



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: 5 September 2007
Original: English

IN THE TRIAL CHAMBER

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

Registrar: Mr. Hans Holthuis

Decision of: 5 September 2007

PROSECUTOR
v.
JOVICA STANIŠIĆ
FRANKO SIMATOVIĆ

PUBLIC AND EX PARTE FILING

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

The Office of the Prosecutor

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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 “Defence Motion for Temporary Modification of the Conditional Release Conditions Due to the Medical Condition of the Accused with Confidential Annexes”, filed on 23 August 2007 (“Defence Motion”), in which Counsel for Jovica Stanišić (“Stanišić Defence” and Accused”, respectively) requests a modification of the Accused’s conditions of provisional release in order to “enable the Accused to temporarily 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 Response to Defense Motion for Temporary Modification of Provisional Release Conditions” filed on 29 August 2007 (“Prosecution Response”), in which the Prosecution indicates that it does not oppose the motion,²

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 Annex 4 to the Defence Motion, contains assurances of the Ministry of Justice 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 Montenegro, the Government of the Republic of Montenegro shall comply with any order of the Trial Chamber relating thereto⁵,

NOTING Annex 5 to the Defence Motion contains assurances of the Department of Police 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 Medical Centre, the Ministry of Internal Affairs of the Republic of Montenegro will take all necessary measures during the stay and treatment of the Accused and secure his personal security. The Chief of the PJ regional unit of the Herceg Novi will coordinate and synchronize the security arrangements,

¹ Defence Motion, para. 11.

² *Prosecutor v. Jovica Stanišić & Franko Simatović*, Case No. IT-03-69, Prosecution Response to Defence Motion for Temporary Modifications of Provisional Release Conditions, 29 August 2007.

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.*

⁵ Defence Motion, Annex 4.

- 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 Department of Police will submit weekly reports on the compliance of the Accused to the conditions of the provisional release to the Ministry of Justice for further proceedings,
- 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 Annex 5 to the Defence Motion, contains 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 police officers of the Ministry of Internal Affairs of the Republic of Serbia will transport the Accused from his place of residence in Belgrade to the airport in Tivat, where he will be handed over to the jurisdiction of the officers of the Agency for national security of Montenegro,

(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 December 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,⁶

CONSIDERING the information contained in the medical declaration of Dr. Tarabar,⁷ and of Dr. Nevin Vavic,⁸

⁶ Defence Motion, Confidential Annex 2.

⁷ Defence Motion, Confidential Annex 2

⁸ Defence Motion, Confidential Annex 1.

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 16 September 2007, or as soon as practical thereafter, but beginning no later than 30 September 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.

(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; (ii) 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.

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.⁹

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 fifth day of September 2007
At The Hague
The Netherlands

[Seal of the Tribunal]

⁹ See Decision on Provisional Release, *supra* note 3.