

**UNITED  
NATIONS**

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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-04-75-T

Date: 5 May 2015

Original: English

**IN THE TRIAL CHAMBER**

**Before:** Judge Guy Delvoie, Presiding  
Judge Burton Hall  
Judge Antoine Kesia-Mbe Mindua

**Registrar:** Mr. John Hocking

**Decision:** 5 May 2015

**PROSECUTOR**

v.

**GORAN HADŽIĆ**

**PUBLIC**

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**PUBLIC REDACTED VERSION OF THE DECISION ON PROSECUTION  
REQUEST FOR EXTENSION OF TIME TO RESPOND TO MOTION FOR  
PROVISIONAL RELEASE AND DEFENCE REQUEST TO EXPEDITE THE  
PROSECUTION RESPONSE**

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**The Office of the Prosecutor:**

Mr. Douglas Stringer

**Counsel for Goran Hadžić:**

Mr. Zoran Živanović

Mr. Christopher Gosnell

**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 (“Chamber” and “Tribunal”, respectively);

**NOTING** that, on 13 April 2015, Hadžić was granted provisional release by the Appeals Chamber and that on 20 April 2015, the Appeals Chamber modified the conditions of his provisional release ordering that he “shall return to the UNDU no later than three days prior to the final date of the MRI examination that is scheduled to take place [REDACTED]”;<sup>1</sup>

**BEING SEISED OF** the “Urgent Motion for Provisional Release”, filed by the Defence on 28 April 2015 (“Motion”), in which it requests, *inter alia*, that the Chamber decide the Motion expeditiously, including by modifying the deadlines for a response and a reply as may be appropriate (“Defence Request”);<sup>2</sup>

**BEING FURTHER SEISED OF** the “Prosecution Request for Extension of Time to Respond to Goran Hadžić’s Motion for Provisional Release filed on 28 April 2015”, filed confidentially on 29 April 2015 (“Request for Extension of Time to Respond”), in which the Prosecution requests an extension until three days after receipt of the results of the MRI scan, the additional medical examinations ordered by the Trial Chamber,<sup>3</sup> and the Chamber’s decisions on the “Prosecution Motion to Proceed with the Defence Case” and the “Prosecution’s Proposal for Expediting Presentation of the Defence Case”;<sup>4</sup>

**NOTING** that the Prosecution argues that: (i) it is premature for it to respond to the Motion before the abovementioned matters have been resolved; (ii) any prejudice to Hadžić in granting the extension will be negligible; and (iii) by having further information about Hadžić’s health

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<sup>1</sup> Decision on Urgent Interlocutory Appeal from Decision Denying Provisional Release, filed publicly with a confidential annex on 13 April 2013; Decision on Requests for Modification of the Conditions of Provisional Release (confidential), 20 April 2015 (“Decision on Modification of the Conditions of Provisional Release”).

<sup>2</sup> Motion, para. 24(ii). In the Motion, the Defence further requests that Hadžić be granted provisional release for the remainder of his scheduled period of chemotherapy treatment on the same conditions as ordered by the Appeals Chamber. It also requests the Chamber to defer any hearing and consideration of medical reports or testimony until after any disposition of the Motion. Finally, it requests leave to exceed the word limit. The Chamber will decide on these matters in its forthcoming decision on the Motion.

<sup>3</sup> On 1 April 2015, the Chamber ordered further medical examination of Hadžić in order to assist it in determining whether Hadžić is fit to stand trial, including, *inter alia*, whether Hadžić has an ability to understand the essentials of the trial proceedings and has the capacity to instruct counsel. *See* Order for Further Medical Examination, 1 April 2015 and Further Order in Relation to Order for Further Medical Examination, 20 April 2015.

<sup>4</sup> Request for Extension of Time to Respond, para. 7. The Chamber notes that also on 29 April 2015, the Prosecution filed the “Public Redacted Version of ‘Prosecution Request for Extension of Time to Respond to Goran Hadžić’s Motion for Provisional Release filed on 28 April 2015’”. *See* Prosecution Motion to Proceed with the Defence Case, 2 March 2015 and Prosecution’s Proposal for Expediting Presentation of the Defence Case, 24 March 2015.

condition, the parties and the Chamber will be in a better position to assess the factors relevant for the determination of the Motion and piecemeal litigation will be avoided;<sup>5</sup>

**NOTING** the “Response to Prosecution Request for Extension of Time to Respond to Goran Hadžić’s Motion for Provisional Release filed on 28 April 2015”, filed confidentially on 30 April 2015 (“Response to the Request for Extension of Time to Respond”), in which the Defence opposes the Request for Extension of Time to Respond arguing that: (i) the Motion is substantiated by existing medical reports and if the Prosecution wishes to rely on any future medical reports, it may do so by filing a motion once such reports are available; (ii) each day Hadžić spends in detention in his current condition is detrimental to his well-being; and (iii) past experience suggests that the scheduling and preparation of expert reports and testimony can occasion substantial delay;<sup>6</sup>

**NOTING** that the Defence requests that the Prosecution be required to file a response to the Motion no later than one week from the filing of the Motion;<sup>7</sup>

**CONSIDERING** that Rule 126 *bis* of the Tribunal’s Rules of Procedure and Evidence (“Rules”) provides that a response to a motion shall be filed within fourteen days of the filing of the motion;

**CONSIDERING** that Rule 127 (A)(i) of the Rules provides that a Trial Chamber may, on good cause being shown, enlarge or reduce any time prescribed by or under the Rules;

**NOTING**, with regard to the Defence Request, that on 15 April 2015, the Deputy Registrar informed the Chamber and the parties that Hadžić is scheduled to undergo an MRI scan in [REDACTED];<sup>8</sup>

**NOTING** that the Motion was filed on 28 April 2015, eight days after the Defence was put on notice of the timeframe for Hadžić to return to the UNDU by the Appeals Chamber’s Decision on Modification of the Conditions of Provisional Release of 20 April 2015;

**CONSIDERING** that any delay in issuing a decision on the Motion that may arise from allowing the Prosecution the full time prescribed by the Rules to prepare its response to the Motion will be a result of the timing of the Motion;

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<sup>5</sup> Request for Extension of time to Respond, paras 1-6. The Chamber notes that also on 30 April 2015, the Defence filed the “Public Redacted Version of ‘Response to Prosecution Request for Extension of Time to Respond to Goran Hadžić’s Motion for Provisional Release filed on 28 April 2015’”.

<sup>6</sup> Response to Request for Extension of Time to Respond, paras 2, 3, 5.

<sup>7</sup> Response to Request for Extension of Time to Respond, paras 2, 7.

<sup>8</sup> Deputy Registrar’s Submission on MRI Scan Date (confidential), 15 April 2015.

**FINDS** that, under the current circumstances, the Defence has not shown good cause for the Prosecution to be ordered to file its response to the Motion earlier than the deadline prescribed by the Rules;

**CONSIDERING** that the Request for Extension of Time to Respond aims to, in effect, suspend the renewed request for provisional release until such time as the abovementioned matters have been resolved;

**CONSIDERING** that granting the requested extension could therefore result in a delay which could be prejudicial to Hadžić;

**CONSIDERING**, moreover, that the Prosecution has not explained why it is not in a position to respond to the Motion, as it stands, within the time prescribed by the Rule 126 *bis* of the Rules;

**FINDS**, therefore, that the Prosecution has not demonstrated good cause for an extension of time to respond to the Motion;

**PURSUANT** to Rules 126 *bis* and 127 (A)(i) of the Rules, hereby:

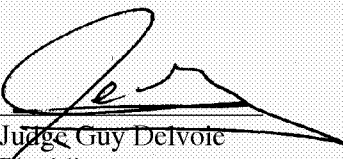
**DENIES** the Defence Request;

**DENIES** the Request for Extension of Time to Respond;

**REMAINS SEISED** of the Motion in all other respects.

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

Done this fifth day of May 2015,  
At The Hague,  
The Netherlands.



Judge Guy Delvoie  
Presiding

**[Seal of the Tribunal]**