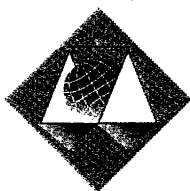




United Nations
Nations Unies



International
Criminal Tribunal
for the former Yugoslavia

Tribunal
Pénal International
pour l'ex-Yougoslavie

The Hague, 17 October 2000

Excellency,

I have the honour to refer to my letter of 1 June 2000 in which I requested the Government of the Federal Republic of Germany ("Germany") to enforce Mr. Duško Tadić's prison sentence, as imposed by the Appeals Chamber of International Criminal Tribunal for the former Yugoslavia ("International Tribunal") in its Judgement of 26 January 2000 ("Judgement"). I also refer to your reply of 17 October 2000 in which your Government agreed to enforce Mr. Tadić's prison sentence. Your Government's agreement followed an *exequatur* Decision by the Regional Court Munich I, Division of Penal Execution, on 6 September 2000, which confirmed the above mentioned Judgement of the Appeals Chamber of the International Tribunal.

In accordance with our understandings, Mr. Tadić's prison sentence will be enforced by Germany on the following conditions:

1. Mr. Tadić's prison sentence

The Appeals Chamber of the International Tribunal sentenced Mr. Tadić to twenty years' imprisonment. Subject to the conditions of the Judgement of the Appeals Chamber of the International Tribunal (Annex 1) and this Note, Mr. Tadić's prison sentence will be enforced in Germany.

2. Enforcement

1. In enforcing Mr. Tadić's sentence as pronounced by the Appeals Chamber of the International Tribunal, the competent national authorities of Germany shall be bound by the duration of the sentence.
2. The conditions of imprisonment shall be governed by the law of Germany, subject to the supervision of the International Tribunal, as provided for in Sections 5 to 7 and paragraphs 2 and 3 of Section 8 below.
3. If, pursuant to the applicable national law of Germany, Mr. Tadić is eligible for early release, Germany shall notify the Registrar accordingly.
4. If the President of the International Tribunal, in consultation with the Judges of the International Tribunal, does not consider that the application of the early release is appropriate, the Registrar shall immediately notify the competent national authorities, who will provide for the immediate transfer of Mr. Tadić to the International Tribunal.

H.E. Mr. Eberhard Ulrich Bogislaw Jesco von Puttkamer
Ambassador
Embassy of the Federal Republic of Germany
Groot Hertoginnelaan, 18-20
2517 EG The Hague

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law
Committed in the Territory of the former Yugoslavia since 1991.
Tribunal International Chargé de Poursuivre les Personnes Présumées Responsables de Violations Graves du Droit International Humanitaire
Commises sur le Territoire de l'ex-Yougoslavie depuis 1991.

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5. The conditions of imprisonment shall be in accordance with relevant human rights standards.

3. Transfer of Mr. Tadić

The Registrar shall make appropriate arrangements for the transfer of Mr. Tadić from the International Tribunal to the competent authorities of Germany. Prior to his transfer, Mr. Tadić will be informed by the Registrar of the contents of this Note.

4. Non-bis-in-idem

Mr. Tadić shall not be tried before a court of Germany for acts constituting serious violations of international humanitarian law under the Statute of the International Tribunal, for which he has already been tried by the International Tribunal.

5. Visits

1. The competent authorities of Germany shall allow visits to Mr. Tadić by representatives of the International Tribunal, in accordance with Article 27 of the Statute of the International Tribunal. The competent authorities shall allow visits at any time and on a periodic basis, the frequency of visits to be decided by the International Tribunal. Reports on the conditions of detention and the treatment of Mr. Tadić, based on the findings of the visits, will be prepared, as appropriate.
2. The competent authorities of Germany and the President of the International Tribunal shall consult each other on the findings of the reports referred to in paragraph 1. The President of the International Tribunal may thereafter request Germany to report to him or her any changes in the conditions of detention of Mr. Tadić suggested in the reports.

6. Information

1. Germany shall immediately notify the Registrar:
 - a) two months prior to the completion of the sentence;
 - b) if Mr. Tadić has escaped from custody before the sentence has been completed;
 - c) if Mr. Tadić has deceased.
2. Notwithstanding the previous paragraph, the Registrar and the competent authorities of Germany shall consult each other on all matters relating to the enforcement of the sentence upon the request of either party.

7. Pardon and commutation of sentence

1. If, pursuant to the applicable national law of Germany, Mr. Tadić is eligible for pardon or commutation of the sentence, Germany shall notify the Registrar accordingly.
2. The President of the International Tribunal shall determine, in consultation with the Judges of the International Tribunal, whether pardon or commutation of the sentence is appropriate. The Registrar shall inform Germany of the President's determination. If the President determines that a pardon or commutation of the sentence is not appropriate, Germany shall act accordingly.

8. Termination of enforcement

1. The enforcement of the sentence shall cease:
 - a) when the sentence has been completed;
 - b) upon the demise of Mr. Tadić;
 - c) upon the pardon of Mr. Tadić;
 - d) following a decision of the International Tribunal as referred to in paragraph 2.
2. The International Tribunal may at any time decide to request the termination of the enforcement in Germany and transfer Mr. Tadić to another State or to the International Tribunal.
3. The competent authorities of Germany shall terminate the enforcement of the sentence as soon as it is informed by the Registrar of any decision or measure as a result of which the sentence ceases to be enforceable.

9. Impossibility to enforce sentence


If, at any time after the decision has been taken to enforce the sentence, for any legal or practical reasons, further enforcement has become impossible, Germany shall promptly inform the Registrar. The Registrar shall make the appropriate arrangements for the transfer of Mr. Tadić as soon as possible. The competent authorities of Germany shall allow for at least thirty days following the notification of the Registrar before taking other measures on the matter.

10. Costs

The International Tribunal shall bear the expenses related to the transfer of Mr. Tadić to and from Germany, unless the parties agree otherwise. Germany shall pay all other expenses incurred by the enforcement of the sentence.

I would be grateful if you would confirm that the above is also the understanding of the Government of Germany.

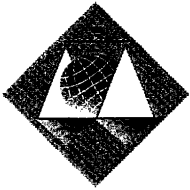
Please accept, Excellency, the assurances of my highest consideration.

A handwritten signature in black ink, consisting of a large, stylized initial 'D' followed by several loops and a long horizontal stroke extending to the right.

Dorothee de Sampayo Garrido-Nijgh
Registrar



United Nations
Nations Unies



International
Criminal Tribunal
for the former Yugoslavia

Tribunal
Pénal International
pour l'ex-Yougoslavie

17 October 2000

Excellency,

I am writing to you to set forth certain understandings of the International Tribunal relating to the Exchange of Notes of 17 October 2000 between the United Nations and the Government of the Federal Republic of Germany regarding the enforcement of Mr. Duško Tadić's prison sentence. As you will appreciate, the intention of this letter is to simply provide clarification of certain matters in the Exchange of Notes, is not intended for any other purpose and does not modify or change any of the terms or understandings contained in the Exchange of Notes.

Regarding the use of the term "enforcement" of Mr. Tadić's sentence in the Exchange of Notes, particularly in section 2 thereof, this term is intended to have precisely the same meaning as it does in Article 27 of the Statute of the International Criminal Tribunal for former Yugoslavia. We understand that this meaning may differ from the use of the term under German law. In the International Tribunal's view, as long as Mr. Tadić is in the custody of German prison authorities in accordance with Article 27, the sentence is being enforced within the meaning of the Exchange of Notes. Moreover, the International Tribunal understands that Germany will apply its law in carrying out the sentence. Thus, in the Tribunal's view Germany may take steps to hospitalize Mr. Tadić, if necessary, or take other measures in relation to him under German law, provided that it retains custody of him in accordance with Article 27.

With regard to section 2(3) of the Exchange of Notes, the term "early release" is understood to include parole and any other measure that would result in the actual release of Mr. Tadić from custody.

In the International Tribunal's view, Section 5 of the Exchange of Notes should be understood in the following way. The "representatives of the International Tribunal" will be persons under the authority of the International Tribunal; thus they are individuals and not organizations. For administrative convenience, the representatives of the International Tribunal will normally notify the German prison authorities before conducting a visit. However, such a courtesy notification is without prejudice to the International Tribunal's right to conduct unannounced visits. The International Tribunal expects that it will not exercise its right to conduct visits more than twice per year, unless special circumstances occur. The reports on the conditions of detention and the treatment of Mr. Tadić shall be treated confidentially by the German authorities and the United Nations.

The provision contained in section 8(2) of the Exchange of Notes applies at all times while the Exchange of Notes is in force. Thus, in the event that the enforcement is terminated and Mr. Tadić is transferred in accordance with section 8(2), Germany has no further responsibilities to enforce Mr. Tadić's sentence under the Exchange of Notes.

H.E. Mr. Eberhard Ulrich Bogislaw Jesco von Puttkamer
Ambassador
Embassy of the Federal Republic of Germany
Groot Hertoginnelaan, 18-20
2517 EG The Hague

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The purpose of section 9 of the Exchange of Notes is to cover unforeseeable events. For example, there may be a change in German law that makes the sentence impossible to enforce, and this provision would thus apply. For a transfer to the International Tribunal in matters of early release (Section 2.3 of the Exchange of Notes) the applicable provision is Section 2.4, not Section 9. In the view of the International Tribunal, in the event that Germany's obligations under the Exchange of Notes are, or become, incompatible with German law, the provisions of section 9 shall apply, i.e., the German authorities transfer Mr. Tadić in accordance with the provisions of section 9. It is understood that in such a case that, if exceptional circumstances exist, the Registrar would use her best efforts to act immediately.

I hope that the above is of assistance to you.

Please accept, Excellency, the assurances of my highest consideration.

A handwritten signature in black ink, consisting of a circular initial followed by a series of connected loops and a long horizontal stroke at the end.

Dorothee de Sampayo Garrido-Nijgh
Registrar

DER BOTSCHAFTER
DER BUNDESREPUBLIK DEUTSCHLAND
THE AMBASSADOR
OF THE FEDERAL REPUBLIC OF GERMANY

The Hague, 17 October 2000
File No.: RS 502.40/1

Dear Madam,

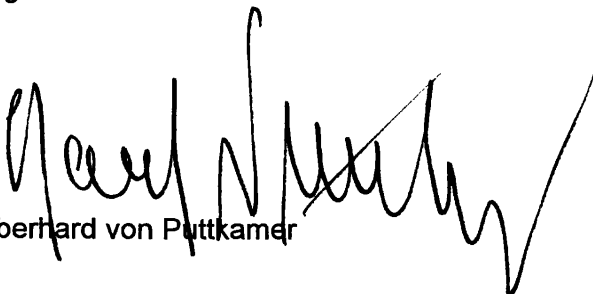
I have the honour, in response to your letter of 1 June 2000, to communicate to you that the Federal Republic of Germany is ready to enforce the sentence imposed by the International Criminal Tribunal for the Former Yugoslavia on Duško Tadić, and that the Federal Government agrees to the request made in the above-mentioned letter.

The bases for the assumption of enforcement will be

- the Exchange of Notes between the International Criminal Tribunal for the Former Yugoslavia and the Embassy of the Federal Republic of Germany in The Hague dated 17 October 2000, including the accompanying letter.
- the decision made by the Munich I Regional Court on 6 September 2000 (Ref. StVK 528/00 ("exequatur decision"))

I suggest that you discuss the details of the transfer with the public prosecutor's office at the Munich I Regional Court, which is responsible for the enforcement of this sentence. As contact person I name Dr. Haager, the head of the court's enforcement department, telephone 0049 / 89 / 5597-4833.

Please accept, Madam, the assurances of my high consideration.


Eberhard von Puttkamer

Mrs. Dorothee Sampayo Garrido-Nijgh
Registrar
International Criminal Tribunal
for the Former Yugoslavia
The Hague

DER BOTSCHAFTER
DER BUNDESREPUBLIK DEUTSCHLAND
THE AMBASSADOR
OF THE FEDERAL REPUBLIC OF GERMANY

The Hague, 17 October 2000
File No.: RS 502.40/1

Dear Madam,

I have the honour, in response to your Note dated 17 October 2000, and in reference to my letter to you dated 17 October 2000 to confirm to you that the prison sentence imposed on Duško Tadić by the International Criminal Court for the Former Yugoslavia will be enforced in the Federal Republic of Germany pursuant to the arrangements described in your aforementioned Note.

Please accept, Madam, the assurances of my high consideration.



Eberhard von Puttkamer

Mrs. Dorothee Sampayo Garrido-Nijgh
Registrar
International Criminal Tribunal
for the Former Yugoslavia
The Hague