potpisani, izjavljujem sledeće:

1. Primio sam merodavnu englesku verziju ovog dokumenta, kao i zvaničan prevod na bosanski/hrvatski/srpski (dalje u tekstu: b/h/s), i objašnjenje svog pravnog zastupnika u vezi sa sadržajem tog dokumenta, uključujući sve uslove koji su u njemu navedeni.
2. Pročitao sam, razumem, i pristajem da u potpunosti ispunim sve uslove prevremenog puštanja na slobodu, navedene niže u tekstu.
3. Pristajem da u potpunosti ispunim sve niže navedene uslove:
 - A. Ostaću pod nadzorom Nadzorne vlasti koju odredi Republika Srbija (dalje u tekstu: Nadzorna vlast, odnosno Srbija) tokom preostalog dela kazne sve do njenog isteka 7. januara 2026. godine;
 - B. Postupaću u skladu sa svim uslovima koje mi odredi Nadzorna vlast, uključujući i održavanje kontakta s predstavnikom Nadzorne vlasti na njihov zahtev;
 - C. Ako to zatraži Nadzorna vlast ili naloži predsednik Međunarodnog rezidualnog mehanizma za krivične sudove (dalje u tekstu: predsednik, odnosno Mehanizam), lično ću se javljati Nadzornoj vlasti, lokalnoj policijskoj stanici ili bilo kojoj drugoj lokaciji koju u tu svrhu odredi Nadzorna vlast ili predsednik;
 - D. Mehanizmu i Nadzornoj vlasti ću dostaviti adresu na kojoj boravim u Srbiji, a o eventualnom predlogu o promeni adrese ću ih obavestiti 14 dana unapred;
 - E. Neću stupati ni u kakav kontakt sa žrtvama ili svedocima koji su svedočili u mom predmetu ili u drugim predmetima pred Međunarodnim krivičnim sudom za bivšu Jugoslaviju (dalje u tekstu: MKSJ) ili Mehanizmom, ni sa članovima njihovih porodica, niti ću direktno ili indirektno pokušati da ih povredim, zastrašim ili na drugi način uznemiravam, izuzev kontakta isključivo sa svedocima koji su svedočili u moju odbranu;
 - F. Ni na koji način neću ometati postupke Mehanizma ni sprovođenje pravde;
 - G. Neću prekršiti nijedan nalog MKSJ ili Mehanizma i ni na koji način neću otkriti identitet svedoka ili potencijalnih svedoka;
 - H. O mom predmetu, uključujući bilo koji aspekt događaja u bivšoj Jugoslaviji koji su bili predmet mog suđenja, neću razgovarati putem društvenih mreža, s medijima, niti s bilo kim izuzev s mojim eventualnim pravnim zastupnikom kog je priznao Mehanizam, osim u slučaju da za to unapred dobijem konkretno odobrenje od predsednika;



- I. Neću davati nikakve izjave kojima se negiraju zločini nad kojima je MKSJ imao nadležnost i nad kojima Mehanizam zadržava nadležnost, a koji su počinjeni tokom sukoba u bivšoj Jugoslaviji;
- J. Ni pod kojim okolnostima neću, direktno ili indirektno, javno izraziti slaganje sa veličanjem lica koja je osudio MKSJ ili Mehanizam, niti ću na bilo koji način doprineti veličanju tih lica;
- K. O eventualnoj nameri da putujem van Srbije unapred ću obavestiti Nadzornu vlast kako bi ona zatražila uputstva od predsednika, koji u krajnjoj instanci ima diskreciono ovlašćenje da putovanje odobri ili ne;
- L. Ni pod kojim uslovima neću putovati na Kosovo;²
- M. U zajednici u kojoj budem boravio ponašaću se časno i miroljubivo i neću učestvovati u sastancima ili udruženjima čiji je cilj planiranje građanskih nereda niti aktivno učestvovati u bilo kakvim političkim aktivnostima, sem glasanja;
- N. Sve vatreno i drugo oružje za koje je potrebna dozvola pohraniću kod organa vlasti Srbije koje odredi Nadzorna vlast i neću kupovati, posedovati, upotrebljavati niti rukovati bilo kakvim vatrenim ili drugim oružjem za koje je potrebna dozvola;
- O. Neću počinuti nijedno krivično delo koje je kažnjivo kaznom zatvora, niti ću javno ili privatno podsticati ili zagovarati takvo krivično delo;
- P. Nadzornu vlast ću obavestiti o eventualnim hapšenjima, pozivima ili ispitivanjima od strane službenika organa gonjenja; i
- Q. Istražaću u naporima da doprinesem svojoj rehabilitaciji i resocijalizaciji.
4. Shvatam i saglasan sam s tim da se ovde navedeni uslovi odnose na mene, sem ako ne budu poništeni ili izmenjeni, sve do isteka moje kazne 7. januara 2026. godine.
5. Shvatam i saglasan sam s tim da svaku izmenu gore navedenih uslova može da odobri isključivo predsednik.
6. Shvatam i saglasan sam s tim da, ukoliko prekršim ili u potpunosti ne ispunim bilo koji od uslova navedenih u ovom sporazumu, predsednik može, isključivo na osnovu svog diskrecionog ovlašćenja, da poništi moje prevremeno puštanje na slobodu.
7. Shvatam i prihvatam kao uslov za moje prevremeno puštanje na slobodu da je Srbija dužna: (a) da u krivičnu evidenciju u Srbiji unese pravosnažnu presudu koju mi je izrekao MKSJ; (b) da ukine sve dozvole za vatreno ili drugo oružje koje eventualno imam i obezbedi da mi se do

² Ovde se reč "Kosovo" koristi u skladu s rezolucijom 1244 Saveta bezbednosti (1999).



isteka kazne ne izdaju nove dozvole; i (c) da me, na zahtev Mehanizma, bez odlaganja dovede pod njegov nadzor.

8. Pored toga, shvatam i prihvatam kao uslov mog prevremenog puštanja na slobodu da je Srbija dužna da kao Nadzornu vlast odredi zastupnika ili pravno lice da: (a) nadzire i sprovodi gore navedene uslove; (b) u roku od 24 časa izvesti Mehanizam o svakom mom nepridržavanju tih uslova; (c) odmah me uhapsi na zahtev Mehanizma; (d) odmah me uhapsi ako budem predstavljao opasnost po žrtve ili svedoke, izvršim bilo koje krivično delo koje je, prema zakonu Srbije, kažnjivo kaznom zatvora, ili pokušam da napustim teritoriju Srbije bez potrebne dozvole u skladu s ovim uslovima, ili ako Srbija ili Nadzorna vlast inače budu smatrale da je potrebno da se obezbedi pridržavanje svih ovde navedenih uslova; i (e) podnosi tromesečne izveštaje Mehanizmu o sprovođenju ovih uslova.

9. Shvatam da će, čim potpišem merodavnu englesku verziju ovog dokumenta, kao i zvaničan prevod na b/h/s, originalni potpisani dokument (na oba jezika) biti prosleđen Sekretarijatu Mehanizma, koji će ga zatim zvesti kao javni dokument u spis predmeta *Tužilac protiv Sretena Lukića*, predmet br. MICT-14-67-ES.4, i da iz bezbednosnih razloga ova stvar mora ostati poverljiva sve dok ne budem prebačen u mesto boravka u Srbiji.

Potpis: _____

Ime i prezime: _____

Datum: _____

Svedok (za Sretena Lukića):

Potpis: _____

Ime i prezime: _____

Datum: _____

Svedok (za Mehanizam):

Potpis: _____

Ime i prezime: _____

Datum: _____



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<input checked="" 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>
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Rev: August 2019/ *Rév. : Août 2019*