

**UNITED
NATIONS**



International Residual Mechanism
for Criminal Tribunals

Case No.: MICT-15-96-T

Date: 16 August 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: 16 August 2018

PROSECUTOR

v.

**JOVICA STANIŠIĆ
FRANKO SIMATOVIĆ**

PUBLIC

**DECISION ON STANIŠIĆ'S SEVENTH DEFENCE 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

The 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 Jovica Stanišić was granted provisional release until 27 September 2017, which was subsequently extended until 30 August 2018;²

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;³

BEING SEISED OF a motion filed on 2 August 2018, in which Stanišić requests an extension of his provisional release until the start of the Defence case, which he understands to be after the winter judicial recess;⁴

NOTING Stanišić’s submissions that there have been no material changes to the exceptional circumstances underpinning the previous decisions granting provisional release, and that the conditions of Rule 68(B) of the Rules of Procedure and Evidence (“Rules”) continue to be met;⁵

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;⁶

NOTING the applicable law governing provisional release pursuant to Rule 68(B) of the Rules as set out in previous decisions;⁷

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

² See Decision on Stanišić’s Motion for Further Extension of Provisional Release, 11 April 2018 (“Decision of 11 April 2018”), p. 3; Decision on Stanišić’s Motion for Further Extension of Provisional Release, 12 January 2018, p. 3; Decision on Stanišić’s Motion for Provisional Release, 19 July 2017 (confidential) (“Decision of 19 July 2017”), paras. 23, 24. See also Decision on Stanišić Defence Motion for Extension of Provisional Release, 25 September 2017 (public redacted version) (“Decision of 25 September 2017”), para. 14.

³ See Decision of 11 April 2018, p. 3 (authorizing an extension of Stanišić’s provisional release under the conditions set forth in the Decision of 19 July 2017 and the Decision of 25 September 2017). See also Decision of 19 July 2017, p. 11; Decision of 25 September 2017, para. 15.

⁴ Stanišić Seventh Defence Motion For Extension of Provisional Release, 2 August 2018 (confidential) (“Motion”), paras. 1, 8, 10.

⁵ See Motion, paras. 4-7, 10; Addendum to Stanišić Seventh Defence Motion for Extension of Provisional Release, 10 August 2018, paras. 3-8.

⁶ Prosecution Response to Stanišić Seventh Defence Motion for Extension of Provisional Release, 13 August 2018 (confidential), para. 1.

⁷ See, e.g., Decision of 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 legal principles applicable to a motion for provisional release apply *mutatis mutandis* to a motion for extension of provisional release).

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;⁸

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;⁹

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 before the Trial Chamber do not indicate a current or expected inability for Stanišić to travel;¹⁰

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;¹¹

CONSIDERING that the date for the start of the Defence case has yet to be determined and that the proper administration of justice requires a fixed date for any extension of Stanišić's provisional release;

⁸ Decision of 11 April 2018, p. 2 and references cited therein. *See also* Decision of 25 September 2017, para. 10 and references cited therein.

⁹ *See* Communication from the Ministry of Justice of the Republic of Serbia, 9 August 2018 (confidential); Communication from the Ministry of Justice of the Republic of Serbia, 30 July 2018 (confidential); Communication from the Ministry of Justice of the Republic of Serbia, 12 July 2018 (confidential); Communication from the Ministry of Justice of the Republic of Serbia, 3 July 2018 (confidential); Communication from the Ministry of Justice of the Republic of Serbia, 18 June 2018 (confidential); Communication from the Ministry of Justice of the Republic of Serbia, 31 May 2018 (confidential); Communication from the Ministry of Justice of the Republic of Serbia, 22 May 2018 (confidential); Communication from the Ministry of Justice of the Republic of Serbia, 7 May 2018 (confidential); Communication from the Ministry of Justice of the Republic of Serbia, 19 April 2018 (confidential). *See also* Decision of 11 April 2018, p. 2 and references cited therein.

¹⁰ Registrar's Submission of Medical Report, 2 August 2018 (confidential and *ex parte* with confidential and *ex parte* Annex), resolving Stanišić's temporary inability to travel mentioned in Registrar's Submission of Medical Report, 13 July 2018 (confidential and *ex parte* with confidential and *ex parte* Annex); Registrar's Submission of Medical Report, 21 June 2018 (confidential and *ex parte* with confidential and *ex parte* Annex), resolving Stanišić's inability to travel mentioned in Registrar's Submission of Medical Report, 31 May 2018 (confidential and *ex parte* with confidential and *ex parte* Annex); Registrar's Submission of Medical Report, 11 May 2018 (confidential and *ex parte* with confidential and *ex parte* Annex); Registrar's Submission of Medical Report, 19 April 2018 (confidential and *ex parte* with confidential and *ex parte* Annex). *See also* Decision of 11 April 2018, p. 2 and references cited therein.

¹¹ *See* Motion, paras. 4, 5, 7, *referring to* Decision of 11 April 2018, p. 2; Stanišić Defence Motion for Extension of Provisional Release, 5 May 2017 (confidential with confidential Annex A), Annex A. *See also* Stanišić Defence Motion for Provisional Release, 29 June 2017 (confidential with confidential Annexes A and B), Annex B.

FINDING, therefore, that a further extension of Stanišić's provisional release until Thursday, 10 January 2019 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;

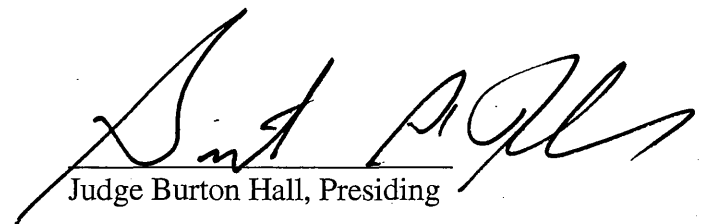
PURSUANT to Rules 68(B) and 98 of the Rules;

HEREBY GRANTS the Motion, in part; and

AUTHORIZES an extension of Stanišić's provisional release until Thursday, 10 January 2019, 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 16th day of August 2018,
At The Hague,
The Netherlands



Judge Burton Hall, Presiding

[Seal of the Mechanism]



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