

**AGREEMENT BETWEEN  
THE UNITED NATIONS  
AND  
THE GOVERNMENT OF THE KINGDOM OF BELGIUM  
ON ENFORCEMENT OF SENTENCES HANDED DOWN BY  
THE INTERNATIONAL CRIMINAL TRIBUNAL  
FOR THE FORMER YUGOSLAVIA**

Dear Mr Holthuis,

I have the honour of referring to the discussions between the United Nations, acting through the International Criminal Tribunal for the Former Yugoslavia (hereinafter "International Tribunal"), and the Government of the Kingdom of Belgium (the "Requested State" for the purpose of this Agreement), concerning the enforcement of sentences handed down by the International Tribunal.

RECALLING Article 27 of the Statute of the Tribunal ("Statute") adopted by Security Council resolution 827 (1993) of 25 May 1993, providing that the sentence of imprisonment of persons convicted by the International Tribunal shall be served in a State designated by the International Tribunal from the list of the States which have indicated to the Security Council that they are prepared to accept convicted persons.

RECALLING the provisions of the Standard Minimum Rules for the Treatment of Prisoners, approved by the United Nations Economic and Social Council resolutions 663 (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by the General Assembly resolution 43/173 of 9 December 1988 and the Basic Principles for the Treatment of Prisoners, adopted by General Assembly resolution 45/111 of 14 December 1990,

FOR THE PURPOSE of implementing the judgements and sentences pronounced by the International Tribunal,

I have the honour, on behalf of the Government of the Kingdom of Belgium, of upholding the following Agreement:

The Government of the Kingdom of Belgium is prepared, subjects to terms in this letter and your reply (hereinafter: "exchange of letters"), to enforce the sentences handed down by the International Tribunal according to the terms defined below:

The United Nations, acting through the International Tribunal, and the Government of the Kingdom of Belgium have agreed on the following:

**Article 1**

*Objective and scope of application of the Agreement*

This Agreement governs the issues concerning all the requests made to the Requested State for the purpose of the enforcement of sentences handed down by the International Tribunal.

**Article 2**  
*Procedure*

1. The Registrar of the International Tribunal ("Registrar"), in agreement with the President of the International Tribunal, shall send a request to the Requested State for the purpose of enforcing the sentence.
2. The central authority for cooperation in Belgium is the Minister of Justice. The contact person in the Belgian administration (Federal Public Service of Justice) and the contact person at the Registry of the International Tribunal are indicated in the annex of this Agreement. The annex may be amended at any time by notification of the party concerned. The amendment shall take effect upon receipt by the other party.
3. When presenting his request to the Requested State, the Registrar shall submit the following documents:
  - a) a true certified copy of the judgement,
  - b) a declaration specifying the duration of the sentence already served, in particular all the information concerning possible pre-trial detention,
  - c) if need be, any medical or psychological reports on the detained person, any recommendation that would be useful for further treatment in the Requested State, or any other element relevant to the enforcement of the sentence.
4. The Requested State shall submit the request to the competent national authorities in accordance with the national legislation.
5. The competent national authorities of the Requested State shall decide on the Registrar's request quickly, pursuant to the national legislation.

**Article 3**  
*Enforcement of the sentence*

1. When enforcing the sentence handed down by the International Tribunal, the competent national authorities of the Requested State shall be bound by the duration of the sentence.
2. The conditions of imprisonment are governed by the legislation of the Requested State, subject to the International Tribunal's control, as provided for in Articles 6 to 8 and in paras. 2 and 3 of Article 9 below.
3. When the Requested State announces its agreement to a request referred to Article 1 of this Agreement, it shall also notify the International Tribunal of the dates of eligibility for early release (release on parole or provisional release, provided by the legislation in force in the Requested State). Subsequently, it shall notify the International Tribunal of any substantial alteration of these dates.
4. The Requested State shall notify the International Tribunal if the convicted person is granted a sentence enforcement method other than early release, or if this method is revoked or suspended.

5. One hundred days before the convicted person becomes eligible for early release, the Requested State shall inform the International Tribunal that a procedure for granting this release has been initiated. The President of the International Tribunal shall evaluate, in consultation with the judges of the Tribunal, whether there is reason to grant early release. The International Tribunal shall notify the Requested State of its decision fifty days from receipt of this notification. If it objects to early release and if early release is granted, the International Tribunal, pursuant to Article 9 para. 2 of this Agreement, shall transfer the convicted person to another State or to its headquarters 24 hours after the Tribunal's notification of the decision on early release at the latest. After this deadline, the Requested State has the authority to implement the decision on early release, in accordance with the legislation in force.

6. The conditions of imprisonment must comply with the Standard Minimum Rules for the Treatment of Prisoners, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the Basic Principles for the Treatment of Prisoners.

#### **Article 4**

##### *Transfer of the convicted person*

The Registrar shall take the necessary measures for the transfer of the person convicted by the International Tribunal to the competent authorities of the Requested State. Before the transfer, the Registrar shall inform the convicted person of the contents of this Agreement.

#### **Article 5**

##### *Non bis in idem*

The convicted person may not be brought before a court of the Requested State for acts which constitute grave violations of international humanitarian law within the meaning of the Statute of the Tribunal, for which he has already been tried by this Tribunal.

#### **Article 6**

##### *Inspection*

1. The competent authorities of the Requested State shall allow periodic or *ad hoc* inspection of the detention conditions and the treatment of the prisoners by the International Committee of the Red Cross (ICRC), which shall determine the frequency of the visits. The ICRC shall submit a confidential report based on its observations during the inspection to the Requested State and to the President of the International Tribunal.

2. The Requested State and the President of the International Tribunal shall confer about the observations in the reports as referred to in para. 1 above. The President of the International Tribunal may subsequently request that the Requested State keep him/her informed about any changes to the conditions of detention, as suggested by the ICRC.

#### **Article 7**

### *Information*

1. The Requested State shall immediately notify the Registrar:
  - a) two months before the termination of the sentence,
  - b) of the convicted person's escape before the termination of the sentence,
  - c) of the convicted person's death.
2. Notwithstanding the previous paragraph, the Registrar and the Requested State shall confer on all issues concerning the enforcement of the sentence at the request of either party.

### **Article 8**

#### *Pardon and commutation of sentence*

1. If the legislation in force in the Requested State allows the convicted person to be granted a pardon or commutation of sentence, the Requested State shall notify the Registrar.
2. The President of the International Tribunal shall decide, in consultation with the judges of the Tribunal, if there is reason to grant a pardon or commutation of sentence. The Registrar shall notify the Requested State of the President's decision. If the decision is negative, the Requested State shall comply with it.

### **Article 9**

#### *Cessation of the sentence enforcement*

1. The enforcement of the sentence shall cease:
  - a) when the sentence has been served,
  - b) if the convicted person dies,
  - c) if the convicted person is pardoned,
  - d) following a decision by the International Tribunal in para. 2 below.
2. The International Tribunal may at any time decide to request the cessation of the sentence enforcement in the Requested State and the transfer of the convicted person into the custody of another State or of the International Tribunal.
3. The competent authorities of the Requested State shall terminate the enforcement of the sentence as soon as they have been notified by the Registrar of any decision or measure as a result of which the sentence shall cease to be enforceable.

### **Article 10**

#### *Impossibility of enforcing the sentence*

1. If at any time after the decision has been taken to enforce the sentence, the enforcement proves to be impossible for any judicial or practical reason, the Requested State shall promptly inform the Registrar. The Registrar shall take the appropriate measures for the transfer of the convicted person. The competent

authorities of the Requested State shall refrain from taking any other measures in this case for a period of at least 60 days from the Registrar's notification.

2. The International Tribunal shall be notified of a request by the convicted person for provisional release on health grounds within 48 hours of the request being made. The Tribunal shall decide immediately whether to request the cessation of the sentence enforcement, pursuant to Article 9 para. 2 of this Agreement, and urgently transfer the convicted person to another State or to the International Tribunal headquarters.

### **Article 11**

#### *Costs*

The International Tribunal shall assume the costs of transferring the convicted person to and from the Requested State. The Requested State shall cover all the other costs incurred as part of the enforcement of the sentence, with the exception of transfers under Article 9 para. 2 and Article 10 of this Agreement.

### **Article 12**

#### *Entry into force*

This Agreement shall enter into force on the date it has been signed by the two parties.

### **Article 13**

#### *Duration of the Agreement*

1. The Agreement shall remain in force throughout the enforcement by the Requested State of sentences handed down by the International Tribunal, in accordance with the terms and conditions of this Agreement.

2. After consultation, either party may terminate this Agreement by giving two months' written notice to the other party. This Agreement may not be terminated before the sentences to which it applies have been served or cease to be enforceable, and as appropriate, before the transfer of the convicted person as referred to in Article 10.

Please confirm that the International Tribunal approves of the contents of this Agreement.

Yours sincerely,

**For the Government  
of the Kingdom of Belgium**

Minister of Justice

Brussels, April 2007, two copies made in French  
Only this version in French is authorized.



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OUR REF: WL35/TPIY/5310/AV/2015/009  
COPY

YOUR REF.

**SUBJECT Agreement between the United Nations and the Government of the Kingdom of Belgium on enforcement of sentences handed down by the International Criminal Tribunal for the Former Yugoslavia, dated 2 May 2007**  
**Proposal for amendment through the exchange of letters**

Mr Registrar,

Pursuant to Article 43, item 9, and Article 46 of the Law of 29 March 2004 regarding cooperation with the International Criminal Court and the international criminal tribunals, I have the honour of referring to my letter of 12 November 2014 regarding the Agreement between the United Nations and the Government of the Kingdom of Belgium on enforcement of sentences handed down by the International Criminal Tribunal for the former Yugoslavia, dated 2 May 2007 (hereinafter “Agreement”).

In this letter I notified you that the Law of 29 March 2004 regarding cooperation with the International Criminal Court and the international criminal tribunals had been amended by the Law of 26 March 2014. After a discussion with your departments, it was proposed, on the one hand, to make several amendments to the agreement and, on the other, to clarify the interpretation of one of the expressions in the Agreement.

### **1. Proposed amendments:**

- a. Article 2, paragraph 2



The first amendment we wish to submit to you follows from the amendments made to combined Article 43, item 9, and Article 46 of the above law, replacing the Minister of Justice by the International Humanitarian Law Division of the Federal Public Service Justice as the central authority for cooperation with international criminal tribunals.

Consequently, the proposal is to amend Article 2, paragraph 2 to read as follows:

“2. The central authority for cooperation in Belgium is the International Humanitarian Law Division of the Federal Public Service Justice. The contact person at the International Humanitarian Law Division and at the Registry of the International Tribunal is indicated in the annex to this Agreement. The annex may be amended at any time by notification from the party concerned. The amendment shall take effect upon receipt by the other party.”

b. Articles 3, paragraphs 3 and 5

Article 55, paragraph 3, of the above law, as amended, specifies that the decisions on early release are governed by the Statute of the Tribunal. This specification, in accordance with the Statute, requires an amendment to Article 3 of the Agreement on the enforcement of sentences.

Consequently, I propose that paragraphs 3 and 5 of Article 3 of the Agreement be amended as follows:

“3. When the requested State announces its agreement to a request referred to in Article 1 of this Agreement, it shall also notify the International Tribunal of the dates of eligibility for early release in force in the Requested State. Subsequently, it shall notify the International Tribunal of any substantial alteration to the applicable legislation.

(...)

“5. In accordance with the Statute, if the President of the Tribunal finds that there is reason to grant early release to the detainee, the International Tribunal shall inform the Requested State of its decision”.

c. Article 8, paragraph 2

Noting the consequent amendments made to Article 3 of the Agreement, I propose also amending Article 8, due to the similarity of procedures for obtaining early release, pardon or commutation of sentence, as follows:



“ 2. In accordance with the Statute, if the President of the Tribunal finds that there is reason to grant pardon or commutation of sentence to the detainee, the International Tribunal shall inform the Requested State of its decision.”

## **2. Continuation of rights and obligations**

Note should be taken of paragraph 4 of UN Security Council resolution 1966 (2010) which provides that the jurisdiction, essential functions, rights and obligations of the ICTY shall be transferred to the Mechanism for International Criminal Tribunals (hereinafter, the Mechanism), including matters of sentence enforcement, and that all international agreements concluded by the United Nations in relation to the ICTY shall remain in force *mutatis mutandis* in relation to the Mechanism. Consequently, it should be considered that the reference to the “International Tribunal” in the Agreement also includes the Mechanism, as provided for under the new Article 43, item 1, of the Law of 29 March 2004 regarding cooperation with the International Criminal Court and international criminal tribunals, as amended by the Law of 26 March 2014.

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I would be grateful if you could inform us by return letter whether you consent to these amendments and to this new interpretation.

In the absence of a relevant specific disposition in the Agreement, and in accordance with the applicable rules of international law, we consider that the amendments shall enter into force on the date on which our department receives your consent to the above proposed amendments.

Lastly, the notice of change of contact details for the contact point in the Annex to the Agreement, as set out in my letter of 12 November 2014, is not affected by the additional information above and remains valid.

Please accept, Mr Registrar, the assurances of my highest regard.

FOR THE KINGDOM OF BELGIUM,  
On behalf of the Central Authority





/signed/  
Gérard DIVE  
Director of the Central Authority



27 July 2015

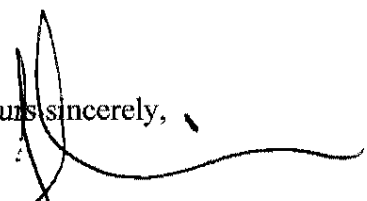
Dear Mr. Dive,

I have the honour to refer to your letter of 30 April 2015, proposing that articles 2, 3 and 8 of the Agreement between the United Nations and the Government of the Kingdom of Belgium on Enforcement of Sentences Handed Down by the International Criminal Tribunal for the Former Yugoslavia ("Enforcement Agreement") be amended.

I have the pleasure to inform you that the United Nations consents to the proposed amendments and to the statement of continuation of rights and obligations. Consequently, in accordance with your letter, it is my understanding that the amendments to the Enforcement Agreement will enter into force on the date of your receipt of this letter.

Please allow me to thank you and through you, your office for the assistance provided in finalising the amendments and to convey to you, on behalf of the Mechanism for International Criminal Tribunals, my sincere gratitude for the cooperation rendered by the Kingdom of Belgium in the enforcement of sentences.

Yours sincerely,

  
John Hocking  
Assistant Secretary-General  
Registrar

Mechanism for International Criminal Tribunals

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