



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: 19 November 2012
Original: English

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018775 - 018771
19 NOVEMBER 2012

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IN TRIAL CHAMBER II

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

Registrar: Mr. John Hocking

Decision of: 19 November 2012

PROSECUTOR

v.

MIĆO STANIŠIĆ AND STOJAN ŽUPLJANIN

PUBLIC

**DECISION GRANTING MIĆO STANIŠIĆ'S SECOND MOTION FOR AN
EXTENSION OF PROVISIONAL RELEASE**

The Office of the Prosecutor

Mr. Matthew Olmsted
Mr. Alexis Demirdjian

The Government of the Republic of Serbia

via The Embassy of the Republic of Serbia to the
Kingdom of 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. Aleksandar Aleksić for Stojan Župljanin

I. INTRODUCTION

1. 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”) is seised of “Mićo Stanišić’s Motion for an Extension of Provisional Release”, filed by the Defence for Mićo Stanišić (“Defence”) on 6 November 2012 (“Motion”).

2. In its Decision of 6 June 2012, the Trial Chamber granted Mićo Stanišić provisional release for a period of three calendar months, specifying that before the expiry of that period Stanišić would be entitled to move for extension of his provisional release in accordance with the procedure set out by the Trial Chamber.¹ On 27 August 2012, the Trial Chamber extended the said period by three calendar months, specifying that the terms and conditions continued to apply *mutatis mutandis* to the period of the extension.²

II. SUBMISSIONS

3. The Defence requests that the Trial Chamber grant a further extension of Mićo Stanišić’s provisional release on the terms and conditions governing his current provisional release, or other conditions the Trial Chamber deems appropriate,³ submitting that (i) the date for rendering the judgement has yet to be set in the case, (ii) Stanišić is not at risk of flight, and poses no danger to any victim, witness, or other person within the meaning of Rule 65(B), and (iii) Stanišić has continued to abide by all the terms and conditions governing his provisional release.⁴

4. The Prosecution filed a response on 12 November 2012 (“Response”),⁵ whereby it submits that given its previous objections to Mićo Stanišić’s provisional release at this stage in the proceedings, it takes no position as to a further extension thereof. The Prosecution, however, submits that in the event the Trial Chamber decided to further extend Stanišić’s provisional release (i) the currently applicable conditions imposed upon Stanišić should continue to apply, (ii) an extension should not exceed the period of 90 calendar days, and (iii) the Accused should be recalled to the seat of the Tribunal if the trial judgement were to be rendered prior to the expiry of the extended period.⁶

¹ Decision granting Mićo Stanišić’s request for provisional release, 6 June 2012, para. 27 (“Decision of 6 June 2012”).

² Decision granting Mićo Stanišić’s request for an extension of provisional release, 27 August 2012, para. 15 (“Decision of 27 August 2012”).

³ Motion, para. 4.

⁴ *Ibid.*, para. 5.

⁵ Prosecution’s response to Mićo Stanišić’s motion for an extension of provisional release, 12 November 2012.

⁶ *Ibid.*, para. 2.

III. APPLICABLE LAW

5. The applicable law on provisional release was set out in detail in this Trial Chamber's previous decision granting Mićo Stanišić's request for an extension of provisional release of 27 August 2012, and need not be reiterated here.⁷

IV. DISCUSSION

6. The Trial Chamber, in the exercise of its discretion, granted Mićo Stanišić's provisional release on 6 June 2012 and decided to extend it for a period of three calendar months, having assessed *de novo* the merits of the Accused's request in the context of the circumstances existing at the time.⁸

7. As regards Mićo Stanišić's request for a further extension, the Trial Chamber recalls its continued reliance upon the guarantee provided by the Republic of Serbia ("Serbia") submitted by the Defence in support of Stanišić's request for provisional release pending judgement, whereby Serbia undertook to comply with all orders of the Trial Chamber "so that the Accused [would] appear before the [Tribunal] at *any time*".⁹

8. During the current period of Mićo Stanišić's provisional release, the Serbian Ministry of the Interior periodically informed the Trial Chamber that Stanišić has continued to comply with the terms and conditions governing his provisional release.¹⁰

9. The Trial Chamber recalls that Mićo Stanišić has been provisionally released on nine occasions since his voluntarily surrender to the Tribunal in 2005.¹¹ To date, Stanišić has abided by

⁷ Decision granting Mićo Stanišić's request for an extension of provisional release, 27 August 2012, paras 5-6; *see also* Decision granting Mićo Stanišić's request for provisional release, 18 November 2011, paras 11-13.

⁸ Decision of 6 June 2012.

⁹ Mr. Stanišić's motion for provisional release, 27 April 2012, Confidential Annex B, p. 2. Emphasis added.

¹⁰ *See* Report of the Ministry of the Interior on the actions taken pursuant to the decisions of the ICTY Trial Chamber of 6 June 2012 and 27 August 2012 regarding the provisional release of the defendant Mićo Stanišić for the period between 16 October 2012 and 29 October 2012, D18361-D18360, 2 November 2012; Report of the Ministry of the Interior on the actions undertaken pursuant to Decisions of the ICTY Trial Chamber dated 6 June 2012 and 27 August 2012 regarding the provisional release of the defendant Mićo Stanišić for the period between 18 September 2012 and 1 October 2012, D18354-D18353, 5 October 2012; Report of the Ministry of the Interior on the actions undertaken pursuant to the Decisions of the ICTY Trial Chamber dated 6 June 2012 and 27 August 2012 regarding the provisional release of the defendant Mićo Stanišić for a period between 4 September 2012 and 17 September 2012, D18349-D18348, 21 September 2012; Report of the Ministry of the Interior on the actions undertaken pursuant to the Decisions of the ICTY Trial Chamber dated 6 June 2012 and 27 August 2012 regarding the provisional release of the defendant Mićo Stanišić for the period between 21 August 2012 and 3 September 2012, D18343-D18342, 10 September 2012; Report of the Ministry of the Interior on the actions undertaken pursuant to the Decision of the ICTY Trial Chamber dated 6 June 2012 regarding the provisional release of the defendant Mićo Stanišić for the period between 7 August 2012 and 20 August 2012, D18233-D18232, 27 August 2012.

¹¹ Decision of 27 August 2012; Decision of 6 June 2012; Decision granting Mićo Stanišić's request for provisional release, 18 November 2011; Decision granting Mićo Stanišić's motion for provisional release during court winter recess, 3 December 2010; Decision granting Mićo Stanišić's motion for provisional release during the summer recess,

the conditions imposed upon him when provisionally released, and has returned to the United Nations Detention Unit when ordered to do so by this Tribunal on each occasion.

10. The Trial Chamber has no reason to doubt Mićo Stanišić's continued observance of the conditions imposed upon him should the Trial Chamber further extend his provisional release.

11. Likewise, the Trial Chamber recalls that the strict security measures imposed upon Mićo Stanišić during his current provisional release are *inter alia* aimed at eliminating any potential negative effect on victims and witnesses. No developments have been brought to the Trial Chamber's attention that would lead it to reconsider its previous assessment that Stanišić did not pose a danger to witnesses, victims, or other persons. Equally, no developments have been brought to the Trial Chamber's attention that would lead it to revise the position it took in its Decision of 27 August 2012 that Mićo Stanišić did not pose a risk of flight. The Trial Chamber is therefore satisfied that the requirements of Rule 65(B) are met and will exercise its discretion in favour of extending Stanišić's provisional release.

12. Considering the stage of the proceedings, and recalling its position that it did not consider it appropriate to grant Mićo Stanišić provisional release for an undetermined period,¹² the Trial Chamber considers that Mićo Stanišić's provisional release shall be extended by a further three calendar months, unless otherwise decided in the meantime.

13. Before the expiry of this extended period of provisional release, Mićo Stanišić may move for a further extension of his provisional release in accordance with the procedure set out in Annex I to the Decision of 6 June 2012. Upon such motion, the Trial Chamber will consider whether a further extension would be appropriate at that stage of the proceedings, and if so, assess *de novo* whether the requirements of Rule 65(B) of the Rules have been met.

16 July 2010; Decision granting Mićo Stanišić's motion for provisional release during the winter recess, 11 December 2009; Order reinstating provisional release, 12 June 2009; Order reinstating provisional release, 10 July 2008; and Decision on Mićo Stanišić's motion for provisional release, 19 July 2005.

¹² Decision of 27 August 2012, para. 13.

V. DISPOSITION

14. For the aforementioned reasons and pursuant to Rules 65 and 126 *bis* of the Rules, the Trial Chamber:

GRANTS the Motion;

DECIDES to extend the period of provisional release for Mićo Stanišić from 6 December 2012, when the previously granted period of provisional release is due to expire, to 6 March 2013, unless otherwise decided in the meantime;

DECIDES that the terms and conditions governing Mićo Stanišić's current provisional release, as set out in the Decision of 6 June 2012, continue to apply *mutatis mutandis* to the period of the extension granted by virtue of the present decision.

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



Judge Burton Hall
Presiding

Dated this 19th day of November 2012

At The Hague

The Netherlands

[Seal of the Tribunal]