

**UNITED
NATIONS**



International Residual Mechanism
for Criminal Tribunals

Case No.: MICT-14-63-ES

Date: 3 March 2023

Original: English

THE PRESIDENT OF THE MECHANISM

Before: Judge Graciela Gatti Santana, President

Registrar: Mr. Abubacarr M. Tambaou

Order of: 3 March 2023

PROSECUTOR

v.

GORAN JELISIĆ

CONFIDENTIAL

**ORDER DESIGNATING THE STATE IN WHICH
GORAN JELISIĆ IS TO SERVE THE REMAINDER OF HIS
SENTENCE**

Mr. Goran Jelisić

I, GRACIELA GATTI SANTANA, President of the International Residual Mechanism for Criminal Tribunals (“President” and “Mechanism”, respectively);

NOTING that, on 22 January 1998, Mr. Goran Jelisić (“Jelisić”) was arrested and immediately transferred to the United Nations Detention Unit (“UNDU”) in The Hague, Kingdom of the Netherlands (“Netherlands”);¹

NOTING that, on 14 December 1999, the Trial Chamber of the International Criminal Tribunal for the former Yugoslavia (“ICTY”) sentenced Jelisić to 40 years of imprisonment for violations of the laws or customs of war, comprising murder, cruel treatment, and plunder, as well as crimes against humanity, comprising murder and other inhumane acts,² and that, on 5 July 2001, the Appeals Chamber of the ICTY affirmed Jelisić’s sentence;³

NOTING that, on 29 May 2003, Jelisić was transferred to the Republic of Italy (“Italy”) to serve the remainder of his sentence;⁴

RECALLING that, on 8 September 2022, I received a confidential memorandum from the Registrar of the Mechanism (“Registrar”), informing me, *inter alia*, that the Italian authorities had notified the Mechanism that, pursuant to Italian law, Italy could not continue to enforce Jelisić’s sentence beyond 3 January 2023;⁵

RECALLING FURTHER that, on 25 November 2022, I instructed the Registrar to take all necessary measures and make the appropriate arrangements for Jelisić to be returned to the UNDU on a temporary basis;⁶

CONSIDERING that the Kingdom of Belgium (“Belgium”) has informed the Mechanism of its willingness to enforce the remainder of the sentence imposed upon Jelisić by the ICTY;⁷

¹ Decision on Sentence Remission and Early Release of Goran Jelisić, 11 March 2021, para. 2; *Prosecutor v. Goran Jelisić*, Case No. IT-95-10-T, Judgement, 14 December 1999 (original filed in French; English translation filed on 14 January 2000) (“Trial Judgement”), paras. 5, 123, 135.

² Trial Judgement, paras. 16, 58, 109, 138-139.

³ *Prosecutor v. Goran Jelisić*, Case No. IT-95-10-A, Judgement, 5 July 2001, p. 41.

⁴ See ICTY Press Release, Goran Jelisić Transferred to Italy to Serve Prison Sentence, 29 May 2003, <https://www.icty.org/en/press/goran-jelistic-transferred-italy-serve-prison-sentence>. See also Decision on Sentence Remission and Early Release of Goran Jelisić, 11 March 2021, para. 4; Public Redacted Version of 22 May 2017 Decision of the President on Recognition of Commutation of Sentence, Remission of Sentence, and Early Release of Goran Jelisić, 11 August 2017, para. 3.

⁵ Internal Memorandum from the Registrar to the President, dated 8 September 2022 (confidential), paras. 6-7, transmitting an email communication from the Embassy of Italy to the Netherlands to the Registry of the Mechanism, dated 1 September 2022.

⁶ Order for the Transfer of Goran Jelisić to the United Nations Detention Unit on a Temporary Basis, 25 November 2022, p. 2.

CONSIDERING the confidential memorandum conveyed to me by the Registrar on 2 March 2023 pursuant to the Practice Direction on the Procedure for Designation of the State in Which a Convicted Person is to Serve His or Her Sentence of Imprisonment (“Practice Direction”),⁸ whereby the Registrar: (i) refers to the communications received from Belgium; (ii) attaches the views expressed by Jelisić in relation to the possible designation of Belgium as the State in which he may serve the remainder of his sentence; (iii) provides other information set out in the Practice Direction; and (iv) recommends Belgium as the State in which Jelisić is to serve the remainder of his sentence;⁹

CONSIDERING 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, concluded on 2 May 2007, which continues in force, *mutatis mutandis*, in relation to the Mechanism;¹⁰

HAVING CONSIDERED all of the factors enumerated in the Practice Direction, including the views expressed by Jelisić, as well as the recommendation of the Registrar;

PURSUANT TO Article 25 of the Statute, Rule 127 of the Rules of Procedure and Evidence of the Mechanism (“Rules”), and paragraphs 5 through 7 of the Practice Direction;

HEREBY DECIDE that Jelisić shall serve the remainder of his sentence in Belgium;

INSTRUCT the Registrar to officially request the Government of Belgium to enforce the sentence of Jelisić and, should the Government of Belgium accede to this request, inform Jelisić and the relevant authorities of the Netherlands thereof and take all necessary measures to facilitate Jelisić’s transfer to Belgium as expeditiously as possible;

AUTHORISE the Registrar to share the present order, on a confidential basis, with the relevant authorities of Belgium and the Netherlands, if necessary;

⁷ See Internal Memorandum from the Registrar to the President, dated 2 March 2023 (confidential) (“Memorandum of 2 March 2023”), para. 10.

⁸ MICT/2/Rev. 1, 24 April 2014.

⁹ Memorandum of 2 March 2023.

¹⁰ See Security Council Resolution 1966 (2010), 22 December 2010, para. 4 (“[T]he Mechanism shall continue the jurisdiction, rights and obligations and essential functions of the ICTY and the ICTR, respectively, subject to the provisions of this resolution and the Statute of the Mechanism, and all contracts and international agreements concluded by the United Nations in relation to the ICTY and the ICTR, and still in force as of the relevant commencement date, shall continue in force *mutatis mutandis* in relation to the Mechanism[.]”). According to Article 25(2) of the Statute of the Mechanism (“Statute”), “[t]he Mechanism shall have the power to supervise the enforcement of sentences pronounced by the ICTY, the ICTR or the Mechanism, including the implementation of sentence enforcement agreements entered into by the United Nations with Member States”.

ORDER, pursuant to Rule 127(C) of the Rules, that Jelisić shall remain in the custody of the Mechanism while awaiting his transfer to Belgium; and

INSTRUCT the Registrar to lift the confidential status of the present order and recirculate it as a public filing once Jelisić's transfer to Belgium has been completed.

Done in English and French, the English version being authoritative.

Done this 3rd day of March 2023,
At The Hague,
The Netherlands.



Judge Graciela Gatti Santana
President

[Seal of the Mechanism]



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