



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: 21 February 2013
Original: English

IN TRIAL CHAMBER II

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

Registrar: Mr. John Hocking

Decision of: 21 February 2013

PROSECUTOR

v.

MIĆO STANIŠIĆ AND STOJAN ŽUPLJANIN

PUBLIC

**DECISION GRANTING MIĆO STANIŠIĆ'S THIRD 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 February 2013 (“Motion”).

2. On 6 June 2012, the Trial Chamber granted Mićo Stanišić provisional release for a period of three calendar months, specifying that he would be entitled to move for extension of this provisional release in accordance with the procedure set forth by the Trial Chamber.¹ Upon subsequent motions by the Defence, the Trial Chamber has extended this grant of provisional release by two separate decisions, issued on 27 August 2012 and 19 November 2012 respectively.² Each decision extended the term of provisional release by three calendar months specifying that the terms and conditions of the Decision of 6 June 2012 continued to apply *mutatis mutandis* to the granted period of extension.³

II. SUBMISSIONS

3. The Defence requests that the Trial Chamber grant a further extension of Mićo Stanišić’s provisional release for three months, on the terms and conditions governing his current provisional release, or for a period of time or under other conditions that the Trial Chamber deems appropriate.⁴ The Defence submits that the circumstances in this case have not changed since the last decision granting an extension; namely, (i) the date of judgement has yet to be set in the case and there are no court hearings requiring Stanišić’s presence, (ii) Stanišić is neither a flight risk nor does he pose danger to any victim, witness, or other person, and (iii) Stanišić continues to abide by all the terms and conditions governing his provisional release and the Republic of Serbia continues to provide adequate guarantees and security.⁵ The Defence states that there is “no reason or indication to believe that Mr. Stanišić will change his behaviour” should the Trial Chamber grant an additional extension.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”); Decision granting Mićo Stanišić’s second motion for an extension of provisional release, 19 November 2012, para. 14 (“Decision of 19 November 2012”).

³ *Ibid.*

⁴ Motion, para. 4.

⁵ *Ibid.*, para. 5.

⁶ *Ibid.*, para. 6.

4. The Trial Chamber notes that the Prosecution filed a response to the Motion on 20 February 2013⁷ and, again, recalls its Decision of 6 June 2012 which states: “The Prosecution shall have seven days from the day of filing of [a new motion for provisional release] to respond”.⁸ As such period of time elapsed on 13 February 2013, the Prosecution’s response is untimely and will not be considered.

III. APPLICABLE LAW

5. The Trial Chamber recalls the applicable law on provisional release that was set out in its Decision of 18 November 2011 granting Mićo Stanišić’s request for provisional release⁹ and the law on extension of provisional release as set out in its Decision of 27 August 2012.¹⁰ The Trial Chamber applies these legal standards in the present Decision.

IV. DISCUSSION

6. In exercise of its discretion, on 6 June 2012, the Trial Chamber granted Mićo Stanišić provisional release; on two subsequent occasions, the Trial Chamber has extended this provisional release after *de novo* assessment of the merits of Stanišić’s requests in the context of the circumstances existing at the time.

7. In light of 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*”.¹¹

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 of his provisional release.¹²

⁷ Prosecution’s response to Mićo Stanišić’s motion for an extension of provisional release, 20 February 2013.

⁸ Decision of 6 June 2012, Annex I, para. 3. *See also* Decision of 27 August 2012, para. 4.

⁹ Decision granting Mićo Stanišić’s request for provisional release, 18 November 2011, paras 11-13 (“Decision of 18 November 2011”).

¹⁰ Decision of 27 August 2012, para. 5.

¹¹ Mr. Stanišić’s motion for provisional release, 27 April 2012, Confidential Annex B, p. 2 (emphasis added).

¹² *See* Report of the Serbian Ministry of the Interior regarding the provisional release of Mico Stanišić, filed confidentially on 14 February 2013; Report of the Serbian Ministry of the Interior regarding the provisional release of Mico Stanišić, filed confidentially on 30 January 2013; Report of the Serbian Ministry of the Interior regarding the provisional release of Mico Stanišić, filed confidentially on 16 January 2013; Report of the Serbian Ministry of the Interior regarding the provisional release of Mico Stanišić, filed confidentially on 3 January 2013; Report of the Serbian Ministry of the Interior regarding the provisional release of Mico Stanišić, filed confidentially on 20 December 2012; Report of the Serbian Ministry of the Interior regarding the provisional release of Mico Stanišić, filed confidentially on 21 February 2013.

9. The Trial Chamber recalls that Mićo Stanišić has been provisionally released on ten occasions since his voluntary surrender to the Tribunal in 2005.¹³ Given that Stanišić has abided by the conditions imposed upon him when provisionally released, and has returned to the United Nations Detention Unit when ordered to do so, the Trial Chamber has no reason to doubt his continued observance of the conditions imposed upon him should the Trial Chamber further extend his provisional release.

10. Likewise, the Trial Chamber recalls that the strict security measures imposed upon Mićo Stanišić during his current provisional release are aimed at, *inter alia*, eliminating any potential negative effect on victims and witnesses. Further, there have been no developments brought to the Trial Chamber's attention that would lead it to reconsider its previous assessment that Stanišić does not pose a risk of flight or a danger to witnesses, victims, or other persons.¹⁴ 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.

11. Recalling its position that it did not consider it appropriate to grant Mićo Stanišić provisional release for an undetermined period,¹⁵ and considering the stage of the proceedings, 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.

12. As set forth in Annex I to the Decision of 6 June 2012, Mićo Stanišić may move for a further extension of his provisional release before the expiry of this extended period of provisional release. If such motion is made, 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.

V. DISPOSITION

13. For the aforementioned reasons and pursuant to Rule 65 of the Rules, the Trial Chamber:

GRANTS the Motion;

3 December 2012; Report of the Serbian Ministry of the Interior regarding the provisional release of Mico Stanišić, filed confidentially on 20 November 2012.

¹³ Decision of 19 November 2012; Decision of 27 August 2012; Decision of 6 June 2012; Decision of 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, 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.

¹⁴ *See, e.g.*, Decision of 6 June 2012, para. 25.

¹⁵ Decision of 6 June 2012, para. 26.

DECIDES to extend the period of provisional release for Mićo Stanišić from 6 March 2013, when the previously granted period of provisional release is due to expire, to 6 June 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 21st day of February 2013

At The Hague

The Netherlands

[Seal of the Tribunal]