

**UNITED
NATIONS**



International Residual Mechanism
for Criminal Tribunals

Case No.: MICT-14-83-ES
Date: 4 December 2024
Original: English

THE PRESIDENT OF THE MECHANISM

Before: Judge Graciela Gatti Santana, President

Registrar: Mr. Abubacarr M. Tambaou

Decision of: 4 December 2024

PROSECUTOR

v.

STANISLAV GALIĆ

PUBLIC

**DECISION ON THE APPLICATION FOR EARLY RELEASE OF
STANISLAV GALIĆ**

Counsel for Mr. Stanislav Galić:

Mr. Stéphane Piletta-Zanin

Federal Republic of Germany

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

BEING SEISED of the direct petition for early release filed by Mr. Stanislav Galić on 9 August 2024 (“Galić” and “Application”, respectively);¹

NOTING that, on 20 December 1999, Galić was arrested in Bosnia and Herzegovina, and on 21 December 1999, he was transferred to the United Nations Detention Unit of the International Criminal Tribunal for the former Yugoslavia (“ICTY”);²

NOTING that, on 5 December 2003, Trial Chamber I of the ICTY convicted Galić, pursuant to Article 7(1) of the Statute of the ICTY, of murder and other inhumane acts as crimes against humanity, and acts of violence the primary purpose of which is to spread terror among the civilian population as violations of the laws or customs of war, and sentenced him to 20 years of imprisonment;³

NOTING that, on 30 November 2006, the Appeals Chamber of the ICTY, by majority, granted the appeal of the ICTY Office of the Prosecutor (“ICTY Prosecution”), quashed Galić’s 20-year sentence, and imposed a sentence of life imprisonment;⁴

NOTING that, on 15 January 2009, Galić was transferred to the Federal Republic of Germany (“Germany”) to serve the remainder of his sentence;⁵

NOTING that, in the Application, Galić requests early release based on the following grounds: (i) his conduct in detention has been outstanding;⁶ (ii) his release would not entail any political risks;⁷ and (iii) the eligibility threshold for early release applicable to his sentence lacks legal foundation and there is only a small probability of Galić reaching that threshold in light of his advanced age and poor health;⁸

¹ Requête en libération anticipée, 9 August 2024. An English translation of the Application was filed on 22 August 2024. See Application for Early Release, 22 August 2024. All references herein are to the English translations of documents. I note that the Application refers to an “annex”, without, in fact, attaching anything. See Application, Registry Pagination (“RP”) 15/381 BIS.

² *Prosecutor v. Stanislav Galić*, Case No. IT-98-29-T, Judgement and Opinion, 5 December 2003 (“Trial Judgement”), paras. 770, 774. See also ICTY Press Release, Stanislav Galić detained by SFOR in Bosnia and Herzegovina, 20 December 1999, <https://www.icty.org/en/sid/7710>.

³ Trial Judgement, para. 769.

⁴ *Prosecutor v. Stanislav Galić*, Case No. IT-98-29-A, Judgement, 30 November 2006, p. 185.

⁵ See ICTY Press Release, Stanislav Galić Transferred to Germany to Serve Sentence, 15 January 2009, <http://www.icty.org/sid/10037>. See also *Prosecutor v. Stanislav Galić*, Case No. IT-98-29-ES, Order Designating the State in Which Stanislav Galić is to Serve his Prison Sentence, 3 November 2008, p. 2.

⁶ Application, RP 16/381 BIS, 13/381 BIS, 11/381 BIS.

⁷ Application, RP 14/381 BIS, 11/381 BIS.

⁸ Application, RP 17/381 BIS-16/381 BIS, 14/381 BIS-11/381 BIS.

NOTING further that Galić makes a number of submissions in relation to: (i) the extent of his cooperation with the ICTY Prosecution, referring to his appearance as a witness in the case of *Prosecutor v. Radovan Karadžić*;⁹ (ii) factors presented as tempering the gravity of the offences committed;¹⁰ (iii) the treatment of other convicted persons;¹¹ and (iv) his willingness and ability to reintegrate into society upon release, due to the help of his tight-knit family;¹²

NOTING that the Application, including the arguments contained therein, strongly resembles Galić’s previous direct petition for early release, filed on 30 August 2023,¹³ which I denied on 6 November 2023;¹⁴

RECALLING that the *Galić* Decision of 6 November 2023 articulates the relevant provisions of the Statute of the Mechanism (“Statute”), the Rules of Procedure and Evidence of the Mechanism (“Rules”), and the enforcement agreement with Germany that govern Galić’s request for early release;¹⁵

RECALLING, in particular, that all convicted persons serving a sentence under the supervision of the Mechanism are eligible to be considered for early release upon having served two-thirds of their sentence, irrespective of: (i) whether the person was convicted by the International Criminal Tribunal for Rwanda (“ICTR”), the ICTY, or the Mechanism; (ii) where the sentence is being served; and (iii) whether the matter is brought before the President through a direct petition by the convicted person or a notification from the relevant enforcement State;¹⁶

RECALLING further that serving two-thirds of a sentence has been described as being “in essence, an admissibility threshold”,¹⁷ and that a convicted person who has served two-thirds of his or her

⁹ Application, RP 16/381 BIS-15/381 BIS.

¹⁰ Application, RP 15/381 BIS.

¹¹ Application, RP 14/381 BIS.

¹² Application, RP 15/381 BIS-14/381 BIS, 11/381 BIS.

¹³ Requête en libération anticipée, 30 August 2023. An English translation of this petition was filed on 5 September 2023. See Application for Early Release, 5 September 2023.

¹⁴ Decision on the Application for Early Release of Stanislav Galić, 6 November 2023 (“*Galić* Decision of 6 November 2023”).

¹⁵ *Galić* Decision of 6 November 2023, p. 2.

¹⁶ *Prosecutor v. Sredoje Lukić*, Case No. MICT-13-52-ES.2, Decision on the Application for Early Release of Sredoje Lukić, 17 October 2024 (public redacted) (“*Lukić* Decision”), para. 31; *Prosecutor v. Matthieu Ngirumpatse*, Case No. MICT-14-73-ES.2, Decision on the Application for Commutation of Sentence or Early Release of Matthieu Ngirumpatse, 9 October 2024 (public redacted) (“*Ngirumpatse* Decision”), para. 22; *Prosecutor v. Radislav Krstić*, Case No. MICT-13-46-ES.1, Decision on the Early Release of Radislav Krstić, 10 September 2019 (public redacted), paras. 16, 18.

¹⁷ *Lukić* Decision, para. 31; *Prosecutor v. Dragoljub Kunarac*, Case No. MICT-15-88-ES.1, Decision on the Application for Early Release of Dragoljub Kunarac, 22 July 2024 (“*Kunarac* Decision”), para. 26; *Prosecutor v. Paul Bisengimana*, Case No. MICT-12-07, Decision of the President on Early Release of Paul Bisengimana and on Motion to File a Public Redacted Application, 11 December 2012 (public redacted) (“*Bisengimana* Decision”), para. 19.

sentence is merely eligible for, but not entitled to, early release, which may only be granted by the President as a matter of discretion, after considering the totality of the circumstances in each case;¹⁸

RECALLING further that if a convicted person applies for early release before having served two-thirds of his or her sentence, the application may be considered without necessarily triggering the multi-step and resource-intensive process of requesting, receiving, translating, sharing, and considering additional information before determining whether the application should be denied as premature;¹⁹

CONSIDERING that a person sentenced to life imprisonment by the ICTR, the ICTY, or the Mechanism may be considered eligible for early release²⁰ and that, in Galić’s specific context, the applicable eligibility threshold is “more than 30 years of his sentence”;²¹

CONSIDERING that, having served almost 25 years of his life sentence, Galić has not reached the applicable threshold and is therefore not yet eligible to be considered for early release;

FINDING unconvincing Galić’s submissions that the two-thirds threshold for life imprisonment is arbitrarily set, lacks legal foundation, and requires a variation, especially since compelling or exceptional circumstances could arise and may be considered prior to the two-thirds threshold having been reached, which may overcome any eligibility concerns;²²

¹⁸ *Galić* Decision of 6 November 2023, p. 3; Decision on the Early Release of Stanislav Galić, 26 June 2019 (public redacted), para. 24; *Bisengimana* Decision, para. 21.

¹⁹ *Galić* Decision of 6 November 2023, p. 3; *Prosecutor v. Gaspard Kanyarukiga*, Case Nos. MICT-22-126 & MICT-22-126-ES.1, Decision on the Applications for Early Release and Commutation of Sentence of Gaspard Kanyarukiga, 9 June 2023, p. 5; *Prosecutor v. Milomir Stakić*, Case No. MICT-13-60-ES, Decision on Sentence Remission and Early Release of Milomir Stakić, 31 December 2020, para. 43. *See also* Practice Direction on the Procedure for the Determination of Applications for Pardon, Commutation of Sentence, or Early Release of Persons Convicted by the ICTR, the ICTY, or the Mechanism, MICT/3/Rev.4, 1 July 2024 (“Practice Direction”).

²⁰ *Galić* Decision of 6 November 2023, p. 4; *Prosecutor v. Vujadin Popović*, Case No. MICT-15-85-ES.2, Decision on the Application for Early Release of Vujadin Popović, 30 January 2023, p. 4; Reasons for the President’s Decision to Deny the Early Release of Stanislav Galić and Decision on Prosecution Motion, 23 June 2015 (public redacted) (“*Galić* Reasons of 23 June 2015”), para. 24.

²¹ The determination of the eligibility threshold for early release applicable to Galić’s sentence of life imprisonment relied upon a sentence that was “equivalent to more than a sentence of 45 years”, based in part on the fact that, at the time, the highest fixed-term sentence imposed by the ICTR, the ICTY, or the Mechanism was imprisonment for 45 years. *See Galić* Reasons of 23 June 2015, para. 36. A fixed-term sentence of 47 years of imprisonment has since been imposed and could increase the calculation of the two-thirds threshold for a sentence of life imprisonment generally. *See Prosecutor v. Pauline Nyiramasuhuko et al.*, Case No. ICTR-98-42-A, Judgement, 14 December 2015, para. 3539 (reducing the sentences of Ms. Pauline Nyiramasuhuko, Mr. Arsène Shalom Ntahobali, and Mr. Élie Ndayambaje from life imprisonment to 47 years’ imprisonment). However, the eligibility threshold based on a sentence of “more than 45 years” has already been judicially determined as applicable to Galić and the interests of justice do not justify departure from that conclusion.

²² *Ngirumpatse* Decision, para. 22; *Prosecutor v. Dominique Ntawukulilyayo*, Case No. MICT-13-34-ES, Decision on the Application for Early Release of Dominique Ntawukulilyayo, 15 July 2024 (public redacted), para. 26; *Prosecutor v. Laurent Semanza*, Case No. MICT-13-36-ES, Decision of the President on the Early Release of Laurent Semanza, 9 June 2016 (public redacted), para. 18.

NOTING that Galić points to his advanced age and his poor health, referring in particular to his “severe diabetes”, as factors that should be taken into consideration in the context of deciding the Application;²³

RECALLING that previous decisions on early release have determined that the state of the convicted person’s health may be taken into account in the context of an application for early release, especially when the seriousness of the condition makes it inappropriate for the convicted person to remain in prison any longer;²⁴

CONSIDERING that Galić, once again, has not submitted any documentation in support of his contentions regarding his health, or otherwise demonstrated that his current age and health are an impediment to his continued detention or constitute compelling or exceptional circumstances that might warrant granting early release before having reached the two-thirds eligibility threshold;

CONSIDERING further that Galić’s submissions on the factors tempering the gravity of the offences committed, his conduct in detention, the absence of political risks that his release would entail, his cooperation with the ICTY Prosecution, and his willingness to reintegrate into society, may be relevant for the consideration of his early release pursuant to Rule 151 of the Rules once he has reached the eligibility threshold;

CONSIDERING that, in accordance with Rule 150 of the Rules, I have consulted with Judge Alphons Orié, in his capacity as a Judge of the sentencing Chamber in the *Galić* case,²⁵ and, as no other Judges who imposed the sentence upon Galić are Judges of the Mechanism, with Judge Florence Arrey;

CONSIDERING further that both Judge Orié and Judge Arrey agree that the Application is unsubstantiated and should be denied;

FINDING, therefore, that Galić has failed to demonstrate that compelling or exceptional circumstances exist that might warrant granting early release before having reached the two-thirds eligibility threshold;

FOR THE FOREGOING REASONS,

²³ Application, RP 17/381 BIS, 11/381 BIS.

²⁴ *Lukić* Decision, para. 86; *Kunarac* Decision, para. 85; *Prosecutor v. Ljubiša Beara*, Case No. MICT-15-85-ES.3, Public Redacted Version of 7 February 2017 Decision of the President on the Early Release of Ljubiša Beara, 16 June 2017, paras. 47-49.

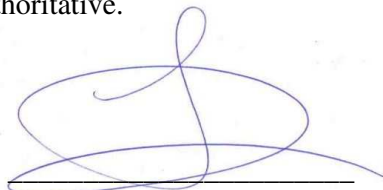
²⁵ See Trial Judgement, para. 770. See also Practice Direction, para. 16.

HEREBY DENY the Application; and

DIRECT the Registrar of the Mechanism to provide the Prosecutor of the Mechanism with this decision as soon as practicable.

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

Done this 4th day of December 2024,
At The Hague,
The Netherlands.



Judge Graciela Gatti Santana
President

[Seal of the Mechanism]



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Classification Level/ Catégories de classification :	<input checked="" type="checkbox"/> Public/ Document public	<input type="checkbox"/> Ex Parte Defence excluded/ Défense exclue	<input type="checkbox"/> Ex Parte Prosecution excluded/ Bureau du Procureur exclu
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