

**UNITED  
NATIONS**



International Residual Mechanism  
for Criminal Tribunals

Case No.: MICT-17-112-ES.2

Date: 23 March 2021

Original: English

---

**THE PRESIDENT OF THE MECHANISM**

**Before: Judge Carmel Agius, President**

**Registrar: Mr. Abubacarr Tambadou**

**Decision of: 23 March 2021**

**PROSECUTOR**

**v.**

**JADRANKO PRLIĆ**

***PUBLIC***

---

**DECISION ON THE EARLY RELEASE  
OF JADRANKO PRLIĆ**

---

**The Office of the Prosecutor:**

Mr. Serge Brammertz

**Counsel for Mr. Jadranko Prlić:**

Mr. Steven Becker

**United Kingdom of Great Britain and  
Northern Ireland**

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

**BEING SEISED** of a notification from the United Kingdom of Great Britain and Northern Ireland (“United Kingdom”) dated 29 November 2019, informing me that Mr. Jadranko Prlić (“Prlić”) has become eligible for conditional release pursuant to the applicable law of the United Kingdom (“Application”);<sup>1</sup>

**NOTING** that on 5 April 2004 Prlić voluntarily surrendered to the International Criminal Tribunal for the former Yugoslavia (“ICTY”);<sup>2</sup>

**NOTING** that on 29 May 2013 Trial Chamber III of the ICTY found Prlić guilty pursuant to Article 7(1) of the Statute of the ICTY of numerous counts of grave breaches of the Geneva Conventions,<sup>3</sup> violations of the laws or customs of war,<sup>4</sup> and crimes against humanity,<sup>5</sup> and sentenced him to 25 years of imprisonment;<sup>6</sup>

**NOTING** that on 29 November 2017 the Appeals Chamber of the ICTY, *inter alia*: (i) dismissed Prlić’s appeal in its entirety; (ii) reversed a number of Prlić’s convictions as a participant in a joint criminal enterprise; (iii) affirmed the remainder of his convictions; and (iv) affirmed the sentence of 25 years of imprisonment;<sup>7</sup>

---

<sup>1</sup> Registrar’s Submission of Notification Transmitted by the United Kingdom of Great Britain and Northern Ireland, 14 February 2020 (public with public redacted annex), Annex (“Application”). I note that while the Application is dated 29 November 2019 and was transmitted to me by the Registrar on 3 December 2019, a public redacted version of the Application was filed on 14 February 2020. *See* Internal Memorandum from the Registrar to the President, dated 3 December 2019 (confidential). I use the term “Application” to refer to the notification from the United Kingdom, consistent with paragraph 2 of the 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”). I note, however, that this matter first arose while a previous version of the Practice Direction was in force. *See* 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. Unless otherwise indicated, references will be made to the current Practice Direction.

<sup>2</sup> *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-T, Judgement, 29 May 2013 (English translation) (“Trial Judgement”), Vol. 5, para. 33.

<sup>3</sup> Prlić was convicted of wilful killing, inhuman treatment, unlawful transfer of a civilian, unlawful deportation of a civilian, unlawful confinement of a civilian, extensive destruction of property, not justified by military necessity, and extensive appropriation of property, not justified by military necessity and carried out unlawfully and wantonly, as grave breaches of the Geneva Conventions. Trial Judgement, Vol. 4, paras. 278-279, 288, p. 430.

<sup>4</sup> Prlić was convicted of plunder of public or private property, unlawful attack on civilians, unlawful infliction of terror on civilians, unlawful labour, and destruction or wilful damage done to institutions dedicated to religion or education, as violations of the laws or customs of war. Trial Judgement, Vol. 4, paras. 278-279, 288, p. 430.

<sup>5</sup> Prlić was convicted of persecutions on political, racial and religious grounds, murder, rape, deportation, imprisonment, and other inhumane acts, as crimes against humanity. Trial Judgement, Vol. 4, paras. 278-279, 288, p. 430.

<sup>6</sup> Trial Judgement, Vol. 4, p. 430.

<sup>7</sup> *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-A, Judgement, 29 November 2017, pp. 1400-1401.

**NOTING** that on 4 April 2019 Prlić was transferred to the United Kingdom to serve the remainder of his sentence;<sup>8</sup>

**NOTING** that in the Application the authorities of the United Kingdom indicate that “had [...] Prlić been sentenced to 25 years imprisonment by a court of law in the United Kingdom he would be eligible for conditional release after completing one half of his sentence [...] on 18 February 2020”;<sup>9</sup>

**NOTING** further the United Kingdom’s acknowledgement that its “release arrangements are not applicable in [Prlić’s] case and [his] release [...] is a matter solely for the President of the [Mechanism] to determine”, and its request for the Mechanism to indicate when Prlić “could expect to be released”;<sup>10</sup>

**RECALLING** that pursuant to Article 25(1) of the Statute of the Mechanism (“Statute”), imprisonment shall be served in a State designated by the Mechanism from a list of States with which the United Nations has agreements for this purpose, and such imprisonment shall be in accordance with the applicable law of the State concerned, subject to the Mechanism’s supervision;

**RECALLING** that pursuant to Article 25(2) of the Statute, the Mechanism shall have the power to supervise the enforcement of sentences pronounced by the International Criminal Tribunal for Rwanda (“ICTR”), the ICTY, or the Mechanism, including the implementation of sentence enforcement agreements entered into by the United Nations with Member States;

**RECALLING** further that pursuant to Article 26 of the Statute: (i) if a convicted person becomes eligible for pardon or commutation of sentence pursuant to the law of the enforcement State, that State shall notify the Mechanism accordingly; and (ii) 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;<sup>11</sup>

---

<sup>8</sup> See e.g. Order Designating State in which Jadranko Prlić is to Serve his Sentence, 14 December 2018 (made public on 5 April 2019).

<sup>9</sup> Application, p. 1.

<sup>10</sup> Application, p. 1.

<sup>11</sup> While Article 26 of the Statute does not specifically mention requests for early release of convicted persons, the President’s power to deal with such requests is reflected in the Rules of Procedure and Evidence of the Mechanism (“Rules”). See Rules 149-151 of the Rules. See also *Prosecutor v. Milomir Stakić*, Case No. MICT-13-60-ES, Decision on Sentence Remission and Early Release of Milomir Stakić, 31 December 2020 (“*Stakić Decision*”), para. 15; *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. 26; *Prosecutor v. Vujadin Popović*, Case No. MICT-15-85-ES.2, Decision on the Early Release of Vujadin Popović, 30 December 2020 (public redacted) (“*Popović Decision*”), fn. 10.

**RECALLING** that pursuant to Rule 150 of the Rules, the President shall determine whether pardon, commutation of sentence, or early release is appropriate, in consultation with: (i) any Judges of the sentencing Chamber who are Judges of the Mechanism; or (ii) at least two other Judges, if none of the Judges who imposed the sentence are Judges of the Mechanism;

**RECALLING** that Article 3(1) of the enforcement agreement between the United Nations and the United Kingdom,<sup>12</sup> which applies *mutatis mutandis* to the Mechanism,<sup>13</sup> provides that in enforcing a sentence pronounced by the ICTY, the competent national authorities of the United Kingdom shall be bound by the duration of the sentence;

**RECALLING** that Article 3(2) of the Enforcement Agreement provides that the conditions of imprisonment shall be governed by the law of the United Kingdom, subject to the supervision of the Mechanism, as provided for in the Enforcement Agreement;

**RECALLING** that Article 8(1) of the Enforcement Agreement provides that if, pursuant to the applicable national law of the United Kingdom, the sentenced person is eligible for pardon, commutation of sentence, or early release, the United Kingdom shall notify the Registrar, in advance of such eligibility, and shall include all the circumstances pertaining to the eligibility for pardon, commutation of sentence, or early release;

**RECALLING** further that Article 8(2) of the Enforcement Agreement provides that the President shall determine, in consultation with the Judges of the Mechanism, whether pardon, commutation of sentence, or early release is appropriate, and, if the President determines that it is not appropriate, the United Kingdom shall act accordingly;

**RECALLING** that 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 sentences, 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 an early release matter is brought before the President through a direct petition by the convicted person or a notification from the relevant enforcement State;<sup>14</sup>

---

<sup>12</sup> Agreement Between the United Nations and the Government of the United Kingdom of Great Britain and Northern Ireland on the Enforcement of Sentences of the International Criminal Tribunal for the former Yugoslavia, 11 March 2004 ("Enforcement Agreement").

<sup>13</sup> See Security Council Resolution 1966 (2010), 22 December 2010, para. 4.

<sup>14</sup> See e.g. *Stakić* Decision, para. 42; *Kunarac* Decision, para. 31; *Popović* Decision, p. 3.

**RECALLING** further that serving two-thirds of a sentence has been described as being “in essence, an admissibility threshold”,<sup>15</sup> and that if a convicted person applies for early release before having served two-thirds of his or her sentence, the application may be considered promptly, and without necessarily triggering the multi-step and resource-intensive process of requesting, receiving, translating, sharing, and considering additional information before determining whether the application should be denied as premature;<sup>16</sup>

**CONSIDERING** that, as noted by the United Kingdom, the early release of persons convicted by the ICTR, the ICTY, or the Mechanism falls exclusively within the discretion of the President, pursuant to Article 26 of the Statute and Rules 150 and 151 of the Rules;<sup>17</sup>

**CONSIDERING** that as Prlić will not have served two-thirds of his 25-year sentence until April 2024,<sup>18</sup> he is not yet eligible to be considered for early release by the Mechanism;

**RECALLING** that in compelling or exceptional circumstances early release may be granted prior to the serving of two-thirds of the sentence;<sup>19</sup>

**CONSIDERING** that the Application does not reveal any compelling or exceptional circumstances that would warrant granting early release;

**CONSIDERING** that I have consulted with Judge Theodor Meron, Judge Jean-Claude Antonetti, and Judge Liu Daqun who, in addition to myself, were Judges of the sentencing Chambers in Prlić’s case;<sup>20</sup>

**CONSIDERING** further that Judge Meron, Judge Antonetti, and Judge Liu share my position that Prlić is not yet eligible to be considered for early release at this stage, and that no compelling or exceptional circumstances have been provided which would justify departing from the two-thirds eligibility threshold;

---

<sup>15</sup> See e.g. *Kunarac* Decision, para. 31; *Popović* Decision, p. 4; *Prosecutor v. Laurent Semanza*, Case No. MICT-13-36-ES.2, Decision on Laurent Semanza’s Application for Early Release, 17 September 2020 (public redacted), para. 25 referring to *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.

<sup>16</sup> See *Stakić* Decision, para. 43. See also Practice Direction, para. 10; Practice Direction, MICT/3/Rev.2, para. 4.

<sup>17</sup> See e.g. *Stakić* Decision, para. 47; *Kunarac* Decision, para. 32; *Popović* Decision, p. 4.

<sup>18</sup> Internal Memorandum from the Registrar to the President, dated 6 February 2019 (confidential), p. 23.

<sup>19</sup> See e.g. *Stakić* Decision, para. 44; *Popović* Decision, p. 5; *Prosecutor v. Milan Martić*, Case No. MICT-14-82-ES, Decision on the Early Release of Milan Martić, 7 August 2020, p. 4.

<sup>20</sup> See Rule 150 of the Rules; Practice Direction, para. 16.

**FOR THE FOREGOING REASONS,**

**HEREBY DENY** the Application; and

**INFORM** the authorities of the United Kingdom that Prlić will only become eligible to be considered for early release upon having served two-thirds of his sentence in April 2024, without prejudice to any compelling or exceptional circumstances that may arise in the interim warranting granting him early release prior to his having served two-thirds of his sentence.

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

Done this 23rd day of March 2021,  
At The Hague,  
The Netherlands.



\_\_\_\_\_  
Judge Carmel Agius  
President

**[Seal of the Mechanism]**



IRMCT • MIFRTP

TRANSMISSION SHEET FOR FILING OF DOCUMENTS / FICHE DE TRANSMISSION POUR LE DÉPÔT DE DOCUMENTS

**I - FILING INFORMATION / INFORMATIONS GÉNÉRALES**

<b>To/ À :</b>	IRMCT Registry/ <i>Greffé du MIFRTP</i>	<input type="checkbox"/> Arusha/ <i>Arusha</i>	<input checked="" type="checkbox"/> The Hague/ <i>La Haye</i>
<b>From/ De :</b>	<input checked="" type="checkbox"/> President / <i>Président</i>	<input type="checkbox"/> Chambers / <i>Chambre</i>	<input type="checkbox"/> Prosecution/ <i>Bureau du Procureur</i>
	<input type="checkbox"/> Registrar / <i>Greffier</i>	<input type="checkbox"/> Other/ <i>Autre</i>	<input type="checkbox"/> Defence / <i>Défense</i>
<b>Case Name/ Affaire :</b>	<b>Prosecutor v. Jadranko Prlić</b>	<b>Case Number/ Affaire n° :</b>	<b>MICT-17-112-ES.2</b>
<b>Date Created/ Daté du :</b>	<b>23 March 2021</b>	<b>Date transmitted/ Transmis le :</b>	<b>23 March 2021</b>
			<b>No. of Pages/ Nombre de pages : 6</b>
<b>Original Language / Langue de l'original :</b>	<input checked="" type="checkbox"/> English/ <i>Anglais</i>	<input type="checkbox"/> French/ <i>Français</i>	<input type="checkbox"/> Other/Autre (specify/préciser) :
	<input type="checkbox"/> Kinyarwanda	<input type="checkbox"/> B/C/S	
<b>Title of Document/ Titre du document :</b>	<b>Decision on the early release of Jadranko Prlić</b>		
<b>Classification Level/ Catégories de classification :</b>	<input checked="" type="checkbox"/> Unclassified/ <i>Non classifié</i>	<input type="checkbox"/> Ex Parte Defence excluded/ <i>Défense exclue</i>	
	<input type="checkbox"/> Confidential/ <i>Confidentiel</i>	<input type="checkbox"/> Ex Parte Prosecution excluded/ <i>Bureau du Procureur exclu</i>	
	<input type="checkbox"/> Strictly Confidential/ <i>Strictement confidentiel</i>	<input type="checkbox"/> Ex Parte R86(H) applicant excluded/ <i>Art. 86 H) requérant exclu</i>	
		<input type="checkbox"/> Ex Parte Amicus Curiae excluded/ <i>Amicus curiae exclu</i>	
		<input type="checkbox"/> Ex Parte other exclusion/ <i>autre(s) partie(s) exclue(s)</i> (specify/préciser) :	
<b>Document type/ Type de document :</b>			
<input type="checkbox"/> Motion/ <i>Requête</i>	<input type="checkbox"/> Judgement/ <i>Jugement/Arrêt</i>	<input type="checkbox"/> Book of Authorities/ <i>Recueil de sources</i>	<input type="checkbox"/> Warrant/ <i>Mandat</i>
<input 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>
<input type="checkbox"/> Order/ <i>Ordonnance</i>	<input type="checkbox"/> Submission from non-parties/ <i>Écritures déposées par des tiers</i>	<input type="checkbox"/> Indictment/ <i>Acte d'accusation</i>	

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

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