

**UNITED
NATIONS**



International Residual Mechanism
for Criminal Tribunals

Case No.: MICT-15-96-T

Date: 23 June 2020

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: 23 June 2020

PROSECUTOR

v.

**JOVICA STANIŠIĆ
FRANKO SIMATOVIĆ**

PUBLIC

**SECOND DECISION ON FURTHER EXTENSION OF FRANKO
SIMATOVIĆ'S 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

Government of the Kingdom of the Netherlands

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

RECALLING that Franko Simatović was granted provisional release until 23 April 2020,² which was subsequently extended until 28 May 2020 in view of the Trial Chamber’s decision to postpone the resumption of in-court hearings until no sooner than 2 June 2020 due to the COVID-19 pandemic and ensuing restrictions on work and travel;³

RECALLING that, after engaging in extensive informal *inter partes* communications and having considered the anticipated relaxation of pandemic-related restrictions as well as the need to provide adequate time to the parties to prepare and for all necessary logistical arrangements to be made, the Trial Chamber decided to reschedule the recommencement of in-court hearings for Tuesday, 7 July 2020⁴ and extended, *proprio motu*, Simatović’s provisional release until no later than Thursday, 2 July 2020;⁵

RECALLING that, in the Decision of 20 May 2020, the Trial Chamber indicated that it may decide *proprio motu* on a further extension of Simatović’s provisional release in the event that an additional delay in the resumption of in-court hearings remains in the public interest and in the interests of justice;⁶

CONSIDERING that, following further informal consultations with the Registry and the receipt of important information from the Simatović Defence concerning COVID-19 related matters, the Trial Chamber found it prudent to reschedule the resumption of in-court hearings to Tuesday, 18 August 2020;⁷

RECALLING the applicable law governing provisional release pursuant to Rule 68(B) of the Rules of Procedure and Evidence (“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 Simatović’s Motion for Provisional Release, 9 March 2020 (confidential; made public on 12 March 2020 pursuant to the Trial Chamber’s instruction as contained in the decision) (“Decision of 9 March 2020”), pp. 3, 4.

³ Decision on Simatović’s Motion for Extension of Provisional Release, 21 April 2020 (“Decision of 21 April 2020”), pp. 1, 2, *referring to* Internal Communication of 17 March 2020.

⁴ Decision on Further Extension of Franko Simatović’s Provisional Release, 20 May 2020 (“Decision of 20 May 2020”), p. 1, *referring to* Internal Communication of 11 May 2020.

⁵ Decision of 20 May 2020, p. 2.

⁶ Decision of 20 May 2020, p. 2. *See also* Decision of 21 April 2020, p. 2.

⁷ Internal Communication of 16 June 2020.

⁸ *See, e.g.*, Decision on Stanišić’s Motion for Provisional Release, 19 July 2017 (confidential and *ex parte*; made public on 24 July 2017), paras. 11, 12; Decision on Stanišić’s Motion for Extension of Provisional Release, 19 May 2017, paras. 12, 13.

NOTING that Simatović was provisionally released by the Trial Chamber during the pre-trial stage and following the commencement of the trial, and that, on each occasion, he surrendered when ordered to do so and adhered to the conditions set out in the relevant decisions;⁹

NOTING that the reports provided by the Government of the Republic of Serbia confirm Simatović'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;¹⁰

CONSIDERING that, in these circumstances, there is no reason to believe that Simatović would cease to abide by the conditions set out in the Decision of 9 March 2020 or pose a danger to any victim, witness, or other person, should there be a further extension of his provisional release;¹¹

CONSIDERING, however, that, in light of Simatović's medical history, additional information recently received, and the risks posed by the COVID-19 pandemic, regular monitoring and reporting on his medical condition while on provisional release is necessary to mitigate the risk of serious disruption to the trial proceedings;

FINDING, *proprio motu*, that a further extension of Simatović's provisional release until no later than Thursday, 13 August 2020 is appropriate;

FINDING FURTHER that the Trial Chamber may, in advance of this date, once again decide *proprio motu* on a further extension of Simatović's provisional release in the event that an additional delay in the resumption of in-court hearings remains in the public interest and in the interests of justice;

CONSIDERING 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;

RECALLING that, even in the absence of in-court hearings, this case continues to advance;¹²

PURSUANT to Rules 55 and 68(B) of the Rules,

⁹ See Decision of 20 May 2020, n. 7 and references cited therein.

¹⁰ See Communications from the Ministry of Justice of the Republic of Serbia filed on 27 May, 8 and 23 June 2020 (confidential); Decision of 20 May 2020, p. 1, n. 8.

¹¹ The Trial Chamber finds that the guarantees previously provided by the Government of Serbia remain in force. See Decision of 21 April 2020, p. 2, n. 13, *referring to* Supplement to Simatović Defence Motion Requesting Provisional Release, 6 March 2020 (confidential and *ex parte*), Annex B.

¹² See Decision of 20 May 2020, p. 2; Decision of 21 April 2020, p. 2.

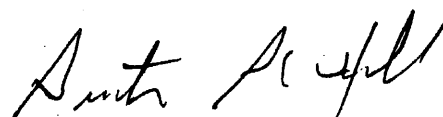
HEREBY AUTHORIZES an extension of Simatović's provisional release until no later than Thursday, 13 August 2020, under the conditions set forth in the Decision of 9 March 2020, as supplemented in this decision;

INSTRUCTS the Medical Service of the United Nations Detention Unit to put questions to Simatović by telephone once every week during his provisional release, with a view to identifying any impediment to recommencing in-court hearings in August 2020 based on health risks posed by the COVID-19 pandemic, and to report to the Trial Chamber after the aforementioned interviews on a weekly basis; and

REQUESTS the Government of the Republic of Serbia to report to the Mechanism as soon as possible any significant risk to Simatović's health, in particular in relation to the COVID-19 pandemic, that may disrupt the timely completion of these proceedings so that, if necessary, the Trial Chamber can take further action.

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

Done this 23rd day of June 2020,
At The Hague,
The Netherlands



Judge Burton Hall, Presiding

[Seal of the Mechanism]



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