

IT-96-22-ES
D137-D136
16 July 2008

137
AT

**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-96-22-ES

Date: 15 July 2008

Original: English

THE PRESIDENT OF THE INTERNATIONAL TRIBUNAL

Before: Judge Fausto Pocar, President

Registrar: Mr. Hans Holthuis

Order of: 15 July 2008

PROSECUTOR

v.

DRAŽEN ERDEMOVIĆ

PUBLIC

**ORDER ISSUING A PUBLIC REDACTED VERSION OF
DECISION OF THE PRESIDENT ON EARLY RELEASE**

Office of the Prosecutor:

Mr. Serge Brammertz

Counsel for Dražen Erdemović:

Mr. Jovan Babić
Mr. Nikola Kostić

PM

I, FAUSTO POCAR, President of 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 (“International Tribunal”),

NOTING the Decision of the President on Early Release, filed on 13 August 1999, in which the President of International Tribunal granted Dražen Erdemović’s request for early release (“Decision”);


CONSIDERING that Paragraph 6 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 Tribunal (“Practice Direction”)¹ provides that the President may authorize disclosure of otherwise confidential information collected pursuant to Paragraphs 2 through 5 of the Practice Direction for the purpose of rendering a public decision;

FINDING that some of the information contained in the Decision is to remain confidential;

HEREBY ISSUE a Public Redacted Version of the Decision.

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

Done this 15th day of July 2008,
At The Hague,
The Netherlands.



Judge Fausto Pocar
President

[Seal of the International Tribunal]

¹ IT/146/Rev. 1, 15 August 2006.

IT-96-22-ESDecision

I, Gabrielle Kirk McDonald, President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991 (“the International Tribunal”),

CONSIDERING Article 28 of the Statute of the International Tribunal and Rules 123-128 of the Rules of Procedure and Evidence of the International Tribunal (“Rules”) and the Practice Direction on Procedure for the Determination of Applications for Pardon, Commutation of Sentence and Early Release of Persons Convicted by the International Tribunal (IT-146, 7 April 1999 (“Practice Direction”))

CONSIDERING Trial Chamber II *Ter*’s Sentencing Judgement of 5 March 1998, in Case No. IT-96-22-*Tbis*, Prosecutor v. Dražen Erdemović, in which Dražen Erdemović, born on 25 November 1971, was sentenced to five years’ imprisonment (“Sentence”),

CONSIDERING that, pursuant to my Decision of 10 July 1998 deciding that the Sentence should be served in Norway and directing the Registrar to enforce the Sentence, Dražen Erdemović was transferred to the custody of Norway on 26 August 1998,

CONSIDERING that, according to Norwegian law, Dražen Erdemović is eligible for early release and could thereby be released on 28 July 1999,

HAVING RECEIVED a Confidential Memorandum dated 13 April 1999 from the Registrar in accordance with paragraphs 2 and 3 of the Practice Direction, which, *inter alia*, requires the Registrar to inform Dražen Erdemović of his eligibility for early release and to request from the Government of Norway and submit to me reports and observations regarding Dražen Erdemović and the execution of his Sentence (“Registry Materials”),

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HAVING RECEIVED a Confidential Report dated 29 April 1999 from the Prosecutor detailing the co-operation that Dražen Erdemović has provided the Office of the Prosecutor and the significance thereof, in accordance with paragraph 2(c) of the Practice Direction (“Prosecutor’s Report”)

CONSIDERING the discussion I had with Dražen Erdemović by telephone on 28 May 1999, in accordance with paragraph 4 of the Practice Direction,

HAVING REVIEWED the Registry Materials, the Prosecutor’s Report and [REDACTED]

HAVING CONSULTED the Bureau and the Judges of Trial Chamber II *Ter*, in accordance with paragraph 5 of the Practice Direction,

FINDING that the following factors demonstrate that Dražen Erdemović is remorseful:

1. his recognition of his crimes, their gravity and consequences;
2. his repeated expressions of contrition;
3. his prior and continuing substantial co-operation with the Office of the Prosecutor;

FINDING that the following evidence indicates that Dražen Erdemović will enjoy relatively positive prospects if released:

1. his determination no to re-offend;
2. the improvements to his mental and physical health while incarcerated;
3. his young age
4. his young family;
5. his commitment to creating a secure and stable environment for his family;
6. the fact that he is employable, having acquired practical and language skills while in prison;
7. his awareness of and concern regarding the current situation in the former Yugoslavia;

FURTHER FINDING that Dražen Erdemović has thereby demonstrated that he is rehabilitated to the extent possible,

CONSIDERING that continued detention would therefore serve no useful purpose in the present circumstances,

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[REDACTED]

PURSUANT to Rule 124 of the Rules and paragraph 7 of the Practice Direction,

HEREBY DECIDE to authorise the release of Dražen Erdemović on 28 July 1999,

[REDACTED],

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

Gabrielle Kirk McDonald
President

Dated this
at The Hague
The Netherlands

day of June 1999

[Seal of the Tribunal]