



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: 10 July 2008
Original: English

IN TRIAL CHAMBER II

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

Registrar: Mr. Hans Holthuis

Order of: 10 July 2008

PROSECUTOR

v.

MIĆO STANIŠIĆ

PUBLIC

ORDER REINSTATING PROVISIONAL RELEASE

The Office of the Prosecutor

Mr. Serge Brammertz
Ms. Anna Richterova

Counsel for the Accused

Mr. Slobodan Zečević
Mr. Slobodan Cvijetić

Government of the Republic of Serbia

Government of the Kingdom of the Netherlands

TRIAL CHAMBER II 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;

BEING SEISED of “Defence counsel’s urgent motion for Mićo Stanišić’s provisional release”, filed confidentially on 2 May 2008 (“Motion”), whereby the Defence of Mićo Stanišić (“Defence”) requests that the Accused be granted provisional release until the start of the trial under the same conditions as were in effect pursuant to the Chamber’s Decision of 19 July 2005¹ prior to the suspension of the Accused’s provisional release on 11 April 2008 (“Request”);

RECALLING that on 11 April 2008 the Chamber suspended the Accused’s provisional release in order for the Accused to attend a hearing on 6 May 2008 concerning, *inter alia*, his legal representation in view of the “Registrar’s submission regarding Mr. Mićo Stanišić’s legal representation”, filed confidentially on 20 March 2008 (“Registrar’s Submission”), whereby the Registrar had informed the Chamber of the Accused’s notification to the Registry pursuant to Rule 45(F) of the Rules of Procedure and Evidence (“Rules”) of his intention to conduct his own defence (“Notification”);²

RECALLING that the suspension of the provisional release was to remain in effect until modified by the Chamber;³

NOTING that on 13 June 2008 the Registrar withdrew the assignment of Mr. Stevo Bezbradica as lead counsel for the Accused and assigned in his stead Mr. Slobodan Zečević, effective as of that date;⁴

NOTING that on 16 June 2008, the Registrar assigned several persons to the Defence of the Accused, including Mr. Guénaël Mettraux as legal consultant;⁵

NOTING the “Supplement to defence counsel’s urgent motion for Mićo Stanišić’s provisional release”, filed on 18 June 2008 with confidential annex, wherein the Defence repeats the Request and submits a guarantee of the Government of the Republic of Serbia;

¹ “Decision on Mićo Stanišić’s motion for provisional release”, 19 July 2005.

² “Decision following the Registrar’s submission regarding Mićo Stanišić’s legal representation with incorporated scheduling order and order recalling the accused from provisional release”, filed on 11 April 2008; Registrar’s Submission, filed confidentially on 20 March 2008, paras 1, 17.

³ Decision, p. 5.

⁴ “Decision”, filed on 13 June 2008, p. 4.

⁵ Letter from the Office of Legal Aid and Detention Matters to Mr. Zečević, dated 16 June 2008.

NOTING the “Prosecution’s response to defence counsel’s urgent motion and supplement to defence counsel’s urgent motion for Mićo Stanišić’s provisional release”, filed on 20 June 2008 (“Response”), whereby the Prosecution opposes the Accused’s provisional release, arguing that the arrest of the Accused Stojan Župljanin, who “is identified as a member of the Joint Criminal Enterprise charged in the indictment against the Accused, and is also charged individually with substantially the same crimes in the Autonomous Region of Krajina as is the Accused”, constitutes a “material change which could affect the risk that the Accused will not appear for trial”;⁶

NOTING the Prosecution’s alternative submission, should the Chamber grant the Request, that the provisional release be subject to the same conditions as imposed by the Chamber by the Decision of 19 July 2005;⁷

NOTING that on 4 July 2008, the Registrar assigned Mr. Slobodan Cvijetić as co-counsel for the Accused, effective as of that date;⁸

NOTING that also on 4 July 2008, the Registrar withdrew the Registrar’s Submission in view of the fact that the Accused by letter to the Registry, dated 23 June 2008, had withdrawn his Notification on the basis that a new Defence had been put in place;⁹

CONSIDERING therefore, that the matter of the Accused’s legal representation has been resolved;

CONSIDERING further, the guarantee provided by the Government of the Republic of Serbia;

CONSIDERING finally, that the Prosecution has not identified any material change of circumstances in the period since the suspension of the Accused’s provisional release which would persuade the Chamber that the Accused, if released, will not appear for trial, that he will pose a threat to any victim, witness or other person, or that the Chamber should otherwise exercise its discretion to deny the Request; for these reasons,

PURSUANT TO Article 29 of the Statute of the Tribunal and Rule 65 of the Rules;

GRANTS the Request;

⁶ Response, para. 2.

⁷ Response, para. 3(a)-(g). See Decision of 19 July 2005, para. 20.

⁸ “Decision, dated 4 July 2008, but filed on 7 July 2008.


⁹ “Registrar’s submission withdrawing his request for direction regarding legal representation of Mr. Mićo Stanišić”, dated 4 July 2008, but filed confidentially on 7 July 2008, para. 9.

ORDERS that the provisional release of the Accused be reinstated as of Monday 14 July 2008 under the same conditions as applicable prior to the suspension of the provisional release pursuant to the Decision of 19 July 2005;

ORDERS the Registry of the Tribunal to consult the Government of the Kingdom of the Netherlands and the Government of the Republic of Serbia as to the practical arrangements for the provisional release of the Accused; and

ORDERS the Government of the Kingdom of the Netherlands to ensure that the Accused is transported, under guard, from the United Nations Detention Unit to Schiphol Airport or any other airport in the Netherlands, and released into the custody of designated officials of the Government of the Republic of Serbia.

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



Judge Kevin Parker
Presiding

Dated this tenth day of July 2008

At The Hague

The Netherlands

[Seal of the Tribunal]