

The Simic Case: Provisional Release Granted

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Until last week, all such requests were turned down with the explanation that "detention [was] rule and release exception," and that the arguments used to support those requests did not fit into "exceptional circumstances" (the only grounds for provisional release).

Since the first appearance of the accused Milan Simic before the court, following his voluntary surrender on 14 February 1998, it was clear that "exceptional circumstances" did exist in his case.

Simic is partially paralyzed and he has been confined to a wheelchair following a 1993 car accident. He also suffers from various health problems and requires daily intensive medical care.

Moreover, neither the Tribunal itself nor its Detention Unit possess the adequate facilities for accommodating persons in wheelchairs and providing health treatment to them. That is why Prosecutor Nancy Paterson stated already in the first appearance of the accused before the court that the prosecution would "view favorably" a possible request by the defense for provisional release. To everybody's surprise, the defense replied on that occasion that such a request would be "premature" (See Update 64).

A month later, on 16 March, however, the defense filed a motion for provisional release based on the medical condition of the accused.

During the 26 March hearing, the Office of the Prosecutor supported the defense's motion, after having secured an agreement with the defense on the conditions for the provisional release and guarantees by the authorities of Republika Srpska that this agreement be complied with. On the same day, Trial Chamber I, consisting of Judge Jorda (presiding), Judge Riad, and Judge Rodrigues, granted the first ever provisional release in the history of the Tribunal.

The defense lawyer and the defendant signed in court an agreement

containing the following conditions:

* Milan Simic will return to The Hague at his own cost to attend pre-trial proceedings and will surrender himself into the custody of the Tribunal two weeks before the beginning of the trial (no date has been set yet); * In the meantime, Simic will return to the municipality of Bosanski Samac where he will stay. His passport will be given to the International Police Task Force (IPTF), which will hand it over to the Office of the Prosecutor; - The IPTF will check on a weekly basis the records and logs of the local police station where Simic will report once a day; * The accused will not have contact with any of his co-accused or with any of the prosecution witnesses; * A \$25,000 "bail bond" will be filed with the registry of the Tribunal in the form of a letter of guarantee from the authorities of Republika Srpska.

This agreement was endorsed on 20 March by Republika Srpska's Prime Minister Milorad Dodik and Interior Minister Milovan Stankovic, who signed a formal letter to that effect.

Notwithstanding her agreement to the provisional release, the prosecutor announced that she "will unambiguously prosecute this case" and that after the collection of "additional evidence against the accused, the indictment will be amended."

In the present indictment, Milan Simic is accused of participation in a June 1992 incident in Bosanski Samac, in which a Muslim detainee was physically abused and beaten, which is qualified as a grave breach of the Geneva Conventions (willfully causing great suffering), a violation of the laws and customs of war (cruel treatment), and a crime against humanity (inhumane acts).

[[Back to the main menu](#)] [[Back to the home page](#)] © Institute of War & Peace Reporting

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