

**UNITED
NATIONS**



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-T
Date: 24 September 2012
Original: English

IN TRIAL CHAMBER I

Before: Judge Alphons Orie, Presiding
Judge Michèle Picard
Judge Elizabeth Gwaunza

Registrar: Mr John Hocking

Decision of: 24 September 2012

PROSECUTOR

v.

**JOVICA STANIŠIĆ
FRANKO SIMATOVIĆ**

CONFIDENTIAL

**DECISION ON STANIŠIĆ REQUEST FOR EXTENSION OF
PROVISIONAL RELEASE**

Office of the Prosecutor
Mr Dermot Groome

Counsel for Jovica Stanišić
Mr Wayne Jordash
Mr Scott Martin

The Government of the Republic of Serbia
Per: The Embassy of the Republic of Serbia
to the Kingdom of the Netherlands

Counsel for Franko Simatović
Mr Mihajlo Bakrač
Mr Vladimir Petrović

The Government of the Kingdom of the Netherlands

I. PROCEDURAL HISTORY

1. On 16 July 2012, the Chamber granted the provisional release of the Accused Jovica Stanišić ("Accused") from 20 July to 4 October 2012 ("Decision").¹ The Chamber found that the Accused's presence at the Tribunal was not required until the closing arguments, which at that time were scheduled for 9 to 11 October 2012.²

2. On 11 September 2012, the Chamber decided that the final trial briefs would be filed one week after the last evidentiary decision in this case and that the hearing of closing arguments would begin on the third Tuesday after the filing of the final trial briefs.³

3. On 13 September 2012, the Stanišić Defence requested that the terms of the Accused's provisional release be varied to permit him to return to The Hague five days before the commencement of closing arguments ("Request").⁴ On 20 September 2012, the Prosecution sent an informal communication conveying that it does not oppose the Request.

II. APPLICABLE LAW

4. The Chamber recalls and refers to the applicable law governing the provisional release of an Accused as set out in a previous decision.⁵

III. DISCUSSION

5. The Chamber recalls its previous discussion of the criteria of Rule 65 (B) of the Tribunal's Rules of Procedure and Evidence ("Rules") in relation to the provisional release of the Accused.⁶ The Chamber has reviewed the reports from the Republic of Serbia ("Serbia") on the Accused's compliance with the conditions of his provisional release.⁷ The Chamber remains satisfied that the Accused, if his provisional release is extended, will appear for trial and that he will not pose a danger to any victim, witness, or other person.

¹ Decision on the Stanišić Defence Request for Provisional Release, 16 July 2012 (Confidential), paras 15 (3)(a) and (c); Decision on the Conditions of the Accused Stanišić's Provisional Release, 24 August 2012 (Confidential) ("Decision on Conditions").

² Decision, para. 14.

³ Decision on Requests related to Final Trial Briefs and Revised Scheduling Order, 11 September 2012.

⁴ Second Stanišić Defence Request to Vary the Terms of Stanišić's Provisional Release Decision on the Stanišić Defence Request for Provisional Release of 16 July 2012, 13 September 2012 (Confidential), para. 3.

⁵ Decision on the Stanišić Defence Request for Provisional Release during the Winter Recess, 19 December 2011 (Confidential), paras 6-7.

⁶ Decision, para. 7; Decision on Conditions, p. 1.

⁷ Republic of Serbia Reports regarding Provisional Release of the Accused Jovica Stanišić of 3, 13, 15, 16, 23, and 31 August 2012, and 7, 12 September 2012 (Confidential and *Ex Parte*) and 21 September 2012 (Confidential).

6. The Chamber now turns to whether it would be appropriate to extend the Accused's provisional release. The Chamber recalls its previous discussion in this respect.⁸ In the Decision, the Chamber set conditions for monitoring, treating, and reporting on the Accused's health, which include that the Reporting Medical Officer ("RMO") put questions to the Accused by telephone once every three weeks.⁹ The Chamber has reviewed the reports on the Accused's health and treatment prior to and during his provisional release.¹⁰ The Chamber has not received information suggesting that an extension of the Accused's provisional release would obstruct the Accused's medical treatment. The Chamber will instruct the RMO to consult the Accused's treating doctors and provide further information in this respect. The Chamber concludes that, provided the Accused's treatment is not obstructed, an extension of the Accused's provisional release would be appropriate under the conditions set out in the Decision.

7. There are presently no further witnesses scheduled to testify. As matters stand, the Accused's presence at the Tribunal is not required until the closing arguments. The date of the closing arguments will follow the filing of the final briefs, which are to be filed following the date of the last evidentiary decision in this case. The Chamber currently projects that the closing arguments will be heard not later than the end of November or December 2012. The Chamber considers that provisional release until such time is appropriate. Should a request to call a witness in rebuttal or rejoinder be granted, the Chamber will recall the Accused from provisional release. Under these circumstances, the Chamber will extend the Accused's provisional release, with an exact return date to be set as soon as the scheduling of the closing arguments is finalized. The Chamber will closely monitor and carefully consider the effect further developments in the scheduling of the closing arguments may have on the duration of the Accused's provisional release, and may *proprio motu* reconsider whether the Accused's provisional release remains appropriate.

IV. DISPOSITION

8. For the foregoing reasons, pursuant to Rules 54 and 65 of the Rules, the Chamber

GRANTS the Request in part;

INSTRUCTS the RMO to consult with the Accused's treating doctors and report to the Chamber by Friday 28 September 2012 whether an extension of the provisional release of the Accused until December 2012 would in any way obstruct the Accused's medical treatment;

⁸ Decision, paras 7-14.

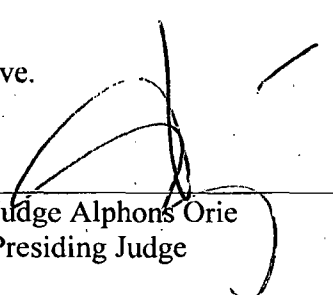
⁹ Decision, para. 15 (2)(c); Decision on Conditions, p. 2.

AMENDS the Decision, and **ORDERS**:

1. the Accused to return to the Tribunal on or before a date which the Chamber will set as soon as the scheduling of the closing arguments is finalized and which it will communicate to the Registry, the parties, Serbia, and the Dutch authorities ("Return Date");
2. that, on his return, the Accused be accompanied by the officials designated by Serbia, who shall deliver the Accused to the custody of the Dutch authorities at Schiphol airport on or before the Return Date and that the Dutch authorities then transport the Accused back to the United Nations Detention Unit; and

CLARIFIES that all other conditions set in the Decision remain in force.

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



Judge Alphons Orie
Presiding Judge

Dated this Twenty-fourth day of September 2012
At The Hague
The Netherlands

[Seal of the Tribunal]

¹⁰ Republic of Serbia Report on Medical Examination of the Accused Jovica Stanišić at the Military Medical Academy in Belgrade on 7 August 2012, 15 August 2012 (Confidential); RMO Reports of 19 July, 10 and 30 August 2012, and 20 September 2012 (Confidential).