



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

Case No. IT-04-81-PT
Date: 14 August 2006
Original: ENGLISH

IN THE TRIAL CHAMBER III

Before: Judge Patrick Robinson
Judge Krister Thelin
Judge Frank Höpfel

Registrar: Mr. Hans Holthuis

Decision: 14 August 2006

PROSECUTOR

v.

MOMČILO PERIŠIĆ

**DECISION ON REQUEST FOR ALTERATION OF
CONDITIONS OF PROVISIONAL RELEASE**

Office of the Prosecutor:

Ms. Susan Somers

Counsel for Momcilo Perišić:

Mr. James Castle

**Government of the Republic of
Serbia**

THIS TRIAL CHAMBER 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 (“Tribunal”) is seised of a motion filed by Momčilo Perišić (“Accused”) seeking a modification of the terms of his provisional release and hereby renders a decision (“Decision”) thereon.

1. On 19 July 2006, the Accused filed a motion seeking modification of the Trial Chamber’s “Decision on Momčilo Perišić’s Motion for Provisional Release” issued on 9 June 2005 (“Motion”).¹ In the Motion, the Accused requests modification of the condition of his provisional release that requires him to remain within the confines of the municipality of Belgrade. Specifically, he requests permission to travel to Koštunići, a town in Serbia approximately 130 km south of Belgrade, on the following dates: (i) 15-30 August 2006, (ii) 15-30 September 2006, and (iii) 15-30 October 2006.² According to the Motion, the Accused intends to stay at his “brother’s home where he can visit his family and the graves of his close family members including his parents” and where he can provide personal assistance to his brother, who is seriously ill and in need of the Accused’s help to secure medical treatment at a local hospital.³
2. The Accused notes that he has previously made almost identical requests for the modification of the condition of his provisional release requiring him to remain within the confines of the municipality of Belgrade, and that in each instance his request has been granted.⁴
3. The Accused also submits that he has fully complied with the Chamber’s previous orders pertaining to his stay in Koštunići. According to the Accused, correspondence from the Ministry of Justice of the Republic of Serbia, “reflecting also the information received by the Ministry of Interior of Republic of Serbia”, confirms his compliance and provides a “guarantee” that the Government of the Republic of Serbia “has the capacity and the willingness to provide the resources and means to supervise the proposed visits to Kostunici”.⁵
4. The Accused further submits that in a previous response to his request for modification to a condition of his provisional release, the Prosecution noted that the Defence did not provide any medical evidence relating to the condition of the Accused’s brother and that he has now

¹ Request for Alteration of Conditions of Provisional Release, 19 July 2006 (“Motion”).

² Motion, para. 7(b).

³ Motion, paras. 7-8.

⁴ Motion, paras. 2-4. See, Decision Granting Momčilo Perišić’s Motion to Modify Conditions of Provisional Release, 19 October 2005; Decision Granting Momčilo Perišić’s Motion to Modify Conditions of Provisional Release, 20 January 2006; Decision Granting Momčilo Perišić’s Motion to Modify Conditions of Provisional Release, 11 May 2006.

⁵ Motion, para. 5. The correspondence is attached to the Motion in Confidential Annex A.

provided such documentation, the Expert Assessment Proposal, in Confidential Annex B to the Motion.⁶

5. In its response, the Prosecution “takes no position at this time” on the Accused’s request. The Prosecution also notes that the translation of the Expert Assessment Proposal does not include the name of the Accused’s brother.⁷
6. On 10 August 2006, the Trial Chamber ordered the Accused “to demonstrate that the Expert Assessment Proposal relates to Mr Igor Perišić and clearly explain why the Expert Assessment Proposal does not refer to Igor Perišić by name”.⁸ On 14 August 2006, the Accused filed a submission stating that the Accused’s brother, Radislav Perišić, “is also known by the more familiar and shorter name of Igor”.⁹ A statement to this effect by Radislav Perišić was attached to the submission in Annex 3. Annexes 1 and 2 contained the birth certificates of the Accused and Radislav Perišić.
7. The Trial Chamber considers that sufficient reasons have been given, and sufficient guarantees have been provided, to warrant a temporary modification of the conditions of provisional release in the manner requested in the Motion.
8. The Trial Chamber notes, as it did in the earlier decisions granting the Accused’s requests for modification of conditions of his provisional release dated 20 January 2006 and 11 May 2006, that the Government of the Republic of Serbia has not complied with the Chamber’s order that during the period in which the Accused is allowed to travel to Koštunić, the Government shall submit a report on the Accused’s compliance with the modified terms of his release every two weeks and not on a monthly basis, as required under the original terms of his release. The Trial Chamber reiterates that it expects this condition of the Decision to be strictly adhered to.
9. For these reasons, the Trial Chamber, pursuant to Rules 54 and 65 of the Rules of Procedure and Evidence of the Tribunal, **GRANTS** the Motion and **ORDERS** that:
 - (a) The Accused has permission to visit his brother at 32308 Pranjani, Koštunići, Gornji Milanovac, Republic of Serbia on (i) 15-30 August 2006, (ii) 15-30 September 2006, and (iii) 15-30 October 2006.
 - (b) The Accused shall provide details of each visit (including the dates of travel and a copy of this Decision granting permission for the visit) to the Ministry of the Interior of the Republic

⁶ Motion, para. 6.

⁷ Confidential Prosecution’s Response to Defence’s Request for Alteration of Conditions of Provisional Release, 27 July 2005 (“Response”), paras. 1-2.

⁸ Order on Clarification of Matter of Identification, 10 August 2006.

⁹ Clarification Concerning Modification of Terms of Provisional Release, 14 August 2006.

of Serbia at least seven days in advance of the departure date of each visit, with the exception of the first visit from 15-30 August 2006, the details of which he shall provide to the Ministry of the Interior of the Republic of Serbia as soon as possible.

- (c) The Government of the Republic of Serbia shall (i) between 15 August 2006 and 30 October 2006 submit a written report to the Trial Chamber every two weeks on the compliance of the Accused with his provisional release conditions as set forth in this Trial Chamber's Decision of 9 June 2005 and this Decision; (ii) immediately arrest and detain the Accused if he should breach any of his provisional release conditions as set forth in this Trial Chamber's Decision of 9 June 2005 and this Decision; and (iii) immediately report to this Trial Chamber any breach of his provisional release conditions as set forth in this Trial Chamber's Decision of 9 June 2005 and this Decision.

10. This Decision does not affect the continued application of the terms and conditions of the Accused's provisional release contained in the Trial Chamber's decision of 9 June 2005, except to the extent provided in paragraph 8, above.

11. The Trial Chamber requests that the Registrar serve this Decision on the Government of the Republic of Serbia.

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



Judge Patrick Robinson
Presiding

Dated this fourteenth day of August 2006
At The Hague, The Netherlands