

**UNITED
NATIONS**



International Residual Mechanism
for Criminal Tribunals

Case No.: MICT-13-53-ES.2

Date: 17 July 2025

Original: English

THE PRESIDENT OF THE MECHANISM

Before: Judge Graciela Gatti Santana, President

Registrar: Mr. Abubacarr M. Tambadou

Decision of: 17 July 2025

PROSECUTOR

v.

MIĆO STANIŠIĆ

PUBLIC REDACTED VERSION

**DECISION ON THE APPLICATION
FOR EARLY RELEASE OF MIĆO STANIŠIĆ**

Counsel for Mr. Mićo Stanišić:

Mr. Slobodan Zečević

1. I, Graciela Gatti Santana, President of the International Residual Mechanism for Criminal Tribunals (“President” and “Mechanism”, respectively), am seised of a direct petition for early release filed by Mr. Mićo Stanišić on 15 October 2024 (“Stanišić” and “Application”, respectively).¹

I. BACKGROUND

2. On 11 March 2005, Stanišić surrendered and was transferred to the seat of the International Criminal Tribunal for the former Yugoslavia (“ICTY”).² At his initial appearance on 17 March 2005, Stanišić pleaded not guilty to all charges against him.³

3. On 27 March 2013, Trial Chamber II of the ICTY (“Trial Chamber”) found Stanišić guilty, pursuant to Article 7(1) of the Statute of the ICTY, of murder and torture as violations of the laws or customs of war, as well as persecution as a crime against humanity, and sentenced him to 22 years of imprisonment.⁴

4. On 30 June 2016, the Appeals Chamber of the ICTY (“Appeals Chamber”), *inter alia*, dismissed Stanišić’s appeal against the Trial Judgement in its entirety and affirmed his convictions and sentence.⁵

5. On 7 August 2019, Stanišić was transferred to the Republic of Poland (“Poland”) to serve the remainder of his sentence.⁶ Following Poland’s determination that it could no longer continue enforcing this sentence, on 22 January 2025, Stanišić was transferred to the United Nations Detention Unit (“UNDU”) in The Hague, Kingdom of the Netherlands (“Netherlands”), on a temporary basis.⁷

¹ Mićo Stanišić[s] Application for Early Release in Accordance with Article 6 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, 15 October 2024 (confidential).

² *Prosecutor v. Mićo Stanišić and Stojan Župljanin*, Case No. IT-08-91-T, Judgement, 27 March 2013 (“Trial Judgement”), vol. 3, para. 1.

³ *Prosecutor v. Mićo Stanišić*, Case No. IT-04-79-I, Transcript of 17 March 2005, pp. 18-21. *See also* Trial Judgement, vol. 3, para. 1.

⁴ Trial Judgement, vol. 2, para. 955.

⁵ *Prosecutor v. Mićo Stanišić and Stojan Župljanin*, Case No. IT-08-91-A, Judgement, 30 June 2016 (public with confidential annex C) (“Appeal Judgement”), para. 1193.

⁶ *See* Order Designating the State in which Mićo Stanišić is to Serve his Sentence, 7 June 2019, p. 2. *See also* email from the Registry of the Mechanism (“Registry”) to the Office of the President, dated 12 February 2025.

⁷ *See* Order for the Transfer of Mićo Stanišić to the United Nations Detention Unit on a Temporary Basis, 23 December 2024, p. 2. *See also* Email from the Registry to the Office of the President, dated 22 January 2025; Internal Memorandum from the Registrar of the Mechanism (“Registrar”) to the President, dated 27 November 2024 (strictly confidential), paras. 1-4.

II. APPLICATION

6. On 15 October 2024, Stanišić filed the Application, requesting to be granted early release after having served two-thirds of his sentence.⁸ The Application indicates that Stanišić would reside in [REDACTED], Republic of Serbia (“Serbia”), if released early.⁹

7. On 5 November 2024, I asked the Registrar to provide me with background information, such as: (i) information concerning the victims of the crimes for which Stanišić was convicted and who testified in his case; (ii) any media reports concerning Stanišić that had been published in the former Yugoslavia in the past two years; and (iii) information on any victims’ associations or other groups that exist in relation to the crimes for which Stanišić was convicted.¹⁰

8. On 8 November 2024, in line with paragraph 6 of the Practice Direction,¹¹ I ordered Stanišić to file a public redacted version of the Application.¹²

9. On 14 November 2024, in accordance with paragraph 10(e) of the Practice Direction, I requested a report from the Office of the Prosecutor of the Mechanism (“Prosecution”) on any cooperation of Stanišić with the Prosecution of the ICTY or the Mechanism and the significance thereof, as well as any other comments or information relevant to the determination of the Application.¹³

10. On 18 November 2024, I requested the Polish authorities, in line with paragraph 10(a) and (b) of the Practice Direction, to provide me with information about Stanišić’s behaviour during his period of incarceration, the general conditions under which he is imprisoned, and his attitude towards the crimes for which he was convicted and the victims of these crimes.¹⁴

11. On 20 November 2024, Stanišić filed a public redacted version of the Application.¹⁵

⁸ Application, paras. 3, 17.

⁹ Application, para. 15.

¹⁰ Internal Memorandum from the President to the Registrar, dated 5 November 2024 (confidential), paras. 2-3.

¹¹ 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”).

¹² Order for a Public Redacted Version of Mićo Stanišić’s Application for Early Release, 8 November 2024, p. 1.

¹³ Internal Memorandum from the President to the Prosecutor of the Mechanism (“Prosecutor”), dated 14 November 2024 (confidential), para. 2.

¹⁴ Letter from the President to the Ambassador Extraordinary and Plenipotentiary of Poland to the Netherlands, dated 18 November 2024 (confidential), p. 1.

¹⁵ Mićo Stanišić[s] Application for Early Release in Accordance with Article 6 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, 20 November 2024 (public redacted).

12. On 27 November 2024, I invited the authorities of Serbia to, *inter alia*, provide any views that they may wish to offer with regard to the Application and Stanišić'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.¹⁶

13. On 6 December 2024, the Prosecutor conveyed to me a memorandum, providing his comments and information in relation to the Application.¹⁷

14. On 13 December 2024, I received a letter from the Minister of Justice of Serbia, conveying the information requested in the Invitation.¹⁸

15. On 7 January 2025, the Registry transmitted to me a number of documents received from the Polish authorities on 24 December 2024.¹⁹

16. On 16 January 2025, the Registrar provided me with a strictly confidential memorandum from the Witness Support and Protection Unit of the Mechanism ("WISP"), conveying information concerning the victims of the crimes for which Stanišić was convicted and who testified in his case.²⁰

17. On 6 February 2025, the Registrar communicated to me an overview of media reports concerning Stanišić that had been published in the region of the former Yugoslavia in the past two

¹⁶ Invitation to the Republic of Serbia Related to the Application for Early Release of Mićo Stanišić, 27 November 2024 (confidential and *ex parte*) ("Invitation"), pp. 1-2.

¹⁷ Internal Memorandum from the Prosecutor to the President, dated 6 December 2024 (confidential) ("Prosecution Memorandum"). The Prosecution Memorandum includes a list of victims' associations. *See* Prosecution Memorandum, Annex A.

¹⁸ *Note verbale* from the Embassy of Serbia to the Netherlands, dated 13 December 2024, conveying a letter from the Minister of Justice of Serbia, dated 4 December 2024 ("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 13 December 2024.

¹⁹ Email communication from the Registry to the Office of the President, dated 7 January 2025. The transmitted documents include: (i) a *note verbale* from the Embassy of Poland to the Netherlands, dated 19 December 2024; (ii) an "Opinion on the Convicted Person" from the Deputy Director of the Polish prison, dated 9 December 2024 ("Prison Report"); (iii) an "Opinion on the State of Health of the Convicted Person" from a physician of the Polish prison, dated 5 December 2024 ("Health Assessment"); (iv) an "Information on Imprisonment and Rulings" data sheet from the Polish prison authorities, dated 9 December 2024; and (v) a "Psychological Opinion" on Stanišić from the Senior Psychologist of the penitentiary ward of the Polish prison, undated ("Psychological Assessment").

²⁰ Internal Memorandum from the Registrar to the President, dated 16 January 2025 (strictly confidential), transmitting Internal Memorandum from the Head of WISP to the Registrar, dated 16 January 2025 (strictly confidential) ("WISP Memorandum").

years and provided me with a list of victims' associations that exist in relation to the crimes for which Stanišić was convicted.²¹

18. On 7 February 2025, I asked the Registrar to invite the relevant victims' associations to submit their views on the Application if they so wished.²² I also requested the Registrar, once any views of the victims' associations had been received, to communicate to Stanišić, in a language that he understands, selected material collected in the context of the Application.²³

19. On 16 April 2025, the Registrar communicated to me responses received from seven victims' associations ("Victims' Associations").²⁴

20. On 14 May 2025, Stanišić filed submissions regarding the materials transmitted to him in relation to the Application.²⁵

21. With regard to the Application, I have consulted with Judge Carmel Agius, Judge Burton Hall, and Judge Liu Daqun in their capacity as Judges of the sentencing Chambers,²⁶ in accordance with Rule 150 of the Rules of Procedure and Evidence of the Mechanism ("Rules") and paragraph 16 of the Practice Direction.

²¹ Internal Memorandum from the Registrar to the President, dated 6 February 2025 (confidential), *transmitting* Internal Memorandum from the Public Information Officer of the Mechanism, Hague branch, to the Registrar, dated 5 February 2025.

²² Internal Memorandum from the President to the Registrar, dated 7 February 2025 (confidential) ("President Memorandum of 7 February 2025"), paras. 2-3. The Registry informed my Office that it had sent the invitations to relevant victims' associations on 13 March 2025. *See* informal communication from the Registry to the Office of the President, dated 20 March 2025.

²³ President Memorandum of 7 February 2025, paras. 4-5. The Registry informed my Office that the material had been communicated to Stanišić on 30 April 2025. *See* email communication from the Registry to the Office of the President, dated 1 May 2025.

²⁴ Internal Memorandum from the Registrar to the President, dated 16 April 2025 (confidential), para. 5, *transmitting* the following documents: (i) a letter from the President of the Association "Women Victims of War" Sarajevo, dated 17 March 2025 ("Association Women Victims of War Sarajevo Letter"); (ii) a letter from the President of the "Association of Camp Inmates of Bosnia and Herzegovina", dated 20 March 2025 ("Association of Camp Inmates of Bosnia and Herzegovina Letter"); (iii) an email from the "Organisation of Families of Martyrs, Fallen Soldiers and Missing Persons 'Vrbanja' Kotor Varoš", dated 24 March 2025 ("Organisation of Families of Martyrs, Fallen Soldiers and Missing Persons Vrbanja Kotor Varoš Email"); (iv) a letter from the "Association of Victims and Witnesses of Genocide", dated 25 March 2025 ("Association of Victims and Witnesses of Genocide Letter"); (v) a letter from the President of the "Municipal Association of Sanski Most Camp Inmates", dated 25 March 2025 ("Municipal Association of Sanski Most Camp Inmates Letter"); (vi) an email from the President of the "Association of Camp Inmates of Ilijaš Municipality", dated 27 March 2025 ("Association of Camp Inmates of Ilijaš Municipality Email"); and (vii) a letter from the President of the "Ključ Municipality Association of the Families of Martyrs and Fallen Soldiers Ključ", dated 26 March 2025 ("Ključ Municipality Association of the Families of Martyrs and Fallen Soldiers Ključ Letter").

²⁵ Mićo Stanišić[s] Written Submission Regarding Documentation Provided by the Office of the Registrar in Accordance With Article 13 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 with Annexes, 14 May 2025 (confidential) ("Comments").

²⁶ *See generally* Appeal Judgement; Trial Judgement.

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.

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 deal with such requests and the longstanding practice of the ICTR, the ICTY, and the Mechanism in this regard.

24. Rule 150 of the Rules provides that the President shall, upon receipt of a direct petition from the convicted person, determine, in consultation with any Judges of the sentencing Chamber who are Judges of the Mechanism, whether pardon, commutation of sentence, or early release is appropriate.

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

26. Paragraph 5 of the Practice Direction provides that a convicted person may apply directly to the President for pardon, commutation of sentence, or early release, if he or she believes that he or she is eligible.

27. Paragraph 10 of the Practice Direction indicates that the President may collect information, directly or through the Registry, 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 states that, if early release is granted, it may be subject to conditions.

IV. ANALYSIS

A. Eligibility

29. 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.²⁷ Further, serving two-thirds of a sentence has been described by the Mechanism's jurisprudence as being "in essence, an admissibility threshold".²⁸

30. Stanišić served two-thirds of his sentence on 24 September 2024 and is therefore eligible to be considered for early release.

B. General Standards for Granting Early Release

31. 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 release is appropriate, to analyse and consider the convicted person's current situation, taking into

²⁷ *Prosecutor v. Vujadin Popović*, Case No. MICT-15-85-ES.2, Decision on the Application for Early Release of Vujadin Popović, 20 June 2025 ("Popović Decision"), p. 2; *Prosecutor v. Jadranko Prlić*, Case No. MICT-17-112-ES.2, Decision on the Application for Early Release of Jadranko Prlić, 7 March 2025 (public redacted) ("Prlić Decision"), para. 28; *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.

²⁸ *Popović Decision*, p. 3; *Prlić Decision*, para. 28; *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.

²⁹ *Prlić Decision*, para. 30; *Prosecutor v. Radislav Krstić*, Case No. MICT-13-46-ES.1, Decision on the Application for Early Release of Radislav Krstić, 3 February 2025 (public redacted) ("Krstić Decision of 3 February 2025"), para. 27; *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.

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

32. 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

33. 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

34. Stanišić was convicted of committing, through participation in a joint criminal enterprise (“JCE”), murder and torture as violations of the laws or customs of war, as well as persecution as a crime against humanity.³⁴ With regard to persecution, Stanišić was convicted through the underlying acts of: (i) killings; (ii) torture, cruel treatment, and inhumane acts; (iii) unlawful detention; (iv) establishment and perpetuation of inhumane living conditions; (v) forcible transfer and deportation; (vi) plunder of property; (vii) wanton destruction of towns and villages, including destruction or wilful damage done to institutions dedicated to religion and other cultural buildings; and (viii) imposition and maintenance of restrictive and discriminatory measures.³⁵

35. Stanišić was found to be a member of the JCE that was formed in order “to permanently remove Bosnian Muslims and Bosnian Croats from the territory of the planned Serbian state”

³⁰ *Prlić* Decision, para. 30; *Krstić* Decision of 3 February 2025, para. 27; *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 *Prlić* Decision, para. 30; *Krstić* Decision of 3 February 2025, para. 27; *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 *Prlić* Decision, para. 31; *Prosecutor v. Dragomir Milošević*, Case No. MICT-16-98-ES, Decision on the Application for Early Release of Dragomir Milošević, 13 December 2024 (public redacted) (“*Milošević* Decision”), para. 31; *Krstić* Decision of 15 November 2022, para. 33.

³³ *Prlić* Decision, para. 32; *Milošević* Decision, para. 32; *Prosecutor v. Radivoje Miletić*, Case No. MICT-15-85-ES.5, Decision on the Early Release of Radivoje Miletić, 5 May 2021 (public redacted) (“*Miletić* Decision”), para. 39.

³⁴ See *supra* paras. 3-4.

through the commission of deportation, other inhumane acts (forcible transfer), and persecutions (through underlying acts of forcible transfer and deportation) as crimes against humanity.³⁶ The Trial Chamber found that his participation in the JCE was undertaken in his official capacity as Minister of the Interior of the *Republika Srpska*.³⁷ Moreover, Stanišić's responsibility as a JCE member extended to crimes committed in all of the 20 municipalities alleged in the indictment: Banja Luka, Bijeljina, Bileća, Bosanski Šamac, Brčko, Doboj, Donji Vakuf, Gacko, Ilijaš, Ključ, Kotor Varoš, Pale, Prijedor, Sanski Most, Skender Vakuf, Teslić, Vlasenica, Višegrad, Vogošća, and Zvornik.³⁸

36. In describing his contribution to the JCE, the Trial Chamber found that “Stanišić deployed the police in furtherance of the decisions of the Bosnian Serb authorities, of which his Ministry was considered an instrumental organ”.³⁹ Despite being aware of the commission of crimes by the joint Serb Forces in the municipalities, Stanišić consistently approved the deployment of Ministry forces to combat activities or detention facilities along with the other Serb Forces.⁴⁰ More generally, Stanišić was involved in: (i) the creation of Bosnian-Serb bodies and policies; (ii) combat activities and municipality takeovers by Ministry of Interior forces; (iii) the failed prevention, investigation, and documentation of crimes; and (iv) unlawful arrests and detention in detention centres.⁴¹

37. Moreover, in relation to the gravity of the crimes, the Trial Chamber found Stanišić responsible for “massive crimes” with victims numbering “in the thousands”, many of them being “particularly vulnerable”, such as children, women, the elderly, and persons who had been deprived of their liberty in detention camps.⁴²

38. A number of circumstances were also found to have aggravated Stanišić's culpability, namely: (i) his abuse of his superior position;⁴³ (ii) that the crimes were committed over a duration of nine months;⁴⁴ and (iii) his education and experience, which gave him “full insight into the context in which the crimes were committed and a thorough legal understanding of the nature of the

³⁵ Trial Judgement, vol. 2, para. 955.

³⁶ Trial Judgement, vol. 2, paras. 313, 771, 927-929; Appeal Judgement, para. 5.

³⁷ Trial Judgement, vol. 2, para. 929. *See* Trial Judgement, vol. 1, para. 2; Appeal Judgement, para. 2.

³⁸ Trial Judgement, vol. 1, para. 8, vol. 2, para. 927; Appeal Judgement, paras. 5-6, 1191.

³⁹ Trial Judgement, vol. 2, para. 742.

⁴⁰ Trial Judgement, vol. 2, paras. 743, 761.

⁴¹ Trial Judgement, vol. 2, paras. 729-765.

⁴² Trial Judgement, vol. 2, para. 927.

⁴³ Trial Judgement, vol. 2, para. 929; Appeal Judgement, paras. 1114-1116, 1126.

⁴⁴ Trial Judgement, vol. 2, para. 930; Appeal Judgement, paras. 1119-1120, 1126.

crimes”.⁴⁵ In mitigation, two factors were identified: (i) Stanišić’s voluntary surrender to the ICTY;⁴⁶ and (ii) his compliance with obligations during periods of provisional release.⁴⁷

39. Stanišić acknowledges that the crimes for which he was convicted are of “high gravity”.⁴⁸ At the same time, he submits that “although significant”, the gravity of crimes cannot be the exclusive factor in deciding whether early release should be granted.⁴⁹

40. In light of the above, there is no doubt as to the high gravity of Stanišić’s crimes. Accordingly, I am of the view that this factor weighs against his early release.

2. Treatment of Similarly-Situated Prisoners

41. When considering the treatment of similarly-situated prisoners, decisions on early release have emphasised that persons sentenced by the ICTY, like Stanišić, are considered “similarly-situated” to all other prisoners under the Mechanism’s supervision.⁵⁰ As noted above, the eligibility threshold of having served two-thirds of the sentence applies to all convicted persons serving a sentence under the Mechanism’s supervision.⁵¹

42. Stanišić argues that “the ICTY rendered numerous judgments which are analogous with respect to sentences imposed”.⁵² He specifically submits that Mr. Momčilo Krajišnik “was convicted for partially the same” crime-base, had “significantly higher” political authority, and yet was sentenced to 20 years of imprisonment and granted early release after having served two-thirds of his sentence.⁵³

43. I am of the view that each case and each convicted person presents unique circumstances that must be considered on their own merits when determining whether early release is to be granted.⁵⁴ In this vein, Stanišić’s comparisons of his situation to Mr. Krajišnik’s position, convictions, and early release are inconsequential because consideration of Stanišić’s application is focused primarily on whether his demonstration of rehabilitation following his sentencing, as well

⁴⁵ Trial Judgement, vol. 2, para. 931; Appeal Judgement, paras. 1123-1126.

⁴⁶ Trial Judgement, vol. 2, para. 933. This finding was not challenged on appeal.

⁴⁷ Trial Judgement, vol. 2, para. 934. This finding was not challenged on appeal.

⁴⁸ Application, para. 5. *See* Comments, Annex II, para. 5.

⁴⁹ Application, para. 5.

⁵⁰ *Prlić* Decision, para. 38; *Milošević* Decision, para. 39; *Bisengimana* Decision, paras. 16-17.

⁵¹ *See supra* para. 29.

⁵² Application, para. 7.

⁵³ Application, para. 7.

⁵⁴ *Prosecutor v. Dragoljub Kunarac*, Case No. MICT-15-88-ES.1, Decision on the Application for Early Release of Dragoljub Kunarac, 22 July 2024 (“*Kunarac* Decision”), para. 43; *Prosecutor v. Stojan Župljanin*, Case No. MICT-13-53-ES.1, Decision on the Application for Early Release of Stojan Župljanin, 18 January 2024 (“*Župljanin* Decision”), para. 41; *Miletić* Decision, para. 42.

as other factors, warrants the extraordinary remedy of early release notwithstanding the gravity of the crimes for which he was convicted.⁵⁵

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.⁵⁶ The prisoner's demonstration of rehabilitation is just one factor to be considered when deciding upon such an application.⁵⁷

45. Before turning to an individualised assessment of Stanišić'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.⁵⁸

46. A number of positive indicators of rehabilitation of persons convicted by the ICTR, the ICTY, or the Mechanism have been recognised as such in the past or may be of persuasive relevance.⁵⁹ Such indicators 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.⁶⁰ This is a non-exhaustive list and convicted persons are not expected to fulfil all of these indicators in order to demonstrate rehabilitation.⁶¹

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

⁵⁵ See *Kunarac* Decision, para. 43; *Župljanin* Decision, para. 41; *Miletić* Decision, para. 42.

⁵⁶ See *supra* paras. 23, 28.

⁵⁷ See *supra* para. 25.

⁵⁸ *Prlić* Decision, para. 41; *Milošević* Decision, para. 43; *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"), paras. 37-41.

⁵⁹ *Prlić* Decision, para. 42; *Krstić* Decision of 3 February 2025, para. 29; *Bralo* Decision, para. 39.

⁶⁰ *Prlić* Decision, para. 42; *Krstić* Decision of 3 February 2025, para. 29; *Bralo* Decision, para. 39 and references cited therein.

⁶¹ *Prlić* Decision, para. 42; *Krstić* Decision of 3 February 2025, para. 29; *Bralo* Decision, para. 39.

responsible exercise of the President's discretion.⁶² Given that genocide, 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.⁶³

48. Turning to the extent to which Stanišić has demonstrated rehabilitation, I note that the most probative materials before me are: (i) the Application; (ii) the Prison Report; (iii) the Health Assessment; (iv) the Psychological Assessment; and (v) the Comments.

(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.⁶⁴ In my opinion, such good behaviour cannot on its own demonstrate rehabilitation of a person convicted for some of the most heinous international crimes.⁶⁵

50. Stanišić submits that, during his period of imprisonment, he “never experienced any problems nor was subjected to any disciplinary proceedings”.⁶⁶

51. According to the Polish prison authorities, Stanišić is a “well-subordinated and disciplined individual” for whom “[n]o breaches of order or discipline have been noted”.⁶⁷ Stanišić is further described as “tactful”, “composed”, “agreeable”, and “collegial”.⁶⁸ Stanišić received 13 awards, primarily for outstanding behaviour.⁶⁹ Stanišić worked in the prison's library between October 2019 and his return to the UNDU.⁷⁰

52. Based on the available information, Stanišić's behaviour in prison has been notably positive and, as such, merits commendation. However, as set out above, good behaviour in prison cannot on its own demonstrate the rehabilitation of a person convicted of some of the most heinous international crimes.⁷¹ It is therefore necessary to consider other elements, to which I now turn.

⁶² *Prlić* Decision, para. 43; *Krstić* Decision of 3 February 2025, para. 30; *Bralo* Decision, para. 39.

⁶³ *Prlić* Decision, para. 43; *Krstić* Decision of 3 February 2025, para. 30; *Bralo* Decision, para. 38.

⁶⁴ *Prlić* Decision, para. 45; *Krstić* Decision of 3 February 2025, para. 31; *Krstić* Decision of 15 November 2022, para. 49.

⁶⁵ *Prlić* Decision, para. 45; *Krstić* Decision of 3 February 2025, para. 31; *Bralo* Decision, para. 38.

⁶⁶ Application, para. 13.

⁶⁷ Prison Report, p. 3. *See also* Psychological Assessment, p. 2.

⁶⁸ Prison Report, p. 2.

⁶⁹ Prison Report, p. 2; Psychological Assessment, p. 2.

⁷⁰ Prison Report, p. 2; Psychological Assessment, p. 1.

⁷¹ *See supra* para. 49.

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

53. 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.⁷²

54. Stanišić refers to certain measures he took during the period in which the crimes were committed.⁷³ He contends that, although “the Trial Chamber found these measures to be insufficient”, it can nonetheless be “justifiably argued that, in assessing his conduct during the relevant period when crimes have been committed, his rehabilitation has been successful”.⁷⁴ Stanišić thus appears to suggest that any actions he may have taken at the time to mitigate his crimes demonstrate his rehabilitation. However, rehabilitation is typically a lengthy process that begins after the commission of crimes and often only after a final conviction. I consider that the conduct of a convicted person that was already taken into consideration by the Trial Chamber in sentencing, and which occurred decades ago, does not constitute compelling evidence of current rehabilitation that would justify granting early release.⁷⁵

55. With regard to his attitude towards his crimes, the Polish authorities indicate that Stanišić “firmly distances himself from the past” and “speaks reluctantly about his crimes”.⁷⁶ These assessments leave me doubtful as to whether Stanišić has, in fact, undergone any critical reflection.

56. Stanišić also comments on the claims of some of the Victims’ Associations that he never offered an apology to the victims of his crimes.⁷⁷ Rather than seizing the opportunity to engage meaningfully with these concerns and express clear remorse, Stanišić decided to file his Comments confidentially and merely asserts that he offered a public apology to the victims and expressed remorse during his trial and appeal proceedings, “which can be verified by way of transcripts and

⁷² *Prlić* Decision, para. 48; *Krstić* Decision of 3 February 2025, para. 37; *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.

⁷³ Comments, Annex II, para. 6.

⁷⁴ Comments, Annex II, para. 6.

⁷⁵ See *Prlić* Decision, para. 59.

⁷⁶ Psychological Assessment, p. 2; Prison Report, p. 3.

⁷⁷ Comments, Annex II, para. 15.

audio-visual recordings”.⁷⁸ These submissions suggest to me that Stanišić’s remorse is not sufficiently developed to weigh in favour of his early release.

57. I consider that none of the information before me indicates any concrete actions evidencing Stanišić’s purported rehabilitation. Given the above, I am not convinced that Stanišić has genuinely accepted responsibility for his crimes or shown sufficient signs of critical reflection or genuine remorse.

(c) Prospects of Successful Reintegration into Society

58. Stanišić submits that he is “in daily telephone contact with his wife, children and grandchildren”, and that they also visit him “as much as possible”.⁷⁹ According to Stanišić, he has the financial means to support himself.⁸⁰ The Polish prison authorities confirm that Stanišić maintained close relationships with members of his family, who provide him with emotional support.⁸¹

59. The Polish authorities also report that Stanišić actively participated in an aggression and violence prevention programme in 2021.⁸² I commend Stanišić for such participation.

60. I consider that Stanišić’s submissions, including on his close family ties, merit positive weight in my consideration of his prospects for successfully reintegrating into society.

(d) Overall Assessment

61. Stanišić has shown good behaviour in prison and his active participation in an aggression and violence prevention program is commendable progress towards rehabilitation. However, I am not convinced that he has accepted responsibility for his crimes or shown sufficient signs of critical reflection, or genuine remorse or regret. Consequently, after considering the totality of the information before me, I am of the view that Stanišić has not demonstrated sufficient signs of rehabilitation to merit early release as a responsible exercise of my discretion.

⁷⁸ Comments, Annex II, para. 15.

⁷⁹ Application, para. 14.

⁸⁰ Application, para. 15.

⁸¹ Psychological Assessment, p. 1; Prison Report, pp. 2-4.

⁸² Psychological Assessment, p. 2; Prison Report, pp. 2-4.

4. Substantial Cooperation with the Prosecutor

62. The Prosecution argues that, while Stanišić voluntarily submitted to an interview in July 2007, both the Trial Chamber and the Appeals Chamber found that the quantity and quality of the information provided did not reveal any substantial cooperation with the Prosecution.⁸³

63. Stanišić does not dispute this finding but submits that his cooperation must nonetheless be taken into account in assessing the Application.⁸⁴

64. Voluntarily submitting to an interview reflects a degree of cooperation with the Prosecution, as it may contribute to the efficient administration of justice.⁸⁵ However, this single instance did not warrant any mitigation in his sentencing,⁸⁶ and Stanišić fails to demonstrate how it can be considered “substantial” now. Moreover, Stanišić has not demonstrated any further cooperation with the Prosecution during the enforcement of his sentence. As a result, I do not find it appropriate to attach any weight to Stanišić’s prior cooperation with the Prosecution in my assessment of the Application.

C. Other Considerations

1. Comments and Information Provided by the Prosecution

65. 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.⁸⁷ 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.⁸⁸

66. The Prosecution submits that Stanišić was convicted of large-scale, heinous crimes to which he personally contributed as an active member of a JCE to permanently remove Bosnian Muslims and Bosnian Croats from the territory of the planned Serbian state, and that the victims of his

⁸³ Prosecution Memorandum, para. 20.

⁸⁴ Comments, Annex II, paras. 8-10.

⁸⁵ *Prlić* Decision, para. 67; *Kunarac* Decision, para. 72.

⁸⁶ Trial Judgement, vol. 2, paras. 935-936; Appeal Judgement, paras. 1131, 1134.

⁸⁷ *Prlić* Decision, para. 68; *Krstić* Decision of 3 February 2025, para. 63; *Bralo* Decision, para. 69.

⁸⁸ *Prlić* Decision, para. 68; *Krstić* Decision of 3 February 2025, para. 63; *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.

crimes numbered in the thousands.⁸⁹ With regard to his rehabilitation, the Prosecution argues that Stanišić has not demonstrated any progress to justify early release.⁹⁰

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

2. Views of Serbia

68. The Serbian Minister of Justice informed me that [REDACTED].⁹¹ The Minister of Justice also [REDACTED].⁹²

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

3. Impact on Victims and Witnesses

70. WISP observes that the early release of a convicted person may impact victims and witnesses in different ways.⁹³ Learning of a convicted person's release through the media, other channels or through an unexpected encounter in public could increase the perception of risk by victims and witnesses, affect their psycho-social wellbeing, or re-traumatise them.⁹⁴ Other 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.⁹⁵

71. WISP reviewed a total of 194 witnesses who may be impacted by Stanišić's possible release.⁹⁶ Of those, 40 are considered "vulnerable"; however, none reside in Serbia.⁹⁷

72. Furthermore, the Association "Women Victims of War" Sarajevo submits that, in the context of the Application, Stanišić attempts to downplay the gravity of the crimes he committed.⁹⁸ It further notes that Stanišić has never expressed remorse or sought forgiveness.⁹⁹ In its view, granting early release to Stanišić would constitute an affront to the victims of his crimes.¹⁰⁰

⁸⁹ Prosecution Memorandum, paras. 2, 4-11.

⁹⁰ Prosecution Memorandum, paras. 16-19.

⁹¹ Letter of the Minister of Justice of Serbia, Registry Pagination ("RP") 31.

⁹² Letter of the Minister of Justice of Serbia, RP 31.

⁹³ WISP Memorandum, para. 17.

⁹⁴ WISP Memorandum, para. 17.

⁹⁵ WISP Memorandum, para. 17.

⁹⁶ WISP Memorandum, para. 4.

⁹⁷ WISP Memorandum, paras. 13-16.

⁹⁸ Association Women Victims of War Sarajevo Letter, p. 2.

⁹⁹ Association Women Victims of War Sarajevo Letter, p. 3.

¹⁰⁰ Association Women Victims of War Sarajevo Letter, p. 3.

73. The Association of Camp Inmates of Bosnia and Herzegovina and the Municipal Association of Sanski Most Camp Inmates highlight that Stanišić was among the key individuals responsible for the “horrific and systemic crimes” committed between 1992 and 1995 in his area of responsibility, and express doubt that he feels any regret, firmly opposing his early release.¹⁰¹

74. The Organisation of Families of Martyrs, Fallen Soldiers and Missing Persons “Vrbanja” Kotor Varoš considers that Stanišić should serve the full term of his sentence, referencing the scope of his crimes and his failure to demonstrate any remorse.¹⁰²

75. The Association of Victims and Witnesses of Genocide further notes that over 7,000 persons remain missing in Bosnia and Herzegovina and asserts that Stanišić is likely to possess information about individual or mass graves, yet he has never expressed a willingness to assist families in locating their loved ones.¹⁰³

76. The Ključ Municipality Association of the Families of Martyrs and Fallen Soldiers Ključ opposes the Application in light of the crimes Stanišić committed.¹⁰⁴

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

4. Health of the Convicted Person

78. Previous decisions have taken into account the state of the convicted person’s health in the context of an early release application.¹⁰⁵ In particular, I observe that a convicted persons’ health must be considered when the seriousness of his or her condition makes it inappropriate for the convicted person to remain in prison any longer.¹⁰⁶

79. Stanišić [REDACTED].¹⁰⁷ [REDACTED].¹⁰⁸ [REDACTED].¹⁰⁹

80. The information before me does not lead to the conclusion that Stanišić’s state of health would render his continued imprisonment inappropriate. Accordingly, I consider that there are no

¹⁰¹ Association of Camp Inmates of Bosnia and Herzegovina Letter, pp. 1-2; Municipal Association of Sanski Most Camp Inmates Letter, pp. 1-2. The Association of Camp Inmates of Ilijaš Municipality endorses the views expressed by the Association of Camp Inmates of Bosnia and Herzegovina. Association of Camp Inmates of Ilijaš Municipality Email, p. 1.

¹⁰² Organisation of Families of Martyrs, Fallen Soldiers and Missing Persons Vrbanja Kotor Varoš Email, p. 1.

¹⁰³ Association of Victims and Witnesses of Genocide Letter, p. 1.

¹⁰⁴ Ključ Municipality Association of the Families of Martyrs and Fallen Soldiers Ključ Letter, p. 1.

¹⁰⁵ *Prlić* Decision, para. 82; *Krstić* Decision of 3 February 2025, para. 68; *Bisengimana* Decision, para. 32.

¹⁰⁶ *Prlić* Decision, para. 82; *Krstić* Decision of 3 February 2025, para. 68; *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.

¹⁰⁷ Health Assessment, p. 2.

¹⁰⁸ Psychological Assessment, p. 2.

compelling humanitarian grounds which would warrant his early release. I have nevertheless taken the information on Stanišić's state of health into account in reaching my decision on the Application, as part of my overall assessment of the various factors.

5. Consultation

81. In coming to my decision on whether to grant the Application, I have consulted with three other Judges of the Mechanism in line with Rule 150 of the Rules and paragraph 16 of the Practice Direction.¹¹⁰ Judge Agius highlights: (i) the high gravity of Stanišić's crimes; (ii) Stanišić's good behaviour in prison and active participation in an aggression and violence prevention programme, which, though commendable, are not enough to demonstrate acceptance of responsibility or critical reflection; and (iii) Stanišić's insufficiently developed remorse, as also demonstrated by his failure to engage meaningfully with the Victims' Associations' concerns. Judge Liu raises the gravity of Stanišić's crimes and the absence of any significant evidence demonstrating his remorse and rehabilitation. Judge Hall agrees with the views expressed by his Colleagues. All are in favour of denying the Application.

82. 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

83. I am of the opinion that the Application should be denied. While Stanišić 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 is no evidence before me that establishes the existence of compelling humanitarian grounds which would warrant overriding this negative assessment.

VI. DISPOSITION

84. 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.

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

¹⁰⁹ Psychological Assessment, p. 2.

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

Done this 17th day of July 2025,
At The Hague,
The Netherlands.



Judge Graciela Gatti Santana
President

[Seal of the Mechanism]

¹¹⁰ *See supra* para. 21.



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