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International pour
l'ex-Yougoslavie

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REGISTRY

GREFFE

The Hague, 31 October 2000

JL/P.I.S./538e

DUŠKO TADIĆ TRANSFERRED TO GERMANY TO SERVE PRISON SENTENCE

On Tuesday 31 October 2000, Duško Tadić was transferred to Germany to serve his sentence as handed down by the Appeals Chamber of the International Criminal Tribunal for the former Yugoslavia (ICTY).

The Federal Republic of Germany has not signed a framework agreement with the United Nations on Enforcement of ICTY sentences. However, due to the fact that Tadić was first arrested and detained in Germany before his transfer into the custody of the ICTY, the Registrar considered concluding an *ad hoc* agreement with the Federal Republic of Germany that would address the modalities of enforcement in this particular case.

Following an Order from the President of the Tribunal, Judge Claude Jorda, dated 8 May 2000, the Registrar officially requested, by letter on 1 June 2000, the German authorities to enforce Tadić's sentence, which allowed the beginning of the *exequatur* proceedings under German Federal Laws.

In the meantime, an *ad hoc* agreement in the form of an Exchange of Letters was negotiated with the German Federal authorities. The signature and implementation of the *ad hoc* agreement was subject to the favourable conclusion of the *exequatur* proceedings to translate into German Federal Law the sentencing Judgement of the ICTY Appeals Chamber. The *exequatur* decision, rendered by the Munich I Regional Court on 6 September 2000, became enforceable on 11 October 2000. The *ad hoc* agreement, as signed on 17 October 2000 by the Registrar and the German Ambassador to the Netherlands, constitutes, together with the *exequatur* Decision of the Munich I Regional Court, the legal basis for the transfer of Tadić to Germany.

BACKGROUND

Tadić was arrested on 13 February 1994, in Munich, and following his indictment on 13 February 1995 by the ICTY, he was transferred to The Hague on 24 April 1995. His initial appearance was held on 26 April 1995, where he pleaded not guilty to all counts.

According to the final amended indictment, confirmed on 14 December 1995, in late May 1992, Serb forces commenced attacking Bosnian Muslim and Croat population centres in the Prijedor municipality in Bosnia and Herzegovina. Those forces subsequently unlawfully confined thousands of Muslims and Croats in the Omarska, Keraterm and Trnopolje camps.

The indictment alleged that, between late May 1992 and 31 December 1992, Tadić participated in attacks on and the seizure, murder and maltreatment of Bosnian Muslims and Croats in the Prijedor municipality, both within and outside the camps.

Internet address: <http://www.un.org/icty>

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The indictment charged Tadić on the basis of individual criminal responsibility (Article 7(1) of the Statute of the Tribunal) with: Crimes against humanity (Article 5 of the Statute - persecution on political, racial and/or religious grounds; murder; inhumane acts), grave breaches of the 1949 Geneva Conventions (Article 2 - wilful killing; torture or inhuman treatment; wilfully causing great suffering or serious injury to body or health) and violations of the laws or customs of war (Article 3 - cruel treatment; murder).

Tadić was found GUILTY by virtue of his individual criminal responsibility on five counts of violations of the laws or customs of war and six counts of crimes against humanity by Trial Chamber II, on 7 May 1997. He was sentenced to 20 years' imprisonment on 14 July 1997. Both the Defence and Prosecution appealed against the Judgement, and the Defence also appealed against the sentence.

On 15 July 1999, the Appeals Chamber found the accused additionally guilty by virtue of his individual criminal responsibility on nine additional counts: Seven counts of grave breaches of the 1949 Geneva Conventions, one count of a violation of the laws or customs of war and one count of a crime against humanity.

The issue of sentencing for the additional counts was referred to a Trial Chamber designated by the President. On 11 November 1999, Tadić was sentenced to 25 years' imprisonment. The defence filed an appeal against the sentence on 25 November 1999.

Joining the appeals against the sentence of 14 July 1997 and that of 11 November 1999, on 26 January 2000, the Appeals Chamber reduced the final sentence to a maximum of 20 years' imprisonment.

The ICTY Appeals Chamber further ordered that Tadić should serve a minimum of 10 years' imprisonment calculated from the date of the first sentencing Judgement of 14 July 1997, thus ending no earlier than 14 July 2007.
