

**BEFORE THE PRESIDENT**

Before: The Honorable Judge Graciela Gatti Santana

Registrar: Mr. Abubacarr Tambadou

Date Filed: 18 November 2024

***PUBLIC REDACTED***

**THE PROSECUTOR**

**VS.**

**MICO STANISIC**

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**MICO STANISIC' 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**

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**The Office of the Prosecutor:**

Mr. Serge Brammertz

**Counsel for the Defense:**

Mr. Slobodan Zečević

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In accordance with Article 5 of the Practice Direction on the Procedure for Determination of Applications for Pardon, Commutation of Sentence and Early Release of Persons Convicted by the ICTR, the ICTY, or the Mechanism<sup>1</sup> ("Practice Direction"), and further, in accordance with Article 26 of the IRMCT Statute and Rules 150 and 151 of the IRMCT Rules, Mr. Mico Stanisic ("the Petitioner") is directly petitioning the President of the International Residual Mechanism for Criminal Tribunals ("the Mechanism") for early release, to which he is eligible under the laws of Republic of Poland, where he is serving his sentence. This Direct Petition is filed by the Petitioner's assigned counsel.

**I. INTRODUCTION AND PROCEDURAL BACKGROUND**

1. On 30 June 2016 the Appeals Chamber of the ICTY convicted the Petitioner to 22 years of imprisonment, subject to credit being given in accordance with the Rule 101 (C) of the Rules for the period the Petitioner already spent in detention.

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<sup>1</sup> MICT/3/Rev.4

The Petitioner voluntarily surrendered on 11 March 2005 and was transferred to Republic of Poland (‘‘Enforcing State’’) to serve the remainder of his sentence in July 2019.

## II. APPLICABLE LAW

2. In accordance with Article 5 of the Practice Direction, a convicted person may directly petition the President for early release, if he believes that he is eligible. To such petition, the procedures in the Practice Direction shall apply *mutatis mutandis*. Further, when such petition is made, the Mechanism shall request the enforcing State to inform it whether the convicted person is eligible for early release under the domestic law of the enforcing State.
3. In accordance with the Criminal Code of Republic of Poland, a convicted person is eligible to apply for early release upon having served 2/3 of his sentence. The same standard is provided for by Article 8 of the Practice Direction. The Petitioner shall, thus, become eligible to apply for early release, under domestic laws of enforcing State, on 19 September 2024.
4. In accordance with Rule 151 of IRMCT Rules, the President shall take into account, *inter alia*, the gravity of the crimes for which the prisoner was convicted, the treatment of similarly-situated prisoners, the prisoner’s demonstration of rehabilitation, as well as any substantial cooperation of the prisoner with the Prosecutor.

## III GRAVITY OF CRIMES

### STANISIC CASE AND TREATMENT OF SIMILARLY-SITUATED PERSONS

5. The crimes for which Stanisic was convicted are of high gravity. The gravity of these crimes was, indeed, weighed while Chambers – Trial and Appeal - were determining the sentence to be imposed to Mr. Stanisic<sup>2</sup>. However, Stanisic reiterates that in previous ICTY and MICT jurisprudence on early release, the gravity of crimes was, although significant, not the exclusive factor in deciding whether the early release should be granted. Thus, in ICTY and MICT jurisprudence on early release, many convicted persons were granted early release, despite the fact that crimes were of same or even greater gravity, and such gravity weighed against their early release<sup>3</sup>.

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<sup>2</sup> Case no. IT-08-91, Trial Judgment, 27 March 2013, IT-08-91-A Appeals Judgment, 30.06.2016

<sup>3</sup> Case no. IT-00-39-ES, Decision of the President on Early release of Momcilo Krajisnik, 02 July 2013; Case no. MICT-15-85-ES.6, Decision of the President on Early Release of Ljubomir Borovcanin, 14 July 2016; Case no. MICT-14-67-ES.1, Decision of the

6. In this particular section of this Petition, the Petitioner respectfully underlines to certain points with regard to gravity of crimes in relation to sentences imposed. Although fully aware that in this procedure the sentence may not be reconsidered, the time lapse and ICTY jurisprudence in cases tried after the judgment in Petitioner's case should not be completely disregarded. When determining the sentence to be imposed to the Petitioner, the then Trial Chamber stated:

*Decisions on sentences in other cases of the Tribunal may provide some guidance if they relate to the same type of offences committed in substantially similar circumstances. As a result, previous sentencing practice is but one factor that must be taken into account when determining the sentence. The Trial Chamber has been guided by the principle that the sentence should reflect the gravity of the offences and the individual circumstances of the accused.*<sup>4</sup>

7. However, after rendering the Judgment referred to above, the ICTY rendered numerous judgments which are analogous with respect to sentences imposed. Such analogy relates to the similar or identical crime base and the level of political authority as member of the Extensive Presidency of RS and the Speaker of the Parliament. In that respect, in the opinion of the Petitioner, judgment in Krajisnik Case may be used as parallel. Krajisnik was convicted for partially the same, although much broader crime base and for a much longer period. Level of Krajisnik's political authority was significantly higher than the Petitioner's, but besides that, his criminal responsibility was of key figure of JCE. Nevertheless, Krajisnik was sentenced to 20 years of imprisonment, and subsequently granted early release after having served 2/3 of the sentence imposed. Of course the gravity of crimes Krajisnik was convicted for was weighed, as very high and crimes characterized as *amongst the most severe crimes known to humankind*, whose severity required severe and proportionate sentence.<sup>5</sup> But still, the President granted Krajisnik's early release.

8. The Petitioner respectfully recalls that the Trial Chamber in Stanisic & Zupljanin case found<sup>6</sup>:

- (i) *Stanisic amended the pre-existing law in respect to disciplinary matters in RSMUP.*<sup>655</sup>
- (ii) *Stanisic set up the Crime Prevention Administration;*<sup>656,7</sup>
- (iii) *Stanisic issued orders for the immediate release of all persons detained contrary to applicable regulations as well as free movement of civilians, together with imposition, in this respect, of personal liability upon police commanders to discipline and take other legal measures against perpetrators.*

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President on the Early Release of Nikola Sainovic, 10 July 2015, Case no. IT-98-34-ES, Decision of the President on Early Release of Mladen Naletilic, 29 November 2012

<sup>4</sup> Case no. IT-08-91, Trial Judgment, 27 March 2013, para. 888

<sup>5</sup> Case no. IT-00-39-ES, Decision of the President on Early Release of Momcilo Krajisnik, 02 July 2013, para.16

<sup>6</sup> Case no. IT-08-91, Trial Judgment, 27 March 2013.

- (iv)
  - *Stanisic issued orders that all members of the MUP who had committed crimes or who had had proceedings commenced against them should be dismissed;*<sup>658</sup>
- (v) *Stanisic took measures to discipline members of RSMUP;*<sup>659</sup>
- (vi) *Stanisic issued orders from 5 June 1992 regarding the investigation of war crimes;*<sup>660</sup>
- (vii) *Stanisic declared the investigation of war crimes committed by Serbs to be a priority of RSMUP;*<sup>661</sup>
- (viii) *Stanisic supported Chiefs of SJBs in the arrest of perpetrators who were police members,;*<sup>662</sup>
- (ix) *Stanisic issued an order on 27 July 1992 for the dismissal of all illegally formed so-called "special police units"<sup>663</sup> which was fiercely opposed at the municipality levels ;*<sup>664</sup>
- (x) *Stanisic issued orders for action to be taken against paramilitary formations throughout territory of RS, resulting in arrests and/or expelling of such units;*<sup>665</sup>
- (xi) *Stanisic's actions against paramilitaries led to confrontation with leading members of JCE such as Plavsic;*<sup>666</sup>
- (xii) *Stanisic clashed with Crisis Staffs regarding the appointments of RSMUP personnel without consent and knowledge of RSMUP;*<sup>667</sup>

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<sup>652</sup> *Judgement, Volume II, paras.682.*

<sup>653</sup> *Judgement, Volume II, paras.592, 642, 720.*

<sup>654</sup> *Judgement, Volume II, para.313.*

<sup>655</sup> *Judgement, Volume II, paras.42, 695.*

<sup>656</sup> *Judgement, Volume II, para.46.*

<sup>657</sup> *Judgement, Volume II, paras.664, 667.*

<sup>658</sup> *Judgement, Volume II, paras.749, 613.*

<sup>659</sup> *Judgement, Volume II, paras.687, 688, 698-704, 706-708, 755.*

<sup>660</sup> *Judgement, Volume II, para.621.*

<sup>661</sup> *Judgement, Volume II, para.632.*

<sup>662</sup> *Judgement, Volume II, para.488.*

<sup>663</sup> *Judgement, Volume II, paras.605-606, 609.*

<sup>664</sup> *Judgement, Volume II, paras.606, 607.*

<sup>665</sup> *Judgement, Volume II, paras.714, 717, 718.*

<sup>666</sup> *Judgement, Volume II, para.719.*

<sup>667</sup> *Judgement, Volume II, paras.*

- (xiii) *Stanisic's conflicts with Plavsic, Koljevic and Deric, who all were members of extended presidency of RS in 1992<sup>668</sup> – resulting in his removal from the Ministry – were a result, inter alia, of his addressing the issue of war crimes;<sup>669</sup> and*
- (xiv) *Many people "could not wait to see Stanisic step down as minister" because of his stance against the commission of war crimes.<sup>670</sup>*

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<sup>668</sup> *Judgement, Volume II, paras.568, 569.*

<sup>669</sup> *Judgement, Volume II, para.569.*

<sup>670</sup> *Judgement, Volume II, para.694*

9. Further, The Trial Chamber found that Stanisic did voluntarily surrender soon after his Indictment was made public<sup>8</sup>.

#### IV. COOPERATION WITH THE PROSECUTOR

10. During the proceedings before the ICTY, as well as upon its completion, the Prosecution Stanisic' six day voluntary interview 581 pages long admitted in its entirety into evidence at the request of the Prosecution does not reveal substantial cooperation with the Prosecution.<sup>9</sup>

11. However, Stanisic' extensive interview was beneficial to the Prosecution is clear in light of the Prosecution's own admission that the content of the interview "*provides evidence of Stanisic position on many issues of relevance to this Trial*".<sup>700</sup> Strikingly, the Prosecution relied on Stanisic' interview throughout the proceedings, in the Prosecutions Pre-Trial Brief, the Prosecutions opening statement, during trial proceedings, as well as in the Prosecution's Final Trial Brief.<sup>701</sup>

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<sup>8</sup> IT-08-91, Trial Judgment, 27 March 2013, para 933

<sup>9</sup> *Ibid*, para 935

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<sup>700</sup> *Prosecution-BTM*, p.12.

<sup>701</sup> *Prosecution-PTB*, fns.2-4,170; T.247-251, 21357-21359; 23485-23487; *Prosecution-FTB*, paras.10-12.

12. However, The AC has expressly set down that "*an accused's cooperation need not be substantial for it to be taken into account as a mitigating circumstance.*"<sup>710</sup> The AC has stressed that in assessing cooperation "*special regard must be had to the accused's willingness to cooperate as underlined by his actions and evidenced, in particular, by his earnestness when providing information to the Prosecution.*"<sup>711</sup> It has also been held that the fact of agreeing to be interviewed demonstrates willingness to co-operate.<sup>712</sup>

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<sup>710</sup> *Bra/o-SAJ*, para.51 (emphasis added). See also *Zelenovic-SAJ*, para.25.

<sup>711</sup> *Bra/o-SAJ*, para.63.

<sup>712</sup> *Banovic-SJ*, para 61.

## V. DEMONSTRATION OF REHABILITATION

13. The Petitioner is serving his sentence in a multi-ethnic prison. The Petitioner's fellow-inmates are of various ethnicities , with whom he maintains friendly relationships. During his stay in prison, he never experienced any problems nor was subjected to any disciplinary proceedings.

14. Due to his almost two-decade absence, he could not provide for immediate support to members of his family, but was, at all times, keeping a close and loving relationship with all members of the family. The Petitioner is in daily telephone contact with his wife, children and grandchildren. To the extent their financial situation allowed, he continued to have immediate contact with members of the closest family, who visited as much as possible.

15. If granted early release, the Petitioner shall return to [REDACTED], to live with his family, at their family house. The Petitioner has necessary financial means to support

himself, as he receives monthly retirement allowance – pension. Further support to the Petitioner upon his release would be given by the members of his immediate family – wife and children.

16. The Petitioner claims that, especially having in mind the length of his sentence, his behavior manifests great level of resocialization. After almost 20 years from his voluntary surrender, and more than 32 years from the time the crimes were committed, the sentence served so far contributes not only to annulling the possibility of commission of further crimes, but also to the reconciliation in the community where the crimes were committed.

VI. RELIEF REQUESTED

17. In light of the above stated, the Petitioner holds that he meets all the relevant criteria for the President to consider this direct petition and therefore, decide in favor of the early release of the Petitioner upon serving 2/3 of the sentence imposed.

Word count:2070

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Slobodan M. Zecevic', with a large, stylized initial 'S'.

Slobodan M. Zecevic





### I - FILING INFORMATION / INFORMATIONS GÉNÉRALES

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Case Name/ Affaire :	<u>Mico Stanisic ES matters</u>			Case Number/ Affaire n° :	<u>MICT-13-53-ES.2.</u>	
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