

**UNITED
NATIONS**



International Residual Mechanism
for Criminal Tribunals

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

Date: 23 December 2024

Original: English

THE PRESIDENT OF THE MECHANISM

Before: Judge Graciela Gatti Santana, President

Registrar: Mr. Abubacarr M. Tambadou

Order of: 23 December 2024

PROSECUTOR

v.

MİĆO STANIŠIĆ

CONFIDENTIAL

**ORDER FOR THE TRANSFER OF MİĆO STANIŠIĆ
TO THE UNITED NATIONS DETENTION UNIT
ON A TEMPORARY BASIS**

Counsel for Mr. Mićo Stanišić:

Mr. Slobodan Zečević

Republic of Poland

Kingdom of the Netherlands

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

RECALLING that Mr. Mićo Stanišić (“Stanišić”) is serving a 22-year sentence in the Republic of Poland (“Poland”), following his convictions by the International Criminal Tribunal for the former Yugoslavia (“ICTY”) for persecutions as a crime against humanity, as well as murder and torture as violations of the laws or customs of war;¹

NOTING that, on 27 November 2024, I received from the Registrar of the Mechanism (“Registrar”) a strictly confidential memorandum, in which he, *inter alia*: (i) refers to the maximum enforcement date of Stanišić’s sentence in Poland as being 23 January 2025; (ii) indicates that the Registry of the Mechanism has been working to identify a new enforcement State for Stanišić but has not yet been successful; and (iii) recommends that Stanišić be returned to the United Nations Detention Unit (“UNDU”) temporarily;²

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;

RECALLING that Article 3(1) of the enforcement agreement between the United Nations and Poland³ provides that “[i]n enforcing the sentence pronounced by the [ICTY], the competent national authorities of the requested State shall be bound by the duration of the sentence”;

RECALLING that, pursuant to Article 3(3) of the Enforcement Agreement, “[i]n the event that the sentence pronounced by the [ICTY] exceeds the upper limit of the statutory penalty stipulated in the Polish law for the same kind of offence, the part of the sentence amounting to the upper limit of penalty envisaged for a given offence in the Polish domestic law shall be enforceable in Poland”, and “in that case Article 10 of [the Enforcement Agreement] shall be applied accordingly”;

RECALLING that Article 10 of the Enforcement Agreement states, *inter alia*, that if further enforcement of the sentence has become impossible “for any legal or practical reasons”, Poland

¹ See Order Designating the State in which Mićo Stanišić is to Serve his Sentence, 7 June 2019, p. 2; *Prosecutor v. Mićo Stanišić and Stojan Župljanin*, Case No. IT-08-91-A, Judgement, 30 June 2016, paras. 6, 1193.

² Internal Memorandum from the Registrar to the President, dated 27 November 2024 (strictly confidential), paras. 1-4.

³ Agreement between the Government of the Republic of Poland and the United Nations on the Enforcement of Sentences of the International Criminal Tribunal for the former Yugoslavia, dated 18 September 2008 (“Enforcement Agreement”). The Enforcement Agreement applies *mutatis mutandis* to the Mechanism. See Security Council Resolution 1966 (2010), 22 December 2010, para. 4.

shall promptly inform the Registrar, who “shall make the appropriate arrangements for the transfer of the convicted person”;

CONSIDERING that Poland has indicated to the Registrar, pursuant to Article 3(3) of the Enforcement Agreement, that “the execution in Poland of the custodial sentence imposed by the [ICTY] on Mićo Stanišić will be completed on 23 January 2025” and that he “will be released, unless there is transfer to the [Mechanism] in The Hague”;⁴

CONSIDERING that Stanišić’s sentence, as imposed by the ICTY, will be completed on 21 January 2032;⁵

CONSIDERING, therefore, that the Registrar is to make the appropriate arrangements for the transfer of Stanišić in accordance with Article 10 of the Enforcement Agreement;

CONSIDERING the Registrar’s recommendation that Stanišić be returned to the UNDU temporarily;

CONSIDERING that, as the Registrar has been unable to secure a new enforcement State for Stanišić, there is no other option at this time but to return Stanišić to the UNDU;

PURSUANT TO Article 25(2) of the Statute and Rules 23(A), 127(C), and 128 of the Rules of Procedure and Evidence of the Mechanism;

HEREBY INSTRUCT the Registrar to take all necessary measures and make the appropriate arrangements for Stanišić to be returned to the UNDU on a temporary basis;

URGE the Registrar to intensify his efforts to expeditiously identify a new enforcement State for Stanišić;

ORDER that, following his transfer to the UNDU, Stanišić shall remain in the custody of the Mechanism pending the finalisation of arrangements for his transfer to a State where he will serve the remainder of his sentence; and

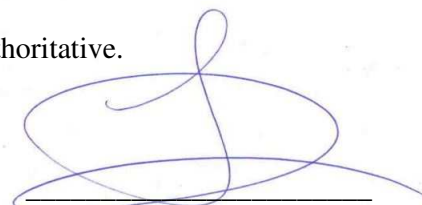
INSTRUCT the Registrar to lift the confidential status of the present order once Stanišić’s transfer to the UNDU has been completed.

⁴ Internal Memorandum from the Registrar to the President, dated 19 July 2024 (confidential), *conveying, inter alia*, a letter from the Polish Minister of Justice to the Registrar, dated 8 June 2024.

⁵ Internal Memorandum from the Registrar to the President, dated 13 December 2023 (confidential), para. 12, Annex, p. 5.

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

Done this 23rd day of December 2024,
At The Hague,
The Netherlands.



Judge Graciela Gatti Santana
President

[Seal of the Mechanism]



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Case Name/ Affaire :	Prosecutor v. Mićo Stanišić			Case Number/ Affaire n° :	MICT-13-53-ES.2		
Date Created/ Daté du :	23 December 2024		Date transmitted/ Transmis le :	23 December 2024		Number of Pages/ Nombre de pages :	4
Original Language/ Langue de l'original :	<input checked="" type="checkbox"/> English/ Anglais	<input type="checkbox"/> French/ Français	<input type="checkbox"/> Kinyarwanda	<input type="checkbox"/> B/C/S	<input type="checkbox"/> Other/ Autre (specify/ préciser):		
Title of Document/ Titre du document :	Order for the transfer of Mićo Stanišić to the United Nations Detention Unit on a temporary basis						
Classification Level/ Catégories de classification :	<input type="checkbox"/> Public/ Document public	<input checked="" type="checkbox"/> Confidential/ Confidentiel	<input type="checkbox"/> Ex Parte Defence excluded/ Défense exclue <input type="checkbox"/> Ex Parte Prosecution excluded/ Bureau du Procureur exclu <input type="checkbox"/> Ex Parte Rule 86 applicant excluded/ Article 86 requérant exclu <input type="checkbox"/> Ex Parte Amicus Curiae excluded/ Amicus curiae exclu <input type="checkbox"/> Ex Parte other exclusion/ autre(s) partie(s) exclue(s) (specify/ préciser) :				
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