



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-08-91-T
Date: 3 December 2010
Original: English

IN TRIAL CHAMBER II

Before: Judge Burton Hall, Presiding
Judge Guy Delvoie
Judge Frederik Harhoff

Registrar: Mr. John Hocking

Decision of: 3 December 2010

PROSECUTOR

v.

MIĆO STANIŠIĆ AND STOJAN ŽUPLJANIN

PUBLIC

**DECISION GRANTING MIĆO STANIŠIĆ'S MOTION
FOR PROVISIONAL RELEASE DURING THE COURT
WINTER RECESS**

The Office of the Prosecutor

Ms. Joanna Korner
Mr. Thomas Hannis

The Government of the Republic of Serbia

via the Embassy of the Republic of Serbia
to the Netherlands, The Hague

**The Government of the Kingdom of
the Netherlands**

Counsel for the Accused

Mr. Slobodan Zečević and Mr. Slobodan Cvijetić for Mićo Stanišić
Mr. Dragan Krgović and Mr. Igor Pantelić for Stojan Župljanin

TRIAL CHAMBER II (“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 SEISED of Mićo Stanišić’s motion for provisional release during the upcoming winter court recess, filed on 5 November 2010 with confidential annexes, in which the Defence of Mićo Stanišić (“Defence”) requests that Mićo Stanišić be granted temporary provisional release for the duration of the winter court recess scheduled between 18 December 2010 and 10 January 2011 (“Winter Recess”), on the same terms and conditions under which he has previously been released or under such conditions as the Trial Chamber deems appropriate to impose pursuant to Rule 65(C);¹

NOTING the Defence submissions that Mićo Stanišić surrendered voluntarily to the Tribunal within four days of being formally notified of the indictment, voluntarily co-operated with the Prosecution, and has always been in compliance with the terms and conditions of his provisional release, including any variation to those terms and conditions and that Mićo Stanišić poses no risk of flight, nor any danger to any victim, witness or other person;²

NOTING the Defence submission that for the majority of the recess period, the Defence will work from Belgrade and that it is important to the “logical and efficient preparation for the resumption of trial proceedings” for Mićo Stanišić to be in Belgrade so that he can be close to counsel and assist with the Defence’s preparation;³

NOTING the Prosecution’s oral response on 8 November 2010 that it takes no position on the Motion and leaves it to the discretion of the Trial Chamber;⁴

NOTING the guarantee of the Government of the Republic of Serbia (“Serbia”), filed on 24 November 2010, which provides, *inter alia*, that Serbia “undertakes, in the event that the [Trial Chamber] grants provisional release to the accused Mićo STANIŠIĆ [...] to comply with all orders issued by the Trial Chamber [...] so that the accused is able to appear before the [...] Tribunal at any time”;⁵

¹ Mr. Stanišić’s motion for provisional release during the upcoming winter court recess, 5 November 2010 (“Motion”), paras 1-2.

² Motion, para. 10.

³ Motion, para. 10.

⁴ Hearing, 8 November 2010, T. 17041.

⁵ Supplement to Mr. Stanišić’s motion for provisional release during the upcoming winter court recess, 23 November 2010, Annex A.

NOTING the communication from the Government of the Kingdom of the Netherlands, the host state (“the Netherlands”), filed on 22 November 2010, wherein it states that it has no objection to the request for provisional release;⁶

CONSIDERING that pursuant to Rule 65 of the Rules of Procedure and Evidence (“Rules”), the Trial Chamber may order provisional release if it is satisfied that the accused will appear for trial and, if released, will not pose a danger to any victim, witness or other person and that the Trial Chamber may impose such conditions upon the release of the accused as it may determine appropriate;

RECALLING that Mićo Stanišić has previously been granted provisional release on five occasions during the pre-trial phase and the trial on terms and conditions as set out by the Trial Chamber, all of which were fully respected by Mićo Stanišić;⁷

CONSIDERING that Mićo Stanišić has consistently complied with the provisional release conditions of the Trial Chamber and presented himself for court as directed;

CONSIDERING that, when granted provisional release on previous occasions, the Trial Chamber has been satisfied that Mićo Stanišić has not posed any danger to any victim, witness or other person;⁸

CONSIDERING that the Trial Chamber’s previous assessment of Mićo Stanišić’s flight risk or the threat he poses to witnesses, victims or persons associated with the case has not been altered;

CONSIDERING that the Trial Chamber is satisfied with the guarantee provided by Serbia and takes note of the communication offered by the Netherlands;

CONSIDERING that the Winter Recess is scheduled from 18 December 2010 to 10 January 2011;

PURSUANT TO Rule 65 of the Rules;

⁶ Correspondence from Host Country, 22 November 2010.

⁷ *Prosecutor v. Mićo Stanišić*, Case No. IT-04-79-PT, Decision on Mićo Stanišić’s motion for provisional release, 19 Jul 2005 (“Decision of 19 July 2005”); Order reinstating provisional release, 10 Jul 2008; Order reinstating provisional release, 12 Jun 2009; Decision granting Mr. Stanišić’s motion for provisional release during the winter recess, 11 Dec 2009 (“Decision of 11 Dec 2009”); Decision granting Mićo Stanišić’s motion for provisional release during the court summer recess, 16 Jul 2010 (“Decision of 16 July 2010”).

⁸ See Decision of 19 July 2005, para. 19; Decision of 11 Dec 2009, p. 4; Decision of 16 July 2010, p. 3.

GRANTS the Motion; and

ORDERS the provisional release of Mićo Stanišić subject to the following terms and conditions:

1. As soon as practicable, on or after 17 December 2010, Mićo Stanišić shall be transported to Schiphol airport by the designated authorities of the Netherlands;
2. At Schiphol airport, Mićo Stanišić shall be provisionally released into the custody of an official of Serbia, who shall accompany him for the remainder of his travel to Serbia and to his place of residence;
3. On his return, Mićo Stanišić shall be accompanied by an official of Serbia, who shall transfer custody of Mićo Stanišić to the authorities of the Netherlands at Schiphol airport on or before 7 January 2011 for his transport back to the UNDU;
4. During the period of his provisional release, Mićo Stanišić shall abide by the following conditions and the authorities of Serbia, including the local police, shall ensure compliance with such conditions:
 - i. to reside in his home at the address listed in Confidential Annex A attached to the Motion;
 - ii. to remain within the confines of the municipality of Belgrade;
 - iii. to surrender his passport to the Ministry of Internal Affairs of Serbia;
 - iv. to report each day, before 1 p.m., to the police in Belgrade at a local police station to be designated by the authorities of Serbia;
 - v. to consent to having the Ministry of Internal Affairs of Serbia verify with the local police regarding his presence and to the Ministry of Internal Affairs, or by a person designated by the Registrar of the Tribunal, to make occasional, unannounced visits upon him;
 - vi. not to have any contact whatsoever, or in any way interfere, with any victim, witness or potential witness or otherwise interfere in any way with the proceedings or the administration of justice;
 - vii. not to discuss his case with anyone, including the media, other than with his Defence;
 - viii. to continue to cooperate with the Tribunal;

- ix. to comply strictly with any requirements of the authorities of Serbia necessary to enable them to comply with their obligations under this Decision and their guarantees;
- x. to return to the Tribunal on or before 7 January 2011; and
- xi. to comply strictly with any further order of the Tribunal varying the terms of his provisional release or terminating his provisional release;

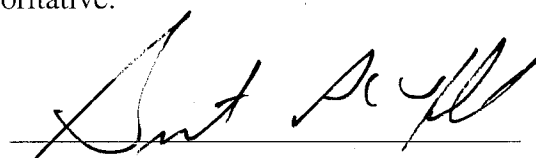
REQUIRES Serbia to assume responsibility as follows:

- a) to designate an official of its government into whose custody Mićo Stanišić shall be provisionally released and who shall accompany him from Schiphol airport to Serbia and to his place of residence, as well as to designate an official of its government who shall accompany Mićo Stanišić from his place of residence to Schiphol airport, where he shall be delivered into the custody of the authorities of the Netherlands, who will in turn transport him back to the UNDU;
- b) to notify, prior to the release of Mićo Stanišić from the UNDU, the Registrar of the Tribunal of the name of the official(s) designated pursuant to the previous subparagraph;
- c) for the personal security and safety of Mićo Stanišić while on provisional release;
- d) for all expenses concerning the transport of Mićo Stanišić from Schiphol airport to Belgrade and back;
- e) for all expenses concerning the security of Mićo Stanišić while on provisional release;
- f) to submit a written report to the Trial Chamber every week as to the compliance of Mićo Stanišić with the terms of this Decision;
- g) to arrest and detain Mićo Stanišić immediately should he breach any of the conditions of this Decision; and
- h) to report immediately to the Trial Chamber any breach of the conditions set out above;

INSTRUCTS the Registrar of the Tribunal to consult with the Ministry of Justice of the Netherlands as to the practical arrangements for the provisional release of Mićo Stanišić and to continue to detain him at the UNDU in The Hague until such time as the Registrar has been notified of the name of the designated official of Serbia into whose custody Mićo Stanišić is to be provisionally released; and

REQUESTS the authorities of the Netherlands to ensure that Mićo Stanišić is transported, under guard, from the UNDU and released into the custody of the designated official of Serbia at Schiphol airport and similarly, to take custody of Mićo Stanišić from the designated official of Serbia, on or before 7 January 2011, and to escort him back to the UNDU under guard.

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



Judge Burton Hall
Presiding

Dated this third day of December 2010

At The Hague

The Netherlands

[Seal of the Tribunal]