

**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-03-69-T
Date: 24 September 2012
Original: English

IT-03-69-T
043974-043972
24 September 2012

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IN TRIAL CHAMBER I

Before: Judge Alphons Orie, Presiding
Judge Michèle Picard
Judge Elizabeth Gwaunza

Registrar: Mr John Hocking

Decision of: 24 September 2012

PROSECUTOR

v.

**JOVICA STANIŠIĆ
FRANKO SIMATOVIĆ**

PUBLIC

**DECISION ON SIMATOVIĆ REQUEST FOR EXTENSION OF
PROVISIONAL RELEASE**

Office of the Prosecutor

Mr Dermot Groome

Counsel for Jovica Stanišić

Mr Wayne Jordash
Mr Scott Martin

The Government of the Republic of Serbia

Per: The Embassy of the Republic of Serbia
to the Kingdom of the Netherlands

Counsel for Franko Simatović

Mr Mihajlo Bakrač
Mr Vladimir Petrović

The Government of the Kingdom of the Netherlands

I. PROCEDURAL HISTORY

1. On 16 July 2012, the Chamber granted the provisional release of the Accused Franko Simatović (“Accused”) from 20 July to 4 October 2012 (“Decision”).¹ The Chamber found that the Accused’s presence at the Tribunal was not required until the closing arguments, which at that time were scheduled for 9 to 11 October 2012.²

2. On 11 September 2012, the Chamber decided that the final trial briefs would be filed one week after the last evidentiary decision in this case and that the hearing of closing arguments would begin on the third Tuesday after the filing of the final trial briefs.³

3. On 17 September 2012, the Simatović Defence requested that the terms of the Accused’s provisional release be varied to permit him to return to The Hague five days before the commencement of closing arguments (“Request”).⁴ On 20 September 2012, the Prosecution sent an informal communication conveying that it does not oppose the Request.

II. APPLICABLE LAW

4. The Chamber recalls and refers to the applicable law governing provisional release as set out in its previous decisions.⁵

III. DISCUSSION

5. The Chamber recalls its previous discussion of the criteria of Rule 65 (B) of the Tribunal’s Rules of Procedure and Evidence (“Rules”) in relation to the provisional release of the Accused.⁶ The Chamber has reviewed the reports from the Republic of Serbia (“Serbia”) on the Accused’s compliance with the conditions of his provisional release.⁷ The Chamber remains satisfied that the Accused, if his provisional release is extended, will appear for trial and that he will not pose a danger to any victim, witness, or other person.

6. There are presently no further witnesses scheduled to testify. As matters stand, the Accused’s presence at the Tribunal is not required until the closing arguments. The date of the

¹ Decision on Simatović Request for Provisional Release, 16 July 2012, pp. 3-6.

² Decision, para. 8.

³ Decision on Requests related to Final Trial Briefs and Revised Scheduling Order, 11 September 2012.

⁴ Defence Request to Vary Terms of Simatović Provisional Release, 17 September 2012, para. 3.

⁵ Decision on Simatović Request for Provisional Release, 13 December 2011, paras 6-7 and the decisions cited therein.

⁶ Decision, para. 6.

closing arguments will follow the filing of the final briefs, which are to be filed following the date of the last evidentiary decision in this case. The Chamber currently projects that the closing arguments will be heard not later than November or December 2012. The Chamber considers that provisional release until such time is appropriate. Should a request to call a witness in rebuttal or rejoinder be granted, the Chamber will recall the Accused from provisional release. Under these circumstances, the Chamber will extend the Accused's provisional release, with an exact return date to be set as soon as the scheduling of the closing arguments is finalized. The Chamber will closely monitor and carefully consider the effect further developments in the scheduling of the closing arguments may have on the duration of the Accused's provisional release, and may *proprio motu* reconsider whether the Accused's provisional release remains appropriate.

IV. DISPOSITION

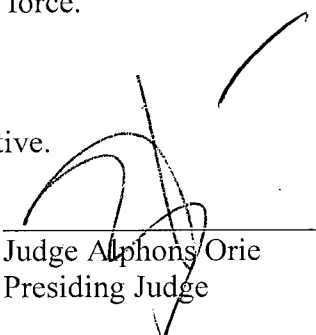
7. For the foregoing reasons, pursuant to Rules 54 and 65 of the Rules, the Chamber

GRANTS the Request in part, **AMENDS** the Decision, and **ORDERS**:

1. the Accused to return to the Tribunal on or before a date which the Chamber will set as soon as the scheduling of the closing arguments is finalized and which it will communicate to the Registry, the parties, Serbia, and the Dutch authorities ("Return Date");
2. that, on his return, the Accused be accompanied by the officials designated by Serbia, who shall deliver the Accused to the custody of the Dutch authorities at Schiphol airport on or before the Return Date and that the Dutch authorities then transport the Accused back to the United Nations Detention Unit; and

CLARIFIES that all other conditions set in the Decision remain in force.

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



Judge Alphons Orie
Presiding Judge

Dated this Twenty-fourth day of September 2012
At The Hague
The Netherlands

[Seal of the Tribunal]

⁷ Republic of Serbia Reports regarding Provisional Release of the Accused Franko Simatović of 8, 15, 16, 21, and 31 August 2012, and 3, 10 and 18 September 2012 (Confidential and *Ex Parte*).