

**UNITED
NATIONS**



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

Case No. IT-97-24-ES
Date: 15 July 2011
Original: English

THE PRESIDENT OF THE INTERNATIONAL TRIBUNAL

Before: Judge Patrick Robinson, President
Registrar: Mr. John Hocking
Decision: 15 July 2011

PROSECUTOR

v.

MILOMIR STAKIĆ

PUBLIC

**DECISION OF PRESIDENT ON EARLY RELEASE OF
MILOMIR STAKIĆ**

The Office of the Prosecutor
Mr. Serge Brammertz

Mr. Milomir Stakić

The Government of the French Republic

1. The International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991 (“Tribunal”) has been advised by the authorities of the Government of the French Republic (“France”) that Mr. Milomir Stakić is eligible under French law for reductions in his sentence pursuant to Articles 721 and 721-1 of the *Code de procédure pénale*.

A. Background

2. On 16 June 2010, the Registry informed me of a notification received from the Embassy of France in The Netherlands,¹ pursuant to Article 28 of the Statute of the Tribunal (“Statute”), Rule 123 of the Rules of Procedure and Evidence of the Tribunal (“Rules”), and paragraph 3 of the 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 (“Practice Direction”).²

3. The notification includes a decision by the Court of Appeals of Colmar that Mr. Stakić became eligible for consideration for sentence remission pursuant to Article 721 of the *Code de procédure pénale* (Code of Criminal Procedure)³ and an annual report from the prison where Mr. Stakić is serving his sentence describing Mr. Stakić’s behaviour and detention status.⁴

4. On 30 March 2011, pursuant to paragraph 3(b) of the Practice Direction,⁵ the Registry provided me with a psychiatric evaluation submitted by the Embassy of France in The Netherlands by way of a letter dated 17 March 2011.⁶ The psychiatric evaluation was conducted on 17 January 2011.⁷

5. On 13 April 2011, pursuant to paragraph 3(c) of the Practice Direction, the Registry provided me with the report of the Prosecution on the co-operation that Mr. Stakić has provided to the Office of the Prosecutor.⁸

¹ Memorandum from Deputy Registrar to President, 16 June 2010.

² IT/146/Rev.2, 1 September 2009.

³ Memorandum from Deputy Registrar to President, 16 June 2010 (Court of Appeals of Colmar, Chambers of the Sentence Enforcement Judge, Opinion on the Sentence Remission Request made by Milomir Stakić, 11 February 2009 (“Remission Order”).

⁴ Memorandum from Deputy Registrar to President, 16 June 2010 (Prison Annual Report for Milomir Stakić, March 2010 (“Annual Report”).

⁵ IT/146/Rev.3, 16 September 2010.

⁶ Memorandum from Registrar to President, 30 March 2011.

⁷ Memorandum from Registrar to President, 30 March 2011 (Psychiatric Evaluation of Milomir Stakić, 17 January 2011 (“Psychiatric Evaluation”).

⁸ Memorandum from Registrar to President, 13 April 2011 (Memorandum from Prosecutor to Deputy Registrar, 6 April 2011).

6. On 7 June 2011, the Registry informed me that Mr. Stakić had not made use of the opportunity to submit comments on the materials sent to him in relation to the French notification of his eligibility for sentence remission.⁹

B. Proceedings Before the Tribunal

7. The initial indictment against Mr. Stakić was issued on 13 March 1997,¹⁰ and a final amended indictment was issued on 10 April 2002 (“indictment”).¹¹ The indictment alleged that Mr. Stakić, in his role as President of the Prijedor Municipal Crisis Staff, was responsible, pursuant to Article 7(1) and 7(3) of the ICTY Statute, for genocide; complicity in genocide; murder as a crime against humanity and a violation of the laws and customs of war; and extermination, persecutions, deportation, and inhumane acts (forcible transfer) as crimes against humanity.¹² Mr. Stakić was arrested in Belgrade on 23 March 2001 pursuant to a warrant of arrest of the Tribunal and transferred to The Hague on the same day.¹³

8. In its Judgement of 31 July 2003, the Trial Chamber convicted Mr. Stakić for murder as a violation of the laws and customs of war, extermination as a crime against humanity, and persecutions as a crime against humanity.¹⁴ It held that Mr. Stakić “played a unique pivotal role in co-ordinating the persecutory campaign carried out by the military, police, and civilian government in Prijedor ... [as well as] a significant role in planning and co-ordinating the forcible takeover of power on 30 April 1992 ... and took part in ordering attacks against non-Serbs.”¹⁵ The Trial Chamber stated that “[s]uch a wide-scale, complex and brutal persecutory campaign could never have been achieved without the essential contribution of leading politicians such as Mr. Stakić.”¹⁶

9. In the determination of his sentence, the Trial Chamber considered Mr. Stakić’s good conduct at trial and in the United Nations Detention Unit (“UNDU”), his young age, and family situation as mitigating factors; however, the Trial Chamber found that these factors did not carry enough weight to substantially alter the sentence.¹⁷ The Trial Chamber considered that the gravity and scale of Mr. Stakić’s crimes, in which “more than 1,500 people were killed and tens of thousands deported”, aggravated his sentence.¹⁸ The Trial Chamber found that the commission of crimes by a person with Mr. Stakić’s position of authority also aggravated his sentence

⁹ Memorandum from Registrar to President, 7 June 2011.

¹⁰ *Prosecutor v. Simo Drljača et al.*, Case No. IT-97-24-I, Indictment, 13 March 1997.

¹¹ *Prosecutor v. Milomir Stakić*, Case No. IT-97-24-PT, Fourth Amended Indictment, 10 April 2002 (“Indictment”).

¹² Indictment, paras 39-59.

¹³ *Prosecutor v. Milomir Stakić*, Case No. IT-97-24-T, Judgement, 31 July 2003, para. 10 (“Trial Judgement”).

¹⁴ Trial Judgement, para. 882 and Disposition, p. 253.

¹⁵ Trial Judgement, para. 906.

¹⁶ Trial Judgement, para. 906.

¹⁷ Trial Judgement, paras 921-924.

substantially.¹⁹ It found that the fact that Mr. Stakić was an educated medical doctor who betrayed his ethical duty to the community and who was unwilling to assist certain individuals who approached him in times of need also constituted aggravating circumstances.²⁰ Mr. Stakić was sentenced to life imprisonment on 31 July 2003 and was given credit, pursuant to Rule 101(c) of the Rules, for the time he was detained at the UNDU.²¹

10. On 22 March 2006, the Appeals Chamber allowed some of Mr. Stakić's grounds of appeal with regard to errors made by the Trial Chamber in assessing aggravating factors.²² It found that the Trial Chamber erred in finding that the convictions for murder as a crime against humanity and deportation as a crime against humanity were impermissibly cumulative with the conviction for persecution as crimes against humanity.²³ The Appeals Chamber found *proprio motu* that the conviction for murder as a crime against humanity was impermissibly cumulative with the conviction for extermination as a crime against humanity.²⁴ While the Appeals Chamber reversed some of Mr. Stakić's convictions for deportation, it substituted convictions for inhumane acts (forcible transfer) for the same factual scenarios.²⁵

11. The Appeals Chamber affirmed or entered convictions for the following:

- extermination as a crime against humanity;²⁶
- murder as a violation of the laws and customs of war;²⁷
- persecutions as a crime against humanity;²⁸
- deportation as a crime against humanity, with regard to the transfers from Trnopolje to Karlovac;²⁹ and
- other inhumane acts (forcible transfer) as a crime against humanity, with regard to the transfers from: (a) Trnopolje camp to Skender Vakuf; (b) Omarska to the Manjača and

¹⁸ See Trial Judgement, para. 907.

¹⁹ Trial Judgement, para. 913.

²⁰ Trial Judgement, paras 915-916.

²¹ Trial Judgement, Disposition, pp. 253-254.

²² *Prosecutor v. Milomir Stakić*, Case No. IT-97-24-A, Judgement, 22 March 2006, paras 416, 423 ("Appeals Judgement").

²³ Appeals Judgement, Disposition, p. 141.

²⁴ Appeals Judgement, Disposition, p. 141.

²⁵ Appeals Judgement, para. 321.

²⁶ Appeals Judgement, Disposition, p. 142.

²⁷ Appeals Judgement, Disposition, p. 142.

²⁸ Appeals Judgement, Disposition, p. 142.

²⁹ Appeals Judgement, para. 321 and Disposition, p. 141.

Trnopolje camps; (c) Prijedor through Banja Luka and Skender Vakuf towards Travnik; (d) Tukovi Stadium to Travnik; (e) Prijedor to Travnik; and (f) Prijedor to *inter alia* Travnik.³⁰

12. The Appeals Chamber substituted Mr. Stakić's sentence of life imprisonment with a term of 40 years' imprisonment, subject to credit received under Rule 101(C) of the Rules for the period he had been detained at the UNDU.³¹

13. On 31 August 2006, Mr. Stakić was ordered to be transferred to France to serve the remainder of his sentence.³² Mr. Stakić was transferred to France to serve his sentence on 12 January 2007.³³

C. Applicable Law

14. Under Article 28 of the Statute, if, pursuant to the applicable law of the state in which the convicted person is imprisoned, he or she is eligible for pardon or commutation of sentence, the state concerned shall notify the Tribunal accordingly; and, the President, in consultation with the Judges, shall decide the matter on the basis of the interests of justice and the general principles of law. Rule 123 of the Rules echoes Article 28, and Rule 124 of the Rules provides that the President shall, upon such notice, determine, in consultation with the members of the Bureau and any permanent Judges of the sentencing Chamber who remain Judges of the Tribunal, whether pardon or commutation is appropriate.

15. Rule 125 of the Rules provides that, in making a determination on pardon or commutation of sentence, the President shall take into account, *inter alia*, the gravity of the crimes for which the prisoner was convicted, the treatment of similarly-situated prisoners, the prisoner's demonstration of rehabilitation, and any substantial co-operation of the prisoner with the Prosecution.

16. The Agreement between the United Nations and the Government of the French Republic on the Enforcement of Sentences of the International Criminal Tribunal for the former Yugoslavia ("Enforcement Agreement"), dated 25 February 2000, provides at Article 3(1) that, in enforcing the sentence pronounced by the Tribunal, the competent national authorities of France shall be bound by the duration of the sentence and at Article 3(2) that the conditions of imprisonment shall be

³⁰ Appeals Judgement, para. 321 and Disposition, p. 142.

³¹ Appeals Judgement, Disposition, p. 142.

³² *Prosecutor v. Milomir Stakić*, Case No. IT-97-24-ES, Order Designating the State in Which Milomir Stakić is to Serve his Prison Sentence, 31 August 2006; *Prosecutor v. Milomir Stakić*, Case No. IT-97-24-ES, Order Withdrawing the Confidential Status of Order Designating the State in Which Milomir Stakić is to Serve his Prison Sentence, 29 October 2008.

³³ Press Release, Registry, 12 January 2007, available at <http://www.icty.org/sid/8907>.

governed by French law, subject to the supervision of the Tribunal.³⁴ Article 7(1)(a) requires the French authorities to immediately notify the Registrar two months prior to the completion of the sentence.³⁵

17. Article 8(1) of the Enforcement Agreement provides that, if, pursuant to the national law of France, the convicted person is eligible for pardon or commutation of sentence, the French authorities shall notify the Registrar accordingly. Article 8(2) provides that, if the President determines that an early release, pardon, or commutation of the sentence is not appropriate, the Registrar shall so inform the requested State forthwith.³⁶ Articles 9(1)(c) and 9(3) of the Enforcement Agreement state that enforcement of the sentence shall cease upon pardon or commutation of the convicted person, after which the competent authorities shall terminate the enforcement of the sentence as soon as they are informed by the Registrar of any decision or measure as a result of which the sentence shall cease to be enforceable.³⁷

D. Discussion

18. In coming to my decision upon whether it is appropriate to grant sentence remission, I have consulted the Judges of the Bureau and the permanent Judges of the sentencing Chambers who remain Judges of the Tribunal.

1. Treatment of Similarly-situated Prisoners

19. On 16 June 2010, the French government notified the Registry of the Sentence Enforcement Judge's decision in favour of granting remission of sentence to Mr. Stakić.³⁸

20. The *Code de procédure pénale* states:

Article 721. Each convicted person benefits from a remission of sentence of three months for the first year [and] two months for the following years ... In cases of misbehaviour by a prisoner, the penalty enforcement judge may be seised of the case by the prison governor or at the request of the district prosecutor in order to rescind this remission of sentence by a maximum of three months [per] year

Article 721-1. Additional remission may be granted to inmates who show serious signs of social readjustment, especially where they successfully sit for a school, university or professional examination demonstrating the acquisition of new knowledge or justifying real progress within

³⁴ Agreement between the United Nations and the Government of the French Republic on the Enforcement of Sentences of the International Criminal Tribunal for the former Yugoslavia, dated 25 February 2000, Article 3 ("Enforcement Agreement").

³⁵ Enforcement Agreement, Article 7.

³⁶ Enforcement Agreement, Article 8.

³⁷ Enforcement Agreement, Article 9.

³⁸ Memorandum from Deputy Registrar to President, 16 June 2010 (Remission Order).

the framework of tuition or training, by following therapy designed to reduce the risks of re-offending or by making efforts to compensate their victims ... This remission is granted by the penalty enforcement judge after hearing the opinion of the penalty enforcement commission ... [and is limited to] three months [per year]....³⁹

21. Thus, under Article 721, a convicted person is entitled to three months remission in their first year and two months in the following years, providing they behave well in custody. However, if a convicted person can show that he is eligible for additional remission under Article 721-1, he may receive a maximum of six months remission in his first year and five months in every following year if he continues to show serious signs of social readjustment.

22. In a recent decision on the sentence remission of Haradin Bala, who is also serving his sentence in France, I stated the following:⁴⁰

13. Article 3 of the Enforcement Agreement provides that the conditions of imprisonment shall be governed by French law, subject to the supervision of the Tribunal, and that, if pursuant to the national law an ICTY detainee is eligible for release on parole or any other measure altering the conditions of length of detention, France shall notify the Registrar accordingly (which has been done in the present case). In the past, it has been noted that the French system of sentence remissions, which grants reductions of sentence from the beginning of a prisoner's sentence, is incompatible with the Tribunal's system of considering a reduction of sentence only after at least two-thirds of a sentence has been served. The possibility, however, was always kept open for the Tribunal to recognise sentence remissions if the appropriate circumstances arose.⁴¹ Due to the fact that the Tribunal's non-recognition of French sentence remissions could lead to the possibility that an ICTY detainee serving his sentence in a French prison may perceive that he is being treated differently than ICTY detainees serving their sentences in other countries and due to the fact that it would be desirable to ensure the compatibility of the French and ICTY systems to the greatest extent possible, I have decided to reconsider this issue.

14. I note that Article 3(3) of the Enforcement Agreement with France provides not only for "release on parole" but also for "any other measure altering the conditions of length of detention". In my view, this latter phrase can encompass sentence remissions. Moreover, sentence remissions are a means by which the French penal system motivates detainees to conduct themselves in an acceptable manner from the very beginning of their detention. At the same time, I am under an obligation to treat all ICTY detainees in a similar manner, despite the state in which they are serving their sentences; and, the enforcement of sentences always remains under the supervision of the Tribunal, as is stated in Article 3(2) of the Enforcement Agreement. In this regard, I take heed of the practice that has arisen at the Tribunal of only considering a prisoner to be eligible for release when he has served at least two-thirds of his sentence.

³⁹ *Code of Criminal Procedure*, as last amended 12 December 2005, Republic of France Articles 721 and 721-1.

⁴⁰ *Prosecutor v. Haradin Bala*, Case No. IT-03-66-ES, Decision on Application of Haradin Bala for Sentence Remission, 15 October 2010, paras 13-16 (some footnotes omitted).

⁴¹ In the *Banović* Decision of 4 September 2007, the President of the Tribunal expressed his concern "about the systematic incompatibility of the French system with that of the Tribunal's, which will result in unequal treatment of French detainees compared to other Tribunal's convicts serving their sentence in other countries", noting that "[t]his incompatibility arises from the French practice of awarding periods of remission of sentence to convicted detainees at the commencement of their sentence, while the Tribunal's system is to permit the application of such rewards only after a significant part of that sentence has been served." The President noted, however, that "a future application may cause [him] to take a different view." *Prosecutor v. Predrag Banović*, Case No. IT-02-65/1-ES, Decision of the President on Commutation of Sentence, 4 September 2007, para. 13.

15. Under these circumstances, I have decided, as a matter of law, to recognise the French domestic system of sentence remissions, provided that such remissions remain subject to the supervision of the Tribunal. In determining whether sentence remission is appropriate, I will apply the criteria of Rule 125 of the Rules, *i.e.*, the gravity of the crimes for which the prisoner was convicted, the treatment of similarly-situated prisoners, the prisoner's demonstration of rehabilitation, and any substantial co-operation of the prisoner with the Prosecution. If it is considered that a prisoner should be granted sentence remission, this will be granted only provisionally and may be withdrawn at a subsequent time. In the event that a detainee becomes eligible for release through sentence remission, I will be notified by France and will still apply the practice of the Tribunal whereby a prisoner is considered eligible for early release only when he has served at least two-thirds of his sentence, in order to ensure equal treatment of all ICTY detainees.⁴²

23. In the *Bala* decision, I decided that, “[a]lthough I would have been willing, as a matter of law, to provisionally recognise the sentence remissions of Mr. Bala, his very limited demonstration of rehabilitation and the high gravity of his crimes [led] me to the conclusion that such remissions under Articles 721 and 721-1 of the *Code de procédure pénale* [were] not appropriate”.⁴³

24. The same approach will be taken in respect of Mr. Stakić. I will therefore proceed to analyse the other factors relevant under Rule 125 of the Rules.

25. I note that Mr. Stakić will have served two-thirds of his sentence on approximately 15 November 2027.

2. Gravity of Crimes

26. Article 125 of the Rules requires me to take into account the gravity of the crimes committed. Mr. Stakić's crimes are of a very high gravity. The Trial Chamber stated that it:

906. ... recalls ... that Dr. Stakić [played] a significant role in planning and co-ordinating the forcible takeover of power on 30 April 1992, set the agenda for and presided over meetings of the Crisis Staff, and took part in ordering attacks against non-Serbs. Together with his co-perpetrators, Dr. Stakić established the Omarska, Keraterm and Trnopolje camps and arranged for the removal from Prijedor municipality of those non-Serbs whose lives were to be spared. Such a wide-scale, complex and brutal persecutory campaign could never have been achieved without the essential contribution of leading politicians such as Dr. Stakić

907. The Trial Chamber regards the acts of persecutions and extermination as the heart of the criminal conduct of Dr. Stakić. Persecutions constitutes [sic] inherently a very grave crime because of its distinctive feature of discriminatory intent. All the constitutive acts of the persecutorial campaign are serious in themselves and the Trial Chamber has taken into account their scale and cumulative effect within the Municipality of Prijedor where, more than 1,500 people were killed and tens of thousands deported.

⁴² The feasibility of this approach is supported by the fact that the French authorities have informed the Tribunal that, in the event that an early release application is made in the future, the sentence remissions can be withdrawn. [...]

⁴³ *Prosecutor v. Haradin Bala*, Case No. IT-03-66-ES, Decision on Application of Haradin Bala for Sentence Remission, 15 October 2010, para. 28.

910. The gravity of the crimes committed by Dr. Stakić is reflected in the tragic extent of the harm and suffering caused to the victims of the criminal campaign. The factors to be considered are the number of victims, the physical and mental trauma suffered by the survivors, and the social and economic consequences of the campaign for the targeted non-Serb group that comprised citizens of the Municipality of Prijedor for whom Dr. Stakić had a special responsibility.⁴⁴

27. While the Appeals Chamber found, *proprio motu*, that Mr. Stakić's conviction for murder as a crime against humanity was impermissibly cumulative with his conviction for extermination as a crime against humanity and reversed some of the findings underlying the conviction for deportation as a crime against humanity, it upheld his convictions for extermination, persecution, a single instance of deportation, and murder as a violation of the laws and customs of war; the Appeals Chamber also entered a conviction for inhumane acts (forcible transfer) as a crime against humanity.⁴⁵ With regard to the gravity of Mr. Stakić's offences, the Appeals Chamber stated that "the Appellant was convicted as a co-perpetrator of extremely serious crimes, including an extermination campaign that the Trial Chamber estimated killed approximately 1,500 people in the Prijedor municipality ... [and therefore it] was within the Trial Chamber's discretion, to decide that a life sentence was appropriate for this crime."⁴⁶ Nevertheless, Mr. Stakić's sentence was reduced from a life term to 40 years' imprisonment due to the Appeals Chamber's finding that the Trial Chamber erred in its assessment of aggravating factors.⁴⁷

28. Based upon the foregoing, I am of the view that Mr. Stakić's crimes are of a very high gravity and that this is a factor that weighs against granting him sentence remission.

3. Demonstration of Rehabilitation

29. Paragraph 3(b) of the Practice Direction states that the Registry shall request reports and observations from the relevant authorities in the enforcement state as to the behaviour of the convicted person during his or her period of incarceration. Rule 125 of the Rules provides that the President shall take into account the prisoner's demonstration of rehabilitation. The March 2010 Annual Report from the prison where Mr. Stakić is currently serving his sentence ("Report") states that Mr. Stakić has adapted well to the prison environment in France, his conduct towards other

⁴⁴ Trial Judgement, paras 906-910 (footnotes omitted).

⁴⁵ Appeals Judgement, Disposition, pp. 141-142.

⁴⁶ Appeals Judgement, para. 375.

⁴⁷ See Appeals Judgement, para. 428.

detainees and prison staff has been respectful, and his contact with social workers is good.⁴⁸ The Report describes Mr. Stakić as a quiet and polite person.⁴⁹

30. I am, however, concerned to note the attitude of Mr. Stakić with respect to his crimes. The Report states:

He does not avow the deeds for which he is incarcerated. He says that he was speaker of a "Parliament" of a small city in Bosnia. The war started during this time. He states that he neither ordered a crime nor had any orders, but was declared responsible for the crimes committed due to the fact that he was the speaker "of the Parliament".⁵⁰

31. In the *Radić* Decision of 23 April 2010, while I stated that the failure of the accused to take responsibility for his crimes is not necessarily determinative as to his rehabilitation, I took such behaviour, amongst other evidence, into account as a factor to be considered in my overall determination as to rehabilitation.⁵¹

32. Mr. Stakić initially spoke very little French, but has taken regular classes to improve his French and has attained his "Initial Diploma in French Language".⁵²

33. Paragraph 3(b) of the Practice Direction envisages reports from the enforcement states regarding the psychological condition of the convicted person during his incarceration, and paragraph 8 of the Practice Direction provides that the President may consider any other information that he or she believes to be relevant to supplement the criteria specified in Rule 125 of the Rules. The psychological report states that Mr. Stakić's examination "confirmed the absence of mental illness".⁵³ It was noted that Mr. Stakić has adapted to prison life and to living together with other prisoners.⁵⁴ Based upon the fact that Mr. Stakić does not appear to be suffering any psychological difficulties, I consider that his mental condition is not a factor that bears upon my decision regarding his early release.

34. I note with concern Mr. Stakić's refusal to take responsibility for the crimes for which he was convicted. However, I also note that Mr. Stakić has shown good behaviour in detention and his willingness to improve his language skills so as to integrate into the prison environment. Under these circumstances, I consider that Mr. Stakić has demonstrated some—albeit very limited—signs

⁴⁸ Memorandum from Deputy Registrar to President, 16 June 2010 (Annual Report).

⁴⁹ Memorandum from Deputy Registrar to President, 16 June 2010 (Annual Report).

⁵⁰ Memorandum from Deputy Registrar to President, 16 June 2010 (Annual Report).

⁵¹ *Prosecutor v. Mlado Radić*, Case No. IT-98-30/1-ES, Decision of President on Application for Pardon or Commutation of Sentence of Mlado Radić, 23 April 2010, para. 21.

⁵² Memorandum from Deputy Registrar to President, 16 June 2010 (Annual Report).

⁵³ Memorandum from Registrar to President, 30 March 2011 (Psychiatric Evaluation).

⁵⁴ Memorandum from Registrar to President, 30 March 2011 (Psychiatric Evaluation).

of rehabilitation. On balance, I do not consider that Mr. Stakić has demonstrated signs of rehabilitation that would warrant me granting him any sentence remission.

35. I take this opportunity to note that whether Mr. Stakić has demonstrated signs of rehabilitation will be an important factor in any future application for recognition of sentence remission or for pardon, commutation, or early release, and that good behaviour while in detention is often quite relevant to such a determination.

4. Substantial Co-operation with the Prosecution

36. Rule 125 of the Rules states that the President shall take into account any substantial co-operation of the prisoner with the Prosecutor. Paragraph 3(c) of the Practice Direction states that the Registry shall 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.

37. According to the Prosecution report dated 6 April 2011, Mr. Stakić did not co-operate with the Prosecution in the course of his trial, appeal, or enforcement of his sentence.⁵⁵ I consider the factor of co-operation to be a neutral one.

5. Conclusion

38. Although I would have been willing, as a matter of law, to recognise the sentence remissions of Mr. Stakić, his very limited demonstration of rehabilitation and the very high gravity of his crimes lead me to the conclusion that such remissions under Articles 721 and 721-1 of the *Code de procédure pénale* are not appropriate, based upon all the information that has been submitted to me.

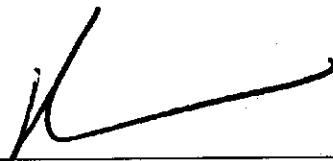
39. I note that all my colleagues, save one, share my view that Mr. Stakić should not be granted sentence remission.

⁵⁵ Memorandum from Registrar to President, 13 April 2011 (Memorandum from Prosecutor to Deputy Registrar, 6 April 2011).

E. Disposition

40. For the foregoing reasons and pursuant to Article 28 of the Statute, Rules 124 and 125 of the Rules, paragraph 8 of the Practice Direction, and Article 3 of the Enforcement Agreement, I hereby decline to grant Mr. Milomir Stakić sentence remission.

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



Judge Patrick Robinson

President

Dated this fifteenth day of July 2011
At The Hague
The Netherlands

[Seal of the Tribunal]