



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-03-69-PT

Date: 13 December 2006

Original: English

IN THE TRIAL CHAMBER

Before: Judge Patrick Robinson, Presiding
Judge Krister Thelin
Judge Frank Höpfel

Registrar: Mr. Hans Holthuis

Decision of: 13 December 2006

PROSECUTOR

v.

**JOVICA STANIŠIĆ
FRANKO SIMATOVIĆ**

**DECISION ON STANIŠIĆ DEFENCE'S MOTION FOR TEMPORARY
MODIFICATION OF PROVISIONAL RELEASE CONDITIONS**

The Office of the Prosecutor

Ms. Hildegard Uertz-Retzlaff
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Mr. Zoran Jovanović

Republic of Serbia

Republic of Montenegro

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 (“International Tribunal”),

BEING SEIZED OF the “Revised Defence Motion for Temporary Modification of the Conditional Release Provision Due to the Medical Condition of the Accused with Confidential Annex”, filed on 17 November 2006 (“Defence Motion”) and supplemented by the “Defence filing of two annexes to ‘Revised defence motion for temporary modification of the conditional release provision due to the medical condition of the accused with confidential annex’”, filed on 12 December 2006 (“Supplement”), in which the Defence of Jovica Stanišić (“Stanišić Defence”) requests a modification of the conditions of the provisional release of the Accused Stanišić (“Accused”) in order to “remain outside the municipality of Belgrade for the sole purpose of receiving supplementary therapy at the Igalo Medical Centre for a period of three weeks or any other period the Trial Chamber deems appropriate”,¹

NOTING the “Prosecution’s Response to Jovica Stanisic’s ‘Revised defence motion for temporary modification of the conditional release provision due to the medical condition of the accused’”, filed on 28 November 2006 (“Prosecution Response”), in which the Prosecution objects to a variation of the terms of provisional release as (1) the medical report provided by the Accused in support of his submissions of 11 September 2006 regarding his health do not address his *current* medical situation and that (2) it does not concede the contents of the medical report filed by the Stanišić Defence or that the Igalo Institute is the most appropriate place for the Accused to receive medical treatment and (3) the guarantees provided by the Montenegrin authorities do not explicitly address the conditions of the return transfer of the Accused between Tivat airport and the Igalo Institute²

NOTING that the Trial Chamber’s “Decision on Provisional Release” of 28 July 2004 requires that the Accused “remain within the confines of the municipality of Belgrade”³ and “report each day to the police in Belgrade at a local police station to be designated by the Ministry of Justice”,⁴

NOTING “Exhibit 2” to the Defence Motion as well as Annex 1 to the Supplement, containing assurances of the Secretary General of the Government of the Republic of Montenegro that, should the Trial Chamber grant the treatment of the Accused on the territory of the Republic of

¹ Defence Motion, para. 12.

² Prosecution Response, paras. 3-5.

³ *Prosecutor v. Stanišić*, Case No. IT-03-69-PT, Decision on Provisional Release, 28 July 2004 (“Decision on Provisional Release”), para. 43.

⁴ *Ibid.*

Montenegro, the Government of the Republic of Montenegro shall comply with any order of the Trial Chamber relating thereto,

NOTING “Exhibit 3” to the Defence Motion as well as Annex 2 to the Supplement containing assurances of the Ministry of Internal Affairs of the Republic of Montenegro that, should the Trial Chamber grant the treatment of the Accused on the territory of the Republic of Montenegro:

- 1 during the treatment period of the Accused at Igalo Institute, the Ministry of Internal Affairs of the Republic of Montenegro will take all necessary measures in relation to the Accused, and the person responsible for the Accused will be the Head of the Herceg Novi Security Centre, Mr. Vojislav Dragović,
- 2 the Accused will report daily to the police station in Herceg Novi,
- 3 the Accused will be arrested and detained immediately if he should breach any of the conditions of his provisional release, and
- 4 the authorities of the Republic of Montenegro shall report directly to the Trial Chamber any breach by the Accused of the conditions of his provisional release, as well as any other information requested by the Trial Chamber,
- 5 members of the Montenegrin Department of police will await the arrival of Mr. Stanišić at Tivat airport, where the Accused will be handed over to them by the Serbian authorities; after his treatment at the Igalo Institute, the Montenegrin Department of police will escort the Accused to Tivat airport where he will be handed over to the relevant Serbian authorities,

NOTING “Exhibit 4” to the Defence Motion, containing assurances from the Ministry of Internal Affairs of the Republic of Serbia, should the Trial Chamber grant the treatment of the Accused on the territory of the Republic of Montenegro, the Government of Serbia will:

- (1) ensure that the Accused is transported by two employees of the Ministry of Internal Affairs of the Republic of Serbia from his place of residence in Belgrade to the airport in Tivat, where he will be handed over to the members of the relevant Montenegrin authorities,
- (2) the Ministry of Internal Affairs of the Republic of Serbia will ‘undertake all measures for the personal security of [the Accused Stanišić] on the trip Belgrade – Tivat – Belgrade’, whereby this Trial Chamber understands that, once the Montenegrin authorities have handed over the Accused to the Serbian authorities, employees of the Ministry of Internal Affairs of the Republic of Serbia will

ensure the safe transport of the Accused from Tivat to the Accused's place of residence in Belgrade,

NOTING that the Accused has been treated in the past at Igalo Institute, most recently in February 2006, and that Dr. Dino Tarabar, a Belgrade gastroenterologist who has treated the Accused in the past, supports sending the Accused for treatment at Igalo Institute for at least a three-week period,⁵

CONSIDERING the information contained in the medical declaration of Dr. Tarabar,

CONSIDERING that Trial Chamber does not deem it likely that the conditions described by Dr. Tarabar in his report of 11 September 2006 will have changed significantly within a space of two months⁶,

CONSIDERING therefore that it will not be necessary for the Stanišić Defence to file a new medical report in support of its Motion,

CONSIDERING that sufficient reasons have been shown to warrant a temporary modification of the conditions of the Accused's provisional release,

PURSUANT TO Rules 54 and 65 of the Rules of Procedure and Evidence of the International Tribunal,

HEREBY GRANTS the Motion and

(1) **ORDERS** as follows:

- (a) for a period of no more than three consecutive weeks (or 21 consecutive days) beginning on 8 January 2007, the Accused may leave the municipality of Belgrade for the Igalo Institute in Montenegro for the sole purpose of receiving medical treatment,
- (b) the Accused shall notify the Trial Chamber of the exact dates of his treatment at Igalo Institute as soon as they are known, and
- (c) during his period of temporary absence from the municipality of Belgrade, and for the entire duration of his treatment at Igalo Institute, the Accused shall report each day to the police station at Herceg Novi.

⁵ Defence Motion, Confidential Annex 1.

⁶ The time between 11 September 2006 (report of Dr. Tarabar) and 17 November 2006 (date of Defence Motion) is exactly 2 months and 6 days.

- (2) **DIRECTS** the Government of the Republic of Serbia to assume responsibility, in light of the temporary modification of the provisional release conditions of the Accused, as follows:
- (a) by designating the officials who shall escort the Accused from (i) Belgrade to Tivat Airport; (ii) Tivat Airport to Belgrade, and
 - (b) by coordinating the delivery of the Accused into the custody of the designated officials of the Republic of Montenegro, particularly at Tivat Airport, during the transfer of the Accused from (i) Belgrade to Igalo Institute and (ii) Igalo Institute to Belgrade.
- (3) **DIRECTS** the Government of the Republic of Montenegro to assume responsibility, in light of the temporary modification of the provisional release conditions of the Accused, as follows:
- (a) by designating the officials who shall escort the Accused from (i) Tivat Airport to Igalo Institute; (iii) Igalo Institute to Tivat Airport, and
 - (b) by coordinating the delivery of the Accused into the custody of the designated officials of the Republic of Serbia, particularly at Tivat Airport, during the transfer of the Accused from (i) Belgrade to Igalo Institute and (ii) Igalo Institute to Belgrade.
- (4) **DIRECTS** the Governments of the Republic of Serbia and the Republic of Montenegro to assume responsibility, during the presence of the Accused in the respective Republics, as follows:
- (a) by ensuring the personal security and safety of the Accused,
 - (b) by facilitating all means of cooperation and communication between the parties, at the request of the Trial Chamber or the parties, and by ensuring the confidentiality of any such communication,
 - (c) by submitting 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 28 July 2004 and this present Decision,
 - (d) by arresting and detaining the Accused immediately if he should breach any of his provisional release conditions as set forth in this Trial Chamber's Decision of 28 July 2004 and this present Decision, and
 - (e) by reporting immediately to this Trial Chamber any breach of the Accused's provisional release conditions as set forth in this Trial Chamber's Decision of 28 July 2004 and this present Decision.

6 **ORDERS** the Registrar of the International Tribunal

to serve this Order to the Governments of the Republic of Serbia and the Republic of Montenegro; and to re-serve to these Governments the Decision on Provisional Release of 28 July 2004 setting out the conditions of the provisional release of the Accused.⁷

This Decision does not affect the continuing application of the terms and conditions of the Accused's provisional release, as set forth in the Decision of 28 July 2004, except to the extent specified in paragraphs (1) through (4) above.

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



Judge Patrick Robinson
Presiding

Dated this thirteenth day of December 2006
At The Hague
The Netherlands

[Seal of the Tribunal]

⁷ See Decision on Provisional Release, *supra* note 3.