



International Tribunal for the
Prosecution of Persons
Responsible for Serious Violations of
International Humanitarian Law
Committed in the Territory of
former Yugoslavia since 1991

IT/146/Rev.3

Date: 16 September 2010

Original: English & French

**PRACTICE DIRECTION ON THE PROCEDURE FOR
THE DETERMINATION OF APPLICATIONS FOR
PARDON, COMMUTATION OF SENTENCE, AND EARLY
RELEASE OF PERSONS CONVICTED BY THE
INTERNATIONAL TRIBUNAL**

(IT/146/Rev.3)

PRACTICE DIRECTION ON THE PROCEDURE FOR THE DETERMINATION
OF APPLICATIONS FOR PARDON, COMMUTATION OF SENTENCE, AND
EARLY RELEASE OF PERSONS CONVICTED BY THE INTERNATIONAL
TRIBUNAL

INTRODUCTION

In accordance with Rule 19(B) of the Rules of Procedure and Evidence of the International Tribunal (“Rules”); pursuant to Article 28 of the Statute and Rules 123 through 125 of the Rules; and having consulted with the Bureau, the Prosecutor, and the Registrar, I hereby issue this Practice Direction in order to establish an internal procedure for the determination of applications for pardon, commutation of sentence, and early release of persons convicted by the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of former Yugoslavia since 1991 (“International Tribunal”):

NOTIFICATION OF ELIGIBILITY

1. Upon a convicted person becoming eligible for pardon, commutation of sentence, or early release under the law of the State in which the convicted person is serving his or her sentence (“enforcing State”), the enforcing State shall, in accordance with its agreement with the International Tribunal on the enforcement of sentences (“Agreement”) and, where practicable, at least forty-five (45) days prior to the date of eligibility, notify the International Tribunal accordingly.

DIRECT PETITION

2. A convicted person may directly petition the President for pardon, commutation of sentence, or early release, if he or she believes that he or she is eligible therefor. When such a petition is made,

- (a) the procedures in the present Practice Direction shall apply *mutatis mutandis*; and

- (b) the Tribunal shall request, through appropriate State or federal authorities, the enforcing State to inform it whether the convicted person is eligible for pardon, commutation of sentence, or early release under the domestic law of the enforcing State.

DUTIES OF THE REGISTRAR

- 3. After receiving the notification in paragraph (1), the Registry shall:
 - (a) inform the convicted person that he or she may be eligible for pardon, commutation of sentence, or early release and advise him or her of the steps that will be taken;
 - (b) request reports and observations from the relevant authorities in the enforcing State as to the behaviour of the convicted person during his or her period of incarceration and the general conditions under which he or she was imprisoned, and request from such authorities any psychiatric or psychological evaluations prepared on the mental condition of the convicted person during the period of incarceration;
 - (c) request the Prosecutor to submit a detailed report of any co-operation that the convicted person has provided to the Office of the Prosecutor and the significance thereof; and
 - (d) obtain any other information that the President considers relevant.
- 4. After receiving the required information, which should be submitted in one of the two working languages of the International Tribunal within fourteen (14) days, where possible, the Registry shall forward a copy of the said information to the President, as well as to the convicted person.

PARTICIPATION OF THE CONVICTED PERSON

5. The convicted person shall be given ten (10) days to examine the information, following which the President shall hear him or her either through written submissions or, alternatively, by video- or telephone-link.

THE CONSULTATION PROCESS

6. The President shall forward to the members of the Bureau and the permanent Judges of the sentencing Chamber, who remain Judges of the International Tribunal, a copy of the information received from the enforcing State and the Office of the Prosecutor, the President's comments regarding the convicted person's demonstration of rehabilitation, and any other information he or she considers relevant. The Judges concerned shall be given a specified period of time to survey the material provided, following which appropriate consultation shall be undertaken.

CONFIDENTIALITY OF INFORMATION

7. All information received by the President pursuant to paragraphs 3 through 5 above shall be considered confidential, unless disclosure is authorised by the President for the purpose of rendering a public decision.

THE DECISION

8. Having regard to the criteria specified in Rule 125, the provisions of which are annexed hereto, and any other information that he or she considers relevant, and after taking into account the views of the members of the Bureau and the permanent Judges of the sentencing Chamber who remain Judges of the International Tribunal, the President shall determine whether pardon, commutation of sentence, or early

release is to be granted. The decision of the President shall be rendered at least seven (7) days prior to the date of eligibility. Unless the President decides otherwise, the decision shall be made public.

9. In cases involving applications for early release, in the event that the President decides that early release is inappropriate, the decision shall specify the date on which the convicted person will next become eligible for consideration for early release, unless specified by the domestic law of the enforcing State.

10. The decision of the President shall be final and not subject to appeal.

THE EXECUTION OF THE DECISION

11. The Registry shall transmit the decision immediately to the relevant authorities of the enforcing State, which shall, in accordance with the Agreement, execute the terms of the decision promptly. A copy of the decision shall also be forwarded to the convicted person and other interested parties.

12. Where appropriate, at the direction of the President, the Registry shall inform persons who testified before the International Tribunal during the trial of the convicted person of his or her release, the destination he or she will travel to upon release, and any other information that the President considers relevant.

Judge Patrick Robinson
President of the International Tribunal

ANNEX I

Rule 125

General Standards for Granting Pardon or Commutation

In determining whether pardon or commutation is appropriate, the President shall take into account, inter alia, the gravity of the crime or crimes for which the prisoner was convicted, the treatment of similarly-situated prisoners, the prisoner's demonstration of rehabilitation, as well as any substantial cooperation of the prisoner with the Prosecutor.