



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

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PRACTICE DIRECTION
ON THE PROCEDURE FOR THE INTERNATIONAL TRIBUNAL'S
DESIGNATION OF THE STATE IN WHICH A CONVICTED PERSON IS TO SERVE
HIS/HER SENTENCE OF IMPRISONMENT

9 July 1998

United Nations
Nations Unies

International
Criminal Tribunal
for the Former
Yugoslavia

Tribunal Pénal
International pour
l'ex-Yougoslavie

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INTRODUCTION

1. In accordance with Rule 19(B) of the Rules of Procedure and Evidence, pursuant to Article 27 of the Statute and Rule 103(A) of the Rules of Procedure and Evidence, considering Article 2 paragraph 1 of the Model Agreement on the Enforcement of Sentences and having consulted with the Bureau, the Registrar and the Prosecutor, I issue this Practice Direction in order to establish an internal procedure for the International Tribunal's designation of the State in which a convicted person is to serve his/her sentence of imprisonment:

PROCEDURE

2. After the sentence of the convicted person has become final, the Registrar of the International Tribunal shall make a preliminary inquiry of the States that, pursuant to Article 27 of the Statute, have declared their willingness to accept convicted persons and have signed an agreement with the International Tribunal to that effect. The Registrar will ask the Governments concerned to give, before a certain date, a preliminary indication on their preparedness to carry out the sentence of the convicted person. The Registrar shall provide the following documents with the inquiry:

- a) a certified copy of the judgement;
- b) a statement indicating how much of the sentence has already been served, including information on pre-trial detention;
- c) any other documents of relevance.

3. On the basis of the Governments' indications on their willingness to accept the convicted person, the Registrar shall prepare a confidential memorandum for the President of the International Tribunal. This memorandum will enumerate the States in which the sentence of the convicted person can be carried out and shall contain information concerning:

- a) the convicted person's marital status, his/her dependants and other family relations, their usual place of residence and, when appropriate, the financial resources they have available to visit the convicted person;
- b) whether the convicted person is expected to serve as a witness in further proceedings of the International Tribunal;
- c) whether the convicted person is expected to be relocated as a witness and, in such case, which States have entered into relocation agreements with the International Tribunal;
- d) when appropriate, any medical or psychological reports on the convicted person;
- e) linguistic skills of the convicted person;
- f) if possible, general conditions of imprisonment and rules governing security and liberty in the State concerned;
- g) any other considerations related to the case.

4. The President of the International Tribunal will, on basis of the submitted information and on any other inquiries he/she chooses to make, determine the State in which imprisonment is to be served. Particular consideration shall be given to the proximity to the convicted person's relations. Before deciding the matter, the President may consult with the Sentencing Chamber or with its Presiding Judge. The President may, furthermore, request the opinion of the convicted person and/or of the International Tribunal's Office of the Prosecutor.

5. The President shall transmit the decision to the Registrar. The President may decide that the designation of the State shall not be made public.

REQUEST TO THE DESIGNATED STATE

6. The Registrar shall, in accordance with the relevant provisions of the agreement on the enforcement of sentences between the International Tribunal and the State that has been determined by the President, request the Government of that State to enforce the sentence of the convicted person. The request shall be signed by both the Registrar and the President.

NOTIFICATION OF THE ADOPTED DECISION

7. If the requested Government, after the request has been decided upon in accordance with national law, accepts the International Tribunal's request to receive the convicted person, the Registrar will notify the President and, when appropriate, the Sentencing Chamber or its Presiding Judge accordingly. The Registrar will furthermore inform the convicted person of the State that has been designated, the contents of the agreement on the enforcement of sentences between the International Tribunal and the State concerned, and on any other issues of relevance for the matter.

REFERRAL TO THE PRESIDENT

8. If the requested Government, after the request has been decided upon in accordance with national law, rejects the International Tribunal's request to enforce the sentence of the convicted person, the Registrar shall refer the issue back to the President, who will designate another State in accordance with paragraph 4 of this Practice Direction.

Gabrielle Kirk McDonald
President