



International Residual Mechanism  
for Criminal Tribunals

Case No.: MICT-15-96-T

Date: 31 December 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:** 31 December 2018

**PROSECUTOR**

v.

**JOVICA STANIŠIĆ  
FRANKO SIMATOVIĆ**

***PUBLIC***

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

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**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);<sup>1</sup>

**RECALLING** that Jovica Stanišić was granted provisional release until 30 August 2018, which was subsequently extended until 10 January 2019;<sup>2</sup>

**RECALLING** that a medical reporting regime, involving the Medical Service of the United Nations Detention Unit and the Government of the Republic of Serbia was included as part of Stanišić’s provisional release conditions;<sup>3</sup>

**BEING SEISED OF** a motion filed on 12 December 2018, in which Stanišić requests an extension of his provisional release until 10 May 2019;<sup>4</sup>

**NOTING** Stanišić’s submissions that: (i) there have been no material changes to the exceptional circumstances underpinning the previous decisions granting provisional release; (ii) the conditions of Rule 68(B) of the Rules of Procedure and Evidence (“Rules”) continue to be met; and (iii) any current inability to travel is temporary in nature;<sup>5</sup>

**NOTING** that the Prosecution does not oppose “a reasonable extension” of Stanišić’s provisional release, provided that the same conditions imposed by the Trial Chamber for his current period of release continue to apply, but contends that Stanišić’s request for provisional release until 10 May 2019 is excessive and unwarranted;<sup>6</sup>

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

<sup>2</sup> See Decision on Stanišić’s Seventh Defence Motion for Further Extension of Provisional Release, 16 August 2018 (“Decision of 16 August 2018”), p. 3; Decision on Stanišić’s Motion for Further Extension of Provisional Release, 11 April 2018 (corrigendum filed on 16 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; made public on 24 July 2017) (“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”), paras. 14, 15.

<sup>3</sup> See Decision of 16 August 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.

<sup>4</sup> Stanišić Eighth Defence Motion for Extension of Provisional Release, 12 December 2018 (confidential) (“Motion”), paras. 1, 9, 11. See also Motion, para. 8.

<sup>5</sup> See Motion, paras. 4-7, 11.

<sup>6</sup> Prosecution Response to Stanišić Eighth Defence Motion for Extension of Provisional Release and Request for Timeline, 21 December 2018 (confidential) (“Response”), para. 1. The Prosecution further requests that the Trial Chamber issue an indicative timeline in respect of any proceedings pursuant to Rule 121 of the Rules and other filings related to the Defence case. See Response, para. 2.

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

**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;<sup>8</sup>

**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;<sup>9</sup>

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

**CONSIDERING** that, while the medical reports before the Trial Chamber indicate a temporary inability for Stanišić to travel,<sup>10</sup> it appears from the most recent medical report that Stanišić will be able to travel once he is "fully recovered" from a recent medical treatment,<sup>11</sup> which the Trial Chamber will continue to monitor through the medical reporting regime;

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<sup>7</sup> 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).

<sup>8</sup> Decision of 16 August 2018, p. 2 and references cited therein.

<sup>9</sup> See confidential Communications from the Ministry of Justice of the Republic of Serbia filed on 27 August, 6 September, 26 September, 4 October, 17 October, 2 November, 15 November, 3 December, 17 December, and 27 December 2018. See also Decision of 16 August 2018, p. 2 and references cited therein.

<sup>10</sup> Registrar's Submission of Medical Report, 20 December 2018 (confidential and *ex parte* with confidential and *ex parte* Annex) ("Registrar's Submissions of 20 December 2018"), Annex, para. 7 (indicating Stanišić's temporary inability to travel until he is fully recovered from a medical procedure); Registrar's Submission of Medical Report, 6 December 2018 (confidential and *ex parte* with confidential and *ex parte* Annex), Annex, para. 6; Registrar's Submission of Medical Report, 14 November 2018 (confidential and *ex parte* with confidential and *ex parte* Annex), Annex, para. 5; Registrar's Submission of Medical Report, 26 October 2018 (confidential and *ex parte* with confidential and *ex parte* Annex), Annex, para. 5. See also Registrar's Submission of Medical Report, 5 October 2018 (confidential and *ex parte* with confidential and *ex parte* Annex), Annex, para. 5 (indicating Stanišić's ability to travel provided that he has access to certain medication and facilities); Registrar's Submission of Medical Report, 14 September 2018 (confidential and *ex parte* with confidential and *ex parte* Annex), Annex, para. 3 (indicating Stanišić's temporary inability to travel until certain medical issues are resolved); Registrar's Submission of Medical Report, 24 August 2018 (confidential and *ex parte* with confidential and *ex parte* Annex), Annex, para. 8 (indicating Stanišić's ability to travel provided that he has access to certain medication and facilities).

<sup>11</sup> Registrar's Submissions of 20 December 2018, Annex, para. 7 (indicating that Stanišić is "not yet" able to travel until he is "fully recovered" from a medical procedure).

**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;<sup>12</sup>

**NOTING** that the testimony of the last Prosecution witness<sup>13</sup> will take place from 28 January 2019 until 1 February 2019;

**CONSIDERING** that the date for the start of the Defence case has yet to be determined<sup>14</sup> and that the proper administration of justice requires a fixed date for any extension of Stanišić's provisional release;

**FINDING**, therefore, that a further extension of Stanišić's provisional release until Thursday, 2 May 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;

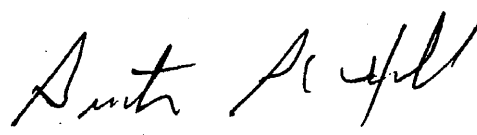
**PURSUANT** to Rules 68(B) and 98 of the Rules,

**HEREBY GRANTS** the Motion, in part; and

**AUTHORIZES** an extension of Stanišić's provisional release until Thursday, 2 May 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 31st day of December 2018,  
At The Hague,  
The Netherlands

  
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Judge Burton Hall, Presiding

[Seal of the Mechanism]

<sup>12</sup> See Motion, para. 4(c), referring to Decision of 16 August 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.

<sup>13</sup> See Internal Communication, 20 September 2018.

<sup>14</sup> In relation to the Prosecution's separate request for an indicative timeline (*see supra* n. 6), the Trial Chamber envisions issuing such a timeline after appropriate consultations with the parties in January 2019.



**I - FILING INFORMATION / INFORMATIONS GÉNÉRALES**

<b>To/ À :</b>	IRMCT Registry/ <i>Greffe du MIFRTP</i>	<input type="checkbox"/> Arusha/ <i>Arusha</i>	<input checked="" type="checkbox"/> The Hague/ <i>La Haye</i>
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<b>Case Name/ Affaire :</b>	<b>PROSECUTOR v. JOVICA STANIŠIĆ &amp; FRANKO SIMATOVIĆ</b>	<b>Case Number/ Affaire n° :</b>	<b>MICT-15-96-T</b>
<b>Date Created/ Daté du :</b>	<b>31 December 2018</b>	<b>Date transmitted/ Transmis le :</b>	<b>31 December 2018</b>
<b>Original Language / Langue de l'original :</b>	<input checked="" type="checkbox"/> English/ <i>Anglais</i>	<input type="checkbox"/> French/ <i>Français</i>	<input type="checkbox"/> Other/Autre (specify/préciser) :
<b>Title of Document/ Titre du document :</b>	<b>DECISION ON STANIŠIĆ'S EIGHTH DEFENCE MOTION FOR FURTHER EXTENSION OF PROVISIONAL RELEASE</b>		
<b>Classification Level/ Catégories de classification :</b>	<input checked="" type="checkbox"/> Unclassified/ <i>Non classifié</i>	<input type="checkbox"/> Ex Parte Defence excluded/ <i>Défense exclue</i>	<input type="checkbox"/> Ex Parte Prosecution excluded/ <i>Bureau du Procureur exclu</i>
	<input type="checkbox"/> Confidential/ <i>Confidentiel</i>	<input type="checkbox"/> Ex Parte R86(H) applicant excluded/ <i>Art. 86 H) requérant exclu</i>	<input type="checkbox"/> Ex Parte Amicus Curiae excluded/ <i>Amicus curiae exclu</i>
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<input type="checkbox"/> Order/ <i>Ordonnance</i>	<input type="checkbox"/> Submission from non-parties/ <i>Écritures déposées par des tiers</i>	<input type="checkbox"/> Indictment/ <i>Acte d'accusation</i>	

**II - TRANSLATION STATUS ON THE FILING DATE/ ÉTAT DE LA TRADUCTION AU JOUR DU DÉPÔT**

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