



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-04-79-PT

Date: 11 April 2008

Original: English

IN TRIAL CHAMBER II

Before: Judge Kevin Parker, Presiding
Judge Christine Van Den Wyngaert
Judge Krister Thelin

Registrar: Mr. Hans Holthuis

Decision of: 11 April 2008

PROSECUTOR

v.

MIĆO STANIŠIĆ

PUBLIC

**DECISION FOLLOWING THE REGISTRAR'S
SUBMISSION REGARDING MIĆO STANIŠIĆ'S LEGAL
REPRESENTATION WITH INCORPORATED
SCHEDULING ORDER AND ORDER RECALLING THE
ACCUSED FROM PROVISIONAL RELEASE**

The Office of the Prosecutor

Ms. Anna Richterova

Counsel for the Accused

Mr. Stevo Bezbradica

Government of the Republic of Serbia

Government of the Kingdom of the Netherlands

TRIAL CHAMBER II (“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”);

BEING SEIZED of the “Registrar’s submission regarding Mr. Mićo Stanišić’s legal representation”, filed confidentially on 20 March 2008 (“Registrar’s Submission”), wherein the Registrar pursuant to Rule 33(B) of the Rules of Procedure and Evidence (“Rules”) informs the Trial Chamber that on 5 March 2008 Mr. Mićo Stanišić (“Accused”) advised the Registry that he wishes to represent himself at trial, and whereby the Registrar requests the Trial Chamber’s direction on the Accused’s election to conduct his own defence;¹

NOTING the letter of the Accused to the Registrar, dated 5 March 2008 (“Notification”), in which the Accused makes several allegations against Mr. Bezbradica related to his work so far during the preparations for trial, submits that the Accused and Mr. Bezbradica “never established a relationship of mutual trust”, further submits that “the most suitable thing would be for me to take over and conduct my defence myself and to avail myself of the right guaranteed under Article 21, paragraph 4 (d) of the Statute of the Tribunal”, and states that he therefore notifies the Registrar “in keeping with my duty under Rule 45 (F) of the Rules of Procedure and Evidence”;²

NOTING the “Defence counsel’s additional submission concerning Registrar’s submission regarding Mr. Mico Stanisic’s legal representation”, filed confidentially on 25 March 2008 (“Defence Submission”), wherein Counsel for the Accused Mr. Bezbradica refutes the Accused’s allegations as untrue, argues that the Accused and he established a relationship of mutual trust, that the work was carried out in line with the Accused’s defence strategy and with full cooperation of the members of the defence team as well as the Accused, and further exemplifies and rebuts in detail the particular allegations made by the Accused in the Notification;³

NOTING the “Defence Counsel’s additional submission”, filed confidentially on 3 April 2008;

NOTING the “Prosecution’s submission in relation to Mićo Stanišić’s legal representation”, filed confidentially on 3 April 2008 (“Prosecution Submission”), wherein the Prosecution argues that the Notification is not unequivocal and questions whether the Accused’s request was informed and intelligent, states that “in the circumstances of this case, the better course of action is to proceed

¹ Registrar’s Submission, paras 1, 17.

² Notification, p. 3. The Notification, which was received by the Registrar on 6 March 2008, is attached as Annex A to the Registrar’s Submission.

with appointed counsel”,⁴ submits that if the relationship between Mr. Bezbradica and the Accused cannot be reconciled experienced replacement counsel who meets the relevant conditions should be assigned,⁵ and therefore suggests that a hearing be held with urgency to determine these matters;⁶

CONSIDERING that pursuant to Rule 33(B), the Registrar:

in the execution of his or her functions, may make oral and written representations to the President or Chambers on any issue arising in the context of a specific case which affects or may affect the discharge of such functions, including that of implementing judicial decisions, with notice to the parties where necessary;

CONSIDERING that the matter which the Registrar has brought to the Trial Chamber’s attention – whether or to what extent the Accused’s election to exercise the right of self-representation should be recognised – concerns an issue contemplated by Rule 33(B);

CONSIDERING that this matter falls within the Trial Chamber’s duty pursuant to Article 20(1) of the Statute to ensure that a trial is fair and expeditious and that proceedings are conducted in accordance with the Rules, with full respect for the rights of the accused and due regard for the protection of victims and witnesses, and, thus, that the Trial Chamber is properly seized of the matter;

CONSIDERING that the right to a defence, in person or through legal assistance, is a prerequisite for a fair trial;⁷

CONSIDERING that the issues raised in the submissions concern not only the right to a fair trial, but also the right to an expeditious trial;

RECALLING that the trial in the present case may be scheduled to commence in the near future, perhaps before the summer recess;⁸

CONSIDERING that the issues raised, therefore, require urgent resolution and that it is necessary that a hearing be held in order for the Trial Chamber to decide upon the Registrar’s Submission;

³ Defence Submission, incorporating Mr. Bezbradica’s letter to the Registrar, dated 20 March 2008, pp 1, 2, 4. The Defence Submission also includes copies of emails between the Accused and Mr. Bezbradica.

⁴ Prosecution’s Submission, para. 2.

⁵ *Id.*, para. 23.

⁶ *Ibid.*

⁷ *Prosecutor v. Gojko Janković and Radovan Stanković*, Case No. IT-96-23/2-PT, Decision following Registrar’s notification of Radovan Stanković’s request for self-representation, 19 August 2005, para. 8.

⁸ Status Conference, 9 January 2008, T. 109.

RECALLING that pursuant to Rule 65 *bis* (A) a status conference shall be convened within one hundred and twenty days after the last status conference;

CONSIDERING that the last status conference was held on 9 January 2008;

CONSIDERING that it is in the interest of judicial economy to hold a combined status conference and hearing on the issues raised by the submissions;

CONSIDERING that the Accused is on provisional release in Belgrade, Republic of Serbia (“Serbia”), and that pursuant to the conditions applicable to his provisional release the Accused shall “return to the Tribunal at such time and on such date as the Tribunal may order” and shall “comply strictly with any further Order of the Tribunal varying the terms of or terminating his provisional release”;⁹

CONSIDERING in view of the importance of the issues raised in relation to the right to a fair and expeditious trial, and their impact on the scheduling of the trial and the conduct of the proceedings, that the Accused’s presence is required at the combined status conference and hearing;

PURSUANT TO Articles 20(1) and 29 of the Statute of the Tribunal, and Rules 65 and 65 *bis* (A) of the Rules;

ORDERS that a combined status conference and hearing concerning the issues raised by the Registrar’s Submission be held on Tuesday 6 May 2008, starting at 1000 hours, in Courtroom 2;

ORDERS the Accused to return to the United Nations Detention Unit by Friday 2 May 2008 and therefore **SUSPENDS** his provisional release;

ORDERS the Government of the Serbia to ensure that the Accused is transported, under guard, from the municipality of Belgrade, Serbia, to Schiphol Airport or any other airport in the Netherlands and released into the custody of designated officials of the Government of the Kingdom of the Netherlands (“Netherlands”);

ORDERS the Government of the Netherlands to ensure that the Accused is transported, under guard, from Schiphol Airport or any other airport in the Netherlands to the United Nations Detention Unit;

⁹ Decision on Mićo Stanišić’s motion for provisional release, 19 July 2005, para. 20(I)(4)(l)-(m).

ORDERS the Government of Serbia, the Government of the Netherlands and the Registry of the Tribunal to communicate with each other to facilitate the orderly and timely return of the Accused to the United Nations Detention Unit;

ORDERS that the suspension of the provisional release shall remain in effect until modified by the Trial Chamber; and

REMAINS SEIZED of the matter.

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



Judge Kevin Parker
Presiding

Dated this eleventh day of April 2008
At The Hague
The Netherlands

[Seal of the Tribunal]