

**UNITED  
NATIONS**



**International Residual Mechanism  
for Criminal Tribunals**

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**Case No.:** MICT-13-46-ES.1

**Date:** 19 January 2024

**Original** English

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**THE PRESIDENT**

**Before:** Judge Graciela Gatti Santana

**Registrar:** Abubacarr Tambadou

**THE PROSECUTOR**

v.

**RADISLAV KRSTIC**

*Public*

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**APPLICATION FOR EARLY RELEASE**

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**Office of the Prosecutor:**  
**Mr. Serge Brammertz**

**Radislav Krstic:**  
**Mr. Tomislav Visnjic**  
**Mr. Vladimir Petrovic**

1. Radislav Krstic hereby petitions the President for early release, pursuant paragraph 5 of the *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* (15 May 2020)(“*Practice Direction*”), and Rule 150 of the Rules of Procedure and Evidence.

## I. BACKGROUND

2. Radislav Krstic was born on 15 February 1948. He joined the Army of Republika Srpska in Bosnia and Herzegovina in July 1992. In late December 1994, he was injured when he stepped on a landmine. Part of his leg had to be amputated. He subsequently returned to duty as served as Commander of the Drina Corps in July 1995 when he committed the crimes for which he was convicted.<sup>1</sup>

3. General Krstic was arrested in Bosnia and Herzegovina on 2 December 1998. He was transferred to the International Criminal Tribunal for the former Yugoslavia (“ICTY”) on the following day. At his initial appearance of 7 December 1998, he pled not guilty to all charges in the initial indictment.<sup>2</sup>

4. On 2 August 2001, the ICTY Trial Chamber found General Krstic guilty of genocide, persecution as a crime against humanity, and the war crime of murder and sentenced him to 46 years imprisonment.<sup>3</sup>

5. On 19 April 2004, the ICTY Appeals Chamber set aside General Krstic’s convictions for committing genocide and partially set aside his convictions for murder. Instead, it found him guilty of aiding and abetting those crimes. The Appeals Chamber affirmed the remaining convictions for persecution and murder. It reduced General Krstic’s sentence to 35 years.<sup>4</sup>

6. On 20 December 2004, General Krstic was transferred to serve his sentence in the United Kingdom.<sup>5</sup> Less than a year later, his wife died after a protracted illness.<sup>6</sup>

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<sup>1</sup> *Prosecutor v Krstic*, No. IT-98-33-T, *Judgement* (2 August 2001), paras. 298-99.

<sup>2</sup> *Decision on the Early Release of Radislav Krstic* (9 October 2019), para. 2 (“*2019 Early Release Decision*”).

<sup>3</sup> *Prosecutor v Krstic*, No. IT-98-33-T, *Judgement* (2 August 2001).

<sup>4</sup> *Prosecutor v Krstic*, No. IT-98-33-A, *Judgement* (19 April 2004).

<sup>5</sup> *2019 Early Release Decision*, para. 5.

7. On 10 May 2010, General Krstic was brutally attacked in his cell at HMS Wakefield Prison by three Albanians. They slashed his neck, face, and head with razor blades and left him for dead. Although he survived, General Krstic was left with deep and extensive scarring and severe and lasting psychiatric harm.<sup>7</sup>

8. General Krstic testified at the trial of his three attackers. In February, 2011, they were convicted and sentenced to life imprisonment.<sup>8</sup>

9. General Krstic was transferred from the United Kingdom back to the United Nations Detention Unit (“UNDU”) on 4 October 2011 for safety reasons.<sup>9</sup>

10. On 25 March 2013, the ICTY Trial Chamber hearing the Radovan Karadzic case issued an order in lieu of indictment against General Krstic for refusing to testify as a defence witness in the trial.<sup>10</sup> On 18 July 2013, that same Trial Chamber acquitted General Krstic, finding that his psychological state due to PTSD provided a reasonable excuse for his refusal to testify.<sup>11</sup>

11. On 20 March 2014, General Krstic was transferred from the United Nations Detention Unit in The Hague to the Piotrkow Trybunalski prison in Poland pursuant to an order from the President of the Mechanism.<sup>12</sup>

12. In the autumn of 2014, General Krstic testified via video link at the trial of a case brought on his behalf in the London County Court against the United Kingdom Ministry of Justice arising out of the injuries he suffered during the attack at Wakefield Prison.<sup>13</sup> At the conclusion of the trial, on 6 October 2015, a judgment was rendered in his favour. The United Kingdom was found negligent and ordered to pay 35,000 British pounds.<sup>14</sup>

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<sup>6</sup> *Krstic v Ministry of Justice* (6 October 2015) attached as Annex 2 to *Radislav Krstic’s Application for Pardon, Commutation of Sentence, or Early Release* (29 June 2016), para. 6 (“UK Judgment”). The judgment is also publicly available at [https://www.matrixlaw.co.uk/wp-content/uploads/2015/10/19\\_10\\_2015\\_11\\_01\\_10\\_19.10.15.pdf](https://www.matrixlaw.co.uk/wp-content/uploads/2015/10/19_10_2015_11_01_10_19.10.15.pdf).

<sup>7</sup> *UK Judgment*, para. 38.

<sup>8</sup> *Id.*, para. 39.

<sup>9</sup> *Order Designating the State in Which Radislav Krstic is to Serve the Remainder of his Sentence* (19 July 2013), p. 1.

<sup>10</sup> *In the Contempt Case of Radislav Krstic*, No. IT-95-5/18-R77.3, *Order in lieu of Indictment* (27 March 2013).

<sup>11</sup> *In the Contempt Case of Radislav Krstic*, No. IT-95-5/18-R77.3, *Judgement* (18 July 2013), para. 30.

<sup>12</sup> *Order Designating the State in Which Radislav Krstic is to Serve the Remainder of his Sentence* (19 July 2013).

<sup>13</sup> *UK Judgment*, paras. 12-13.

<sup>14</sup> *Id.*, para. 130.

13. On 20 June 2016, General Krstic filed a request for early release. He contended that although he had not yet served two-thirds of his sentence, his mental condition resulting from the trauma of the attack while serving his ICTY sentence constituted exceptional circumstances warranting release earlier than two-thirds of his sentence.<sup>15</sup>

14. On 13 December 2016, President Theodor Meron denied the request, finding that:

Although Krstic has demonstrated some signs of rehabilitation, the crimes for which he has been convicted are very grave and Krstic has failed to demonstrate that there exist exceptional circumstances warranting his early release prior to having served two-thirds of his sentence.<sup>16</sup>

15. On 22 January 2018, Poland notified the Mechanism that General Krstic had become eligible for early release under the laws in Poland. The President of the Mechanism initiated the procedure for considering General Krstic's early release. On 10 September 2019, he denied early release, finding that exceptional circumstances did not exist to release General Krstic before he had served two-thirds of his sentence.<sup>17</sup>

16. General Krstic completed serving two-thirds of his sentence on 28 March 2022.<sup>18</sup>

17. On 21 April 2022, General Krstic again filed a petition for early release.<sup>19</sup>

18. On 15 November 2022, the President of the Mechanism denied General Krstic's petition for early release, finding that the high gravity of his crimes, combined with an insufficient demonstration of rehabilitation strongly militated against early release.<sup>20</sup>

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<sup>15</sup> *Radislav Krstic's Application for Pardon, Commutation of Sentence, or Early Release* (29 June 2016).

<sup>16</sup> *Decision of the President on the Early Release of Radislav Krstic* (13 December 2016), para. 39 ("2016 Early Release Decision")

<sup>17</sup> *2019 Early Release Decision*, para. 39.

<sup>18</sup> *Id.*, para. 19.

<sup>19</sup> *Petition for Early Release* (21 April 2022).

<sup>20</sup> *Decision on the Application for Early Release of Radislav Krstic* (15 November 2022), para. 93 ("2022 Early Release Decision").

19. On 27 October 2023, the President ordered General Krstic to be transferred to the UNDU after Poland informed the Mechanism that under Polish law, it could not enforce a sentence of longer than 25 years.<sup>21</sup>

20. General Krstic is currently serving his sentence at the UNDU, awaiting designation to another State.

## II. APPLICATION

21. General Krstic has read and understood the President's decision of November 2022. He has taken on board her criticism of the generic nature of his personal statement. He intends to provide a more comprehensive statement in support of this application for early release. In order not to miss anything, he will do so after all of the information has been gathered pursuant to the Practice Direction and he has the opportunity to comment.

22. General Krstic plans to reside in the Republic of Serbia if released. The Government of the Republic of Serbia has already advised the Mechanism that there are no obstacles to his residing in Serbia, and that the competent Serbian authorities are willing to monitor any conditions imposed by the Mechanism and to provide the necessary guarantees.<sup>22</sup>

## III. ANALYSIS

### A. Eligibility

23. General Krstic has served 2/3 of his 35-year sentence as of 28 March 2022 and is thus eligible for early release before the Mechanism.

24. Prisoners serving their sentence at the UNDU are treated the same for purposes of early release as those transferred to serve their sentences in a State.<sup>23</sup>

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<sup>21</sup> *Order for the Transfer of Radislav Krstic to the United Nations Detention Unit on a Temporary Basis* (27 October 2023).

<sup>22</sup> *Note verbale* from the Embassy of Serbia to the Netherlands, dated 25 May 2022, transmitting a Letter from the Minister of Justice of Serbia to the then-President, (24 May 2022) as referenced in the *2022 Early Release Decision*, para. 12.

<sup>23</sup> *Prosecutor v Coric*, No. MICT-17-112-ES.4, *Decision of the President on the Early Release of Valentin Coric and Related Motions* (16 January 2019) at para. 35.

## **B. General Standards for Granting**

25. It is necessary for the President, in determining whether early release is appropriate, to analyse and consider the convicted person’s current situation, taking into account the non-exhaustive list of factors set out in Rule 151 of the Rules.<sup>24</sup> Those factors are: (1) the gravity of the crime or crimes for which the prisoner was convicted, (2) the treatment of similarly-situated prisoners, (3) the prisoner’s demonstration of rehabilitation, and (4) any substantial cooperation of the prisoner with the Prosecutor.

### 1. Gravity of Crimes

26. As found by the President, General Krstic accepts and acknowledges the very high gravity of the crimes for which he has been convicted.<sup>25</sup> He is profoundly sorry and offers his heartfelt apologies to all the victims of these crimes.

### 2. Treatment of Similarly-Situated Prisoners

27. Persons sentenced by the ICTY, like General Krstic, are considered “similarly-situated” to all other prisoners under the Mechanism’s supervision. All convicted persons supervised by the Mechanism are considered eligible to apply for early release upon the completion of two-thirds of their sentences, irrespective of the tribunal that convicted them and where they serve their sentence.<sup>26</sup> Having passed this two-thirds threshold on 28 March 2022, General Krstic is eligible to be considered for early release.

28. General Krstic accepts that the President has held that any comparison to other cases in the context of an early release application is inconsequential to her decision.<sup>27</sup> Therefore, he will offer no such comparisons.

### 3. Demonstration of Rehabilitation

#### (a) Behaviour in Prison

29. The President has acknowledged that, based on the reported information, General Krstic’s behaviour in prison has been very good, and that this merits positive weight in her consideration of his rehabilitation.<sup>28</sup> He believes that information about his

<sup>24</sup> 2022 *Early Release Decision*, para. 32.

<sup>25</sup> See 2022 *Early Release Decision*, paras. 35-41.

<sup>26</sup> *Prosecutor v Lukic*, MICT-14-67-ES.4, *Decision on Application for Early Release of Sreten Lukic* (7 October 2021), para. 49.

<sup>27</sup> 2022 *Early Release Decision*, para. 44.

<sup>28</sup> *Id.*, para. 55.

behaviour in the prison in Poland and at the UNDU since that decision will confirm that he has continued his very good behaviour.

(b) Acceptance of Responsibility and Genuine Expressions of Remorse

30. As stated above, General Krstic intends to submit a comprehensive statement of acceptance of responsibility and remorse after the information has been collected from all other sources pursuant to the Practice Direction. This way, he will be able to assure that he addresses all relevant issues in a non-generic way.

(c) Prospects of Successful Reintegration into Society

31. The President found that General Krstic retained ties with his family and would have in place housing and finances if he were to be released, committed to keeping an extremely low profile in Serbia, and that this merited positive weight in her consideration of his rehabilitation.<sup>29</sup> Those plans remain intact to this day.

(d) Overall Assessment

35. In her *2022 Early Release Decision*, the President considered that General Krstic's letter was "evidence of progress and a step in the right direction", but "given its generic nature, it is apparent that Krstić has not sufficiently engaged in critical reflection upon his crimes and the role he played in the events that took place in Srebrenica in 1995." The Court also noted that his letter was not substantiated by any positive actions which indicated his critical reflection upon his crimes.<sup>30</sup>

36. General Krstic has had more than a year to engage in this critical reflection and will provide a comprehensive statement to the President along with his comments on the material gathered pursuant to the *Practice Direction* during the period afforded to him for written submissions pursuant to paragraph 13 of that *Practice Direction*. He believes that once he has had the opportunity to fully express himself, the President will see that he has indeed fully accepted responsibility for the crimes he committed and was convicted of.

4. Substantial Cooperation with the Prosecutor

37. General Krstic does not contend that he has engaged in substantial cooperation with the Prosecutor. Nor was he asked to do so.<sup>31</sup>

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<sup>29</sup> *Id.*, para. 68.

<sup>30</sup> *Id.*, para. 69.

### C. Other Considerations

38. General Krstic understands that the President will receive and consider information from the Prosecutor, Governments of Poland and Serbia, and the Witness Support and Protection Unit (WISP) on his petition for early release. He will provide his comments on this material as provided in paragraph 13 of the *Practice Direction*.

39. While not amounting to exceptional circumstances warranting release before the completion of 2/3 of his sentence, General Krstic contends that the injuries and trauma that he has suffered as a result of the attack against him while in prison in the United Kingdom, ought to be taken into consideration when considering his early release at this stage. This has been a punishment far greater than that which was envisioned when the Appeals Chamber imposed its sentence.

40. Finally, General Krstic, who is almost 76 years old, requests that his serious medical issues be taken into consideration. As a result of the amputation of one of his legs, General Krstic is currently in considerable pain due to damaged blood vessels and atrophy. He also suffers from anemia, high cholesterol, and has serious heart issues. He requests that, in light of these conditions, the President order a comprehensive medical report to be prepared at the UNDU, to include consultation with external medical specialists.

41. General Krstic also requests that the President order the UNDU to conduct a comprehensive evaluation of his mental state, including his behaviour and rehabilitation, to assist the President in understanding both the need for, and prospects upon, early release.

### IV. CONCLUSION

42. Radislav Krstic respectfully requests that the President, after evaluating all of the factors set forth above, and receiving further information pursuant to the *Practice Direction*, grant him early release.

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<sup>31</sup> *Id.*, paras. 70-71.



Word count: 2417

Respectfully submitted,

for TOMISLAV VISNJIC  
Counsel for Radislav Krstic



VLADIMIR PETROVIC  
Co-Counsel





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