



International Residual Mechanism
for Criminal Tribunals

Case No.: MICT-14-82-ES

Date: 4 February 2026

Original: English

THE PRESIDENT OF THE MECHANISM

Before: Judge Graciela Gatti Santana, President

Registrar: Mr. Abubacarr M. Tambadou

Decision of: 4 February 2026

PROSECUTOR

v.

MILAN MARTIĆ

PUBLIC REDACTED VERSION

**DECISION ON THE APPLICATION
FOR EARLY RELEASE OF MILAN MARTIĆ**

Mr. Milan Martić

1. I, Graciela Gatti Santana, President of the International Residual Mechanism for Criminal Tribunals (“President” and “Mechanism”, respectively), am seised of a notification from the Republic of Estonia (“Estonia”), dated 12 May 2025, informing the Mechanism that, in the coming months, Mr. Milan Martić (“Martić”) will become eligible to be considered for release from prison on parole under Estonian law (“Application”).¹

I. BACKGROUND

2. On 15 May 2002, Martić surrendered and was transferred to the United Nations Detention Unit in The Hague, Kingdom of the Netherlands.²

3. On 12 June 2007, Trial Chamber I of the International Criminal Tribunal for the former Yugoslavia (“ICTY” and “Trial Chamber”, respectively) found Martić guilty, pursuant to Article 7(1) of the Statute of the ICTY, of murder, torture, cruel treatment, wanton destruction of villages or devastation not justified by military necessity, destruction or wilful damage done to institutions dedicated to education or religion, plunder of public or private property, and attacks on civilians as violations of the laws or customs of war, as well as persecution, murder, imprisonment, torture, inhumane acts, deportation, and forcible transfer as crimes against humanity and sentenced him to 35 years of imprisonment.³

4. On 8 October 2008, the Appeals Chamber of the ICTY (“Appeals Chamber”), *inter alia*: (i) allowed Martić’s appeal against the Trial Judgement in part; (ii) allowed the Prosecution’s alternative ground of appeal; and (iii) affirmed Martić’s 35-year sentence.⁴

5. On 26 June 2009, Martić was transferred to Estonia to serve the remainder of his sentence.⁵

6. On 7 August 2020, my predecessor denied Martić’s first application for early release on the basis that: (i) Martić was then not yet eligible to be considered for early release by the Mechanism as he had not yet served two-thirds of his 35-year sentence of imprisonment; and (ii) the existence

¹ The Application was filed confidentially on the judicial record on 27 May 2025. *See* Registrar’s Submission of Notification Transmitted by the Republic of Estonia, 27 May 2025 (confidential).

² *Prosecutor v. Milan Martić*, Case No. IT-95-11-T, Judgement, 12 June 2007 (“Trial Judgement”), para. 522; *Prosecutor v. Milan Martić*, Case No. IT-95-11-A, Judgement, 8 October 2008 (“Appeal Judgement”), Annex A, para. 2.

³ Trial Judgement, paras. 470-472, 480, 518-519.

⁴ Appeal Judgement, paras. 354-355.

⁵ Decision on the Early Release of Milan Martić, 7 August 2020 (“Decision of 7 August 2020”), p. 1. *See also* *Prosecutor v. Milan Martić*, Case No. IT-95-11-ES, Order Designating State in which Milan Martić is to Serve his Sentence, 18 February 2009; *Prosecutor v. Milan Martić*, Case No. IT-95-11-ES, Decision on Milan Martić’s Request for Reconsideration of Order Designating State in which he is to Serve his Sentence, 5 March 2009, para. 6.

of compelling humanitarian grounds, which would warrant overriding this consideration, had not been demonstrated.⁶

II. APPLICATION

7. On 12 May 2025, the Estonian authorities wrote to inform the Mechanism that, under Estonian law, Martić would become eligible to be considered for release from prison on parole as of 15 September 2025.⁷

8. On 21 May 2025, I wrote to the Estonian authorities to inquire whether they had any objections to lifting the confidentiality of the Application, and if so, to provide a redacted version for filing on the public record.⁸ In the same communication, I requested that the Estonian authorities provide the information enumerated in paragraphs 10(a) through 10(c) of the Practice Direction.⁹ Specifically, I requested: (i) any reports and observations on Martić’s behaviour during his period of incarceration and the general conditions under which he is imprisoned; (ii) any psychiatric or psychological evaluations prepared on his mental condition, including in relation to any risks posed by release, as well as any remarks Martić may have made regarding the crimes for which he was convicted and the victims of these crimes; and (iii) any medical reports on his physical condition, including whether Martić is capable of serving his sentence in Estonia.¹⁰

9. That same day, I asked the Registrar of the Mechanism (“Registrar”) to confidentially file the Application on the judicial record. I also asked that the Witness Support and Protection Unit (“WISP”) provide me with information concerning the victims of the crimes for which Martić was convicted and who testified in his case and for the Registry of the Mechanism (“Registry”) to liaise with the Office of the Prosecutor of the Mechanism (“Prosecution”) to determine whether any victims’ associations or other groups exist in relation to the crimes for which Martić was convicted, and if so, to contact them and advise them that, should they so wish, they are welcome to share their views on Martić’s potential early release.¹¹

10. On 23 May 2025, in accordance with paragraph 10(e) of the Practice Direction, I requested a report from the Prosecution on any cooperation of Martić with the Prosecutor of the ICTY or the

⁶ Decision of 7 August 2020, p. 4.

⁷ Application, p. 1.

⁸ Letter from the President to the Ambassador of Estonia, dated 21 May 2025 (confidential) (“Letter to Estonia”), p. 1.

⁹ Letter to Estonia, pp. 1-2. *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.4, 1 July 2024 (“Practice Direction”).

¹⁰ Letter to Estonia, pp. 1-2.

¹¹ Internal Memorandum from the President to the Registrar, dated 21 May 2025 (confidential), paras. 2-4.

Prosecution and the significance thereof, as well as any other comments or information relevant to the determination of the Application.¹²

11. On 12 June 2025, in line with paragraph 10(d) of the Practice Direction, I ordered Martić to file a submission indicating where he intends to live if released early.¹³

12. On 19 June 2025, the Prosecutor conveyed to me a memorandum, providing his comments and information in relation to the Application.¹⁴

13. On 20 June 2025, I received the requested information from the Estonian authorities.¹⁵

14. On 25 June 2025, Martić filed a confidential reply to the order for submissions, indicating, *inter alia*, that he intends to: (i) live in [REDACTED], Republic of Serbia (“Serbia”) if released early; and (ii) “submit an application for early release in due course, in accordance with the Practice Direction, once all supporting documentation has been assembled”.¹⁶ Martić emphasised that the Reply did not constitute an application for pardon, commutation, or early release.¹⁷

15. On 22 July 2025, I invited the authorities of Serbia to, *inter alia*, provide any views that they may wish to offer with regard to the Application and Martić’s indication that he would reside in [REDACTED], Serbia, if released early, and indicate their willingness to monitor any conditions imposed by the Mechanism in the event of an early release in this case and to provide guarantees to this effect.¹⁸

16. On 5 August 2025, I received a letter from the Minister of Justice of Serbia, conveying [REDACTED].¹⁹

¹² Internal Memorandum from the President to the Prosecutor of the Mechanism (“Prosecutor”), dated 23 May 2025 (confidential), para. 2.

¹³ Order for Submissions, 12 June 2025, p. 1.

¹⁴ Internal Memorandum from the Prosecutor to the President, dated 19 June 2025 (confidential) (“Prosecution Memorandum”).

¹⁵ Email communication from Estonian Ministry of Justice and Digital Affairs to the Office of the President, dated 20 June 2025 (confidential), *transmitting, inter alia*: (i) a letter from the Sentencing Enforcement Division of the Prisons Department of Estonia’s Ministry of Justice and Digital Affairs, dated 19 June 2025 (“Sentencing Enforcement Division Letter”) and (ii) a report from the Prison Medical Centre, dated 16 June 2025 (“Medical Report”).

¹⁶ Reply to the Order for Submissions of 12 June 2025, 25 June 2025 (confidential) (“Reply”), paras. 2-4.

¹⁷ Reply, para. 4.

¹⁸ Invitation to the Republic of Serbia Related to the Application for Early Release of Milan Martić, 22 July 2025 (confidential and *ex parte*) (“Invitation”), pp. 1-2.

¹⁹ *Note verbale* from the Embassy of Serbia to the Netherlands, dated 5 August 2025, *conveying* a letter from the Minister of Justice of Serbia, undated (“Letter of the Minister of Justice of Serbia”). The *note verbale* and the Letter of the Minister of Justice of Serbia were filed confidentially and *ex parte* on the judicial record on 5 August 2025.

17. On 29 August 2025, the Registrar provided me with a strictly confidential memorandum from WISP, conveying information concerning the victims of the crimes for which Martić was convicted and who testified in his case.²⁰

18. On 5 September 2025, the Registrar communicated to me responses received from two victims' associations ("Victims' Associations").²¹

19. On 11 September 2025, following the translation of the material received from Estonia, I asked the Registrar, in accordance with paragraph 12 of the Practice Direction, to communicate to Martić, in a language that he understands, the material collected in the context of the Application.²²

20. On 17 October 2025, the Registrar notified me that, following the withdrawal of *pro bono* counsel who had been recognised to act on Martić's behalf in respect of all post-conviction proceedings, Martić was not currently represented by Mechanism-recognised counsel.²³ I have not received any further submissions from Martić in relation to Estonia's notification of Martić's eligibility for early release under its laws.

21. As no Judge who imposed the sentence upon Martić is a Judge of the Mechanism, I consulted with Judge Joseph Masanche and Judge Vagn Joensen in accordance with Rule 150 of the Rules of Procedure and Evidence of the Mechanism ("Rules") and paragraph 16 of the Practice Direction.

III. APPLICABLE LAW

22. 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.

²⁰ Internal Memorandum from the Registrar to the President, dated 29 August 2025 (strictly confidential), *transmitting* Internal Memorandum from the Head of WISP to the Registrar, dated 28 August 2025 (strictly confidential) ("WISP Memorandum").

²¹ Internal Memorandum from the Registrar to the President, dated 5 September 2025 (confidential), para. 5, *transmitting* the following documents: (i) a letter from the President of the "Community of Associations of Croatian Civilian Victims of the Homeland War of Croatia", dated 30 July 2025 ("Community of Associations of Croatian Civilian Victims of the Homeland War of Croatia Letter"); and (ii) a letter from the President of the "Association of Croatian Civilian Victims of the Homeland War of Zadar County", dated 6 August 2025 ("Association of Croatian Civilian Victims of the Homeland War of Zadar County Letter").

²² Internal Memorandum from the President to the Registrar, dated 11 September 2025 (confidential), para. 1. The material was sent to Martić on 26 September 2025.

²³ Registrar's Notice of Withdrawal of Pro Bono Counsel, 17 October 2025, paras. 1-3. *See also* Reply, para. 5.

23. 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. While Article 26 of the Statute, like the equivalent provisions in the Statutes of the ICTR and the ICTY, does not specifically mention requests for early release of convicted persons, the Rules reflect the President's power to adjudicate such requests, which is also consistent with the longstanding practice of the ICTR, the ICTY, and the Mechanism.

24. Rule 149 of the Rules provides that if, according to the law of the State of imprisonment, a convicted person is eligible for pardon, commutation of sentence, or early release, the State shall, in accordance with Article 26 of the Statute, notify the Mechanism of such eligibility.

25. Rule 150 of the Rules stipulates that the President shall, upon such notice or upon receipt of a direct petition from the convicted person, 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.

26. The general standards for granting early release are set out in Rule 151 of the Rules, which states 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.

27. Paragraph 10 of the Practice Direction indicates that the President may collect, directly or through the Registry, information which he or she considers relevant to the determination of whether pardon, commutation of sentence, or early release is appropriate. Paragraph 12 of the Practice Direction provides that, once all information requested has been received, the President shall communicate, directly or through the Registry, relevant information to the convicted person in a language that he or she understands. Paragraph 13 of the Practice Direction states that the convicted person shall then be given 14 days to examine the information, following which he or she may provide any written submissions in response.

28. 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. Paragraph 20 of the Practice Direction mentions that, if early release is granted, it may be subject to conditions.

29. The enforcement agreement between Estonia and the United Nations,²⁴ which applies *mutatis mutandis* to the Mechanism,²⁵ provides in Article 3(3) that the conditions of imprisonment are governed by Estonian law, subject to the supervision of the Mechanism. According to Article 8 of the Enforcement Agreement, if a convicted person has become eligible for early release under Estonian law, the President will provide his or her views as to whether such early release is appropriate, and Estonia will consider these views and respond to the President before taking any decision on the matter.

IV. ANALYSIS

A. Eligibility

30. Previous decisions have determined 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 notification from the relevant enforcement State or a direct petition by the convicted person.²⁶ Further, serving two-thirds of a sentence has been described by the Mechanism's jurisprudence as being "in essence, an admissibility threshold".²⁷

31. Martić served two-thirds of his sentence on 8 September 2025²⁸ and is therefore eligible to be considered for early release.

B. General Standards for Granting Early Release

32. According to the Mechanism's jurisprudence, a convicted person having served two-thirds of his or her sentence shall be merely eligible to be considered for early release and not entitled to such release.²⁹ Against this backdrop, it is therefore necessary for me, in determining whether early

²⁴ Agreement between the Government of the Republic of Estonia and the United Nations on the Enforcement of Sentences of the International Criminal Tribunal for the former Yugoslavia, 11 February 2008 ("Enforcement Agreement").

²⁵ See Security Council Resolution 1966 (2010), 22 December 2010, para. 4.

²⁶ *Prosecutor v. Alfred Musema*, Case No. MICT-12-15-ES.1, Decision on the Application for Early Release of Alfred Musema, 12 January 2026 (public redacted) ("*Musema Decision*"), para. 26; *Prosecutor v. Goran Jelisić*, Case No. MICT-14-63-ES, Decision on the Application for Early Release of Goran Jelisić, 13 August 2025 (public redacted) ("*Jelisić Decision*"), para. 30; *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.

²⁷ *Musema Decision*, para. 26; *Jelisić Decision*, para. 30; *Prosecutor v. Paul Bisengimana*, Case No. MICT-12-07, Decision of the President on the Early Release of Paul Bisengimana and on Motion to File a Public Redacted Application, 11 December 2012 (public redacted) ("*Bisengimana Decision*"), para. 19.

²⁸ See also Decision of 7 August 2020, p. 4.

²⁹ *Musema Decision*, para. 28; *Prosecutor v. Bruno Stojić*, Case No. MICT-17-112-ES.3, Decision on the Application for Early Release of Bruno Stojić, 3 November 2025 (public redacted) ("*Stojić Decision of 3 November 2025*"), para.

release is appropriate, to analyse and consider the convicted person's current situation, taking into account the non-exhaustive list of factors set out in Rule 151 of the Rules.³⁰ In this regard, the mere passage of time cannot constitute sufficient grounds for early release.³¹

1. Gravity of Crimes

33. In my opinion, the early release of persons convicted by the ICTR, the ICTY, or the Mechanism for genocide, crimes against humanity, or war crimes should be exceptional.³²

34. In relation to the gravity of crimes, past decisions have established that: (i) as a general rule, a sentence should be served in full given the gravity of the crimes within the jurisdiction of the ICTR, the ICTY, and the Mechanism, unless it can be demonstrated that a convicted person should be granted early release; (ii) while the gravity of the crimes is not the only factor in assessing an early release application pursuant to Rule 151 of the Rules, it is nevertheless a factor of fundamental importance; (iii) the graver the criminal conduct in question, the more compelling a demonstration of rehabilitation should be; and (iv) while the gravity of the crimes cannot be seen as depriving a convicted person of an opportunity to argue his or her case, it may be said to determine the threshold that the arguments in favour of early release must reach.³³

35. As set out above, Martić was found guilty, pursuant to Article 7(1) of the Statute of the ICTY, of murder, torture, cruel treatment, wanton destruction of villages or devastation not justified by military necessity, destruction or wilful damage done to institutions dedicated to education or religion, plunder of public or private property, and attacks on civilians as violations of the laws or customs of war, as well as persecution, murder, imprisonment, torture, inhumane acts, deportation, and forcible transfer as crimes against humanity.³⁴ The Trial Chamber established, and the Appeals Chamber affirmed, that Martić participated in, and significantly contributed to, a joint criminal enterprise to establish an ethnically Serb territory through the displacement of the Croat and other

23; *Prosecutor v. Stanislav Galić*, Case No. MICT-14-83-ES, Decision on the Early Release of Stanislav Galić, 26 June 2019 (public redacted), para. 24.

³⁰ *Musema* Decision, para. 28; *Stojić* Decision of 3 November 2025, para. 23; *Prosecutor v. Radislav Krstić*, Case No. MICT-13-46-ES.1, Decision on the Application for Early Release of Radislav Krstić, 15 November 2022 (public redacted) ("*Krstić* Decision of 15 November 2022"), para. 32.

³¹ *Musema* Decision, para. 28; *Stojić* Decision of 3 November 2025, para. 23; *Prosecutor v. Bruno Stojić*, Case No. MICT-17-112-ES.3, Decision on the Application for Early Release of Bruno Stojić, 17 January 2024 (public redacted), para. 100.

³² *Musema* Decision, para. 29; *Jelisić* Decision, para. 33; *Krstić* Decision of 15 November 2022, para. 33.

³³ *Musema* Decision, para. 30; *Jelisić* Decision, para. 34; *Prosecutor v. Radivoje Miletić*, Case No. MICT-15-85-ES.5, Decision on the Early Release of Radivoje Miletić, 5 May 2021 (public redacted), para. 39.

³⁴ See *supra* paras. 3-4.

non-Serb population from the self-proclaimed Serbian Autonomous Region of Krajina (“SAO Krajina”) and the self-proclaimed Republic of Serbian Krajina (“RSK”).³⁵

36. In assessing the gravity of the crimes for the purpose of determining Martić’s sentence, the Trial Chamber referred to the scale and systematic nature of the crimes, and the fact that they were committed with discriminatory intent, against elderly persons or against people held in detention, the majority of whom were civilians.³⁶ The “special vulnerability of these groups of victims” was found to have added to the gravity of the crimes.³⁷

37. The Trial Chamber recalled the effects of the crimes committed on victims and their families.³⁸ It observed that “[v]irtually the entire Croat and other non-Serb population was expelled and many had their houses and property burnt and looted” and highlighted that “[a]ppalling acts of inhumane treatment, including torture, were committed in detention facilities against Croat and other non-Serb detainees”.³⁹ After recalling victim testimony of “the suffering they endured and continue to endure as a result of these crimes” and “the horrific injuries and the serious suffering inflicted on civilians as a consequence of the indiscriminate attacks on Zagreb [that Martić] ordered”, the Trial Chamber concluded that the “impact and long-lasting effects of these crimes [...] render them especially grave”.⁴⁰

38. As an aggravating circumstance, the Trial Chamber referred to its findings that, during the relevant period, Martić was one of the most important and influential political figures in the SAO Krajina and the RSK governments.⁴¹ As Minister of the Interior of the SAO Krajina and RSK, Martić was found to have exercised absolute authority over the forces of the Ministry of the Interior (“MUP”); while as President of the RSK, he was found to have held the highest political office and to have controlled the armed forces of the RSK.⁴² Rather than preventing the commission of crimes and ensuring that all inhabitants of the territories under his authority enjoyed respect for human rights, as persons holding such positions were obligated to do, the Trial Chamber found that Martić abused his positions and, through continuous and systematic efforts to create an ethnically Serb territory, promoted an atmosphere of mistrust and fear between Serbs and non-Serbs, in particular Croats.⁴³ The “widespread criminal conduct which covered the entire territory of the SAO Krajina

³⁵ Trial Judgement, paras. 129, 149, 442-445; Appeal Judgement, para. 3.

³⁶ Trial Judgement, paras. 488-490.

³⁷ Trial Judgement, para. 490.

³⁸ Trial Judgement, para. 491.

³⁹ Trial Judgement, para. 491.

⁴⁰ Trial Judgement, para. 491.

⁴¹ Trial Judgement, para. 498. *See* Trial Judgement, para. 449.

⁴² Trial Judgement, para. 498. *See* Trial Judgement, para. 449.

⁴³ Trial Judgement, para. 498.

and the RSK during a period of more than four years” was also deemed to be an aggravating circumstance.⁴⁴

39. The Trial Chamber’s findings about the detention facility at the old hospital in Knin are illustrative. From mid-1991 to mid-1992 between 120 and 300 persons, including many Croats and other non-Serb civilians who were deprived of their liberty without due process of law, were detained at this facility that was sometimes referred to as “Martić’s prison”.⁴⁵ The Trial Chamber found that “beatings, mistreatment and torture of the detainees was carried out, *inter alia*, by members of the MUP, referred to by witnesses as ‘Martić’s police’”.⁴⁶ More specifically, detainees, *inter alia*: (i) were threatened and beaten every day for long periods, often by several guards at a time using rifle butts, truncheons, and wooden staves; (ii) had cocked revolvers pressed against their temples, were beaten on their kidneys until they were swollen, and were denied the use of toilet facilities; (iii) were forced to drink urine and to clean toilets with their bare hands; and (iv) had their heads forced into toilets.⁴⁷ The Trial Chamber also found evidence of sexual abuse of some detainees, that detainees were subjected to sleep deprivation, and that food was insufficient.⁴⁸

40. The Trial Chamber’s findings related to the shelling of Zagreb on 2 and 3 May 1995,⁴⁹ which resulted in several deaths and hundreds injured and that Martić himself ordered, are equally illustrative.⁵⁰ Among those injured were a 17-year-old girl who was in her school on Križanićeva Street and a mother who was with her four-month-old daughter at the Klaićeva Street Children’s Hospital.⁵¹

41. In light of the above, I consider that Martić’s crimes are of a high gravity. Accordingly, I am of the view that this factor weighs against his early release.

2. Treatment of Similarly-Situated Prisoners

42. When considering the treatment of similarly-situated prisoners, decisions on early release have emphasised that persons sentenced by the ICTY, like Martić, are considered “similarly-situated” to all other prisoners under the Mechanism’s supervision.⁵² The eligibility

⁴⁴ Trial Judgement, para. 499.

⁴⁵ Trial Judgement, paras. 285, 412.

⁴⁶ Trial Judgement, paras. 285, 412-414.

⁴⁷ Trial Judgement, para. 288.

⁴⁸ Trial Judgement, para. 288.

⁴⁹ Trial Judgement, para. 460.

⁵⁰ Trial Judgement, paras. 308, 312-313.

⁵¹ Trial Judgement, paras. 307, 311.

⁵² *Musema* Decision, para. 36; *Jelisić* Decision, para. 39; *Bisengimana* Decision, paras. 16-17.

threshold of having served two-thirds of the sentence applies to all convicted persons serving a sentence under the Mechanism's supervision.⁵³

43. As previously noted, having passed this two-thirds threshold in September 2025,⁵⁴ Martić is indeed eligible to be considered for early release.

3. Demonstration of Rehabilitation

44. A decision on whether to grant an early release application is taken by the President on the basis of the interests of justice and the general principles of law, having regard, *inter alia*, to the criteria specified in Rule 151 of the Rules.⁵⁵ The prisoner's demonstration of rehabilitation is just one factor to be considered when deciding upon such an application.⁵⁶

45. Before turning to an individualised assessment of Martić's demonstration of rehabilitation, I note that the Mechanism's jurisprudence expands upon certain elements pertaining to whether a convicted person has demonstrated rehabilitation under Rule 151 of the Rules, and I find it appropriate to set this out here.

46. A number of positive indicators of rehabilitation of persons convicted by the ICTR, the ICTY, or the Mechanism have been recognised and 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 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.⁵⁷ This is a non-exhaustive list and convicted persons are not expected to fulfil all of these indicators in order to demonstrate rehabilitation.⁵⁸

47. It falls upon the convicted person to demonstrate that sufficient progress has been made in his or her rehabilitation, and that granting release before the full sentence is served would be a

⁵³ See *supra* para. 30.

⁵⁴ See *supra* para. 31.

⁵⁵ See *supra* paras. 26, 28.

⁵⁶ See *supra* para. 26.

⁵⁷ *Musema* Decision, para. 42; *Stojić* Decision of 3 November 2025, para. 27; *Prosecutor v. Miroslav Bralo*, Case No. MICT-14-78-ES, Decision on the Early Release of Miroslav Bralo, 31 December 2019 (public redacted) ("*Bralo* Decision of 31 December 2019"), para. 39 and references cited therein.

responsible exercise of the President's discretion.⁵⁹ Given that crimes against humanity and war crimes are among the gravest crimes known to humankind, it is not appropriate to view the rehabilitation of perpetrators of such crimes as one would view the rehabilitation of perpetrators of so-called ordinary crimes adjudicated at the national level.⁶⁰

48. Turning to the extent to which Martić has demonstrated rehabilitation, I note that the most probative materials before me are the Application and the Sentencing Enforcement Division Letter.

(a) Behaviour in Prison

49. Good behaviour in prison is the very minimum to be expected of a convicted person while serving his or her sentence.⁶¹ In my opinion, such good behaviour cannot on its own demonstrate rehabilitation of a person convicted for some of the most heinous international crimes.⁶²

50. According to the information I received from the Estonian authorities, Martić "is a peaceful person by nature", who is polite when expressing his opinion, and has no difficulty communicating with officials or his fellow prisoners.⁶³ Although various reports have been submitted about Martić, including for minor violations, he currently has no disciplinary punishments in force.⁶⁴ During his imprisonment in Estonia, Martić had four, now expired, tobacco-related disciplinary punishments, the last of which dates to February 2016.⁶⁵ Martić attends worship services once or twice a week and a priest from the Serbian Orthodox Church has visited him.⁶⁶ With respect to leisure activities and his relationships with other prisoners, Martić is said to get on well with others, plays team sports such as netball and football on a weekly basis, plays chess with others in the ward, and knows enough Russian to communicate with other Russian-speaking inmates.⁶⁷

51. Based on the available information, Martić's behaviour in prison has generally been good, without any disciplinary incidents for nearly a decade. However, as set out above, good behaviour in prison cannot on its own demonstrate rehabilitation of a person convicted for some of the most

⁵⁸ *Musema* Decision, para. 42; *Stojić* Decision of 3 November 2025, para. 27; *Bralo* Decision of 31 December 2019, para. 39.

⁵⁹ *Musema* Decision, para. 43; *Stojić* Decision of 3 November 2025, para. 28; *Bralo* Decision of 31 December 2019, para. 39.

⁶⁰ *Musema* Decision, para. 43; *Stojić* Decision of 3 November 2025, para. 28; *Bralo* Decision of 31 December 2019, para. 38.

⁶¹ *Musema* Decision, para. 45; *Stojić* Decision of 3 November 2025, para. 30; *Krstić* Decision of 15 November 2022, para. 49.

⁶² *Musema* Decision, para. 45; *Stojić* Decision of 3 November 2025, para. 30; *Bralo* Decision of 31 December 2019, para. 38.

⁶³ Sentencing Enforcement Division Letter, p. 1.

⁶⁴ Sentencing Enforcement Division Letter, p. 1.

⁶⁵ Sentencing Enforcement Division Letter, p. 1.

⁶⁶ Sentencing Enforcement Division Letter, p. 1.

heinous international crimes.⁶⁸ It is therefore necessary to consider other elements, to which I now turn.

(b) Acceptance of Responsibility, Signs of Critical Reflection, and Expressions of Genuine Remorse or Regret

52. The Mechanism’s jurisprudence has recognised that: (i) an important factor in assessing a convicted person’s progress towards rehabilitation is the acceptance of responsibility for his or her crimes, even if this does not constitute a legal requirement to demonstrate rehabilitation and is not a precondition for early release; and (ii) a convicted person’s partial acceptance of responsibility for his or her crimes will merit positive weight, however, any notable difference between the role a convicted person ascribes to himself or herself, and the role actually played, can suggest a lack of sufficient critical reflection upon his or her crimes.⁶⁹

53. Moreover, in my view, a statement made or referred to in support of an early release application should not be considered in isolation from its greater context.⁷⁰ The content of any such statement should be corroborated by positive actions taken by the convicted person, which indicate that he or she has critically reflected upon his or her crimes and is genuinely remorseful.⁷¹ Tangible evidence of rehabilitation is indeed a crucial aspect, which helps to differentiate genuine expressions of remorse or regret from more opportunistic ones.⁷²

54. The Estonian authorities report that Martić “considers himself a political prisoner” and “[g]enerally speaking, does not want to talk about his crimes, believing that the sentence imposed on him was politically motivated”.⁷³ The Estonian authorities have also indicated that, although Martić has been offered the opportunity to communicate with a psychiatrist or psychologist, he has not requested it.⁷⁴

⁶⁷ Sentencing Enforcement Division Letter, pp. 1-2.

⁶⁸ See *supra* para. 49.

⁶⁹ *Musema* Decision, para. 50; *Stojić* Decision of 3 November 2025, para. 35; *Prosecutor v. Vlastimir Đorđević*, Case No. MICT-14-76-ES, Decision on the Applications for Early Release of Vlastimir Đorđević, 30 November 2021 (public redacted), para. 70.

⁷⁰ *Musema* Decision, para. 51; *Stojić* Decision of 3 November 2025, para. 36; *Krstić* Decision of 15 November 2022, para. 61.

⁷¹ *Musema* Decision, para. 51; *Stojić* Decision of 3 November 2025, para. 36; *Krstić* Decision of 15 November 2022, para. 61.

⁷² *Musema* Decision, para. 51; *Stojić* Decision of 3 November 2025, para. 36; *Prosecutor v. Miroslav Bralo*, Case No. MICT-14-78-ES, Decision on the Application for Early Release of Miroslav Bralo, 28 December 2023 (public redacted), para. 62.

⁷³ Sentencing Enforcement Division Letter, p. 1.

⁷⁴ Sentencing Enforcement Division Letter, p. 1.

55. In a 2019 media article, Martić, *inter alia*, sought to justify the attack on Zagreb, referred to himself as the “first victim of the emergence of neo-fascism in the world” and continued using slurs to describe the Croatian armed forces.⁷⁵

56. In line with the Practice Direction, copies of the material collected in the context of the Application, including the above-mentioned article, were shared with Martić and he was given the opportunity to comment.⁷⁶ Martić did not provide any comments.

57. Nothing in the information before me suggests that Martić has accepted responsibility for his crimes, demonstrated signs of critical reflection, or expressed genuine remorse or regret.

(c) Prospects of Successful Reintegration into Society

58. The Estonian authorities report that Martić regularly communicates with his family by telephone and during his imprisonment in Estonia has received 16 long-term visits from family members, the last of which was in the spring of 2024.⁷⁷ Martić has also maintained a cultural connection to Serbia. He receives Serbian newspapers through letters from abroad and has a personal TV in his cell on which he can watch a Serbian TV channel.⁷⁸ In addition, Martić has access to the Prison Library which houses around 200 Serbian language books.⁷⁹

59. I am of the view that Martić’s transition from being incarcerated to living outside of prison would benefit from the fact that he has maintained strong ties with his family and a connection with his culture.

(d) Overall Assessment

60. Martić has shown good behaviour in prison and there are some signs that he could successfully reintegrate into society. However, I have little other information to suggest that he has reached a level of rehabilitation sufficient to merit early release. I would encourage him to take steps towards rehabilitation including by reflecting critically on his crimes or expressing genuine remorse or regret.

⁷⁵ Prosecution Memorandum, Annex A (media report from 8 September 2019), pp. 1-7.

⁷⁶ See *supra* para. 19.

⁷⁷ Sentencing Enforcement Division Letter, p. 2.

⁷⁸ Sentencing Enforcement Division Letter, p. 2.

⁷⁹ Sentencing Enforcement Division Letter, p. 2.

4. Substantial Cooperation with the Prosecutor

61. The Prosecution submits that since Martić did not substantially cooperate with the ICTY Prosecutor in the course of his trial or appeal, or with the Prosecution while serving his sentence, this factor should not be awarded any weight.⁸⁰ Similarly, the Prosecution contends that no weight should be given to Martić's surrender, which the Trial Chamber found, and the Appeals Chamber affirmed, was not fully voluntary and thus given minimal weight as a mitigating circumstance.⁸¹

62. As I have no information to suggest that, beyond his surrender which was found not to be fully voluntary, Martić cooperated with the Prosecution, I do not consider it appropriate to attach any weight to this factor in my assessment of the Application.

C. Other Considerations

1. Comments and Information Provided by the Prosecution

63. Decisions on early release have established that the President may receive and consider general comments and information from the Prosecution with regard to early release applications.⁸² In doing so, the President shall exercise caution to avoid any unreasonable imbalance to the detriment of the convicted person, and 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.⁸³

64. The Prosecution submits that Martić's early release is not warranted and refers to the high gravity of his crimes,⁸⁴ insufficient evidence of rehabilitation,⁸⁵ and a lack of substantial cooperation with the Prosecution.⁸⁶ The Prosecution further submits that I should consult affected parties, so they can raise specific concerns regarding Martić's early release,⁸⁷ and that my consideration should take into account the security of victims and witnesses as well as the possible impact that Martić's release may have on the community into which he will be released.⁸⁸ Finally, should I nevertheless decide to grant the Application, the Prosecution requests that I impose appropriate conditions on Martić.⁸⁹

⁸⁰ Prosecution Memorandum, paras. 2, 16.

⁸¹ Prosecution Memorandum, para. 17 *referring to* Trial Judgement, para. 510; Appeal Judgement, para. 341.

⁸² *Musema* Decision, para. 66; *Jelisić* Decision, para. 69; *Bralo* Decision of 31 December 2019, para. 69.

⁸³ *Musema* Decision, para. 66; *Jelisić* Decision, para. 69; *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. 83.

⁸⁴ Prosecution Memorandum, paras. 4-12, 27.

⁸⁵ Prosecution Memorandum, paras. 13-15, 27.

⁸⁶ Prosecution Memorandum, paras. 16-17, 27.

⁸⁷ Prosecution Memorandum, paras. 19, 27.

⁸⁸ Prosecution Memorandum, paras. 20-21.

⁸⁹ Prosecution Memorandum, paras. 22-27.

65. I have given due regard to the Prosecution's comments and information in relation to the Application.

2. Views of Serbia

66. The Serbian Minister of Justice conveyed Serbia's view that [REDACTED].⁹⁰ The Minister of Justice also indicated that [REDACTED].⁹¹

67. I have taken note of Serbia's [REDACTED].

3. Impact on Victims and Witnesses

68. WISP observes that the early release of a convicted person may impact victims and witnesses in different ways.⁹² Learning of a convicted person's release through the media, other channels, or an unexpected encounter in public could increase the perception of risk by victims and witnesses, affect their psycho-social wellbeing, or re-traumatise them.⁹³ Victims and/or witnesses may potentially come under threat of being physically harmed or intimidated by the convicted person or his supporters as retribution for their involvement in the proceedings and for contributing to the ICTY's convictions.⁹⁴

69. WISP submits that Martić's efforts to seek publicity while serving his prison sentence,⁹⁵ leads it to believe that he may have an interest in engaging in further public discussion surrounding the events of the war in the former Yugoslavia, which in turn may negatively impact victims and witnesses.⁹⁶ Furthermore, WISP is of the view that the public and the media continue to be interested in Martić, as evidenced by articles related to Martić's conviction in absentia before the Zagreb County Court for rocket attacks on Croatian cities in 1995.⁹⁷

70. Of the 74 surviving witnesses relevant to Martić's case that WISP reviewed,⁹⁸ ten reside in [REDACTED], where Martić intends to live if released early, ten reside elsewhere in Serbia, and 30 reside in Zagreb, Republic of Croatia ("Croatia") or the former self-proclaimed areas of SAO Krajina and RSK, where Martić's crimes were committed.⁹⁹ WISP either has no information about the remainder or they live elsewhere in Croatia, in Bosnia and Herzegovina, Slovenia, or outside the

⁹⁰ Letter of the Minister of Justice of Serbia, Registry Pagination ("RP") 665.

⁹¹ Letter of the Minister of Justice of Serbia, RP 665.

⁹² WISP Memorandum, para. 17.

⁹³ WISP Memorandum, para. 17.

⁹⁴ WISP Memorandum, para. 17.

⁹⁵ WISP Memorandum, para. 19.

⁹⁶ WISP Memorandum, para. 20.

⁹⁷ WISP Memorandum, para. 20.

⁹⁸ WISP Memorandum, paras. 5-6.

region of the former Yugoslavia.¹⁰⁰ A total of 17 witnesses were considered vulnerable due to, *inter alia*, age or health-related fragility and/or psychological trauma from their war experiences, and seven witnesses have expressed security concerns, some of which were addressed by the WISP or local authorities.¹⁰¹

71. Furthermore, the Community of Associations of Croatian Civilian Victims of the Homeland War of Croatia communicated its view that it is “absolutely unacceptable and inappropriate” to even consider Martić’s early release.¹⁰² In this respect it emphasised that most of Martić’s crimes were found to have been committed against persons who were elderly, held in detention, and civilians and submitted that “[t]he lives of many people were changed forever, they suffered serious injuries, physical and psychological trauma”.¹⁰³ In relation to the shelling of Zagreb on 3 May 1995,¹⁰⁴ it highlighted that the situation at the Klaićeva Street Children’s Hospital was “particularly harrowing” as it “suffered damage precisely while the youngest patients were being treated there”.¹⁰⁵

72. The Association of Croatian Civilian Victims of the Homeland War of Zadar County bases its opposition to Martić’s early release on several key reasons including the gravity and scale of his crimes, his lack of repose and acceptance of responsibility, injustice towards the victims and survivors, and the impact on the reconciliation process.¹⁰⁶ With respect to the latter, it submits that Martić’s early release “could have a negative impact on the already frail process of reconciliation in the region” and cautions that it “could provoke a feeling of bitterness and mistrust in judicial institutions, both domestic and international”.¹⁰⁷

73. I have remained mindful of all this information in considering the Application.

4. Health of the Convicted Person

74. Previous decisions have taken into account the state of the convicted person’s health in the context of an early release application.¹⁰⁸ In particular, I observe that a convicted person’s health

⁹⁹ WISP Memorandum, paras. 7-9.

¹⁰⁰ WISP Memorandum, para. 10.

¹⁰¹ WISP Memorandum, paras. 11-16.

¹⁰² Community of Associations of Croatian Civilian Victims of the Homeland War of Croatia Letter, p. 2.

¹⁰³ Community of Associations of Croatian Civilian Victims of the Homeland War of Croatia Letter, pp. 1-2.

¹⁰⁴ See Trial Judgement, paras. 309-313.

¹⁰⁵ Community of Associations of Croatian Civilian Victims of the Homeland War of Croatia Letter, p. 2.

¹⁰⁶ Association of Croatian Civilian Victims of the Homeland War of Zadar County Letter, pp. 1-2.

¹⁰⁷ Association of Croatian Civilian Victims of the Homeland War of Zadar County Letter, p. 2.

¹⁰⁸ *Musema* Decision, para. 72; *Stojić* Decision of 3 November 2025, para. 56; *Bisengimana* Decision, para. 32.

must be considered when the seriousness of his or her condition makes it inappropriate for the convicted person to remain in prison any longer.¹⁰⁹

75. The Estonian authorities submit that Martić has been diagnosed [REDACTED].¹¹⁰ In 2024, Martić [REDACTED], and [REDACTED] in 2018-2019 and again in 2022.¹¹¹ Martić also [REDACTED]. According to the Medical Report, Martić's symptoms are being managed with treatment and he is under regular supervision by medical professionals.¹¹²

76. In light of the information before me, I find no indication that Martić's health may be an impediment to his continued imprisonment. I have, nevertheless, taken the information on Martić's health into account in reaching my decision on the Application, as part of my overall assessment of the various factors.

5. Consultation

77. In coming to my decision on whether to grant the Application, I have consulted with two other Judges of the Mechanism in line with Rule 150 of the Rules and paragraph 16 of the Practice Direction.¹¹³ Both Judge Masanche and Judge Joensen are of the view that the Application should be denied. Judge Masanche refers to Martić's crimes as being "grave and plenty" and to his prominent role in their commission. Judge Masanche highlights that Martić has constantly regarded himself as being a political prisoner and has not shown any remorse for his crimes. Judge Joensen likewise refers to the severe gravity of Martić's crimes as well as to the fact that he has demonstrated no acceptance of responsibility or critical reflection or expressed any genuine remorse or regret with respect to these crimes.

78. 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

79. I am of the opinion that the Application should be denied. While Martić is eligible to be considered for early release, there are factors militating against his early release, including the high gravity of his crimes and his failure to demonstrate sufficient signs of rehabilitation. Further, there

¹⁰⁹ *Musema* Decision, para. 72; *Stojić* Decision of 3 November 2025, para. 56; *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, 16 June 2017, paras. 47-49.

¹¹⁰ Medical Report, p. 1.

¹¹¹ Medical Report, p. 1.

¹¹² Medical Report, p. 1.

¹¹³ *See supra* paras. 21, 25.

is no evidence before me that establishes the existence of compelling humanitarian grounds which would warrant overriding this negative assessment.

VI. DISPOSITION

80. For the foregoing reasons, and pursuant to Article 26 of the Statute and Rules 150 and 151 of the Rules, I hereby **DENY** the Application.

81. The Registrar is **DIRECTED** to provide the authorities of Estonia, Serbia, as well as the Prosecutor, with the public redacted version of this decision as soon as practicable.

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

Done this 4th day of February 2026,
At The Hague,
The Netherlands.


 Judge Graciela Gatti Santana
 President

[Seal of the Mechanism]



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