

**UNITED
NATIONS**



International Residual Mechanism
for Criminal Tribunals

Case No.: MICT-14-83-ES

Date: 17 June 2022

Original: English

THE PRESIDENT OF THE MECHANISM

Before: Judge Carmel Agius, President

Registrar: Mr. Abubacarr Tambaou

Decision of: 17 June 2022

PROSECUTOR

v.

STANISLAV GALIĆ

PUBLIC

**DECISION ON THE APPLICATION
FOR EARLY RELEASE OF STANISLAV GALIĆ**

Counsel for Mr. Stanislav Galić:

Mr. Stéphane Piletta-Zanin

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

BEING SEISED OF Mr. Stanislav Galić’s direct petition for early release, filed on 4 March 2022 (“Galić” and “Application”, respectively);¹

NOTING that on 20 December 1999, Galić was arrested in Bosnia and Herzegovina, and on 21 December 1999, he was transferred to the United Nations Detention Unit of the International Criminal Tribunal for the former Yugoslavia (“ICTY”);²

NOTING that on 5 December 2003, Trial Chamber I of the ICTY found Galić guilty, pursuant to Article 7(1) of the Statute of the ICTY, of murder and other inhumane acts as crimes against humanity and acts of violence the primary purpose of which is to spread terror among the civilian population as violations of the laws or customs of war, and sentenced him to 20 years of imprisonment;³

NOTING that on 30 November 2006, the Appeals Chamber of the ICTY dismissed Galić’s appeal, granted the ICTY Prosecution’s appeal, quashed Galić’s 20-year sentence, and imposed a sentence of life imprisonment;⁴

NOTING that on 15 January 2009, Galić was transferred to the Federal Republic of Germany (“Germany”) to serve his sentence;⁵

NOTING that, in the Application, Galić requests early release mainly based on the following contentions: (i) his conduct in detention has been exemplary;⁶ (ii) he has spent 22 years in prison and, given his age and ailments, he might never reach the threshold “of 30 years” to be considered

¹ Demande de libération anticipée de Stanislav Galić, 4 March 2022. An English translation of the Application was filed on 6 April 2022. See Application for Early Release of Stanislav Galić, 6 April 2022. A corrected English translation of the Application was filed on 31 May 2022. All references to the Application are to its corrected English version.

² See *Prosecutor v. Stanislav Galić*, Case No. IT-98-29-T, Judgement and Opinion, 5 December 2003 (“Trial Judgement”), paras. 770, 774. See also ICTY Press Release, Stanislav Galić detained by SFOR in Bosnia and Herzegovina, 20 December 1999, <https://www.icty.org/en/sid/7710>.

³ Trial Judgement, para. 769.

⁴ *Prosecutor v. Stanislav Galić*, Case No. IT-98-29-A, Judgement, 30 November 2006, p. 185.

⁵ See Decision on the Early Release of Stanislav Galić, 24 March 2021 (public redacted) (“Galić Decision of 24 March 2021”), para. 5.

⁶ See Application, paras. 6-7, 27-34, 55-56, 65, Registry Pagination (“RP”) 7/325 BISA, 4/325 BISA, 2/325 BISA-1/325 BISA.

eligible for early release;⁷ and (iii) he has undergone several operations while in detention, suffers from diabetes, and is “a person at risk from COVID-19”;⁸

NOTING further that Galić makes a number of submissions in relation to: (i) the complexity of his case before the ICTY; (ii) the gravity of the offences he committed; (iii) decisions on the early release of others convicted by the ICTY; and (iv) the extent of his cooperation with the Prosecutor of the ICTY;⁹

NOTING that Galić intimates that the two-thirds eligibility threshold is too rigid and that it would be in the interests of justice to weigh “all the elements of the case” when determining eligibility;¹⁰

RECALLING that according to Article 25(2) of the Statute of the Mechanism (“Statute”), the Mechanism supervises 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 that pursuant to Article 26 of the 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;¹¹

RECALLING that pursuant to Rule 150 of the Rules, upon a State notification or a direct petition, 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 paragraph 2(2) of the relevant enforcement agreement between the United Nations and Germany provides that the conditions of imprisonment shall be governed by the law of Germany, subject to the supervision of the Mechanism;¹²

⁷ Application, RP 6/325 BISa. *See* Application, paras. 3-5, 16-17, 19, 22, 62-63, 65, RP 4/325 BISa, 2/325 BISa-1/325 BISa.

⁸ Application, para. 62. *See* Application, paras. 16-17, 19.

⁹ Application, paras. 40-50, 65, RP 8/325 BISa-4/325 BISa, 2/325 BISa-1/325 BISa.

¹⁰ Application, RP 2/325 BISa. *See* Application, paras. 21-26, RP 4/325 BISa.

¹¹ While Article 26 of the Statute, like the equivalent provisions in the Statutes of the ICTR and the ICTY before it, does not specifically mention requests for early release of convicted persons, the Mechanism’s Rules of Procedure and Evidence (“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.

¹² Agreement between the International Criminal Tribunal for the former Yugoslavia and the Government of the Federal Republic of Germany, dated 16 December 2008 and amended on 13 February 2015 (“Enforcement Agreement”). *See* Security Council Resolution 1966 (2010), 22 December 2010, para. 4 (deciding that all international agreements

RECALLING that paragraph 7(2) of the Enforcement Agreement provides, *inter alia*, that the President shall determine whether pardon or commutation of sentence is appropriate and, if the President determines that this is not appropriate, Germany 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 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;¹³

RECALLING further that serving two-thirds of a sentence has been described as being “in essence, an admissibility threshold”,¹⁴ and that if a convicted person applies for early release or commutation of sentence before having served two-thirds of his or her sentence, the application may be considered 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;¹⁵

NOTING that, as previously observed, according to German law, upon having served 15 years of his sentence on 18 December 2014, Galić became “eligible to have the remainder of his sentence suspended on probation”;¹⁶

CONSIDERING, however, that the early release of persons convicted by the ICTR, the ICTY, or the Mechanism falls exclusively within the President’s discretion, pursuant to Article 26 of the Statute and Rules 150 and 151 of the Rules;¹⁷

concluded by the United Nations in relation to the ICTY and the ICTR still in force as of the relevant commencement date of the Mechanism shall continue *mutatis mutandis* to the Mechanism).

¹³ *Prosecutor v. Nebojša Pavković*, Case No. MICT-14-67-ES.2, Decision on the Application for Early Release of Nebojša Pavković, 18 May 2022 (public redacted) (“*Pavković* Decision”), para. 29; *Prosecutor v. Aloys Ntabakuze*, Case No. MICT-14-77-ES.1, Decision on the Application for Early Release of Aloys Ntabakuze, 17 May 2022 (public redacted) (“*Ntabakuze* Decision”), para. 32; *Prosecutor v. Radislav Krstić*, Case No. MICT-13-46-ES.1, Decision on the Early Release of Radislav Krstić, 10 September 2019 (public redacted), paras. 16, 18.

¹⁴ *Pavković* Decision, para. 29; *Ntabakuze* Decision, para. 32; *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.

¹⁵ See *Prosecutor v. Milomir Stakić*, Case No. MICT-13-60-ES, Decision on Sentence Remission and Early Release of Milomir Stakić, 22 December 2021 (“*Stakić* Decision”), para. 30; *Prosecutor v. Élie Ndayambaje*, Case No. MICT-15-90-ES.1, Decision on the Applications for Early Release and Commutation of Sentence of Élie Ndayambaje, 15 November 2021 (“*Ndayambaje* Decision”), pp. 3-4; *Prosecutor v. Jadranko Prlić*, Case No. MICT-17-112-ES.2, Decision on the Early Release of Jadranko Prlić, 23 March 2021, p. 4.

¹⁶ See *Galić* Decision of 24 March 2021, para. 25.

CONSIDERING that my predecessor concluded that persons sentenced to life imprisonment may be considered eligible for early release,¹⁸ and when applying the two-thirds eligibility threshold to Galić’s sentence of life imprisonment, my predecessor treated his sentence as being “equivalent to more than a sentence of 45 years”;¹⁹

CONSIDERING that accordingly, Galić’s eligibility threshold has already been set by my predecessor as “more than 30 years”,²⁰ and, as stated previously, I do not intend to depart from this position;²¹

CONSIDERING that Galić has only served between 22 and 23 years of his life sentence²² and is not yet eligible to be considered for early release;

FINDING that Galić’s submissions do not convince me that the two-thirds threshold requires adaptation globally, specifically because the two-thirds threshold is not as rigid as he appears to suggest, since compelling or exceptional circumstances could arise in specific instances prior to a convicted person having served two-thirds of his or her sentence, which, in the exercise of my discretion as President, may overcome any eligibility concerns;²³

NOTING that Galić points to his physical ailments and age as factors that should be taken into consideration in the context of deciding his Application;²⁴

¹⁷ *Pavković* Decision, para. 32; *Ntabakuze* Decision, para. 35; *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. 29.

¹⁸ Reasons for the President’s Decision to Deny the Early Release of Stanislav Galić and Decision on Prosecution Motion, 23 June 2015 (public redacted) (“Reasons for *Galić* Decision dated 23 June 2015”), para. 24.

¹⁹ Reasons for *Galić* Decision dated 23 June 2015, para. 35. This was based on the fact that, at the time, the highest fixed-term sentence that had been imposed by the ICTR, the ICTY, or the Mechanism was 45 years of imprisonment. See Reasons for *Galić* Decision dated 23 June 2015, fn. 63. It is not my intention in the context of the Application to rule on whether the approach taken by my predecessor with respect to Galić should apply in future cases, particularly now that a higher fixed-term sentence has been handed down that could increase the two-thirds threshold for a sentence of life imprisonment. See *Prosecutor v. Pauline Nyiramasuhuko et al.*, Case No. ICTR-98-42-A, Judgement, 14 December 2015 (“*Nyiramasuhuko et al.* Appeal Judgement”), para. 3539 (reducing the sentences of Ms. Pauline Nyiramasuhuko, Mr. Arsène Shalom Ntahobali, and Mr. Élie Ndayambaje from life imprisonment to 47 years of imprisonment). See also *Prosecutor v. Vujadin Popović*, Case No. MICT-15-85-ES.2, Decision on the Early Release of Vujadin Popović, 30 December 2020 (public redacted), p. 4; Decision on the Early Release of Stanislav Galić, 26 June 2019 (public redacted) (“*Galić* Decision of 26 June 2019”), para. 33 (“[t]he consequences of [the sentencing decision in the *Nyiramasuhuko et al.* Appeal Judgement] as they may impact future applications for early release of persons [other than Galić] serving a sentence of life imprisonment will be discussed if and when required.”).

²⁰ Reasons for *Galić* Decision dated 23 June 2015, para. 36.

²¹ See *Galić* Decision of 24 March 2021, paras. 22-23; *Galić* Decision of 26 June 2019, paras. 16-18.

²² See *Galić* Decision of 26 June 2019, para. 19.

²³ *Stakić* Decision, para. 32; *Ndayambaje* Decision, p. 4; *Prosecutor v. Laurent Semanza*, Case No. MICT-13-36-ES, Decision of the President on the Early Release of Laurent Semanza, 9 June 2016, para. 18.

²⁴ See Application, paras. 3, 17, 19.

RECALLING that 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;²⁵

RECALLING that in the most recent decision regarding Galić's early release in 2021, I requested that "Germany inform me immediately if Galić's health deteriorates to the extent that his further detention would merit serious reconsideration";²⁶

NOTING that I have not received any such indication from Germany in this respect;

CONSIDERING that nothing indicates to me that Galić's state of health is an impediment to his continued detention, or constitutes a compelling or exceptional circumstance warranting his early release before having served two-thirds of his sentence;

CONSIDERING further that Galić's submissions on the gravity of his crimes, the treatment of similarly-situated prisoners, and his cooperation with the Prosecutor of the ICTY may be relevant for the consideration of his early release pursuant to Rule 151 of the Rules once he becomes eligible to be considered for early release, and that his submissions on the complexity of his case are irrelevant in the context of sentence enforcement and my consideration of his early release;

CONSIDERING that I have consulted with Judge Alphons Orie, a Judge of the sentencing Chamber in Galić's case, and, as no other Judge who imposed Galić's sentence is a Judge of the Mechanism, with Judge Mahandrisoa Edmond Randrianirina;²⁷

CONSIDERING further that Judge Orie and Judge Randrianirina share my position that Galić is not eligible to be considered for early release at this stage, and that no compelling or exceptional circumstances have been demonstrated which would justify granting him early release prior to reaching his two-thirds eligibility threshold;

²⁵ *Pavković* Decision, para. 81; *Ntabakuze* Decision, para. 79; *Prosecutor v. Ljubiša Beara*, Case No. MICT-15-85-ES.3, Public Redacted Version of 7 February 2017 Decision of the President on the Early Release of Ljubiša Beara, paras. 47-49.

²⁶ *Galić* Decision of 24 March 2021, para. 31.

²⁷ See Rule 150 of the Rules; 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, para. 16.

FOR THE FOREGOING REASONS,

HEREBY DENY the Application; and

DIRECT the Registrar to provide the authorities of Germany and the Prosecutor of the Mechanism with this Decision as soon as practicable.

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

Done this 17th day of June 2022,
At The Hague,
The Netherlands.



Judge Carmel Agius
President

[Seal of the Mechanism]



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

I - FILING INFORMATION / INFORMATIONS GÉNÉRALES

To/ À :	IRMCT Registry/ <i>Greffe du MIFRTP</i>	<input type="checkbox"/> Arusha/ <i>Arusha</i>	<input checked="" type="checkbox"/> The Hague/ <i>La Haye</i>
From/ De :	<input checked="" type="checkbox"/> President / <i>Président</i>	<input type="checkbox"/> Chambers / <i>Chambre</i>	<input type="checkbox"/> Prosecution/ <i>Bureau du Procureur</i>
	<input type="checkbox"/> Registrar / <i>Greffier</i>	<input type="checkbox"/> Other/ <i>Autre</i>	<input type="checkbox"/> Defence / <i>Défense</i>
Case Name/ Affaire :	Prosecutor v. Stanislav Galić	Case Number/ Affaire n° :	MICT-14-83-ES
Date Created/ Daté du :	17 June 2022	Date transmitted/ Transmis le :	17 June 2022
			No. of Pages/ Nombre de pages : 7
Original Language / Langue de l'original :	<input checked="" type="checkbox"/> English/ <i>Anglais</i>	<input type="checkbox"/> French/ <i>Français</i>	<input type="checkbox"/> Other/Autre (specify/préciser) :
		<input type="checkbox"/> Kinyarwanda <input type="checkbox"/> B/C/S	
Title of Document/ Titre du document :	Decision on the application for early release of Stanislav Galić		
Classification Level/ Catégories de classification :	<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) :	
Document type/ Type de document :			
<input type="checkbox"/> Motion/ <i>Requête</i>	<input type="checkbox"/> Judgement/ <i>Jugement/Arrêt</i>	<input type="checkbox"/> Book of Authorities/ <i>Recueil de sources</i>	<input type="checkbox"/> Warrant/ <i>Mandat</i>
<input 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>
Original/ Original en <input type="checkbox"/> English/ <i>Anglais</i> <input type="checkbox"/> French/ <i>Français</i> <input type="checkbox"/> Kinyarwanda <input type="checkbox"/> Other/Autre (specify/préciser) :
Translation/ Traduction en <input type="checkbox"/> English/ <i>Anglais</i> <input type="checkbox"/> French/ <i>Français</i> <input type="checkbox"/> Kinyarwanda <input type="checkbox"/> Other/Autre (specify/préciser) :
<input type="checkbox"/> Filing Party will be submitting the translated version(s) in due course in the following language(s)/ <i>La partie déposante soumettra la (les) version(s) traduite(s) sous peu, dans la (les) langue(s) suivante(s) :</i>
<input type="checkbox"/> English/ <i>Anglais</i> <input type="checkbox"/> French/ <i>Français</i> <input type="checkbox"/> Kinyarwanda <input type="checkbox"/> B/C/S <input type="checkbox"/> Other/Autre (specify/préciser) :

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

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

Rev: August 2019/ *Rév. : Août 2019*