

**UNITED
NATIONS**



International Residual Mechanism
for Criminal Tribunals

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

Date: 6 July 2026

Original: English

THE PRESIDENT OF THE MECHANISM

Before: Judge Graciela Gatti Santana, President

Registrar: Mr. Abubacarr M. Tambadou

Decision of: 6 July 2026

PROSECUTOR

v.

RADISLAV KRSTIĆ

PUBLIC REDACTED

**DECISION ON THE APPLICATION
FOR EARLY RELEASE OF RADISLAV KRSTIĆ**

Counsel for Mr. Radislav Krstić:

Mr. Vladimir Petrović

Republic of Estonia

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”), filed on 29 January 2026, informing the Mechanism that Mr. Radislav Krstić (“Krstić”) is eligible to be considered for release from prison on parole under Estonian law (“Application”).¹

I. BACKGROUND

2. On 2 December 1998, Krstić was arrested in Bosnia and Herzegovina and transferred to the International Criminal Tribunal for the former Yugoslavia (“ICTY”) the following day.²

3. On 2 August 2001, Trial Chamber I of the ICTY (“Trial Chamber”) convicted Krstić of genocide, persecution as a crime against humanity, and murder as a violation of the laws or customs of war.³ The Trial Chamber sentenced Krstić to 46 years of imprisonment.⁴

4. On 19 April 2004, the Appeals Chamber of the ICTY (“Appeals Chamber”): (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) decided that the Trial Chamber incorrectly disallowed Krstić’s convictions for extermination and persecution as crimes against humanity as being impermissibly cumulative with his conviction for genocide, and that his level of responsibility for these two counts was that of an aider and abettor; (iii) 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 (iv) reduced his sentence to 35 years of imprisonment.⁵

5. On 20 December 2004, Krstić was transferred to the United Kingdom of Great Britain and Northern Ireland (“United Kingdom”) to serve the remainder of his sentence.⁶ Subsequently, he was transferred on a temporary basis to the United Nations Detention Unit (“UNDU”) in The Hague⁷

¹ Notification on the initiation of conditional early release proceedings – Radislav Krstić, 29 January 2026 (confidential).

² *Prosecutor v. Radislav Krstić*, Case No. IT-98-33-T, Judgement, 2 August 2001 (“Trial Judgement”), para. 718.

³ Trial Judgement, paras. 687-688, 719, 727.

⁴ Trial Judgement, para. 727.

⁵ See *Prosecutor v. Radislav Krstić*, Case No. IT-98-33-A, Judgement, 19 April 2004 (“Appeal Judgement”), p. 87.

⁶ 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.

⁷ *Prosecutor v. Radislav Krstić*, Case No. IT-98-33-ES, Decision on Application of Radislav Krstić for Transfer, 4 October 2011 (confidential and *ex parte*), para. 66.

before being transferred to the Republic of Poland (“Poland”),⁸ and then back to the UNDU on a temporary basis.⁹ He is currently serving his sentence in Estonia.¹⁰

6. Krstić has been denied early release on four previous occasions. On 13 December 2016 and 10 September 2019, Krstić was denied early release on the basis that he had not yet served two-thirds of his sentence and no compelling or exceptional circumstances justified his release before having served the requisite minimum number of years.¹¹ On 15 November 2022 and on 3 February 2025, I denied Krstić’s direct petitions for early release on the basis of, *inter alia*, the high gravity of his crimes and his insufficient demonstration of rehabilitation.¹²

II. APPLICATION

7. On 29 January 2026, the Estonian authorities wrote to inform the Mechanism that, under Estonian law, Krstić is eligible to be considered for release from prison on parole as of 3 December 2025.¹³

8. On 2 February 2026, I requested the Estonian authorities to provide the information enumerated in paragraphs 10(a) through 10(c) of the applicable Practice Direction.¹⁴

9. On 23 February 2026, I received the requested information from the Estonian authorities.¹⁵

10. On 4 and 5 March 2026, I wrote to nine victims’ associations related to the crimes for which Krstić was convicted, advising them that, should they so wish, they are welcome to share their views on the Application. I received responses from the Citizens’ Association “Women of

⁸ Order Designating the State in Which Radislav Krstić is to Serve the Remainder of his Sentence, 19 July 2013, pp. 1-2.

⁹ Order for the Transfer of Radislav Krstić to United Nations Detention Unit on a Temporary Basis, 27 October 2023, pp. 1-3.

¹⁰ Order Designating the State in Which Radislav Krstić is to Serve the Remainder of his Sentence, 11 March 2024, p. 3. On 16 March 2026, I was informed that Krstić, along with other convicted persons under the Mechanism’s supervision, was transferred to a new prison in Estonia. *See Note Verbale* from the Embassy of Estonia to the Mechanism, dated 16 March 2026 (“Estonian *Note Verbale* of 16 March 2026”).

¹¹ Decision of the President on the Early Release of Radislav Krstić, 13 December 2016 (public redacted), paras. 39-40; Decision on the Early Release of Radislav Krstić, 10 September 2019 (public redacted), paras. 39, 41.

¹² Decision on the Application for Early Release of Radislav Krstić, 15 November 2022 (public redacted) (“Decision of 15 November 2022”), paras. 93-94; Decision on the Application for Early Release of Radislav Krstić, 3 February 2025 (public redacted) (“Decision of 3 February 2025”), paras. 75-76.

¹³ Application, Registry of the Mechanism (“Registry”) Pagination 528.

¹⁴ Letter from the President to the Ambassador of Estonia to the Kingdom of the Netherlands, dated 2 February 2026 (confidential), 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”).

¹⁵ *Note Verbale* from the Embassy of Estonia to the Mechanism, dated 18 February 2026 (“Estonian *Note Verbale*”).

Srebrenica”,¹⁶ the Association “Women Victims of War - Sarajevo”,¹⁷ the Association “Movement of Mothers of the Srebrenica and Žepa Enclaves”,¹⁸ the Association of the Victims and Witnesses of Genocide,¹⁹ and the Association “Women of Podrinje – Bratunac”.²⁰

11. On 26 March 2026, following the translation of the material received, I asked the Registrar of the Mechanism (“Registrar”) to communicate to Krstić, in accordance with paragraph 12 of the Practice Direction, in a language that he understands, the material collected in the context of the Application.²¹ I also asked the Registrar to confirm with Krstić that he intends to reside in the Republic of Serbia (“Serbia”) if released early, as previously indicated.²²

12. On 22 April 2026, Krstić filed submissions regarding the material transmitted to him in relation to the Application.²³ He also confirmed that, if released early, he will reside in [REDACTED], Serbia with [REDACTED] and will “unquestioningly” respect all conditions.²⁴

13. As no Judge who imposed the sentence upon Krstić is a Judge of the Mechanism, I consulted with Judge Seon Ki Park and Judge Ivo Nelson de Caires Batista Rosa, 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

14. 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.

15. 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.

¹⁶ Email communication from the Citizens’ Association “Women of Srebrenica”, dated 7 March 2026 (“Women of Srebrenica Email”).

¹⁷ Letter from the Association “Women Victims of War - Sarajevo”, dated 13 March 2026 (“Women Victims of War Letter”).

¹⁸ Letter from the Association “Movement of Mothers of the Srebrenica and Žepa Enclaves”, dated 16 March 2026 (“Mothers of the Srebrenica and Žepa Enclaves Letter”).

¹⁹ Letter from the Association of the Victims and Witnesses of Genocide, dated 16 March 2026 (“Association of the Victims and Witnesses of Genocide Letter”).

²⁰ Letter from the Association “Women of Podrinje – Bratunac”, dated 16 March 2026 (“Women of Podrinje – Bratunac Letter”).

²¹ Internal Memorandum from the President to the Registrar, dated 26 March 2026 (confidential) (“Memorandum of 26 March 2026”), para. 1. The material was sent to Krstić on 8 April 2026.

²² Memorandum of 26 March 2026, para. 2. *See* Application for Early Release, 19 January 2024, paras. 22, 31.

²³ Krstić Defence Submission, 22 April 2026 (confidential and *ex parte*) (“Comments”).

²⁴ Comments, para. 12.

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.

16. 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.

17. Rule 150 of the Rules provides that the President shall, upon such notice, 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.

18. 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 Office of the Prosecutor ("Prosecution").

19. 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.

20. 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.

21. The enforcement agreement between Estonia and the United Nations,²⁵ which applies *mutatis mutandis* to the Mechanism,²⁶ provides in Article 8 that 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 prior to taking any decision on the matter.

IV. ANALYSIS

A. Preliminary Issue

22. I recall that I denied Krstić’s last application for early release on 3 February 2025 after a careful and thorough assessment of his submissions and detailed information I received from a number of sources, including information collected for the Decision of 15 November 2022. This information included: (i) the Serbian Minister of Justice’s indication that there are no obstacles to Krstić residing in Serbia, that the competent Serbian authorities are willing to monitor any conditions imposed by the Mechanism in the event of Krstić’s early release, and that the necessary guarantees to this effect would be provided;²⁷ (ii) the Prosecution’s comments and other information concerning Krstić’s prospective early release²⁸ and related Krstić’s submissions;²⁹ (iii) information from the Mechanism’s Witness Support and Protection Unit (“WISP”) about witnesses who testified or provided evidence during his trial;³⁰ and (iv) a compilation of media reports concerning Krstić, including public reactions to his 2024 Personal Statement.³¹ I have no indication of material changes warranting updates to this information, so that I have decided to rely on it to the extent that it is still relevant.

²⁵ 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.

²⁶ See Security Council Resolution 1966 (2010), 22 December 2010, para. 4.

²⁷ *Note verbale* from the Embassy of Serbia to the Netherlands, dated 25 May 2022, *transmitting* a Letter from the Minister of Justice of Serbia to the then-President, dated 24 May 2022.

²⁸ Prosecution’s Response to Radislav Krstić’s Application for Early Release, 24 January 2024; Prosecution’s Submission on Krstić’s Defence Submission in Support of Early Release, 3 July 2024 (confidential); Prosecution’s Response to Krstić Defence Submission of 12 July 2024, 19 July 2024 (confidential); Prosecution’s Request for Leave to File Sur-Reply and Sur-Reply to Krstić’s Reply of 4 August 2024, 6 August 2024 (confidential).

²⁹ Krstić Defence Reply to Prosecution’s Response on Application for Early Release, 29 January 2024 (confidential with confidential and *ex parte* Annex); Krstić Defence Submission, 12 July 2024 (confidential); Krstić Defence Reply, 4 August 2024 (confidential).

³⁰ Internal Memorandum from the Registrar to the President, dated 4 August 2022 (strictly confidential), *transmitting* an Internal Memorandum from the Head of WISP to the Registrar, dated 4 August 2022 (strictly confidential), paras. 3-5.

³¹ Internal Memorandum from the Registrar to the President, dated 13 July 2022 (confidential), *transmitting* an Internal Memorandum from the Officer-in-Charge, External Relations Office, Hague branch to the Registrar, dated 13 July 2022 (confidential); Krstić Defence Submission, 20 November 2024. See Krstić Defence Submission, 11 November 2024, Annex (“2024 Personal Statement”).

23. Since the Decision of 3 February 2025, Krstić has been transferred from the UNDU to Estonia to serve the remainder of his sentence.³² In these circumstances, I considered it appropriate to collect from the Estonian authorities the information enumerated in paragraphs 10(a) through 10(c) of the Practice Direction. I also considered it appropriate to request the views of relevant victims' associations, since only two of them had provided their views in advance of the Decision of 15 November 2022.

B. General Standards for Granting Early Release

24. 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.³³ 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 account the non-exhaustive list of factors set out in Rule 151 of the Rules.³⁴ The mere passage of time cannot constitute sufficient grounds for early release.³⁵

1. Gravity of Crimes, Treatment of Similarly-Situated Prisoners, and Substantial Cooperation with the Prosecution

25. As there have been no changes to my earlier detailed assessment of Krstić's eligibility for early release and the gravity of his crimes, I reaffirm my previous conclusions that: (i) Krstić became eligible for early release upon passing the two-thirds threshold on 28 March 2022;³⁶ and (ii) there is no doubt as to the high gravity of his crimes.³⁷ Having not received any new information to the contrary, Krstić has not provided substantial cooperation to the Prosecution.³⁸

2. Demonstration of Rehabilitation

26. 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

³² See *supra* para. 5.

³³ *Prosecutor v. Milan Martić*, Case No. MICT-14-82-ES, Decision on the Application for Early Release of Milan Martić, 4 February 2026 (public redacted) ("*Martić Decision*"), para. 32; *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. 28; *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.

³⁴ *Martić Decision*, para. 32; *Musema Decision*, para. 28; Decision of 15 November 2022, para. 32.

³⁵ *Martić Decision*, para. 32; *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, 17 January 2024 (public redacted), para. 100.

³⁶ Decision of 15 November 2022, para. 29. See Decision of 3 February 2025, para. 28.

³⁷ Decision of 15 November 2022, paras. 35-41. See Decision of 3 February 2025, para. 28.

³⁸ Decision of 3 February 2025, para. 62.

criteria specified in Rule 151 of the Rules.³⁹ The prisoner's demonstration of rehabilitation is just one factor to be considered when deciding upon such an application.⁴⁰

27. 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.⁴¹ This is a non-exhaustive list and convicted persons are not expected to fulfil all of these indicators in order to demonstrate rehabilitation.⁴²

28. 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 responsible exercise of the President's discretion.⁴³ 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.⁴⁴

29. Turning to the extent to which Krstić has demonstrated rehabilitation, I consider the Estonian *Note Verbale*, the Comments and the 2024 Personal Statement to be the most probative materials before me.

³⁹ See *supra* paras. 15, 20.

⁴⁰ See *supra* para. 15.

⁴¹ *Martić* Decision, para. 46; *Musema* Decision, para. 42; *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"), para. 39 and references cited therein.

⁴² *Martić* Decision, para. 46; *Musema* Decision, para. 42; *Bralo* Decision, para. 39.

⁴³ *Martić* Decision, para. 47; *Musema* Decision, para. 43; *Bralo* Decision, para. 39.

⁴⁴ *Martić* Decision, para. 47; *Musema* Decision, para. 43; *Bralo* Decision, para. 38.

(a) Behaviour in Prison

30. Good behaviour in prison is the very minimum to be expected of a convicted person while serving his or her sentence.⁴⁵ In my opinion, such good behaviour cannot on its own demonstrate rehabilitation of a person convicted for some of the most heinous international crimes.⁴⁶

31. The Estonian authorities provide that Krstić has been behaving well in prison and follows the established procedure.⁴⁷ In terms of activities, in addition to one-hour daily walking, he was allowed in a room outside the ward to paint, as he did not want to participate in an art group with other prisoners due to difficulty in moving and [REDACTED].⁴⁸

32. In response, Krstić points out the Estonian authorities' conclusion that he respects all prison rules.⁴⁹

33. I recall that Krstić's behaviour in prison has consistently been very good.⁵⁰ The information before me confirms that Krstić's behaviour in prison has continued to be good and, as such, merits positive weight in my consideration of his rehabilitation.

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

34. 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 but 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.⁵¹

35. 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.⁵² The content of any such

⁴⁵ *Martić* Decision, para. 49; *Musema* Decision, para. 45; Decision of 15 November 2022, para. 49.

⁴⁶ *Martić* Decision, para. 49; *Musema* Decision, para. 45; *Bralo* Decision, para. 38.

⁴⁷ *Estonian Note Verbale*, p. 1.

⁴⁸ *Estonian Note Verbale*, p. 2.

⁴⁹ Comments, para. 11.

⁵⁰ Decision of 15 November 2022, paras. 53, 55 (concerning his imprisonment in Poland); Decision of 3 February 2025, paras. 34, 36 (concerning his second temporary stay in the UNDU).

⁵¹ *Martić* Decision, para. 52; *Musema* Decision, para. 50; *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.

⁵² *Martić* Decision, para. 53; *Musema* Decision, para. 51; Decision of 15 November 2022, para. 61.

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.⁵³ Tangible evidence of rehabilitation is indeed a crucial aspect, which helps to differentiate genuine expressions of remorse or regret from more opportunistic ones.⁵⁴

36. According to the Estonian authorities, Krstić, in his meetings with the prison psychologist, admits to the committed crimes and expresses remorse for them.⁵⁵ During these meetings, Krstić has also repeatedly emphasised that he and his loved ones never had problems with people of other religions or nationalities while in Bosnia and Herzegovina, including with those under his command.⁵⁶ The Estonian authorities also inform that Krstić considers what happened during the conflict in Bosnia and Herzegovina to be “a mistake that should not have existed” and that Serbs should not be blamed for it as a nation but only the specific individuals who committed it, including himself.⁵⁷

37. Further, the Estonian authorities provide that, according to the methodology used in Estonia for the assessment of criminogenic risks, Krstić has been assessed as “extremely dangerous” due to the large number of victims and the consequences of his crimes.⁵⁸ According to the authorities, when discussing this topic, Krstić continues to admit the crimes and express remorse, but has also pointed out the fact that he was located far away from the scene of the crime which is why he did not have full knowledge of what was happening.⁵⁹

38. In response, Krstić submits that his conversations with the Estonian authorities clearly show consistency in understanding and accepting his own responsibility and remorse, and confirm that he accepts the ICTY judgements without attempting to distance himself.⁶⁰ Krstić further underlines that, in numerous conversations with the prison authorities in Estonia, he unequivocally stated that he admits his crimes and expresses his remorse, and that the reason he does not have information about the victims of genocide whose fate is unknown to this day is the fact that he was not in the place where the crimes took place and, therefore, does not have full information about the consequences of the relevant events.⁶¹ Krstić also confirms that he stands by the submissions he made in the past, including his clear statements in relation to his own responsibility and personal

⁵³ *Martić* Decision, para. 53; *Musema* Decision, para. 51; Decision of 15 November 2022, para. 61.

⁵⁴ *Martić* Decision, para. 53; *Musema* Decision, para. 51; Decision of 15 November 2022, para. 61.

⁵⁵ *Estonian Note Verbale*, p. 2.

⁵⁶ *Estonian Note Verbale*, p. 2.

⁵⁷ *Estonian Note Verbale*, p. 2.

⁵⁸ *Estonian Note Verbale*, p. 2.

⁵⁹ *Estonian Note Verbale*, p. 2.

⁶⁰ Comments, paras. 10, 13.

⁶¹ Comments, paras. 8-9.

attitude to the events for which he was found guilty, and that it is very difficult for him to take any additional step to further convince me that his remorse is “truly sincere”.⁶²

39. I recall that, in February 2025, having found that Krstić’s statements of remorse and acceptance continued to lack critical reflection on certain key aspects, I could not conclude that these statements fully encompassed his entire criminal conduct or were genuine, rather than being motivated solely by his request for early release.⁶³ For example, Krstić appeared to gloss over the number of persons killed during the Srebrenica Genocide and failed to clearly acknowledge that, as the Commander of the Drina Corps, it was within his power to prevent the use of Drina Corps’ personnel and resources.⁶⁴ This attitude undermines Krstić’s submissions that he fully accepts the judgements against him and fully appreciates the scope of the crimes for which he was convicted.⁶⁵ His submissions in the context of the present Application do not rectify this.

40. Further, in the Decision of 3 February 2025, I concluded that Krstić had failed to engage in concrete and verifiable actions to corroborate his statements, which raised further questions as to their genuineness and the extent to which they can be relied upon as evidence of his rehabilitation.⁶⁶ On that occasion, I noted positively, *inter alia*, his support for the United Nations General Assembly resolution designating 11 July as the International Day of Reflection and Commemoration of the 1995 Genocide in Srebrenica and his request to visit Potočari “to bow to the victims and ask for forgiveness” upon his release if I agree with it and the victims’ families were to allow it.⁶⁷ At the same time, I noted that the timing of these “actions”, namely their inclusion in a letter specifically submitted in support of his application for early release, casts doubt on their sincerity.⁶⁸

41. In this respect, I also noted the fact that he never candidly addressed the extent of the information that he may or may not have received about the unaccounted remains of victims of the Srebrenica Genocide, considering that it is reasonable to conclude that Krstić had access to extensive information about the Drina Corps’ operations and that they were found to have been involved in executions and burials.⁶⁹ In the Comments, Krstić submits that, since between 12 and

⁶² Comments, paras. 2-4, 13.

⁶³ Decision of 3 February 2025, para. 54.

⁶⁴ Decision of 3 February 2025, paras. 47-50, 54.

⁶⁵ Decision of 3 February 2025, paras. 47, 50, 54.

⁶⁶ Decision of 3 February 2025, para. 54.

⁶⁷ Decision of 3 February 2025, para. 52.

⁶⁸ Decision of 3 February 2025, para. 52.

⁶⁹ Decision of 3 February 2025, para. 53.

26 or 27 July 1995 he was positioned in Žepa, “with regret” and “mainly for this reason” he does not have information about the fate of missing persons’ remains.⁷⁰

42. Indeed, the Appeals Chamber found that, at the time the executions commenced, Krstić was engaged in preparing for combat activities at Žepa and, from 14 July 1995 onwards, directing the attack itself.⁷¹ However, the evidence also established that, while Krstić was away and engaged in military operations in the area of Žepa, he was monitoring the situation within the zone of responsibility of the Zvornik Brigade.⁷² The Trial Chamber also concluded that, while the available evidence discloses no direct involvement by Krstić in the reburial and cover-up operations, at a minimum, Krstić must have known that the massive reburial operation was occurring within his zone of responsibility.⁷³ This finding was not challenged on appeal.⁷⁴ I have therefore doubts that Krstić is being fully transparent about his lack of knowledge concerning the locations of mass graves. In any event, irrespective of his level of personal knowledge about the locations of mass graves, I consider it unfortunate that Krstić does not engage further on this issue. When taking into account the involvement of personnel he commanded in executions and burials following the fall of Srebrenica, it is only reasonable to believe that he, at least, possesses some information that identifies or could lead to the identification of those who know the locations of mass graves or where information of this nature might have been kept and potentially accessed today. Considering the importance that this matter carries for the families of the victims of the Srebrenica Genocide, any further clarity would be a solid demonstration of Krstić’s respect towards them and a concrete action capable to indicate advancement in his rehabilitation process.

43. As for the assessment of Krstić as “very dangerous” by the Estonian authorities, I am mindful that the assessment of criminogenic factors is in many aspects unique in cases of core international crimes and that other enforcement States have assessed persons convicted of such crimes as low risk exactly because of the specific context in which they were committed, rather than focusing solely on the number of victims and the consequences of the crimes. I note positively that Krstić, despite his characterisation as “very dangerous”, continued to admit to his crimes and

⁷⁰ Comments, para. 9.

⁷¹ Appeal Judgement, para. 135.

⁷² Appeal Judgement, para. 111 (where the Appeals Chamber found that the reports he received were providing information about the combat activities).

⁷³ Trial Judgement, paras. 414-415, 476. *See also* Trial Judgement, paras. 257, 261, 455 (where the Trial Chamber found that while it could not establish beyond reasonable doubt that units of the Drina Corps were engaged in the reburial of bodies in early autumn of 1995, it was satisfied that, given the scale of the operation and the fact that it was carried out entirely within its zone of responsibility, the Drina Corps must have at least known this activity was occurring).

⁷⁴ *Cf.* Appeal Judgement, para. 120 (where the Appeals Chamber found no evidence that Colonel Vidoje Blagojević, one of Krstić’s subordinates, informed Krstić about a particular reburial operation).

express remorse when talking about them and their victims. Certainly, discussions with prison authorities are conducted in a setting where the convicted person is aware that his or her statements might be considered in the context of early release and that this may create an incentive to express remorse even if disingenuous. Nevertheless, I observe that Krstić also made similar expressions in the 2024 Personal Statement, prior to his transfer to Estonia. In assessing Krstić's rehabilitation, I am also mindful of the fact that due to language barriers, it has not been possible for the Estonian authorities to carry out resocialisation programmes with him.⁷⁵

44. Krstić started to engage in a critical reflection of his crimes during his incarceration in Poland⁷⁶ and has been making commendable progress since then. However, I recall that the graver the criminal conduct in question, the more compelling a demonstration of rehabilitation should be.⁷⁷ I appreciate Krstić's stance to continue to support his claims of acceptance and remorse. However, his failure to address some of the key aspects of his convictions and to provide actionable information that could assist with the identification of locations of mass graves, despite the involvement of units under his command in related events, make me conclude that Krstić has not demonstrated that he has met the higher threshold needed for crimes of such gravity as these for which he was convicted.

(c) Mental State and Prospects of Successful Reintegration into Society

45. The prison psychiatric and medical authorities have diagnosed Krstić with [REDACTED].⁷⁸ Other Serb detainees also report that [REDACTED].⁷⁹ Krstić himself denies this, but has on one occasion expressed [REDACTED].⁸⁰ Krstić also reports drops in his mood, exhibits "great concern for [REDACTED]" and, according to the prison authorities, appears withdrawn and, at times, contact with him is rather formal.⁸¹ On several occasions, the treatment of his physical pain had to be prioritised, which rendered [REDACTED] impossible.⁸² The authorities recommend that [REDACTED] continues if possible and that a feasible activity be undertaken to activate Krstić.⁸³

46. Moreover, Krstić has maintained good contact with his daughter and son-in-law by telephone, correspondence, short-term visits, and video-conference meetings. In particular, his

⁷⁵ Estonian Note Verbale, p. 2.

⁷⁶ See Decision of 15 November 2022, para. 59.

⁷⁷ Martić Decision, para. 34; Musema Decision, para. 30; 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.

⁷⁸ Estonian Note Verbale, pp. 2-3.

⁷⁹ Estonian Note Verbale, p. 3.

⁸⁰ Estonian Note Verbale, p. 3.

⁸¹ Estonian Note Verbale, pp. 2-3.

⁸² Estonian Note Verbale, p. 3.

⁸³ Estonian Note Verbale, p. 3.

daughter and son-in-law were able to visit him twice for four consecutive days since his transfer to Estonia and previous technical difficulties regarding video calls have now been resolved.⁸⁴ Neither Krstić nor the Estonian authorities have indicated that his adaptation to a new prison has had a negative impact on him or, more generally, any consequence on the assessment of factors relevant to the consideration of the Application. In fact, the Estonian authorities observe that the new prison has better accessibility when compared to the earlier facility, making visits easier.⁸⁵

47. The information before me suggests that, if he were released, Krstić would have resources in place to support his reintegration into society. Although these elements do not in and of themselves demonstrate rehabilitation, I consider that they merit positive weight in my consideration of his rehabilitation.

(d) Overall Assessment

48. As set out above, Krstić's behaviour in prison has consistently been very good in different enforcement States and the UNDU. In addition, should he be released, the available information suggests that he would have the necessary resources to support his positive reintegration into society. Krstić has also been engaging in a critical reflection upon his crimes for quite some time.⁸⁶ However, I am of the view that Krstić has not yet made a demonstration of rehabilitation commensurate with the gravity of his criminal conduct.

C. Other Considerations

1. Impact on victims and witnesses

49. All five victims' associations which have provided their views in relation to the Application strongly oppose Krstić's early release.⁸⁷ Three of them specifically question the sincerity of Krstić's remorse, submitting that true rehabilitation would require his cooperation with authorities by providing information about the events in which he took part, including by disclosing mass graves' locations.⁸⁸

⁸⁴ Estonian *Note Verbale*, p. 2.

⁸⁵ Estonian *Note Verbale* of 16 March 2026, p. 2.

⁸⁶ See Decision of 15 November 2022, para. 59.

⁸⁷ Women of Srebrenica Email; Women Victims of War Letter, p. 3; Mothers of the Srebrenica and Žepa Enclaves Letter, p. 1; Association of the Victims and Witnesses of Genocide Letter, p. 1; Women of Podrinje – Bratunac Letter, p. 1.

⁸⁸ Mothers of the Srebrenica and Žepa Enclaves Letter, p. 1; Association of the Victims and Witnesses of Genocide Letter, p. 1; Women of Podrinje – Bratunac Letter, pp. 1-2 (providing, *inter alia*, a list of specific questions to which they wish to receive Krstić's detailed responses).

50. In addition, the Association “Women Victims of War - Sarajevo” refers to Krstić as being “one of the key figures in the Main Staff of the Republika Sprska Army” and submits that the mere fact that Krstić has fulfilled the conditions for early release under Estonian law should “in no way” constitute grounds for his early release, given that Estonia has no connection with the crimes for which he was convicted and these crimes cannot be given the same weight as crimes committed by incarcerated Estonian nationals.⁸⁹ The Association “Movement of Mothers of the Srebrenica and Žepa Enclaves” also highlights the gravity of the crimes for which Krstić was convicted.⁹⁰

51. Moreover, the Citizens’ Association “Women of Srebrenica” states that Krstić has “inflicted life-long mental anguish on [the victims’ families]” and they shall never forget what he did or forgive him⁹¹ and the Association “Women Victims of War – Sarajevo” refers to the additional traumatisation that Krstić’s early release would cause to the victims.⁹² Similarly, the Association “Movement of Mothers of the Srebrenica and Žepa Enclaves” states that “Krstić’s return to freedom would cause deep anxiety among the survivors and returnees to Eastern Bosnia” and further points to the fact that releasing him while the Court of Bosnia and Herzegovina recently confirmed a new indictment against him would be “legally unsound and dangerous”.⁹³

52. Krstić makes no objections to the views shared by the Victims’ Associations.⁹⁴

2. Health of the Convicted Person

53. Previous decisions have taken into account the state of the convicted person’s health in the context of an early release application.⁹⁵ In particular, I observe that a convicted person’s 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.⁹⁶

⁸⁹ Women Victims of War Letter, pp. 2-3.

⁹⁰ Mothers of the Srebrenica and Žepa Enclaves Letter, p. 1.

⁹¹ Women of Srebrenica Email.

⁹² Women Victims of War Letter, p. 3.

⁹³ Mothers of the Srebrenica and Žepa Enclaves Letter, p. 1.

⁹⁴ Comments, para. 5.

⁹⁵ *Martić* Decision, para. 74; *Musema* Decision, para. 72; *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), para. 32.

⁹⁶ *Martić* Decision, para. 74; *Musema* Decision, para. 72; *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.

54. The Estonian authorities list a number of health conditions from which Krstić suffers, including: a traumatic amputation of his right leg in December 1994, [REDACTED].⁹⁷

55. Krstić emphasises that the Estonian *Note Verbale* lists in detail “the whole series of serious health problems” he faces, which represent, according to him, “an important and strong argument in favour of a positive decision on early release”.⁹⁸ Krstić also states that he has endured 27.5 years of imprisonment as a severely disabled person, and that the decision on early release should make a distinction between a prison sentence of limited duration and a life imprisonment.⁹⁹

56. It is clear that Krstić suffers from multiple health problems affecting [REDACTED]. Nevertheless, nothing in the information before me suggests that these reach the level of compelling humanitarian grounds that would render his continued imprisonment inappropriate.

3. Consultation

57. In coming to my decision on whether to grant the Application, I have consulted with two other Judges of the Mechanism in accordance with Rule 150 of the Rules and paragraph 16 of the Practice Direction.¹⁰⁰ Judge Rosa agrees that the high gravity of Krstić’s crimes and his failure to demonstrate rehabilitation commensurate with the gravity of his criminal conduct militate against his early release, notwithstanding the existence of factors that weigh in favour of it. Judge Park does not express a view on whether the Application should be granted or denied. While he notes the significant gravity of Krstić’s crimes, he also submits that, to the extent the gravity of a convicted person’s crimes is so severe that the eligibility threshold for early release should be higher than having served two-thirds of one’s sentence, this should be clearly articulated to enhance fairness and legal certainty. Judge Park also cautions against requiring a high degree of acceptance of responsibility and remorse, which were evaluated during the underlying criminal proceedings. In his view, emphasis on this factor risks reassessing an element that is already reflected in the sentence imposed and may give rise to the perception that expressions of remorse are being indirectly compelled as a decisive prerequisite for obtaining release.

58. I am grateful for my Colleagues’ views on these matters and have taken them into account in my ultimate assessment of the Application. I have carefully considered Judge Park’s views, which highlight the time Krstić has already served in prison as a factor that merits meaningful

⁹⁷ Estonian *Note Verbale*, p. 2. *See also* Estonian *Note Verbale*, p. 1 (where the Estonian authorities submit that the prison authorities are uncertain as to whether Krstić reduces the severity of his problems, which makes the assessment of his health concerns difficult).

⁹⁸ Comments, para. 7.

⁹⁹ Comments, paras. 13-14.

¹⁰⁰ *See supra* para. 13.

consideration and his concerns about undue reliance on expressions of remorse in considering the Application. I agree with Judge Park that no single factor is, and should be, capable of determining whether a convicted person can be released early and that, instead, it is a holistic review of all relevant factors under Rule 151 of the Rules that is determinative. I also continue to adhere to the well-established principles that the mere passage of time cannot constitute sufficient grounds for early release and that the graver the criminal conduct in question, the more compelling a demonstration of rehabilitation should be.¹⁰¹ Accordingly, for crimes of very high gravity, such as those related to the Genocide in Srebrenica, the threshold for the demonstration of rehabilitation is high. In this regard, Krstić's expressions of remorse are notable. But so is the absence of a clear and compelling demonstration that Krstić has fully engaged in an exercise of addressing some of the key aspects of his convictions and providing any leads to information that may assist in the identification of locations of missing remains following the Srebrenica Genocide. I also consider that rehabilitation at the enforcement stage, once the criminal responsibility of a convicted person has been determined with finality, is not only distinct from the assessment of aggravating and mitigating circumstances at the sentencing phase, but also a factor that must be given sufficient consideration when adjudicating applications for early release.

V. CONCLUSION

59. Although Krstić is eligible to be considered for early release, I am of the opinion that the Application should be denied. The high gravity of his crimes strongly militates against granting him early release and Krstić has not made a demonstration of rehabilitation commensurate with the gravity of his criminal conduct. I note, however, the several important indications of his progress towards achieving this standard of rehabilitation, including the fact that he publicly supported the adoption of the United Nations General Assembly resolution designating an international day to commemorate the 1995 Srebrenica Genocide, despite the official position of Serbia on the resolution, and the fact that he has continued to stand by his acknowledgement of his personal role and responsibility for the crimes for which he was convicted even following the significant media coverage of his 2024 Personal Statement. I would encourage Krstić to continue reflecting on the events surrounding his convictions, his actions and inaction, as well as the impact of his conduct on the commission of the crimes, and to consider thoroughly whether there is any information that he could offer that would assist national criminal proceedings or the identification of the locations of missing remains. Finally, there is currently no evidence before me that demonstrates the existence of compelling humanitarian grounds which would warrant overriding this negative assessment.

¹⁰¹ See *supra* paras. 24, 44.

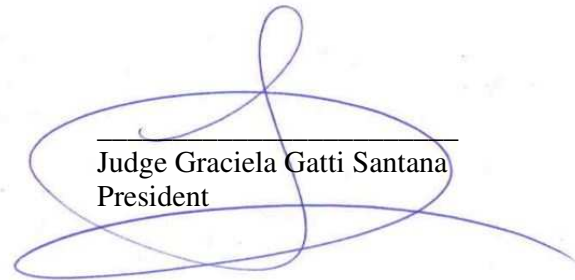
VI. DISPOSITION

60. 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.

61. The Registrar is **DIRECTED** to provide the Prosecution with the public redacted version of this decision as soon as practicable.

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

Done this 6th day of July 2026,
At The Hague,
The Netherlands.



Judge Graciela Gatti Santana
President

[Seal of the Mechanism]



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