

**UNITED
NATIONS**



International Residual Mechanism
for Criminal Tribunals

Case No.: MICT-13-46-ES.1

Date: 11 March 2024

Original: English

THE PRESIDENT OF THE MECHANISM

Before: Judge Graciela Gatti Santana, President

Registrar: Mr. Abubacarr M. Tambadou

Order of: 11 March 2024

PROSECUTOR

v.

RADISLAV KRSTIĆ

CONFIDENTIAL

**ORDER DESIGNATING THE STATE IN WHICH
RADISLAV KRSTIĆ IS TO SERVE THE REMAINDER OF HIS
SENTENCE**

Counsel for Mr. Radislav Krstić:

Mr. Vladimir Petrović

I, GRACIELA GATTI SANTANA, President of the International Residual Mechanism for Criminal Tribunals (“President” and “Mechanism”, respectively);

NOTING that, on 2 December 1998, Mr. Radislav Krstić (“Krstić”) was arrested and, on 3 December 1998, was transferred to the seat of the International Criminal Tribunal for the former Yugoslavia (“ICTY”) in The Hague, Kingdom of the Netherlands (“Netherlands”);¹

NOTING that, on 2 August 2001, Trial Chamber I of the ICTY convicted Krstić for committing genocide, persecution as a crime against humanity, and murder as a violation of the laws or customs of war, and sentenced him to 46 years of imprisonment;²

NOTING that, on 19 April 2004, the Appeals Chamber of the ICTY, *inter alia*: (i) set aside Krstić’s conviction for committing genocide, and partially set aside his conviction for committing murder as a violation of the laws or customs of war, and instead found him guilty of aiding and abetting these crimes; (ii) affirmed the remaining convictions for committing persecution as a crime against humanity and murder as a violation of the laws or customs of war; and (iii) reduced Krstić’s sentence to 35 years of imprisonment;³

NOTING that, on 20 December 2004, Krstić was transferred to the United Kingdom of Great Britain and Northern Ireland,⁴ and, on 19 July 2013, to the Republic of Poland (“Poland”) to serve the remainder of his sentence;⁵

NOTING that Krstić’s sentence will expire on 23 November 2033;⁶

RECALLING that, on 20 October 2023, I received from the Registrar of the Mechanism (“Registrar”) a confidential memorandum, in which he, *inter alia*: (i) referred to the maximum enforcement date of Krstić’s sentence in Poland, being 27 November 2023; (ii) indicated that the Registry of the Mechanism had been working to identify a new enforcement State for Krstić but had

¹ See *Prosecutor v. Radislav Krstić*, Case No. IT-98-33-T, Judgement, 2 August 2001 (“Trial Judgement”), Annex I, para. 2; Press Release, Initial Appearance of Radislav Krstić on Monday 7 December at 11.00 a.m., 4 December 1998, <http://www.icty.org/en/press/initial-appearance-radislav-krstic-monday-7-december-1100-am>.

² Trial Judgement, para. 727, Annex I, para. 8.

³ *Prosecutor v. Radislav Krstić*, Case No. IT-98-33-A, Judgement, 19 April 2004, p. 87.

⁴ Press Release, Radislav Krstić Transferred to the United Kingdom to Serve his Prison Sentence, 20 December 2004, <http://www.icty.org/en/press/radislav-krstic-transferred-united-kingdom-serve-his-prison-sentence>; *Prosecutor v. Radislav Krstić*, Case No. IT-98-33-ES, Order Designating the State in Which Radislav Krstić is to Serve his Prison Sentence, 11 November 2004, pp. 2-3.

⁵ Order Designating the State in which Radislav Krstić is to Serve the Remainder of his Sentence, 19 July 2013, pp. 1-2.

⁶ Order for the Transfer of Radislav Krstić to the United Nations Detention Unit on a Temporary Basis, 27 October 2023 (“Order of 27 October 2023”), p. 1.

not yet been successful; and (iii) recommended that Krstić be returned to the United Nations Detention Unit (“UNDU”) temporarily;⁷

RECALLING FURTHER that, on 27 October 2023, I instructed the Registrar to take all necessary measures and make the appropriate arrangements for Krstić to be returned to the UNDU on a temporary basis;⁸

CONSIDERING that the Republic of Estonia (“Estonia”) has informed the Mechanism of its willingness to enforce the remainder of the sentence imposed upon Krstić by the ICTY;⁹

CONSIDERING the confidential memorandum conveyed to me by the Registrar on 8 March 2024 pursuant to the Practice Direction on the Procedure for Designation of the State in Which a Convicted Person is to Serve His or Her Sentence of Imprisonment (“Practice Direction”),¹⁰ whereby the Registrar *inter alia*: (i) refers to the communications received from Estonia; (ii) attaches the views expressed by Krstić in relation to the possible designation of Estonia as the State in which he may serve the remainder of his sentence; (iii) provides other information set out in the Practice Direction; and (iv) recommends Estonia as the State in which Krstić is to serve the remainder of his sentence;¹¹

CONSIDERING the 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, concluded on 11 February 2008, which continues in force, *mutatis mutandis*, in relation to the Mechanism;¹²

HAVING CONSIDERED all the factors enumerated in the Practice Direction, including the views expressed by Krstić,¹³ as well as the recommendation of the Registrar;

⁷ Internal Memorandum from the Registrar to the President, dated 20 October 2023 (confidential), paras. 1-3.

⁸ Order of 27 October 2023, p. 3.

⁹ See Internal Memorandum from the Registrar to the President, dated 8 March 2024 (confidential) (“Memorandum of 8 March 2024”), paras. 12, 14.

¹⁰ MICT/2/Rev. 1, 24 April 2014.

¹¹ Memorandum of 8 March 2024.

¹² See Security Council Resolution 1966 (2010), 22 December 2010, para. 4 (“[T]he Mechanism shall continue the jurisdiction, rights and obligations and essential functions of the ICTY and the ICTR, respectively, subject to the provisions of this resolution and the Statute of the Mechanism, and all contracts and international agreements concluded by the United Nations in relation to the ICTY and the ICTR, and still in force as of the relevant commencement date, shall continue in force *mutatis mutandis* in relation to the Mechanism[.]”). According to Article 25(2) of the Statute of the Mechanism (“Statute”), “[t]he Mechanism shall have the power to supervise the enforcement of sentences pronounced by the ICTY, the ICTR or the Mechanism, including the implementation of sentence enforcement agreements entered into by the United Nations with Member States”.

¹³ I have specifically considered Krstić’s requests to: (i) order a medical examination prior to designating an enforcement State, and (ii) hold in abeyance the designation of an enforcement State until his pending request for early

PURSUANT TO Article 25 of the Statute, Rule 127 of the Rules of Procedure and Evidence of the Mechanism (“Rules”), and paragraphs 5 through 7 of the Practice Direction;

HEREBY DECIDE that Krstić shall serve the remainder of his sentence in Estonia;

INSTRUCT the Registrar to officially request the Government of Estonia to enforce the sentence of Krstić and, should the Government of Estonia accede to this request, inform Krstić and the relevant authorities of the Netherlands thereof and take all necessary measures to facilitate Krstić’s transfer to Estonia as expeditiously as possible;

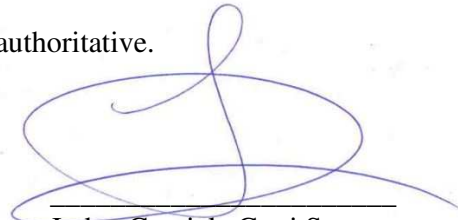
AUTHORISE the Registrar to share the present order, on a confidential basis, with the relevant authorities of Estonia, if necessary;

ORDER, pursuant to Rule 127(C) of the Rules, that Krstić shall remain in the custody of the Mechanism while awaiting his transfer to Estonia; and

INSTRUCT the Registrar to lift the confidential status of the present order and recirculate it as a public filing once Krstić’s transfer to Estonia has been completed.

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

Done this 11th day of March 2024,
At The Hague,
The Netherlands.



Judge Graciela Gatti Santana
President

[Seal of the Mechanism]

release is decided. I note in particular that the information before me does not indicate that Krstić’s health may be an impediment to designating an enforcement State. Separately, I consider Krstić’s pending request for early release to be irrelevant to the process of designating an enforcement State.



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Case Name/ Affaire :	Prosecutor v. Radislav Krstić		Case Number/ Affaire n° :	MICT-13-46-ES.1
Date Created/ Daté du :	11 March 2024		Date transmitted/ Transmis le :	11 March 2024
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