



**PRACTICE DIRECTION
ON THE PROCEDURE FOR THE DETERMINATION
OF APPLICATIONS FOR PARDON, COMMUTATION OF SENTENCE,
AND EARLY RELEASE OF PERSONS CONVICTED
BY THE ICTR, THE ICTY, OR THE MECHANISM**

(MICT/3/Rev.2)

INTRODUCTION

1. In accordance with Rule 23(B) of the Rules of Procedure and Evidence; pursuant to Article 26 of the Statute and Rules 149 through 151 of the Rules of Procedure and Evidence; considering the ICTR Practice Direction on the Procedure for the Determination of Applications for Pardon, Commutation of Sentence, and Early Release of Persons Convicted by the International Criminal Tribunal for Rwanda and the ICTY Practice Direction on the Procedure for the Determination of Applications for Pardon, Commutation of Sentence, and Early Release of Persons Convicted by the International Tribunal; and having consulted with the Registrar and the Prosecutor, I hereby issue this revised Practice Direction in order to establish an internal procedure for the determination of applications for pardon, commutation of sentence, and early release of persons convicted by the respective Tribunal or by the Mechanism.

NOTIFICATION OF ELIGIBILITY

2. Upon the convicted person becoming eligible for pardon, commutation of sentence or early release under the law of the State in which the convicted person is serving his or her sentence (the “enforcing State”), the enforcing State shall, in accordance with Article 26 of the Statute and with its agreement with the United Nations and, where practicable, at least 45 days prior to the date of eligibility, notify the Mechanism accordingly.

DIRECT PETITION

3. A convicted person may directly petition the President for pardon, commutation of sentence, or early release, if he or she believes that he or she is eligible. When such a petition is made:

- (a) The procedures in the present Practice Direction shall apply *mutatis mutandis*; and
- (b) The Mechanism shall request, through appropriate State or federal authorities, the enforcing State to inform it whether the convicted person is eligible for pardon, commutation of sentence, or early release under the domestic law of the enforcing State.

DUTIES OF THE REGISTRAR

4. After receiving the notification of eligibility, the Registry shall:
 - (a) Inform the convicted person that he or she may be eligible for pardon, commutation of sentence or early release and advise him or her of the steps that will be taken;
 - (b) Request reports and observations from the relevant authorities in the enforcing State as to the behaviour of the convicted person during his or her period of incarceration and the general conditions under which he or she was imprisoned, and request from such authorities any psychiatric or psychological evaluations prepared on the mental condition of the convicted person during the period of incarceration;
 - (c) Request the Prosecutor to submit a detailed report of any co-operation that the convicted person has provided to the Office of the Prosecutor and the significance thereof; and
 - (d) Obtain any other information that the President considers relevant.
5. After receiving the required information, which should be submitted in one of the two working languages of the Mechanism within 14 days, where possible, the Registry shall forward a copy of this information to the President, as well as to the convicted person.

PARTICIPATION OF THE CONVICTED PERSON

6. The convicted person shall be given 10 days to examine the information, following which the President shall hear him or her either through written submissions or, alternatively, by video- or telephone-link.

THE CONSULTATION PROCESS

7. The President shall forward to any Judges of the sentencing Chamber who are Judges of the Mechanism a copy of the information received from the enforcing State and the Office of the Prosecutor, the President's comments regarding the convicted person's demonstration of rehabilitation, and any other information he or she considers relevant. If none of the Judges who imposed the sentence are Judges of the Mechanism, the President shall consult with at least two

other Judges. The Judges concerned shall be given a specified period of time to survey the material provided, following which appropriate consultation shall be undertaken.

THIRD PARTY SUBMISSIONS

8. In the event that the President invites submissions from a third party pursuant to sub-paragraph 4(d) above, such submissions shall not exceed 3,000 words unless the President provides otherwise.

CONFIDENTIALITY OF INFORMATION

9. All information received by the President pursuant to paragraphs 3 through 5 and paragraph 8 above shall be considered confidential, unless disclosure is authorized by the President for the purpose of rendering a public decision or the information has been submitted in the form of a public filing. Information received by the President pursuant to paragraphs 3 through 5 and paragraph 8 above not otherwise on the judicial record may be submitted for filing on the instruction of the President.

THE DECISION

10. Having regard to the criteria specified in Rule 151 of the Rules of Procedure and Evidence, the interests of justice, the general principles of law and any other information that he or she considers relevant, and after taking into account the views of any Judges of the sentencing Chamber who are Judges of the Mechanism or, if none of the Judges who imposed the sentence are Judges of the Mechanism, at least two other Judges, the President shall determine whether pardon, commutation of sentence, or early release is to be granted. The decision of the President shall be rendered at least 7 days prior to the date of eligibility, where possible. Unless the President decides otherwise, the decision shall be made public.

11. In cases involving applications for early release, in the event that the President decides that early release is inappropriate, the decision shall specify the date on which the convicted person will next become eligible for consideration for early release, unless specified by domestic law of the enforcing State.

12. Should the enforcing State, by reason of its own domestic law or for any other reason, disagree with or be unable to accept the President's decision not to allow early release, the President in consultation with the Registrar may decide to withdraw the convicted person and transfer him or her to a different State to serve the remainder of his or her sentence.

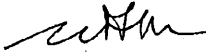
13. The decision of the President shall be final and not subject to appeal.

THE EXECUTION OF THE DECISION

14. The Registry shall transmit the decision immediately to the relevant authorities of the enforcing State, which shall, in accordance with its agreement with the United Nations, execute the terms of the decision promptly. A copy of the decision shall also be forwarded to the convicted person and other interested persons.

15. Where appropriate, at the direction of the President, the Registry shall inform persons who testified before the respective Tribunal or the Mechanism during the trial of the convicted person of his or her release, the destination he or she will travel to upon release, and any other information that the President considers relevant.

Done this 20th day of February 2019,
At The Hague,
The Netherlands.



Judge Carmel Agius
President

[Seal of the Mechanism]

