

**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-04-75-T
Date: 25 February 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: 25 February 2015

PROSECUTOR

v.

GORAN HADŽIĆ

PUBLIC

**DECISION ON SECOND URGENT REQUEST FOR INTERIM PROVISIONAL
RELEASE**

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);

BEING SEISED OF the “Second Urgent Request for Interim Relief (Three-Week Interim Provisional Release)”, filed on 20 February 2015 (“Second Interim Motion”);

BEING FURTHER SEISED OF the “Urgent Request for Provisional Release”, filed confidentially with confidential and confidential and *ex parte* annexes by the Defence on 22 January 2015 (“Motion for Provisional Release”);

RECALLING the “Decision on Urgent Request for Interim Provisional Release”, filed confidentially on 11 February 2015 (“First Decision on Interim Provisional Release”), in which the Trial Chamber denied the “Urgent Request for Interim Provisional Release Until 22 February 2015”, filed confidentially with a confidential annex on 10 February 2015 (“First Interim Motion”);

NOTING that on 16 January 2015, at the request of the Prosecution and pursuant to Rule 74 *bis* of the Tribunal’s Rules of Procedure and Evidence (“Rules”), the Chamber ordered the Registry to appoint an independent neurologist and an independent neuro-oncologist (“Experts”) to examine Hadžić and to, no later than 13 February 2015, submit detailed written reports providing answers to questions related to Hadžić’s ability to attend and participate in trial proceedings;¹

NOTING that on 13 February 2015, the Deputy Registrar submitted medical reports by the Experts (“Expert Reports”);²

NOTING that the Defence is now requesting a three-week provisional release in light of the imminent start of Hadžić’s chemotherapy on 26 February 2015 and submits that this time period will afford the Chamber adequate time to deliberate on the Motion for Provisional Release;³

NOTING that the Defence further submits that the Expert Reports represent a substantial material change that warrants the granting of provisional release and that provisional release should not be delayed while attempting to schedule a hearing with the Experts;⁴

¹ Decision on Prosecution Request for a Medical Examination of the Accused Pursuant to Rules 54 and 74 *bis* (confidential), 16 January 2015, pp. 4-5. *See also* Public Redacted Version of 16 January 2015 Decision on Prosecution Request for a Medical Examination of the Accused Pursuant to Rules 54 and 74 *bis*, 22 January 2015.

² Deputy Registrar’s Submission of Reports of Medical Experts (confidential), 13 February 2015.

³ Second Motion, para. 1.

⁴ Second Motion, paras 2-3.

NOTING that the Prosecution submits that the Second Interim Motion raises no new issues not previously raised, and that, unless otherwise directed by the Chamber, it does not intend to file a response to the Second Interim Motion;⁵

NOTING the oral submissions by the parties made during the hearing of 25 February 2015;⁶

RECALLING that in the First Decision on Interim Provisional Release the Chamber considered that it would benefit from having the Expert Reports as well as fully informed submissions from the parties before it makes its determination on the Motion for Provisional Release;

NOTING that the Expert Reports are currently being considered by the Chamber in relation to the Motion for Provisional Release and that one Expert has appeared, and one has been invited to appear, before the Chamber on 25 and 26 February 2015 in order to provide additional information about their reports and answer questions from the parties or the Chamber;⁷

CONSIDERING therefore that the Chamber is still in the process of receiving and analysing important information on Hadžić's health from the Experts;

CONSIDERING that the Chamber will issue its decision on the Motion for Provisional Release as soon as practicable;

CONSIDERING that in the Second Interim Motion, the Defence raises no new issues which have not already been placed on the record;

FINDING therefore that the Defence has failed to demonstrate an urgency which necessitates a decision on interim provisional release;

⁵ Email from the Prosecution to the Chamber and the Defence, 24 February 2015.

⁶ Hearing, 25 February 2015, T. 12589-12592 (confidential).

⁷ Scheduling Order (confidential), 20 February 2015.


PURSUANT to Rules 54 and 65 of the Rules hereby:

DENIES the Second Interim Motion; and

REMAINS SEISED of the Motion for Provisional Release.

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

Done this twenty-fifth day of February 2015,
At The Hague,
The Netherlands.



Judge Guy Delvoic
Presiding

[Seal of the Tribunal]