

**UNITED
NATIONS**



International Residual Mechanism
for Criminal Tribunals

Case No.: MICT-15-96-ES.2

Date: 9 October 2024

Original: English

THE PRESIDENT OF THE MECHANISM

Before: Judge Graciela Gatti Santana, President

Registrar: Mr. Abubacarr M. Tambadou

Order of: 9 October 2024

PROSECUTOR

v.

JOVICA STANIŠIĆ

CONFIDENTIAL

**ORDER DESIGNATING THE STATE IN WHICH JOVICA
STANIŠIĆ IS TO SERVE THE REMAINDER OF HIS SENTENCE**

Counsel for Mr. Jovica Stanišić:

Mr. Wayne Jordash
Ms. Mirjana Vukajlović
Mr. Geert-Jan Alexander Knoops

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

NOTING the Judgement rendered by the Appeals Chamber of the Mechanism on 31 May 2023, in which the Appeals Chamber sentenced Mr. Jovica Stanišić (“Stanišić”) to 15 years of imprisonment,¹ and that he is currently detained at the United Nations Detention Unit (“UNDU”) in The Hague, Kingdom of the Netherlands (“Netherlands”), while awaiting transfer to an enforcement State where he will serve the remainder of his sentence;

CONSIDERING the confidential memorandum from the Registrar of the Mechanism (“Registrar”) dated 3 October 2024² and submitted to me pursuant to paragraph 4 of 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;³

CONSIDERING that, in the Memorandum, the Registrar: (i) informed me of the willingness of the Federal Republic of Germany (“Germany”) to assist the Mechanism in the enforcement of Stanišić’s sentence; and (ii) recommended that Germany be designated as the State in which Stanišić is to serve the remainder of his sentence;⁴

CONSIDERING the draft *ad hoc* agreement negotiated between the Mechanism and Germany on 12 September 2024 concerning the enforcement of sentence of Stanišić;⁵

RECALLING the decision filed on 7 October 2024, wherein I rejected Stanišić’s confidential motion requesting that, prior to any transfer to an enforcement State, I: (i) instruct a “court-reporting medical expert” to examine Stanišić’s overall health condition; (ii) provide Stanišić with sufficient time to instruct an independent expert to examine him and report to me on any “emergency issues” related to his health; and (iii) hold an oral hearing to hear medical evidence concerning any removal of his current treatment regime as well as the medical prudence of any travel and transfer to another state for completion of his sentence;⁶

¹ See *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. MICT-15-96-A, Judgement, 31 May 2023 (public redacted), para. 664.

² Internal Memorandum from the Registrar to the President, 3 October 2024 (confidential) (“Memorandum”), pp. 1-8.

³ MICT/2 Rev. 1, 24 April 2014 (“Practice Direction”).

⁴ Memorandum, paras. 8-14, 43.

⁵ Memorandum, Annex B.

⁶ See Decision on Jovica Stanišić’s Renewed Urgent Motion for a Hearing and Accommodations to Ensure a Safe Transfer, 7 October 2024 (“Decision of 7 October 2024”), pp. 3-4. See also Decision on Jovica Stanišić’s Motion for a Hearing, 10 July 2024 (“Decision of 10 July 2024”), pp. 2-3.

CONSIDERING, in particular, that despite Stanišić's submission that the complexity of his medical conditions makes it "highly unpreferable to relocate [him] to another region",⁷ the Mechanism does not have a sentence enforcement agreement with the Netherlands, nor does the Headquarters Agreement between the United Nations and the Netherlands envisage sustained post-conviction detention in the UNDU;⁸

CONSIDERING FURTHER that Stanišić will be able to raise any health-related matters with the Government of Germany prior to his transfer;⁹

HAVING CONSIDERED the relevant factors enumerated in the Practice Direction, including the views of Stanišić,¹⁰ as well as the recommendation of the Registrar;

PURSUANT TO Article 25 of the Statute of the Mechanism, 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 Jovica Stanišić shall serve his sentence in Germany;

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

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

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

INSTRUCT the Registrar to lift the confidential status of the present Order and recirculate it as a public filing once Stanišić's transfer to Germany has been completed.

⁷ See Stanišić Renewed Urgent Motion for a Hearing on the Place of Imprisonment and Any Accommodations Required to Ensure a Safe Transfer, 23 September 2024 (confidential and *ex parte*) ("Request of 23 September 2024"), para. 26; Stanišić Urgent Motion for a Hearing on the Place of Imprisonment, 20 June 2024 (confidential and *ex parte*) ("Request of 20 June 2024"), para. 30.

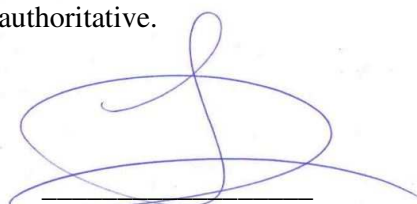
⁸ See Decision of 10 July 2024, p. 2. See also Agreement between the United Nations and the Kingdom of the Netherlands concerning the Headquarters of the International Residual Mechanism for Criminal Tribunals, 23 February 2015, Article 40.

⁹ See Decision of 7 October 2024, p. 3; Decision of 10 July 2024, p. 2.

¹⁰ See Request of 23 September 2024; Request of 20 June 2024. See also Memorandum, Annexes F-G.

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

Done this 9th day of October 2024,
At The Hague,
The Netherlands.



Judge Graciela Gatti Santana
President

[Seal of the Mechanism]



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From/ De :	<input checked="" type="checkbox"/> President/ Président	<input type="checkbox"/> Chambers/ Chambre	<input type="checkbox"/> Prosecution/ Bureau du Procureur	<input type="checkbox"/> Defence/ Défense
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Case Name/ Affaire :	Prosecutor v. Jovica Stanišić		Case Number/ Affaire n° :	MICT-15-96-ES.2
Date Created/ Daté du :	09 October 2024		Date transmitted/ Transmis le :	09 October 2024
			Number of Pages/ Nombre de pages :	4
Original Language/ Langue de l'original :	<input checked="" type="checkbox"/> English/ Anglais	<input type="checkbox"/> French/ Français	<input type="checkbox"/> Kinyarwanda	<input type="checkbox"/> B/C/S
	<input type="checkbox"/> Other/ Autre (specify/ préciser):			
Title of Document/ Titre du document :	Order designating the State in which Jovica Stanišić is to serve the remainder of his sentence			
Classification Level/ Catégories de classification :	<input type="checkbox"/> Public/ Document public	<input type="checkbox"/> Ex Parte Defence excluded/ Défense exclue	<input type="checkbox"/> Ex Parte Prosecution excluded/ Bureau du Procureur exclu	<input type="checkbox"/> Ex Parte Rule 86 applicant excluded/ Article 86 requérant exclu
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	<input checked="" type="checkbox"/> Order/ Ordonnance	<input type="checkbox"/> Submission from non-parties/ Écritures déposées par des tiers	<input type="checkbox"/> Indictment/ Acte d'accusation	

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

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