

**UNITED  
NATIONS**



International Residual Mechanism  
for Criminal Tribunals

Case No.: MICT-15-88-ES.1

Date: 29 August 2025

Original: English

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**THE PRESIDENT OF THE MECHANISM**

**Before: Judge Graciela Gatti Santana, President**

**Registrar: Mr. Abubacarr M. Tambadou**

**Decision of: 29 August 2025**

**PROSECUTOR**

**v.**

**DRAGOLJUB KUNARAC**

***PUBLIC***

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**DECISION ON NOTIFICATION  
OF SENTENCE REMISSION**

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**Counsel for Mr. Dragoljub Kunarac:**

Mr. Zoran Živanović

**Federal Republic of Germany**

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

**NOTING** that, on 4 March 1998, Mr. Dragoljub Kunarac (“Kunarac”) surrendered to the International Criminal Tribunal for the former Yugoslavia (“ICTY”) and was transferred to the United Nations Detention Unit in The Hague, Kingdom of the Netherlands (“The Netherlands”);<sup>1</sup>

**NOTING** that, on 22 February 2001, Trial Chamber II of the ICTY convicted Kunarac of torture, rape, and enslavement as crimes against humanity, and torture and rape as violations of the laws or customs of war and sentenced him to 28 years of imprisonment;<sup>2</sup>

**NOTING** that, on 12 June 2002, the Appeals Chamber of the ICTY affirmed Kunarac’s convictions and sentence;<sup>3</sup>

**NOTING** that, on 12 December 2002, Kunarac was transferred to the Federal Republic of Germany (“Germany”) to serve the remainder of his sentence,<sup>4</sup> and that he will have served his sentence in full on 24 February 2026;

**NOTING** that, on 25 August 2025, the Registry of the Mechanism filed on the judicial record a *note verbale* received from Germany,<sup>5</sup> informing the Mechanism that, pursuant to German law, Kunarac has currently earned 97 days of leave to be counted towards his remaining prison term, and requesting a decision by the Mechanism on whether these days can be credited towards the end date of Kunarac’s sentence;

**RECALLING** that, pursuant to Article 25(2) of the Statute of the Mechanism (“Statute”), the Mechanism shall have the power to supervise, *inter alia*, the enforcement of sentences pronounced by the ICTY, including the implementation of sentence enforcement agreements entered into by the United Nations with Member States;

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<sup>1</sup> *Prosecutor v. Dragoljub Kunarac et al.*, Case Nos. IT-96-23-T & IT-96-23/1-T, Judgement, 22 February 2001 (“Trial Judgement”), p. 283.

<sup>2</sup> Trial Judgement, paras. 883, 885, 892.

<sup>3</sup> *Prosecutor v. Dragoljub Kunarac et al.*, Case Nos. IT-96-23 & IT-96-23/1-A, Judgement, 12 June 2002 (“Appeal Judgement”), p. 125. None of the Trial Chamber’s factual findings with respect to Kunarac were reversed on appeal. *See, e.g.*, Appeal Judgement, paras. 5-10, 256.

<sup>4</sup> *See Prosecutor v. Dragoljub Kunarac et al.*, Case Nos. IT-96-23-T & IT-96-23/1-A, Order Designating the State in Which Dragoljub Kunarac is to Serve His Prison Sentence, 26 July 2002.

<sup>5</sup> Sentence Remission Notification, 25 August 2025 (confidential).

**RECALLING** that Article 2(1) of the relevant enforcement agreement with Germany<sup>6</sup> provides that “[i]n enforcing Mr. Kuranac’s sentence as pronounced by the Appeals Chamber of the [ICTY], the competent national authorities of Germany shall be bound by the duration of the sentence”;

**CONSIDERING** that sentence remissions stemming from the domestic laws of an enforcement State do not amount to commutation of sentence *before the Mechanism*, but instead equate to commutation of sentence *before the enforcement State* and that, while sentence remission decisions taken by an enforcement State may affect the enforcement State’s own calculation of the length of a convicted person’s sentence, they will not impact the Mechanism’s calculation of the end date of the convicted person’s sentence;<sup>7</sup>

**CONSIDERING** that as domestic sentence remissions do not affect the duration of the sentence under the Mechanism’s framework, an analysis of the factors outlined in Rule 151 of the Mechanism’s Rules of Procedure and Evidence (“Rules”) is unnecessary, if, as is the case here, the notification is not otherwise included in a petition for early release, commutation of sentence, or pardon;<sup>8</sup>

**FINDING** that the notification of possible sentence remission under German law does not impact the duration of Kunarac’s sentence under the authority of the Mechanism;

**PURSUANT TO** Article 25(2) of the Statute and Rule 128 of the Rules;

**HEREBY** provisionally recognise a sentence remission of 97 days for which Kunarac has become eligible under German law; and

**CLARIFY** that this provisionally recognised sentence remission has no impact on the end date of Kunarac’s sentence, which is 24 February 2026.

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<sup>6</sup> See Agreement Between the International Criminal Tribunal for the former Yugoslavia and the Government of Germany, dated 14 November 2002, which applies *mutatis mutandis* to the Mechanism. See Security Council Resolution 1966 (2010), 22 December 2010, para. 4.

<sup>7</sup> *Prosecutor v. Milomir Stakić*, Case No. MICT-13-60-ES, Decision on Notification of Sentence Remission, 31 December 2024 (“*Stakić* Decision of 31 December 2024”), p. 3; *Prosecutor v. Vlastimir Đorđević*, Case No. MICT-14-76-ES, Decision on Sentence Remission, 20 August 2024 (“*Đorđević* Decision”), p. 2; *Prosecutor v. Milomir Stakić*, Case No. MICT-13-60-ES, Decision on Sentence Remission and Early Release of Milomir Stakić, 22 December 2021 (“*Stakić* Decision of 22 December 2021”), paras. 25-26.

<sup>8</sup> See *Stakić* Decision of 31 December 2024, p. 3; *Đorđević* Decision, p. 2; *Stakić* Decision of 22 December 2021, para. 26.

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

Done this 29th day of August 2025,  
At The Hague  
The Netherlands.

  
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Judge Graciela Gatti Santana  
President

**[Seal of the Mechanism]**



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