



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: 20 May 2009

Original: English

IN TRIAL CHAMBER I

Before: Judge Alphons Orie, Presiding
Judge Flavia Lattanzi
Judge Michèle Picard

Registrar: Mr. John Hocking

Order of: 20 May 2009

PROSECUTOR

v.

**JOVICA STANIŠIĆ
FRANKO SIMATOVIĆ**

PUBLIC

**DECISION ON DEFENCE REQUEST TO STAY THE
DECISION ON PROSECUTION MOTION FOR
REVOCATION OF JOVICA STANIŠIĆ'S
PROVISIONAL RELEASE AND RE-ASSESSMENT OF
HIS HEALTH**

The Office of the Prosecutor:

Mr. Dermot Groome
Ms. Doris Brehmeier-Metz

Counsel for the Accused:

Mr. Geert-Jan Knoops and Mr. Wayne Jordash for Mr. Stanišić
Mr. Zoran Jovanović and Mr. Vladimir Domazet for Mr. Simatović

TRIAL CHAMBER I (“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 “Defence Request for Certification to Appeal the Trial Chamber’s Decision on Prosecution Motion for Revocation of Jovica Stanišić’s Provisional Release and Re-Assessment of his Health” filed by the Stanišić Defence on 1 May 2009 (“Motion”), whereby it seeks *inter alia* staying of the “Decision on Prosecution Motion for Revocation of Jovica Stanišić’s Provisional Release and Re-Assessment of his Health” (“24 April Decision”);¹

NOTING that the issue of certification to appeal the 24 April Decision will be dealt with in a separate decision;

NOTING that the Stanišić Defence submits that the 24 April Decision contradicts the medical evidence, which suggests that Mr. Stanišić psychiatric condition has deteriorated since June 2008 and that a medical diagnosis of fitness and effective participation in trial is not possible at this time without further clinical observation;²

NOTING that the Stanišić Defence further submits that the decision to revoke Mr. Stanišić’s provisional release and return him to a non-clinical and isolating environment, in light of the recent medical reports concerning Mr. Stanišić’s health, should be examined by the Appeals Chamber immediately and that Mr. Stanišić should be allowed to continue with his treatment;³

NOTING that the Stanišić Defence concludes that the 24 April Decision is likely to cause “further deterioration to the Accused’s health – making a trial, fair or otherwise, impossible”;⁴

CONSIDERING that the pre-trial conference in the present case is scheduled to take place on 2 June 2009;⁵

FINDING that the Stanišić Defence fails to substantiate why the “exceptional, unusual and highly controversial” character of the matters under consideration, in the context of its submissions, would in itself warrant a stay of the 24 April Decision;

¹ Motion, paras 13-14.

² Motion, para. 9. See also Motion, paras 7-8.

³ Motion, paras 11-12.

⁴ Motion, para. 12.

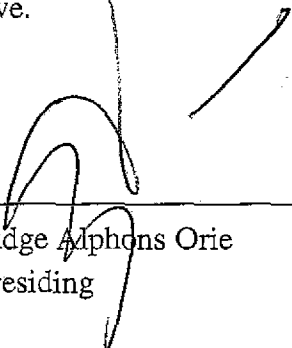
⁵ Status Conference, 12 May 2009, T. 1348-1349, 1368.

FURTHER FINDING that a balanced reading of the recent medical reports which were submitted to the Chamber⁶ does not support the Stanišić Defence's conclusion that revoking provisional release and recommencement of the trial has the potential to further endanger Mr. Stanišić's "health and fragile and damaged mental health";

PURSUANT TO Rule 54 of the Tribunal's Rules of Procedure and Evidence

DENIES the Motion insofar as it relates to the stay of the 24 April Decision.

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



Judge Alphons Orie
Presiding

Dated this twentieth day of May 2009

At The Hague

The Netherlands

[Seal of the Tribunal]

⁶ See Registry Submission Pursuant to Rule 33 (B) Concerning Psychiatric Expert Report, Confidential, 19 March 2009; Registry Submission Pursuant to Rule 33 (B) Concerning Expert Report, Confidential, 23 March 2009.