

**THE UNITED NATIONS MECHANISM FOR
INTERNATIONAL CRIMINAL TRIBUNALS**

Case N^o MICT-14-67-ES.1

Date: 8 June 2015

B E F O R E

The President **Judge Theodor Meron**

Registrar: **Mr. John Hocking**

Filing Date: **8 June 2015**

PROSECUTOR

V.

NIKOLA ŠAINOVIĆ

PUBLIC

NIKOLA ŠAINOVIĆ'S REQUEST FOR EARLY RELEASE

Office of the Prosecutor:

Mr. Serge Brammertz

Counsel for the Defence:

**Mr. Toma Fila
Mr. Vladimir Petrovic**

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I INTRODUCTION

1. Nikola Šainović surrendered to the ICTY on 2 May 2002.
2. Pursuant to the Trial Chamber Judgment of 26 February 2009, Šainović was convicted to serve sentence of 22 years. Šainović appealed the Judgement.
3. Pursuant to the Appeals Chamber Judgement of 23 January 2014, Šainović appeal was partly granted and his sentence was reduced from 22 years to 18 years in prison, provided that pursuant to Rule 101 (C) of the Rules of Procedure and Evidence, the time he had spent in custody was to be credited to his sentence.
4. On 18 September 2014 Šainović was transferred to Sweden to serve his sentence.

5. On 10 April 2015 Ministry of Justice of Sweden informed the Mechanism for the International Tribunals that pursuant to Swedish law Šainović may be eligible for early release from prison in August 2015.
6. The Defence of Šainović hereby respectfully submits its request for early release.

II APPLICABLE LAW

7. Pursuant to Rule 125 of the Rules of Procedure and Evidence, 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 demonstrated rehabilitation, as well as any substantial cooperation of the prisoner with the Prosecutor.
8. Article 28 of the Statute of the ICTY, Rule 123 of the Rules of Procedure and Evidence as well as Article 1 of the Practice Direction¹, when stipulating eligibility for pardon, commutation of sentence or early release, refer to convicts serving their prison sentences in one of the States the ICTY has concluded an enforcement agreement with. Pursuant to the above provisions, when a convict becomes eligible for pardon, commutation of sentence or early release, under the law of the State in which he or she is serving the sentence, the State concerned shall notify the International Tribunal accordingly.

¹ 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

III ARGUMENTATION

9. The Defence points out that Šainović has served 11 years and 10 months of the total of 18 years of his prison sentence, which make almost 2/3 of the time spent. His conduct while in UNDU where he had spent more than 11 years has been commendable in every respect, as not a single objection was heard on account of his behaviour. In prison in Sweden his behaviour was commendable as well.
10. Šainović is pensioner, he will live from his pension. If released he will live with his family, his wife and two sons.
11. The President of the Tribunal and the Mechanism has granted on numerous occasions the early release of prisoners who have served 2/3 of their prison sentences to which they were sentenced by a Chamber of the Tribunal. The Defence believes that Šainović, like numerous convicts before him, is also entitled to the benefit of early release.
12. Šainović gave extensive interview to the OTP (P605) and his interview was sign of Šainović's general co-operation, as recognized both by the Trial and the Appeals Chamber.²
13. Šainović was born in 1948, now is 66, his health is weak with diagnosed diabetes and glaucoma. His age and medical condition speaks in favour of this request for early release.

² Trial Chamber Judgement vol. III para. 1183, Appeals Chamber Judgement para. 1806

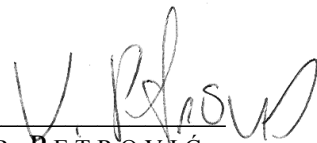
IV RELIEF SOUGHT

14. The Defence respectfully requests that the President grants this request and orders the early release of Nikola Šainović on 26 August 2015.

Counsel for Mr. Nikola Šainović:



TOMA FILIP
Lead Counsel



VLADIMIR PETROVIĆ
Co-Counsel

Dated, 8 June 2015

Belgrade, Serbia

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