

IN THE TRIAL CHAMBER

Before:

Judge Claude Jorda

Judge Fouad Riad

Judge Almiro Simes Rodrigues

Registrar:

Mr. Jean-Jacques Heintz, Deputy Registrar

Decision of:

26 March 1998

THE PROSECUTOR

v.

MILAN SIMIC

**DECISION ON PROVISIONAL RELEASE
OF THE ACCUSED**

The Office of the Prosecutor:

Ms. Nancy Patterson

Defence Counsel:

Mr. Drago Vukovic, assisted by

Mr. Borislav Pisarevic

Mr. Igor Pantelic

THE TRIAL CHAMBER

PURSUANT to Rules 65 and 73 of the Rules of Procedure and Evidence (hereinafter "the Rules"),

CONSIDERING the letter from Milan Simic dated 13 March 1998 in which *inter alia* he underscores the difficulties he is experiencing in detention because of his handicap,

CONSIDERING the motion for the provisional release of the accused Milan Simic presented by the Defence on 16 March 1998 (hereinafter "the Motion"),

CONSIDERING the response of the Prosecutor filed on 19 March 1998,

CONSIDERING the *inter partes* hearing today and the accused's having signed at the hearing a document listing the conditions to which he obligates himself,

NOTING that the accused surrendered voluntarily to the Tribunal on 14 February 1998,

NOTING that in support of his Motion, the Defence refers to the existence of exceptional circumstances relating to the medical condition of the accused, gives assurances that the accused will be present to stand trial and guarantees that no risk exists to victims, witnesses and other persons, and states that the Trial Chamber must decide whether it is appropriate to seek the opinion of the host country,

NOTING that the Defence has discussed with the Prosecution the guarantees and conditions which would permit the provisional release of the accused,

NOTING that since the accused is not pleading guilty, the Prosecution does not object the Defence Motion so long as the guarantees and specific conditions agreed upon between the parties are satisfied and approved by the Trial Chamber,

NOTING that the authorities of Republika Srpska have signed a document entitled "Guarantees of the authorities of Republika Srpska in respect of the provisional release of Milan Simic; that the accused signed a document entitled "Conditions for the provisional release of Milan Simic" which sets forth all the conditions to which he is prepared to subscribe; that a letter of guarantee for an amount of twenty-five thousand United States dollars was sent to the Registry by the authorities of Republika Srpska; that the International Police Task Force (I.P.T.F.) has accepted to collaborate if and as necessary,

NOTING that the medical documents submitted in support of the Motion show that the accused who is hemiplegic and suffering from serious medical problems requires intensive daily care dispensed by a qualified medical team,

NOTING further that at the initial appearance the Prosecutor indicated that she would not oppose the provisional release of Mr. Simic,

NOTING that the Registrar consulted the host country which responded in a letter received on 24 March 1998,

FOR THE FOREGOING REASONS,

The Trial Chamber,

NOTES that the conditions stipulated for provisional release in Sub-rule 65(B) of the Rules have been satisfied, in particular, in respect of the exceptional circumstances relating to the health of the accused,

NOTES that the agreement between the Defence and the Prosecution in respect of the conditions for the release of the accused and the relevant guarantees offered,

ORDERS the provisional release of Milan Simic who shall respect the obligations listed below:

- i. return to The Hague and be present for any proceedings the Trial Chamber requires him to attend in person and to surrender himself immediately to the United Nations Detention Unit in the Hague;
- ii. surrender his passport to the International Police Task force (I.P.T.F.) in Orasje or to the Office of the Prosecutor in Sarajevo;
- iii. remain within the confines of the municipality of Bosanski Samac;
- iv. provide the Registrar of the Tribunal with prior notice of any address change;
- v. meet once a day with the local Bosanski Samac police who will maintain a log and periodically file a written report confirming his presence each day;
- vi. agree to have the I.P.T.F. check on a bi-monthly basis with the local police about his presence and be allowed to make occasional, unannounced visits to him;
- vii. not to have contact in any manner whatsoever with any of the co-accused;

- viii. not to have any contact whatsoever with any persons who may testify at his trial;
- ix. assume responsibility for all expenses regarding transport from the Hague to Bosanski Samac and back.

STATES that the parties must inform the Trial Chamber of any difficulty in respect of the execution of the above-listed obligations,

STATES that, in case of violation of one of those obligations, the accused may again be placed in custody immediately.

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

Done this twenty-sixth day of March 1998

At The Hague

The Netherlands

(signed)

Judge Claude Jorda

Presiding Judge, Trial Chamber I

(SEAL OF THE TRIBUNAL)