

IT-03-69-T
D 46983 - D 46980
12 December 2012

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**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: 12 December 2012
Original: English

IN TRIAL CHAMBER I

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

Registrar: Mr John Hocking

Decision of: 12 December 2012

PROSECUTOR

v.

**JOVICA STANIŠIĆ
FRANKO SIMATOVIĆ**

PUBLIC

**SECOND DECISION ON THE CONDITIONS OF THE
ACCUSED STANIŠIĆ'S 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 AND SUBMISSIONS

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 In the Decision, the Chamber ordered the Accused to remain within the confines of the city of Belgrade.² The Chamber also set conditions for monitoring, treating, and reporting on the Accused’s health, which included that the Reporting Medical Officer (“RMO”) should put questions to the Accused by telephone once every three weeks.³
2. On 24 August 2012, the Chamber granted a request from the Accused allowing him to travel outside of the city of Belgrade on one day in August 2012 to visit his father’s grave in Bačka Palanka town in the Republic of Serbia (“Serbia”).⁴
3. On 24 September 2012, the Chamber granted a request from the Accused to extend his provisional release and ordered the Accused to return to the Tribunal on or before a date to be set as soon as the scheduling of the closing arguments is finalized (“Return Date”).⁵ On 7 December 2012, the Chamber set the Return Date at Thursday 24 January 2013.⁶
4. On 10 December 2012, the Stanišić Defence applied for a variation of the conditions of the Accused’s provisional release (“Request”).⁷ The Stanišić Defence requested that the Chamber allow the Accused to leave the city of Belgrade for one day (for approximately eight hours) so that he can visit his father’s grave in Bačka Palanka town in Serbia, with police escort, on account of an upcoming religious holiday on 19 December 2012.⁸ The Stanišić Defence submitted that the Prosecution indicated that it would not oppose the Request.⁹

¹ Order Issuing a Public Redacted Version of the Confidential Decision on the Stanišić Defence Request for Provisional Release of 16 July 2012, 7 November 2012; Decision on the Stanišić Defence Request for Provisional Release, 16 July 2012 (Confidential), paras 15 (3)(a) and (c).

² Decision, para. 15 (3)(d)(i).

³ Decision, para. 15 (2)(c).

⁴ Decision on the Conditions of the Accused Stanišić’s Provisional Release, 24 August 2012.

⁵ Decision on Stanišić Request for Extension of Provisional Release, 24 September 2012.

⁶ Order in relation to the Provisional Release of the Accused, 7 December 2012.

⁷ Urgent Stanišić Defence Application to Vary the Conditions of Stanišić’s Provisional Release Decision of 16 July 2012, 10 December 2012 (Confidential).

⁸ Request, paras 3, 5.

⁹ Request, para. 4.

II. APPLICABLE LAW AND DISCUSSION

5. The Chamber recalls and refers to the applicable law governing provisional release as set out in its previous decisions.¹⁰

6. The Chamber considers that granting the requested variation would not alter its assessment regarding the criteria of Rule 65 (B) of the Tribunal's Rules of Procedure and Evidence ("Rules").¹¹ Further, granting the requested variation is unlikely to disrupt the conditions for monitoring, treating, and reporting on the Accused's health set by the Chamber. Having reviewed the recent reports on the Accused's health,¹² and in view of the reasons for the Accused's travel outside of Belgrade set out in the Request, the Trial Chamber finds it appropriate to grant the Request.

III. DISPOSITION

7. For the foregoing reasons, pursuant to Rules 54 and 65 of the Rules, the Chamber **GRANTS** the Request, **AMENDS** the Decision, and **ORDERS** that as an exception to the conditions of the Accused's provisional release set in the Decision:

(i) the Accused may travel outside of the confines of the city of Belgrade on one day (for approximately eight hours) in December 2012 to visit his father's grave in Bačka Palanka town in Serbia;

(ii) the Accused need not report to a local police station on the day of his visit to his father's grave in Bačka Palanka in December 2012;

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

INSTRUCTS the Defence to consult with the Registry in determining the day on which the Accused will travel to Bačka Palanka, so as to ensure that the visit does not interfere in any way with the RMO putting questions to the Accused; and

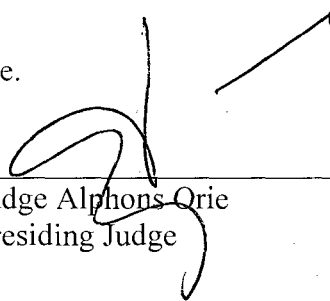
¹⁰ Decision on Simatović Request for Provisional Release, 13 December 2011, paras 6-7 and the decisions cited therein.

¹¹ Decision, para. 7.

¹² RMO reports of 20 September, 27 September, 11 October, 31 October, and 22 November 2012 (Confidential).

INSTRUCTS the Registry to inform the Government of Serbia at least two days in advance of the day on which the Accused will travel to Bačka Palanka.

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



Judge Alphons Orie
Presiding Judge

Dated this Twelfth day of December 2012
At The Hague
The Netherlands

[Seal of the Tribunal]