



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: 27 August 2012
Original: English

IN TRIAL CHAMBER II

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

Registrar: Mr. John Hocking

Decision of: 27 August 2012

PROSECUTOR

v.

MIĆO STANIŠIĆ AND STOJAN ŽUPLJANIN

PUBLIC

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

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
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 8 August 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 the said period Stanišić would be entitled to move for extension of his provisional release in accordance with the procedure set out by the Chamber.¹

II. SUBMISSIONS

3. The Defence requests that the Trial Chamber extend the period of Stanišić’s provisional release on the terms and conditions governing his current provisional release.² In support of its application, the Defence submits that (i) the circumstances in the case have not changed since the Trial Chamber granted Mićo Stanišić’s provisional release on 6 June 2012; (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 abided by the terms and conditions of his provisional release.³

4. The Prosecution filed a response on 21 August 2012.⁴ However, the Trial Chamber notes that the deadline it had set for any response to a new motion for provisional release in its Decision of 6 June 2012 was seven days. The Prosecution’s filing is therefore not filed in accordance with that Decision and will not be considered.⁵

III. APPLICABLE LAW

5. The Trial Chamber notes that “the same legal principles applicable to a motion for provisional release apply *mutatis mutandis* to a motion for extension of provisional release”.⁶ Every application for provisional release or extension thereof must be assessed *de novo* on its merits and in the context of the circumstances existing at the time of taking the decision.

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

² Motion, para. 3.

³ *Ibid.*, para. 4.

⁴ Prosecution’s response to Mićo Stanišić’s motion for an extension of Provisional release, 21 August 2012.

⁵ Decision of 6 June 2012, Annex I, para. 3.

⁶ See *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-AR65.31, Decision on the Prosecution’s Appeal of the decision on further extension of Jadranko Prlić’s provisional release, 23 April 2012, para. 23.

6. The applicable law on provisional release was set out in detail in this Trial Chamber's decision granting Mićo Stanišić's request for provisional release of 18 November 2011, and need not be repeated here.⁷

IV. DISCUSSION

7. The Trial Chamber, in the exercise of its discretion, granted Stanišić's provisional release on 6 June 2012.⁸

8. The Trial Chamber recalls the guarantee provided by the Republic of Serbia ("Serbia") submitted by the Defence in support of its motion requesting Stanišić's current provisional release, 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

9. As regards his current provisional release, the Chamber has received periodic reports from the Serbian Ministry of the Interior on the actions undertaken pursuant to the Trial Chamber's decision on the provisional release of Mićo Stanišić, whereby the Ministry informs that Stanišić has abided by the terms and conditions imposed upon him.¹⁰

10. The Trial Chamber notes that Stanišić voluntarily surrendered to the Tribunal in 2005 and has since been provisionally released on eight occasions.¹¹ Stanišić has thus far complied with 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.

11. The Trial Chamber has no reason to believe that Stanišić would cease to abide by these conditions should the current request for extension of his provisional release be granted.

⁷ 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 actions undertaken pursuant to the Decision of the ICTY Trial Chamber dated 6 June 2012 regarding provisional release of the defendant Mićo Stanišić for a period between 27 July 2012 and 6 August 2012, IT-08-91-T, D18222-D18221, 15 August 2012; Report of the Ministry of the Interior on actions undertaken pursuant to the Decision of the ICTY Trial Chamber dated 6 June 2012 regarding provisional release of the defendant Mićo Stanišić between 10 July 2012 and 23 July 2012, IT-08-91-T, D18213-D8212, 30 July 2012; Report of the Ministry of Interior on actions undertaken pursuant to the Decision of the ICTY Trial Chamber dated 6 June 2012 regarding provisional release of the defendant Mićo Stanišić between 26 June 2012 and 9 July 2012, D18179-D18178, 17 July 2012; and Report of the Ministry of the Interior on actions undertaken pursuant to the Decision of the ICTY Trial Chamber dated 6 June 2012 regarding provisional release of the defendant Mićo Stanišić between 11 June 2012 and 25 June 2012, IT-08-91-T, D17198-1D17197, 2 July 2012.

¹¹ 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, 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 *Prosecutor v. Mićo Stanišić*, Case No. IT-04-79-PT, Decision on Mićo Stanišić's motion for provisional release, 19 July 2005.

12. Moreover, the Trial Chamber recalls the strict security measures imposed upon Mićo Stanišić during the current provisional release which are *inter alia* aimed at eliminating any potential negative effect on victims and witnesses. There have been no developments since the Trial Chamber's Decision of 6 June 2012 that would lead the Chamber to revise its previous assessment that Stanišić did not pose a danger to witnesses, victims, or other persons. In the Decision of 6 June 2012, the The Trial Chamber equally considered that Mićo Stanišić did not pose a risk of flight. No developments have been brought to the Trial Chamber's attention that would give the Chamber reason to reach a different conclusion at this stage. The Trial Chamber thus finds that the requirements of Rule 65(B) are met and will exercise its discretion in favour of extending Stanišić's provisional release.

13. As to the length of the extension of his provisional release, the Chamber recalls its previous finding that it did not consider it appropriate to grant Mićo Stanišić provisional release for an undetermined period.¹² In the present circumstances, the Trial Chamber considers that Stanišić's provisional release shall be extended for a period of three calendar months.

14. Before the expiry of this extended period of provisional release, the Accused may request 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 Chamber will reassess whether the requirements of Rule 65(B) of the Rules have been met.

¹² Decision of 6 June 2012, para. 26.

V. DISPOSITION

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

GRANTS the Motion;

DECIDES to extend the period of provisional release for Mićo Stanišić from 6 September 2012, when the previously granted period of provisional release is due to expire, to 6 December 2012;

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 27th day of August 2012

At The Hague

The Netherlands

[Seal of the Tribunal]