

**UNITED
NATIONS**



Mechanism for International Criminal Tribunals

Case No.: MICT-15-96-T

Date: 12 January 2018

Original: English

IN THE TRIAL CHAMBER

Before: Judge Burton Hall, Presiding
Judge Joseph E. Chiondo Masanche
Judge Seon Ki Park

Registrar: Mr. Olufemi Elias

Decision of: 12 January 2018

PROSECUTOR

v.

**JOVICA STANIŠIĆ
FRANKO SIMATOVIĆ**

PUBLIC

**DECISION ON STANIŠIĆ'S MOTION
FOR FURTHER EXTENSION OF PROVISIONAL RELEASE**

The Office of the Prosecutor:

Mr. Serge Brammertz
Mr. Douglas Stringer

Counsel for the Defence:

Mr. Wayne Jordash and Mr. Iain Edwards for Mr. Jovica Stanišić
Mr. Mihajlo Bakrač and Mr. Vladimir Petrović for Mr. Franko Simatović

Government of the Republic of Serbia

THE TRIAL CHAMBER OF the International Residual Mechanism for Criminal Tribunals (“Trial Chamber” and “Mechanism”, respectively);¹

RECALLING that, on 19 July 2017, the Trial Chamber authorized the provisional release of Jovica Stanišić during the judicial recess and certain portions of the Prosecution’s case until 27 September 2017;²

RECALLING that, on 25 September 2017, Stanišić was granted an extension of his provisional release until 17 January 2018;³

RECALLING that a medical reporting regime, involving the Medical Service of the United Nations Detention Unit, the Government of the Republic of Serbia, and independent medical experts, was included as part of Stanišić’s provisional release conditions;⁴

BEING SEISED OF a motion filed on 27 December 2017, in which Stanišić requests a further extension of his provisional release for an additional period of three months or until such date as the Trial Chamber may deem appropriate;⁵

NOTING Stanišić’s submissions that (i) the exceptional circumstances underpinning the Decision of 25 September 2017 remain the same; (ii) the conditions of Rule 68(B) of the Rules of Procedure and Evidence (“Rules”) continue to be met; and (iii) there is nothing before the Trial Chamber that could lead to an inference that he is unfit to waive his right to attend trial or unable to travel;⁶

NOTING that the Prosecution does not oppose Stanišić’s request for extension of his provisional release, provided that the same conditions imposed by the Trial Chamber for his current period of release continue to apply;⁷

NOTING the applicable law governing provisional release pursuant to Rule 68(B) of the Rules as set out in previous decisions;⁸

¹ Order Replacing a Judge in a Case Before a Trial Chamber, 21 February 2017, p. 1.

² Decision on Stanišić’s Motion for Provisional Release, 19 July 2017 (“Decision of 19 July 2017”), paras. 23, 24. *See also* Order Lifting Confidentiality of Decisions on Provisional Release, 24 July 2017, p. 1.

³ Decision on Stanišić Defence Motion for Extension of Provisional Release, 25 September 2017 (public redacted version) (“Decision of 25 September 2017”), para. 14.

⁴ *See* Decision of 19 July 2017, p. 11; Decision of 25 September 2017, para. 15.

⁵ Stanišić Defence Motion For Extension of Provisional Release, 27 December 2017 (confidential and *ex parte*) (“Motion”), paras. 5, 15.

⁶ *See* Motion, paras. 6-8, 10-13.

⁷ Prosecution Response to Stanišić Defence Motion for Extension of Provisional Release, 5 January 2018 (confidential and *ex parte*), para. 1.

NOTING that the Decision of 25 September 2017 provides that: (i) the decision may be revisited in view of independent medical experts' reports and any other medical information that may become available; and (ii) necessary action will be taken in response to any information that may constitute a change of circumstances, which call into question whether the pre-conditions set forth in Rule 68(B) of the Rules remain fulfilled;⁹

NOTING that Stanišić was provisionally released by the Trial Chamber for the entirety of the pre-trial phase and following the commencement of the trial and that, on each occasion, he complied with the terms of his provisional release;¹⁰

NOTING that the reports provided by the Government of the Republic of Serbia confirm Stanišić's compliance with the provisional release conditions and that there is no indication that he has ever engaged in any practice undermining the administration of justice;¹¹

CONSIDERING that, in these circumstances, there is no reason to believe that Stanišić would cease to abide by the conditions or pose a danger to any victim, witness, or other person should there be an extension of his provisional release;

CONSIDERING that the medical reports, including those from the independent medical experts, do not indicate a change in Stanišić's ability to travel;¹²

CONSIDERING that the Trial Chamber remains satisfied that Stanišić has voluntarily waived his right to be present for the period of his provisional release and will continue to follow the proceedings and instruct counsel remotely;¹³

⁸ See, e.g., Decision 19 July 2017, paras. 11-13. See also Decision on Stanišić's Motion for Extension of Provisional Release, 19 May 2017, para. 13 (noting that the same legal principles applicable to a motion for provisional release apply *mutatis mutandis* to a motion for extension of provisional release).

⁹ See Decision of 25 September 2017, para. 14.

¹⁰ See Decision of 25 September 2017, para. 10 and references cited therein.

¹¹ See Communication from the Ministry of Justice of Serbia, 17 October 2017 (confidential); Communication from the Ministry of Justice of Serbia, 31 October 2017 (confidential); Communication from the Ministry of Justice of Serbia, 17 November 2017 (confidential); Communication from the Ministry of Justice of Serbia, 28 November 2017 (confidential); Communication from the Ministry of Justice of Serbia, 12 December 2017 (confidential); Communication from the Ministry of Justice of Serbia, 26 December 2017 (confidential); Communication from the Ministry of Justice of Serbia, 11 January 2018 (confidential). See also Decision of 25 September 2017, para. 10.

¹² Communication from the Ministry of Justice of Serbia, 6 October 2017 (confidential and *ex parte*); Registrar's Submission of Medical Report, 12 October 2017 (confidential and *ex parte* with confidential and *ex parte* Annex); Communication from the Ministry of Justice of Serbia, 16 October 2017 (confidential and *ex parte*); Communication from the Ministry of Justice of Serbia, 20 October 2017 (confidential and *ex parte*); Registrar's Submission of Medical Report, 2 November 2017 (confidential and *ex parte* with confidential and *ex parte* Annex); Registrar's Submission of Independent Expert's Medical Report, 14 November 2017 (confidential and *ex parte* with confidential and *ex parte* Annex); Registrar's Submission of Medical Report, 22 November 2017 (confidential and *ex parte* with confidential and *ex parte* Annex); Registrar's Submission of Medical Report, 14 December 2017 (confidential and *ex parte* with confidential and *ex parte* Annex); Registrar's Submission of Medical Report, 4 January 2018 (confidential and *ex parte* with confidential and *ex parte* Annex).

FINDING, therefore, that a further extension of Stanišić's provisional release until Friday, 13 April 2018 is appropriate;

NOTING that the Trial Chamber will remain alert and take necessary action in response to any information that may constitute a change of circumstances calling into question whether the pre-conditions set forth in Rule 68(B) of the Rules remain fulfilled;

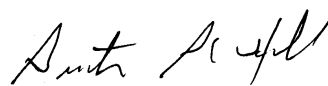
PURSUANT to Rules 68(B) and 98 of the Rules;

HEREBY GRANTS the Motion; and

AUTHORIZES an extension of Stanišić's provisional release until Friday, 13 April 2018, under the conditions set forth in the Decision of 19 July 2017 and the Decision of 25 September 2017.

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

Done this 12th day of January 2018,
At The Hague,
The Netherlands



Judge Burton Hall, Presiding

[Seal of the Mechanism]

¹³ See Motion, paras. 3-5.



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