

**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-98-32/1-R77.2-A
Date: 27 June 2012
Original: English

IN THE APPEALS CHAMBER

Before: Judge Khalida Rachid Khan, Presiding
Judge Mehmet Güney
Judge Fausto Pocar
Judge Arlette Ramarosan
Judge Andréia Vaz

Registrar: Mr. John Hocking

Decision of: 27 June 2012

PROSECUTOR

v.

JELENA RAŠIĆ

PUBLIC

**DECISION ON JELENA RAŠIĆ'S MOTION FOR
MODIFICATION OF THE TERMS OF HER
PROVISIONAL RELEASE**

The Office of the Prosecutor:

Mr. Paul Rogers

Counsel for Jelena Rašić:

Ms. Mira Tapušković

THE APPEALS 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 (“Appeals Chamber” and “Tribunal”, respectively);

BEING SEISED of Jelena Rašić’s (“Rašić”) motion to modify the terms of her provisional release, filed confidentially with four annexes on 1 June 2012;¹

NOTING that on 7 February 2012, Trial Chamber III of the Tribunal (“Trial Chamber”) sentenced Rašić to 12 months’ imprisonment and suspended the last eight months of her sentence,² and that the Trial Chamber issued its reasons in writing on 6 March 2012;³

NOTING that both the Office of the Prosecutor (“Prosecution”) and Rašić have appealed the Sentencing Judgement;⁴

RECALLING that on 4 April 2012, pursuant to Rules 102(A) and 65(I) of the Rules of Procedure and Evidence (“Rules”), the Appeals Chamber granted Rašić’s request for provisional release pending the disposition of the Prosecution’s and her appeals;⁵

RECALLING that, in the Provisional Release Decision, the Appeals Chamber was satisfied that Rašić does not present a flight risk,⁶ has no history of non-compliance with conditions imposed during previous periods of provisional release,⁷ did not pose a danger to any victim, witness, or other person during previous periods of provisional release,⁸ and that “special circumstances” warranting her provisional release have been established;⁹

RECALLING that under the terms and conditions imposed in the Provisional Release Decision, Rašić must, *inter alia*: (i) “reside in her parents’ place of residence in Belgrade at the address listed

¹ Jelena Rašić’s Motion for Modification of the Terms of her Provisional Release, 1 June 2012 (confidential) (“Request for Modification”). Although the Request for Modification was filed confidentially, the Appeals Chamber considers that there are no exceptional reasons for issuing this decision confidentially and therefore files it publicly. *See, e.g., Prosecutor v. Nikola Šainović et al.*, Case No. IT-05-87-A, Decision on Sreten Lukić’s Motion for Provisional Release, 30 March 2012, fn. 1 and reference cited therein.

² *Prosecutor v. Jelena Rašić*, Case No. IT-98-32/1-R77.2, Sentencing Hearing, 7 February 2012, T. 73.

³ *Prosecutor v. Jelena Rašić*, Case No. IT-98-32/1-R77.2, Written Reasons for Oral Sentencing Judgement, 6 March 2012 (“Sentencing Judgement”).

⁴ Prosecution Notice of Appeal, 12 March 2012; Prosecution Appeal Brief, 16 March 2012 (public with confidential annex); Jelena Rašić’s Notice of Appeal, 19 March 2012; Jelena Rašić’s Appeal Brief, 26 March 2012 (public with confidential annex); Corrigendum to Jelena Rašić’s Appeal Brief, 27 March 2012.

⁵ Decision on Jelena Rašić’s Urgent Motion for Provisional Release Pursuant to Rule 65(I), 4 April 2012 (“Provisional Release Decision”), para. 13.

⁶ Provisional Release Decision, paras 8-9.

⁷ Provisional Release Decision, para. 9.

⁸ Provisional Release Decision, para. 10.

⁹ Provisional Release Decision, para. 12.

in her Solemn Declaration”;¹⁰ (ii) “remain within the confines of the municipality of Belgrade”;¹¹ and (iii) “report to the police in Belgrade every Monday and Friday at a local police station to be designated by the authorities of Serbia”;¹²

CONSIDERING that Rašić requests the Appeals Chamber to modify the conditions of her provisional release under paragraphs 13(4)(ii), (iii), and (v) of the Provisional Release Decision as follows:

- “She will reside in the home of [...] her parents, Ljiljana and Mihajlo Rašić, [...] in Belgrade and/or in the country house, property of her mother Ljiljana Rašić, located in the Cerovac village, Smederevska Palanka Municipality”;¹³
- “She will remain in the confines of the Belgrade city and/or in the Smederevska Palanka Municipality, Cerovac village”;¹⁴
- “She will report to the local police station in Belgrade and/or in Smederevska Palanka every Monday and Friday designated by the authorities of Serbia”;¹⁵

CONSIDERING further that Rašić suggests one additional condition to her provisional release, namely “that whenever departing from Belgrade on her way to Cerovac village, she will report in advance to the local police station in Belgrade and the police station in Smederevska Palanka”;¹⁶

NOTING Rašić’s submission that she depends financially on her retired parents who spend more than half of the year in the country house, that staying alone in Belgrade would increase her parents’ living expenses, and that permission to accompany her parents to their country home would thereby minimize their financial burden;¹⁷

NOTING Rašić’s further submissions that: (i) there is nothing to suggest that she will flee if the terms of her provisional release are modified;¹⁸ (ii) a modification of the terms of her provisional release will not affect the Appeals Chamber’s continued satisfaction that she poses no risk to any victim, witness, or person involved in these proceedings;¹⁹ and (iii) she solemnly declares to abide by the modified conditions should her Request for Modification be granted;²⁰

¹⁰ Provisional Release Decision, para. 13(4)(ii), referring to *Prosecutor v. Jelena Rašić*, Case No. IT-98-32/1-R77.2, Urgent Motion for Provisional Release, 26 October 2010 (confidential), Annex 2 (“Solemn Declaration”).

¹¹ Provisional Release Decision, para. 13(4)(iii).

¹² Provisional Release Decision, para. 13(4)(v).

¹³ Request for Modification, para. 8 (internal reference omitted).

¹⁴ Request for Modification, para. 8.

¹⁵ Request for Modification, para. 8.

¹⁶ Request for Modification, para. 9.

¹⁷ Request for Modification, para. 7.

¹⁸ Request for Modification, para. 4.

¹⁹ Request for Modification, para. 3, referring to Provisional Release Decision, para. 10.

²⁰ Request for Modification, para. 9, Annex 4.

NOTING that the Prosecution takes no position on the Request for Modification;²¹

CONSIDERING that the Government of the Republic of Serbia indicated in May 2012 that it is possible “to provide the evidence of reporting and enable regular registration-reporting of [...] Rašić [...] to the authorized Police Station of Smederevska Palanka”;²²

CONSIDERING that the Trial Chamber previously granted a similar request by Rašić for modification of the terms of her provisional release from 12 November 2010 to 20 January 2012;²³

CONSIDERING that there is no evidence that Rašić has failed at any time to comply with any of the terms or conditions of her provisional release;²⁴

CONSIDERING Rašić’s solemn declaration to abide by the modified conditions should the Request for Modification be granted;²⁵

FINDING that sufficient reasons have been given to warrant the modification of Rašić’s provisional release;

PURSUANT TO Rule 65 of the Rules;

GRANTS the Request for Modification;

AMENDS paragraph 13(4), subsections (ii), (iii), and (v) of the Provisional Release Decision as follows:

²¹ Prosecution Response to Jelena Rašić’s Motion for Modification of the Terms of her Provisional Release, 4 June 2012 (confidential).

²² Request for Modification, Annex 2.

²³ *Prosecutor v. Jelena Rašić*, Case No. IT-98-32/1-R77.2, Status Conference, 9 June 2011, T. 22-23; *Prosecutor v. Jelena Rašić*, Case No. IT-98-32/1-R77.2, Written Reasons for Oral Decision Granting Defence Motion for Modification of the Terms of Jelena Rašić’s Provisional Release, 28 June 2011 (confidential); *Prosecutor v. Jelena Rašić*, Case No. IT-98-32/1-R77.2, Amended Scheduling Order and Order Terminating Provisional Release, 18 November 2011. *See also* *Prosecutor v. Jelena Rašić*, Case No. IT-98-32/1-R77.2, Decision Granting Provisional Release Pending Trial, 12 November 2010 (confidential).

²⁴ Report submitted by the Government of the Republic of Serbia regarding the Provisional Release of Jelena Rašić, dated 26 April 2012, filed 25 June 2012 (confidential); Report submitted by the Government of the Republic of Serbia regarding the provisional release of Jelena Rašić, dated 24 April 2012, filed 26 April 2012 (confidential); Report submitted by the Government of the Republic of Serbia regarding the provisional release of Jelena Rašić, dated 8 May 2012, filed 10 May 2012 (confidential); Report submitted by the Government of the Republic of Serbia regarding the provisional release of Jelena Rašić, dated 10 May 2012, filed 11 May 2012 (confidential); Report submitted by the Government of the Republic of Serbia regarding the provisional release of Jelena Rašić, dated 21 May 2012, filed 22 May 2012 (confidential); Report submitted by the Government of the Republic of Serbia regarding the provisional release of Jelena Rašić, 23 May 2012 (confidential); Report submitted by the Government of the Republic of Serbia regarding the provisional release of Jelena Rašić, 1 June 2012 (confidential); Report submitted by the Government of the Republic of Serbia regarding the provisional release of Jelena Rašić, 8 June 2012 (confidential); Report submitted by the Government of the Republic of Serbia regarding the provisional release of Jelena Rašić, dated 14 June 2012, filed 15 June 2012 (confidential); and Report submitted by the Government of the

(ii) To reside in her parents' place of residence in Belgrade, Serbia at the address listed in her Solemn Declaration and/or in the country house of her mother, Ljiljana Rašić, located in Cerovac village, Smederevska Palanka Municipality, Serbia;

(iii) To remain within the confines of the city of Belgrade and/or in Cerovac village, Smederevska Palanka Municipality;

(v) To report to the police in Belgrade and/or in Smederevska Palanka every Monday and Friday at a local police station to be designated by the authorities of Serbia, and whenever departing from Belgrade on her way to Cerovac village, or whenever departing from Cerovac village on her way to Belgrade, to report in advance to the local police station in Belgrade and the police station in Smederevska Palanka; and

AFFIRMS the Provisional Release Decision in all other respects.

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



Judge Khalida Rachid Khan

Presiding

Dated this 27th day of June 2012,

At The Hague,

The Netherlands.

[Seal of the Tribunal]

Republic of Serbia regarding the provisional release of Jelena Rašić, dated 21 June 2012, filed 22 June 2012 (confidential).

²⁵ Request for Modification, Annex 4.