

INTERNATIONAL RESIDUAL MECHANISM FOR CRIMINAL TRIBUNALS

Case No: MICT-17-112-ES.3

Date: 17 January 2025

PRESIDENT OF THE MECHANISM

In Case

PROSECUTOR

v.

BRUNO STOJIĆ

PUBLIC

BRUNO STOJIĆ'S THIRD APPLICATION FOR EARLY RELEASE

The Office of the Prosecutor

Mr. Serge Bramertz

***Pro Bono* Counsel for Bruno Stojić**

Ms. Senka Nožica

INTRODUCTION

1. Bruno Stojić files this motion pursuant to Article 26 of the Statute and Rules 149 – 151 of the Rules of Procedure and Evidence of the International Residual Mechanism for Criminal Tribunals ("Mechanism") and paragraph 5 of 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, and respectfully requests that this motion is granted and that the President orders his early release under conditions as she deems appropriate.

Background

2. On 5 April 2004 Stojić voluntarily surrendered to the custody of the ICTY. On 29 March 2013 the Trial Chamber pronounced the judgement and sentenced Stojić for 20 years imprisonment.¹ On 29 November 2017, the Appeals Chamber reversed some convictions and affirmed the remainder of convictions including the prison term imposed by the Trial Chamber.²

3. Stojić was granted provisional release for a substantial period prior to and during the trial and appeal process³. No breaches of conditions imposed on Stojić had ever been reported and his behaviour while on provisional release was impeccable.

4. On 4 June 2018, Austria was designated the state for enforcement of the Applicant's sentence, and Applicant was transferred to serve his ICTY sentence.⁴

5. On 25 August 2020, Stojić filed his first Application for Early Release⁵ ("First Application"), which was denied on 11 April 2022⁶ ("First Decision"). On 7 December 2022, Stojić filed another Application for Early Release⁷ ("Second Application"), which was also denied on 17 January 2024⁸ ("Second Decision").

¹ *Prosecutor v. Prlić at al*, Case No. IT-04-74-T, Judgement of the Trial Chamber, 29 March 2013.

² *Prosecutor v. Prlić at al*, Case No. IT-04-74-A, Judgement of the Appeals Chamber, 29 November 2017.

³ The list of decisions on Stojić's provisional release is included in the Judgements.

⁴ Order Designating State in which Bruno Stojić is to Serve his Sentence, 26 January 2018.

⁵ Bruno Stojić's Application for Early Release, 25 August 2020.

⁶ Decision on the Application for Early Release of Bruno Stojić, 11 April 2022.

⁷ Bruno Stojić's Application for Early Release, 7 December 2022.

⁸ Decision on the Application for Early Release of Bruno Stojić, 17 January 2024.

6. Overall assessment in the Second Decision concluded that Stojić had taken positive steps while in prison and that progress towards his rehabilitation was welcomed and encouraged. The applicable standard according to which “.....*the graver the criminal conduct, the more compelling a demonstration of rehabilitation should be.*”⁹ was underlined. The Second Decision also emphasised doubts about Stojić’s acceptance of responsibility, critical reflection, and expression of remorse with conclusion that “....*Stojić is not yet sufficiently rehabilitated to merit early release.*”¹⁰

7. It is noted that the Second Decision was based on various documentation including a psychological report from the psychological service of the prison, dated 22 November 2022, a psychiatric report from the psychiatric service of the prison, dated January 2023 and the results of various medical analyses and examinations from 2021 and 2022. Stojić’s view is that since aforesaid reports had been completed, he made a sufficient improvement in his rehabilitation, to justify the current application for provisional release. In that regard, any updated documentation, which would be provided by the Austrian authorities will support such assertion.

APPLICABLE LAW FOR EARLY RELEASE

8. The jurisprudence regarding the early release is very well established and confirmed as latest as in the Decision on the Application for Provisional Release of Sredoje Lukić dated 17 October 2024 (“Lukić Decision”).

9. The Lukić Decision confirms that “....*Article 26 of the Statute stipulates that there shall only be pardon or commutation of sentence if the President so decides on the basis of the interests of justice and the general principles of law, having regard to the criteria specified in Rule 151 of the Rules, and any other information, as well as the views of the Judges consulted in accordance with Rule 150 of the Rules. Paragraph 20 of the Practice Direction outlines that, if early release is granted, it may be subject to conditions.*”¹¹

10. Consequently, Stojić argues that he undertook all possible steps to attain rehabilitation

⁹ Ibid, para. 71.

¹⁰ Ibid.

¹¹ Decision on the Application for Early Release of Sredoje Lukić dated 17 October 2024, para. 29.

process available to him including consistent treatment with psychiatrist and psychologist from the Psychiatric and Psychological Service at the prison in Austria under his own initiative. Reports on the rehabilitation treatment and progress in Stojić's rehabilitation will certainly be available to the President. Furthermore, Stojić unconditionally accepts any conditions imposed on him, if early released.

11. At the time of filing of this Application, Stojić served 7/8 of his sentence. Stojić is, however, fully aware that the lapse of time cannot in itself be sufficient as he can only be merely eligible to be considered for early release and not entitled to such release.

12. Nevertheless, the time served could be adjudicated together with arguments presented herein and taking into consideration the totality of the circumstances of his case and in particular his current situation and the non-exhaustive list of factors set out in Rule 151 of the Rules.

13. The First and Second Decisions cannot and should not be disregarded in any way but the progress in rehabilitation Stojić has made, which will be not only documented in this application but also by psychologist, psychiatrist and other prison services, could weigh in favour of the President exercising her discretion to grant early release.

SUBMISSIONS AND ARGUMENTS IN FAVOR OF EARLY RELEASE

14. Stojić submitted his personal letters with the First and Second Applications. The valuation of his letters is included in the First and Second Decision. With this application, Stojić leaves it to those who are monitoring his rehabilitation to provide objective assessment on the progress he made in that regard. He is confident that they would confirm that not only he made a progress in rehabilitation but reaches the required level of rehabilitation that this application could be granted. Stojić is also certain that documentation that will be provided by the prison authorities upon the request by the President will also confirm that he fully accepts his personal responsibility with undoubted critical reflection and unquestionable expression of remorse.

GRAVITY OF CRIMES

15. Regarding the gravity of crimes as one of the fundamental factors in assessing the early release, it is established that the such release of persons convicted by the ICTR, the ICTY, or

the Mechanism for genocide, crimes against humanity, or war crimes should be exceptional. Stojić has to date on several occasions absolutely acknowledged the gravity of his crimes and does so with this application. It is his submission that he achieved the necessary level of exceptionality based on all arguments presented herein together with reports that will be available to the President.

DEMONSTRATED REHABILITATION

16. It is not Stojić’s position to question neither First nor Second Decision. The opposite is in fact the case. He sincerely accepted conclusions therein and by all means undertook to continue with the rehabilitation process with the aim of achieving the required level of that process. Stojić regularly attended counselling and rehabilitation programs available by the prison authorities. After the medical reports by psychologist and psychiatrist were made available during the course of rendering the Second Decision, Stojić was receiving valuable assistance in the form of numerous individual sessions with psychologist with the aim of achieving complete rehabilitation. During the sessions with psychologist, Stojić addressed his personal role in commission of crimes for which he was found guilty without any trivialization or externalization with very clear empathy to victims with sincere regret. As a result, the psychologist confirmed in November 2024 that Stojić successfully completed the process by fully accepting his individual responsibility for not only the crimes as detailed in the Trial and Appeals Chambers’ Judgements but also in terms of wider aspects of the Joint Criminal Enterprise (“JCE”), which existence is clearly established by the International Criminal Tribunal for the Former Yugoslavia (“ICTY”).

17. In that regard Stojić accepts not only his responsibility for the crimes he was convicted for but for all actions of the JCE, which enabled the commission of all crimes in the Judgement. He can now demonstrate the level of rehabilitation as his attitude is one of critical reflection of, not only his but crimes connected to the JCE. In this application he expresses his genuine remorse and regret.

18. As already noted, Stojić continued active and voluntary participation in the rehabilitation program, which will be well documented and respectfully asks the President to consider his genuine and sincere words together with the documentation from the Austrian authorities as there will be no difference between the two.

19. Although he is not privy to his medical records including reports by psychologist and psychiatrist, Stojić is convinced that such records will fully collaborate with this application. The burden to prove that he made a significant progress in his rehabilitation is solely on him. His words would certainly not suffice. However, the documentation related to his rehabilitation program, will undoubtedly confirm everything noted in this application. For that reason, he respectfully submits, that the totality of all the relevant circumstances considered in the light of assessment of factors related to early release, weigh in favour of the President exercising her discretion to grant early release.

OTHER CONSIDERATIONS

20. Stojić will not dwell on the issue of the treatment of similarly-situated prisoners or any substantial cooperation with the Prosecution as the jurisprudence on those matters is clear. His (as any other) application should be assessed on an individual basis. Stojić already noted his voluntary surrender and behavior during the periods of provisional release and does not find it necessary to add anything under this part of the application. Also, lack of cooperation with the prosecution is to be viewed as a neutral factor for early release.

21. The Second Decision noted that the Austrian authorities assessed Stojić's behaviour in prison positively. He is, however, mindful that such good behavior cannot on its own demonstrate rehabilitation but it could be considered together with other factors including his commitment to and results of rehabilitation program.

Mental State and Prospects of Successful Reintegration into Society

22. As noted in the Second Decision, Stojić "*has normal psychopathological personality for his age*"¹² Nothing changed in his health. Although his health and family ties do not in and of themselves demonstrate rehabilitation, the Second Decision consider them together as they merit positive weight in consideration of his rehabilitation.¹³ Stojić's commitment to keep low profile in Croatia, which had also been recognised in the Second Decision, is now even more strengthened as emphasised in paras. 24 – 31 *infra*.

¹² Second Decision, para.69.

¹³ Ibid, para. 70.

23. In regard to the risk of reoffending, it could be said with certainty that in Stojić's case, such risk simply does not exist. Stojić is retired and would be able to provide support for his livelihood. Having his family fully accepts and supports him, with commitment to accept any conditions imposed upon him (as presented in more details *infra*), Stojić will surely be solely focused on his family wellbeing and avoid any wrongdoings especially considering that reoffending would terminate his conditional early release.

24. Zagreb as his place of residence and commitment that he will not be travelling outside Croatia (or if he is under home confinement, not leaving his address) is very far from the territory where crimes for which he accepted his personal responsibility were committed and in a different country.

ADDITIONAL SUBMISSIONS

25. In the First and Second Application as well in his personal letters, Stojić expressed his unconditional acceptance of any conditions imposed if he is early released. Such acceptance should be a consideration in favor of early release. With this application, Stojić confirms his commitment to sign the Conditional Early Release Agreement including but not limited to unconditional supervision by and compliance with any request whatsoever from Croatian Authorities. Stojić also repeats his expressed pledge to have no contacts whatsoever with, or directly or indirectly try to harm or intimidate or otherwise interfere with, victims or witnesses who testified in his or other cases before the ICTY or the Mechanism and/or members of their respective families. He will not interfere in any way with the proceedings of the Mechanism or any courts in the territories of the countries as legal successors of the former Yugoslavia nor will he violate any orders issued by the ICTY or the Mechanism and will not otherwise reveal the identities of witnesses or potential witnesses in any way.

26. Furthermore, Stojić restates he will not only discuss his or any other war crimes cases including any aspects of the events in the former Yugoslavia that were subject to any war crimes cases, with the media, through social media, or with anyone other than his counsel recognised by the Mechanism, but not to have any contacts with the media on any subject.

27. Stojić will not make any statements denying the crimes over which the ICTY had

jurisdiction, and over which the Mechanism retains jurisdiction, that were committed during the conflict in the former Yugoslavia nor he will under no circumstances directly or indirectly express publicly any agreement or otherwise contribute in any way to, the glorification of persons convicted by the ICTY or the Mechanism or any courts in the territories of the countries as legal successors of the former Yugoslavia.

28. He will also conduct himself honourable and peacefully in the community in which he will reside and will not engage in any meetings or association intended to plan civil unrest or actively engaged in any political activities.

29. Stojić does not have firearms nor he intends to purchase, possess, use or handle any firearms or other weapons requiring a license nor he will commit any offence that is punishable by any term of imprisonment nor will he publicly or privately incite or promote such an offence and will notify the Croatian authorities of any arrest, summons, or questioning by a law enforcement authorities.

30. Stojić is stating all above absolutely aware that any violations of otherwise failure to comply fully with any conditions imposed could lead that his early release may be revoked at the sole discretion of the President.

31. If the President deems it appropriate, the Conditional Early Release Agreement could be even stricter than one annexed to the Decision on the Early Release of Milivoj Petković of 16 December 2021. Moreover, in addition to conditions from said decision, Stojić is willing to be restricted to house confinement at his address in Zagreb.

32. In addition, Stojić repeats that his entire family supports him as they did with the First and Second Application and his letters he already submitted to the President as public documents.

33. If conditional early release is granted, Stojić would reside in Zagreb, Croatia with his immediate family and has no plans to travel outside Croatia (or his address in case of home confinement) while on Conditional Early Release.

CONCLUSION AND RELIEF SOUGHT

Stojić respectfully requests the President grant him conditional, early release, with such conditions as deemed appropriate.

Word Count: 2461

Respectfully submitted on 17 January 2025,

A handwritten signature in black ink, appearing to read "Nožica Senka". The signature is written in a cursive style with a large, sweeping initial 'S'.

By:

Pro Bono Counsel for Bruno Stojić
Ms. Senka Nožica



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Rev: April 2014/Rév. : Avril 2014