



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 Nos.: IT-00-39-ES

Date: 26 July 2010

Original: English

THE PRESIDENT OF THE INTERNATIONAL TRIBUNAL

Before: Judge Patrick Robinson, President

Registrar: Mr. John Hocking

Decision of: 26 July 2010

PROSECUTOR

V.

MOMČILO KRAJIŠNIK

PUBLIC

DECISION OF PRESIDENT ON EARLY RELEASE OF MOMČILO KRAJIŠNIK

Office of the Prosecutor

Mr. Serge Brammertz

Mr. Momčilo Krajišnik

The United Kingdom of Great Britain and Northern Ireland

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 United Kingdom of Great Britain and Northern Ireland (“United Kingdom”) that Mr. Momčilo Krajišnik would be eligible on 2 April 2010 for consideration for release on parole licence under the United Kingdom’s release arrangements, after having served one-half of his prison sentence.

I. Background

2. On 23 April 2010, the Registry informed me of a notification received from the United Kingdom, 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 1 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”).¹ The notification states that Mr. Krajišnik would be eligible on 2 April 2010 for consideration for release on parole licence, after having served one-half of his sentence. The United Kingdom acknowledges that “the release of a prisoner sentenced by ICTY is a matter solely for the President of the Tribunal.” Pursuant to paragraphs 3(b) and 4 of the Practice Direction, attached to the notification are a Seconded Probation Report dated 24 February 2010, a Sentence Planning and Review Report dated 25 February 2010, and a Prison Assessment for the Parole Board dated 9 February 2010.²

3. On 14 May 2010, pursuant to paragraph 3(c) of the Practice Direction, the Registry provided me with a memorandum from the Deputy Prosecutor discussing Mr. Krajišnik’s cooperation with the Office of the Prosecutor.³

4. All of the above materials were furnished to Mr. Krajišnik, who responded to the Prosecution’s report on 17 May 2010.⁴ The Registry, pursuant to Article 5 of the Practice Direction, provided me with additional documents submitted by Mr. Krajišnik on 9 July 2010.⁵

¹ IT/146/Rev.2, 1 September 2009.

² Memorandum of 23 April 2010 from the Deputy Registrar to the President of the Tribunal (“Memorandum of 23 April 2010”).

³ Memorandum of 19 May 2010 from the Deputy Registrar to the President of the Tribunal (“Memorandum of 19 March 2010”).

⁴ Letter from Momčilo Krajišnik to the President of the International Criminal Tribunal for the former Yugoslavia (Reply to Prosecution’s Memorandum of 14 May 2010), dated 27 May 2010 (“Krajišnik Reply Letter”).

⁵ Memorandum of 9 July from the Deputy Registrar to the President of the Tribunal (“Memorandum of 9 July 2010”).

II. Proceedings Before the Tribunal

5. The initial indictment against Mr. Krajišnik was issued on 21 February 2000,⁶ and an amended indictment was confirmed on 21 March 2000.⁷ On 9 March 2001, the indictment was consolidated to join Biljana Plavšić in the proceedings⁸ and was amended again on 7 March 2002 (“indictment”).⁹ The indictment alleged that Mr. Krajišnik, in his role as a leading member of the Serbian Democratic Party, participated in a joint criminal enterprise under Article 7(1) of the Statute with the goal of removing non-Serbs from large areas of Bosnia-Herzegovina.¹⁰ The Prosecution alleged that this campaign involved the perpetration of genocide, persecution, extermination, killing, deportation, and inhumane acts.¹¹ In the alternative, the indictment accused Mr. Krajišnik of being responsible for the above crimes as a superior pursuant to Article 7(3) of the Statute.¹² Mr. Krajišnik was arrested by the Stabilisation Force (“SFOR”) in Sarajevo on 3 April 2000 and transferred to The Hague on the same day.¹³

6. In its Judgement of 27 September 2006, the Trial Chamber found that Mr. Krajišnik was responsible pursuant to Article 7(1) of the Statute for participating in a joint criminal enterprise to achieve the permanent removal, by force or other means, of Bosnian Muslim, Bosnian Croat, or other non-Serb inhabitants from large areas of Bosnia and Herzegovina through the commission of crimes.¹⁴ The Trial Chamber convicted Mr. Krajišnik of five counts: persecution, extermination, murder, deportation, and inhumane acts (forcible transfer) as crimes against humanity¹⁵ and sentenced him to 27 years’ imprisonment, with credit for the time already served.¹⁶

7. On 17 March 2009, the Appeals Chamber allowed some of Mr. Krajišnik’s grounds of appeal and some of the grounds of appeal lodged by the *Amicus Curiae*, particularly with regard to the Trial Chamber’s findings on Mr. Krajišnik’s responsibility through a joint criminal enterprise,

⁶ *Prosecutor v. Momčilo Krajišnik*, Case No. IT-00-39-I, Indictment, 21 February 2000.

⁷ *Prosecutor v. Momčilo Krajišnik*, Case No. IT-00-39-I, Amended Indictment, 21 March 2000.

⁸ *Prosecutor v. Momčilo Krajišnik and Biljana Plavšić*, Case No. IT-00-39 & 40-PT, Consolidated Indictment, 9 March 2001.

⁹ *Prosecutor v. Momčilo Krajišnik and Biljana Plavšić*, Case No. IT-00-39 & 40-PT, Amended Consolidated Indictment, 7 March 2002 (“Indictment”).

¹⁰ Indictment, paras 3-9.

¹¹ *Ibid.*, paras 15-28.

¹² *Ibid.*, paras 10-14.

¹³ *Prosecutor v. Momčilo Krajišnik*, Case No. IT-00-39-T, Judgement, 27 September 2006, para. 11 (“Trial Judgement”).

¹⁴ Trial Judgement, para. 1089.

¹⁵ *Ibid.*, para. 1126.

¹⁶ *Ibid.*, paras 1179-1180.

thus “significantly revis[ing] the findings of the Trial Chamber.”¹⁷ The Appeals Chamber reversed many of Mr. Krajišnik’s convictions for persecution under count 3, extermination under count 4; murder under count 5,¹⁸ and deportation under count 7.¹⁹ Nevertheless, the Appeals Chamber affirmed the following convictions of Mr. Krajišnik for crimes against humanity:

- persecution (deportation) (count 3), pursuant to Article 7(1) in the Zvornik, Banja Luka, and Prnjavor municipalities;²⁰
- persecution (forcible transfer) (count 3), pursuant to Article 7(1) in the Bijeljina, Bratunac, Zvornik, Bosanska Krupa, Sanski Most, Trnovo, and Sokolac municipalities;²¹
- deportation (count 7), pursuant to Article 7(1) in the Zvornik, Banja Luka, and Prnjavor municipalities;²² and
- inhumane acts (forcible transfer) (count 8), pursuant to Article 7(1) in the Bijeljina, Bratunac, Zvornik, Bosanska, Krupa, Sanski Most, Trnovo, and Sokolac municipalities.²³

The Appeals Chamber noted that the majority of Mr. Krajišnik’s convictions had been quashed, but observed that the affirmed convictions were for crimes, the gravity of which required a severe and proportionate sentence.²⁴ It sentenced Mr. Krajišnik to 20 years’ imprisonment, subject to credit received under Rule 101(C) of the Rules for the period he had been detained at the United Nations Detention Unit (“UNDU”).²⁵

8. On 4 September 2009, Mr. Krajišnik was transferred to the United Kingdom to serve the remainder of his sentence.²⁶

III. Applicable Law

9. 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

¹⁷ *Prosecutor v. Momčilo Krajišnik*, Case No. IT-00-39-A, Judgement, 17 March 2009, para. 797 (“Appeal Judgement”).

¹⁸ Appeal Judgement, para. 177.

¹⁹ *Ibid.*, para. 321.

²⁰ *Ibid.*, para. 283.

²¹ *Ibid.*, para. 283.

²² *Ibid.*, para. 283.

²³ *Ibid.*, para. 283.

²⁴ *Ibid.*, paras 797-799.

²⁵ *Ibid.*, paras 818-819.

²⁶ Memorandum of 23 April 2010 (Letter from the Ministry of Justice, National Offender Management Service to the Registrar, 16 March 2010).

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.

10. Rule 125 of the Rules provides that, in making a determination upon 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 cooperation of the prisoner with the Prosecution.

11. The Agreement between the United Nations and the Government of the United Kingdom of Great Britain and Northern Ireland on the Enforcement of Sentences of the International Criminal Tribunal for the former Yugoslavia ("Enforcement Agreement"), dated 11 March 2004, provides at Article 3(1) that, in enforcing the sentence pronounced by the Tribunal, the competent national authorities of the United Kingdom shall be bound by the duration of the sentence and at Article 3(2) that the conditions of imprisonment shall be governed by the law of the United Kingdom, subject to the supervision of the Tribunal. Article 7(1)(d) requires the United Kingdom to immediately notify the Registrar six months prior to the point at which early release would be considered for an equivalent domestic sentence in the jurisdiction of the United Kingdom.

12. Article 8(1) provides that, if, pursuant to the applicable national law of the United Kingdom, the sentenced person is eligible for early release, pardon, or commutation of sentence, the United Kingdom shall notify the Registrar in advance of such eligibility and shall include in any such notification all the circumstances pertaining to such eligibility. Article 8(2) provides that, if the President of the Tribunal determines that an early release, pardon, or commutation of sentence is not appropriate, the United Kingdom shall act accordingly. Articles 9(1)(c) and 9(4) provide that the enforcement of the sentence shall cease upon the pardon or commutation of the sentenced person, after which the United Kingdom may transfer or deport that person as appropriate and in accordance with its international obligations.

IV. Discussion

13. In coming to my decision upon whether early release is appropriate, I have consulted the Judges of the Bureau and the permanent Judges of the sentencing Chambers who remain Judges of the Tribunal.

A. Treatment of similar-situated prisoners

14. On 16 March 2010, the United Kingdom notified the Registry that Mr. Krajišnik “could be eligible for consideration for release on parole licence on 2 April 2010”.²⁷ Although Mr. Krajišnik has served more than half of his sentence, it is the practice of the Tribunal to consider convicted persons to be eligible for early release when they have served at least two-thirds of their sentences.²⁸

15. Mr. Krajišnik seeks to equate his period of detention with his former co-accused Biljana Plavšić. He argues that, since he has served 50% longer in custody than she, and since he was convicted of less serious offences, the period of time he has served should be considered favourably in his application for early release.²⁹ I do not consider that comparing the situations of convicted persons in this manner is appropriate because each application for early release must be dealt with on its own facts. For example, Ms. Plavšić entered into a plea agreement with the Prosecution and had served at least two-thirds of her sentence when she was released.³⁰

16. Pursuant to Rule 125 of the Rules, which requires me to take into account the treatment of similarly situated prisoners, I am of the view that the amount of time that Mr. Krajišnik has served for his crimes does not militate in favour of his early release.

17. I note that Mr. Krajišnik will have served two-thirds of his sentence on approximately 3 August 2013.

²⁷ Memorandum of 23 April 2010 (Letter from the Ministry of Justice, National Offender Management Service to the Registrar, 16 March 2010).

²⁸ See, e.g., *Prosecutor v. Milan Gvero*, Case No. IT-05-88-ES, Decision of President on Early Release of Milan Gvero, 28 June 2010, para. 8; *Prosecutor v. Duško Sikirica*, Case No. IT-95-8-ES, Decision of President on Early Release of Duško Sikirica, 21 June 2010, para. 13; *Prosecutor v. Dragan Zelenović*, Case No. IT-96-23/2-ES, Decision of the President on Application for Pardon or Commutation of Sentence of Dragan Zelenović, 10 June 2010, para. 13; *Prosecutor v. Dario Kordić*, Case No. IT-95-14/2-ES, Decision of President on Application for Pardon or Commutation of Sentence of Dario Kordić, 13 May 2010, para. 13; *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, paras 12-13; *Prosecutor v. Mitar Vasiljević*, Case No. IT-98-32-ES, Public Redacted Version of Decision of President on Application for Pardon or Commutation of Sentence of Mitar Vasiljević, 12 March 2010, para. 14; *Prosecutor v. Dragan Jokić*, Case No. IT-02-60-ES & IT-05-88-R.77.1-ES, Public Redacted Version of Decision of President on Application for Pardon or Commutation of Sentence of Dragan Jokić of 8 December 2009, 13 January 2010, para. 14; *Prosecutor v. Biljana Plavšić*, Case No. IT-00-39 & 40/1-ES, Decision of the President on the Application for Pardon or Commutation of Sentence of Mrs. Biljana Plavšić, 14 September 2009, para. 10.

²⁹ Application for Early Release by Momčilo Krajišnik, 3 June 2010, paras 11-14 (“*Krajišnik* Early Release Application”).

³⁰ *Prosecutor v. Biljana Plavšić*, Case No. IT-00-39 & 40/1-ES, Decision of the President on the Application for Pardon or Commutation of Sentence of Mrs. Biljana Plavšić, 14 September 2009, para. 10.

B. Gravity of crimes

18. Article 125 of the Rules requires me to take into account the gravity of the crimes committed. I note that the Appeals Chamber reversed most of Mr. Krajišnik's convictions, but stated that the remaining convictions were amongst the most severe crimes known to humankind,³¹ the gravity of which required a severe and proportionate sentence.³² The sentence of 20 years handed down by the Appeals Chamber,³³ notwithstanding the quashing of several convictions, still indicates the very high gravity of Mr. Krajišnik's crimes.

19. Based upon the foregoing, I am of the view that the very high gravity of Mr. Krajišnik's offences is a factor that weighs against his early release.

C. Demonstration of rehabilitation

20. Rule 125 of the Rules requires that the President shall take into account the prisoner's demonstration of rehabilitation. 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.

21. The Prison Assessment for the Parole Board dated 9 February 2010 ("Prison Assessment") acknowledges Mr. Krajišnik's good behaviour in custody, stating that he is "never a problem to staff, [and is] always polite when making one of his few applications."³⁴ According to the Seconded Probation Report dated 24 February 2010, "Mr. Krajišnik is a standard prisoner and has no adjudications recorded against him."³⁵ Mr. Krajišnik states that he

accepts the judgement and has deep remorse for the victims who have suffered as a result of the crimes which were committed and for which he was found guilty. Similarly [he] feels responsible for the crimes which were committed by others and which he failed to investigate and take measures to ensure that those responsible were punished.³⁶

In the event he is granted early release, Mr. Krajišnik states that he will promote reconciliation in the former Yugoslavia. He states, "My commitment to reconciliation and to improving the political and economic situation in Bosnia and Herzegovina will be ... my debt to those who have in whatever way suffered because of the acts for which I was convicted."³⁷ If released, he intends to return to his home in Sarajevo, run a small business, and continue the writing he has begun in

³¹ Appeal Judgement, para. 813.

³² *Ibid.*, para. 799.

³³ *Ibid.*, para. 819.

³⁴ Memorandum of 23 April 2010 (Prison Assessment for the Parole Board dated 9 February 2010).

³⁵ Memorandum of 23 April 2010 (Seconded Probation Report dated 24 February 2010).

³⁶ *Krajišnik* Early Release Application, para. 16.

³⁷ Letter dated 20 May 2010, para. 20.

prison.³⁸ Mr. Krajišnik also recognised the need to learn English during the course of his detention,³⁹ and in his Prison Assessment it is noted that, although his English is far from fluent, it has improved.⁴⁰ Mr. Krajišnik argues that, due to the fact that he has only been imprisoned in the United Kingdom for a short amount of time, his behaviour while at the UNDU should be taken into account when assessing his demonstration of rehabilitation.⁴¹ The report of 3 May 2010 by the Commanding Officer of the UNDU states that Mr. Krajišnik “has shown respect towards the staff of the Detention Unit at all times adhering to orders and instructions, however in line with his previous position of authority, has taken time to become accustomed to the detention environment [...]. He integrates well with the Unit’s detained population.”⁴² The United Kingdom’s notification points out that the reports relating to Mr. Krajišnik’s imprisonment cover a short period: the United Kingdom therefore presumes that Mr. Krajišnik’s behaviour at the UNDU would be considered by the President in conjunction with the information provided by the United Kingdom.⁴³ It is generally appropriate to take into account a prisoner’s behaviour while in the UNDU where, as in the present case, the time spent at the UNDU is significantly longer than the time spent in the enforcement state.

22. Mr. Krajišnik submits that his age and the inability of the United Kingdom’s prison system to provide for elderly prisoners make it inappropriate for his imprisonment to continue.⁴⁴ I recall the *Radić* Decision in which it was held that “age, in and of itself, [does not] have a bearing on rehabilitation.”⁴⁵ Furthermore, Mr. Krajišnik does not cite any instances of the detention facility being unable to treat any medical condition he may have or to provide a suitable environment for him to serve the remainder of his sentence.⁴⁶

23. Paragraph 3(b) of the Practice Direction envisages reports from 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

³⁸ Memorandum of 23 April 2010 (Seconded Probation Report dated 24 February 2010).

³⁹ Memorandum of 23 April 2010 (Seconded Probation Report dated 24 February 2010).

⁴⁰ Memorandum of 23 April 2010 (Prison Assessment for the Parole Board dated 9 February 2010).

⁴¹ *Krajišnik* Early Release Application, para. 18.

⁴² Memorandum of 3 May 2010 from the UN Detention Unit Commanding Officer to the Deputy Registrar (“Memorandum of 3 May 2010”).

⁴³ Memorandum of 23 April 2010 (Letter from the Ministry of Justice, National Offender Management Service to the Registrar, dated 16 March 2010).

⁴⁴ *Krajišnik* Early Release Application, para. 26.

⁴⁵ *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. 19.

⁴⁶ *See, e.g., Prosecutor v. Milan Gvero*, Case No. IT-05-88-ES, Decision of President on Early Release of Milan Gvero, 28 June 2010, para. 10.

the Rules. However, at the time of notification, Mr. Krajišnik had yet to see a psychologist or a psychiatrist as he had neither referred himself or been referred by the prison authorities.⁴⁷ I therefore consider this to be a neutral factor.

24. Based upon all the foregoing—Mr. Krajišnik’s good behaviour during his detention at the UNDU, his good behaviour during his detention in the UK (albeit brief), his acceptance of responsibility for his crimes, his expression of remorse for his victims, and his expressed intention that he will promote reconciliation in the former Yugoslavia if he is released—I am of the view that Mr. Krajišnik has demonstrated some rehabilitation, which militates in favour of his early release.

D. Co-operation with Prosecution

25. 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.

Co-operation pre-conviction

26. According to the 19 May 2010 memorandum from the Deputy Prosecutor, Mr. Krajišnik was uncooperative during trial:⁴⁸

In terms of proceedings, Mr. Krajišnik was presented with opportunities to work with the OTP. Had he availed himself of those opportunities, matters in dispute between the OTP and the Defence would have been narrowed, and the proceedings rendered more expeditious Significant court time would have been saved had Mr. Krajišnik reached an agreement with the OTP regarding certain facts and other matters (even if only in relation to some of the issues under consideration).⁴⁹

27. The authorities clearly establish that an accused is under no obligation to assist the Prosecution in meeting its burden. In the *Dragan Jokić* Decision, it was held that “an accused is not obliged to assist the Prosecution in proving its case and that any evidence of willingness on the part of an accused [to co-operate with the Prosecution] is evidence of a degree of co-operation, which he is entitled to withhold without adverse inference being drawn therefrom.”⁵⁰ It is thus clear that an accused person’s lack of co-operation during his trial cannot count against him for the purposes of early release. I therefore reject the Prosecution’s arguments on this point.

⁴⁷ Memorandum of 23 April 2010 (Sentence Planning and Review Report by Psychologist, dated 25 February 2010).

⁴⁸ Memorandum of 14 May 2010 from the Deputy Prosecutor to the Deputy Registrar (“Memorandum of 14 May 2010”), para. 2.

⁴⁹ Memorandum of 14 May 2010, paras 3-5.

⁵⁰ *Prosecutor v. Dragan Jokić and Contempt Proceedings against Dragan Jokić*, Case No. IT-02-60-ES, IT-05-88-R.77.1-ES, Public Redacted Version of Decision of President on Application for Pardon or Commutation of Sentence of Dragan Jokić of 8 December 2009, 13 January 2010, para. 17.

28. Mr. Krajišnik argues that he provided significant assistance to the Prosecution before he was convicted. Mr. Krajišnik's assertion that he assisted the Prosecution by providing it with wartime documentation from organs of Republika Srpska and by convincing a number of officials to give statements to the Prosecution⁵¹ is unsubstantiated. Mr. Krajišnik's purported assistance to the Prosecution in making contact with Radovan Karadžić and acting as an intermediary between the Prosecutor and Mr. Karadžić with regard to the latter's indictment⁵² is also unsubstantiated. Mr. Krajišnik's statement that he secured funds for Mr. Karadžić's defence⁵³ is irrelevant to co-operation with the Prosecution. Mr. Krajišnik's statement that he convinced Mr. Karadžić to release further documentation of the Presidency of Republika Srpska to the Prosecution⁵⁴ is unsubstantiated. I therefore am of the view that Mr. Krajišnik's arguments that he gave co-operation to the Prosecution before he was convicted are unsubstantiated and therefore cannot count as a positive factor in respect of his early release.

Co-operation post-conviction

29. The Prosecution report does not expressly mention any instance where it requested the co-operation of Mr. Krajišnik after his conviction. In his application, Mr. Krajišnik states that "he is willing to testify at the request of the ICTY or to help in some other way."⁵⁵ I therefore consider Mr. Krajišnik's post-conviction co-operation to be a neutral factor.

Representations regarding indigence

30. The Prosecution points out that Mr. Krajišnik claimed indigence during the proceedings before the Tribunal, but that the Registrar concluded that Mr. Krajišnik had the means to pay a portion of the costs of his legal representation.⁵⁶ Mr. Krajišnik responds that the Prosecution's remark regarding his financial status is unfounded and that the Registry report finding that his funds had been used "unproductively" had been rejected by the Presiding Judge.⁵⁷ I do not find it necessary to elaborate further upon these arguments because I consider them to be irrelevant to a determination of Mr. Krajišnik's request for early release.

31. Based upon all the foregoing, I consider the factor of co-operation to be a neutral one.

⁵¹ Krajišnik Reply Letter, p. 1.

⁵² Letter dated 20 May 2010, paras 2-9.

⁵³ Letter dated 20 May 2010, paras 2-9.

⁵⁴ Letter dated 20 May 2010, paras 2-9.

⁵⁵ *Krajišnik* Early Release Application, para. 21.

⁵⁶ Memorandum of 14 May 2010, para. 6.

⁵⁷ Krajišnik Reply Letter, p. 3.

E. Letters from third-parties

32. Mr. Krajišnik submits 28 letters from various politicians, non-governmental organisations, academics, and others discussing their opinions upon his early release.⁵⁸ These letters address three questions posed by Mr. Krajišnik, namely (a) whether the responding parties knew of any crime Mr. Krajišnik had committed, except those of which he has been convicted; (b) whether they knew of any positive act done by Mr. Krajišnik during the war; and (c) whether the premature release of Mr. Krajišnik would affect the political situation in Bosnia and Herzegovina.⁵⁹ Mr. Krajišnik also attaches media materials that report upon his application for early release and quote the opinions of various persons upon whether he is eligible therefor.⁶⁰ I do not consider that Mr. Krajišnik has adequately demonstrated how these materials are relevant to a determination of his request for early release.

F. Conclusion

33. While Mr. Krajišnik has displayed some evidence of rehabilitation, I am of the view that there remain significant factors that weigh against granting him early release. Mr. Krajišnik's crimes are of a very high gravity, involving a widespread displacement of the non-Serb population in Bosnia and Herzegovina, which caused great suffering. Moreover, in respect of the requirement that the President shall take into account the treatment of similarly-situated prisoners, the practice of the Tribunal is to consider the eligibility of a convicted person only after he has served two-thirds of his sentence; therefore, the fact that Mr. Krajišnik has only recently completed serving half of his sentence does not weigh in favour of his early release.

34. Taking all of the foregoing into account and having considered those factors identified in Rule 125 of the Rules, I am of the view that Mr. Krajišnik should not be granted early release.

35. I note that my colleagues unanimously share my view that Mr. Krajišnik should be denied early release.

⁵⁸ Public Statement by Defence Team for Momčilo Krajišnik, p. 2 (attached to *Krajišnik* Early Release Application).

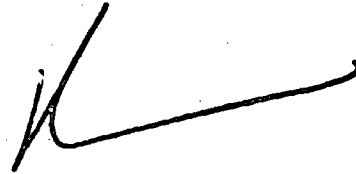
⁵⁹ Letter from the Serbian Defence Team to Media and Authorities, p. 1 (attached to *Krajišnik* Early Release Application).

⁶⁰ Public Statement by Defence Team for Momčilo Krajišnik, p. 4 (attached to *Krajišnik* Early Release Application).

V. Disposition

36. For the foregoing reasons and pursuant to Article 28 of the Statute, Rules 124 and 125 of the Rules, and paragraph 8 of the Practice Direction, Momčilo Krajišnik is hereby DENIED early release.

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



Judge Patrick Robinson
President

Dated this twenty-sixth day of July 2010
At The Hague
The Netherlands

[Seal of the Tribunal]