



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: 16 July 2010
Original: English

IN TRIAL CHAMBER II

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

Registrar: Mr. John Hocking

Decision of: 16 July 2010

PROSECUTOR

v.

MIĆO STANIŠIĆ AND STOJAN ŽUPLJANIN

PUBLIC

**DECISION GRANTING MIĆO STANIŠIĆ'S MOTION
FOR PROVISIONAL RELEASE DURING THE COURT
SUMMER RECESS**

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 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. Igor Pantelić and Mr. Dragan Krgović for Stojan Župljanin

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”);

BEING SEISED of “Mr. Stanišić’s motion for provisional release during the upcoming summer court recess”, filed on 5 July 2010 with confidential annexes (“Motion”), in which the Defence of Mićo Stanišić (“Defence”) requests that Mićo Stanišić be granted temporary provisional release for the duration of the summer court recess scheduled between 23 July and 13 August 2010 (“Summer Recess”), on the same terms and conditions under which he has previously been released or under such conditions as the Trial Chamber deems appropriate to impose pursuant to Rule 65(C);¹

NOTING the Defence submissions that Mićo Stanišić surrendered voluntarily to the Tribunal within four days of being formally notified of the indictment, voluntarily co-operated with the Prosecution, and has always behaved respectfully towards the Trial Chamber;²

NOTING the Defence submissions that Mićo Stanišić has always been in compliance with the terms and conditions of his provisional release, including any variation to those terms and conditions and that Mićo Stanišić poses no risk of flight, nor does he pose a danger to any victim, witness or other person;³

NOTING the Defence submission that for the majority of the recess period, the Defence will work from Belgrade and that it is important to the “logical and efficient preparation for the resumption of trial proceedings” for Mićo Stanišić to be in Belgrade so that he can be close to counsel and assist with the trial preparation;⁴

RECALLING that on 7 June 2010, the Trial Chamber ordered the Prosecution to file a response, if any, by 12 July 2010;⁵

NOTING the Prosecution’s oral response on 12 July 2010 that while its general position is to oppose provisional release, “at this stage of the case and given Mr. Stanišić’s previous record”, it takes no position on the Motion and leaves it to the discretion of the Trial Chamber;⁶

NOTING the guarantee of the Government of the Republic of Serbia (“Serbia”), dated 24 June 2010, which provides, *inter alia*, that it “undertakes, if the Trial Chamber accedes to the provisional

¹ Motion, paras 2, 12.

² Motion, paras 10 a, b, c.

³ Motion, paras 10 d, f.

⁴ Motion, para. 10 g.

⁵ Order for expedited response to motion for provisional release of Mićo Stanišić, issued on 7 July 2010.

⁶ Hearing, 12 Jul 2010, T. 12634-12635.

release of the accused Mićo Stanišić [...] to comply with all orders issued by the Trial Chamber [...] so that the accused will be in a position to appear before the [Tribunal] at any time”;⁷

NOTING the communication from the Government of the Kingdom of the Netherlands, the host state (“The Netherlands”), filed on 7 July 2010, wherein it states that it has no objection to the request for provisional release;⁸

CONSIDERING that pursuant to Rule 65 of the Rules of Procedure and Evidence (“Rules”), the Trial Chamber may order provisional release if it is satisfied that the accused will appear for trial and, if released, will not pose a danger to any victim, witness or other person and that the Trial Chamber may impose such conditions upon the release of the accused as it may determine appropriate;

RECALLING that Mićo Stanišić was first granted provisional release on terms and conditions as set out by the Trial Chamber in its decision of 19 July 2005 and subsequently released by orders and decisions on 10 July 2008, 12 June 2009, and 11 December 2009 respectively;⁹

CONSIDERING that Mićo Stanišić was recalled from provisional release on 11 April 2008, 26 May 2009, 19 August 2009 and 15 January 2010, for the specific purposes of attending court proceedings;¹⁰

CONSIDERING that when granted provisional release on previous occasions, Mićo Stanišić has not posed any danger to any victim, witness or other person;¹¹

CONSIDERING that Mićo Stanišić has always complied with the provisional release conditions of the Trial Chamber and presented himself for court as directed;

CONSIDERING that the Trial Chamber’s previous assessment of Mićo Stanišić’s flight risk or the threat he poses to witnesses, victims or persons associated with the case has not been altered even though the Prosecution case has since advanced further;

⁷ Motion, Annex C.

⁸ Correspondence from Host Country, 7 July 2010.

⁹ *Prosecutor v. Mićo Stanišić*, Case No. IT-04-79-PT, Decision on Mićo Stanišić’s motion for provisional release, 19 Jul 2005 (“Decision of 19 July 2005”); Order reinstating provisional release, 10 Jul 2008; Order reinstating provisional release, 12 Jun 2009; Decision granting Mr. Stanišić’s motion for provisional release during the winter recess, 11 Dec 2009 (“Decision of 11 Dec 2009”).

¹⁰ *Prosecutor v. Mićo Stanišić*, Case No. IT-04-79-PT, Decision following the Registrar’s submission regarding Mićo Stanišić’s legal representation with incorporated scheduling order and order recalling the Accused from provisional release, 11 Apr 2008; Scheduling order for a status conference and order recalling the Accused from provisional release, 26 May 2009; Order scheduling pre-trial conference and commencement of trial with order terminating provisional release, 19 Aug 2009; Decision of 11 Dec 2009.

¹¹ See Decision of 19 July 2005, para. 19; Decision of 11 Dec 2009, p. 4.

CONSIDERING that the Trial Chamber is satisfied with the guarantee provided by Serbia;

CONSIDERING that the Summer Recess is scheduled from 26 July 2010 to 13 August 2010 and that the Trial Chamber will not be sitting on 23 July 2010;¹²

PURSUANT TO Rule 65 of the Rules;

GRANTS the Motion; and

ORDERS the provisional release of Mićo Stanišić subject to the following terms and conditions:

1. As soon as practicable, on or after 23 July 2010, Mićo Stanišić shall be transported to Schiphol airport in The Netherlands by the designated authorities of The Netherlands;
2. At Schiphol airport, Mićo Stanišić shall be provisionally released into the custody of an official of Serbia, who shall accompany him for the remainder of his travel to Serbia and to his place of residence;
3. On his return, Mićo Stanišić shall be accompanied by an official of Serbia, who shall transfer custody of Mićo Stanišić to the authorities of The Netherlands at Schiphol airport on or before 13 August 2010 for his transport back to the UNDU;
4. During the period of his provisional release, Mićo Stanišić shall abide by the following conditions and the authorities of Serbia, including the local police, shall ensure compliance with such conditions:
 - i. to reside in his home at the address listed in Confidential Annex A attached to the Motion;
 - ii. to remain within the confines of the municipality of Belgrade;
 - iii. to surrender his passport to the Ministry of Internal Affairs of Serbia;
 - iv. to report each day, before 1 p.m., to the police in Belgrade at a local police station to be designated by the authorities of Serbia;
 - v. to consent to having the Ministry of Internal Affairs of Serbia verify with the local police regarding his presence and to the making of occasional, unannounced visits upon him by the said Ministry or by a person designated by the Registrar of the Tribunal;

¹² Hearing, 8 June T. 11357-11358.

- vi. not to have any contact whatsoever, or in any way interfere, with any victim, witness or potential witness or otherwise interfere in any way with the proceedings or the administration of justice;
- vii. not to discuss his case with anyone, including the media, other than with his Defence;
- viii. to continue to cooperate with the Tribunal;
- ix. to comply strictly with any requirements of the authorities of Serbia necessary to enable them to comply with their obligations under this Decision and their guarantees;
- x. to return to the Tribunal on or before 13 August 2010; and
- xi. to comply strictly with any further order of the Tribunal varying the terms of or terminating his provisional release;

REQUIRES Serbia to assume responsibility as follows:

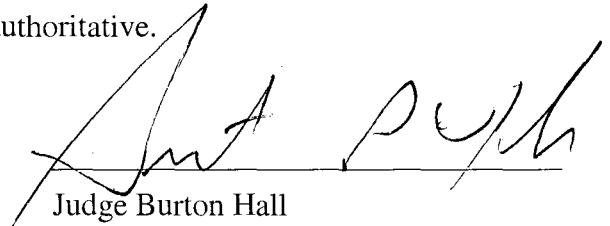
- a) to designate an official of its government into whose custody Mićo Stanišić shall be provisionally released and who shall accompany him from Schiphol airport to Serbia and to his place of residence as well as to designate an official of its government who shall accompany Mićo Stanišić from his place of residence to Schiphol airport, where he shall be delivered into the custody of the authorities of The Netherlands, who will in turn transport him back to the UNDU;
- b) to notify, prior to the release of Mićo Stanišić from the UNDU, the Registrar of the Tribunal of the name of the official(s) designated pursuant to the previous subparagraph;
- c) for the personal security and safety of Mićo Stanišić while on provisional release;
- d) for all expenses concerning the transport of Mićo Stanišić from Schiphol airport to Belgrade and back;
- e) for all expenses concerning the security of Mićo Stanišić while on provisional release;
- f) to submit a written report to the Trial Chamber every week as to the compliance of Mićo Stanišić with the terms of this Decision;
- g) to arrest and detain Mićo Stanišić immediately should he breach any of the conditions of this Decision; and

h) to report immediately to the Trial Chamber any breach of the conditions set out above;

INSTRUCTS the Registrar of the Tribunal to consult with the Ministry of Justice of The Netherlands as to the practical arrangements for the provisional release of Mićo Stanišić and to continue to detain him at the UNDU in The Hague until such time as the Registrar has been notified of the name of the designated official of Serbia into whose custody Mićo Stanišić is to be provisionally released; and

REQUESTS the authorities of The Netherlands to ensure that Mićo Stanišić is transported, under guard, from the UNDU and released into the custody of the designated official of Serbia at Schiphol airport and similarly, to take custody of Mićo Stanišić from the designated official of Serbia, on or before 13 August 2010, and to escort him back to the UNDU under guard.

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



Judge Burton Hall

Presiding

Dated this sixteenth day of July 2010

At The Hague

The Netherlands

[Seal of the Tribunal]