



International Tribunal for the
Prosecution of Persons
Responsible for Serious Violations of
International Humanitarian Law
Committed in the Territory of the
Former Yugoslavia since 1991

Case No.: IT-95-4-PT

Date: 20 September 2002

Original: ENGLISH

IN THE TRIAL CHAMBER

Before: Judge Richard May, Presiding
Judge Patrick Robinson
Judge O-Gon Kwon

Registrar: Mr. Hans Holthuis

Decision of: 20 September 2002

PROSECUTOR

v.

**ZELJKO MEAKIĆ
MOMČILO GRUBAN
DUŠKO KNEŽEVIĆ**

**DECISION ON DEFENCE APPLICATION
FOR VARIATION OF CONDITIONS OF PROVISIONAL RELEASE
FOR MOMČILO GRUBAN**

Office of the Prosecutor:

Ms. Joanna Korner
Ms. Ann Sutherland

Counsel for the Accused:

Ms. Sanja Turlakov and Mr. Milenko Dunder

THIS TRIAL CHAMBER of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (“International Tribunal”),

BEING SEISED of the “Defence Application for Variation of Conditions of Provisional Release” filed on behalf of Momčilo Gruban (“the Accused”) on 14 August 2002 (“Application”), seeking variation of the terms and conditions of the Trial Chamber’s “Decision on Request for Pre-trial Provisional Release” issued on 17 July 2002 (“the Decision”), in particular, seeking permission for the Accused to change his place of residence from Belgrade, Federal Republic of Yugoslavia, to the village of Maricka, in the municipality of Prijedor, Republika Srpska, in order to be with his family,

NOTING the Response to the Motion filed by the Office of the Prosecutor (“Prosecution”) on 27 August 2002 (“the Response”), in which the Prosecution objects to the proposed variation on the ground that no new circumstance has arisen subsequently to justify any variation of the conditions imposed at the time of release, and that the Accused has not fulfilled the requirements of Rule 65 of the Rules of Procedure and Evidence of the International Tribunal (“Rules”) governing provisional release, in that the Accused has not demonstrated that he would not pose any danger to any victim, witness or other person if permitted to return to the area of the alleged crimes and to reside among victims and witnesses,

NOTING also the unauthorised reply filed by the Gruban Defence on 29 August 2002, responding to the various issues raised, providing a copy in the original language of a guarantee issued by Republika Srpska in support of the Application, and asserting that the relevant law on cooperation had been adopted in the meantime, thus justifying the variation in the place of residence,

CONSIDERING that the Decision was granted based on the Accused’s application, made to the Trial Chamber and confirmed at the hearing held on 9 July 2002, to reside in Belgrade,

CONSIDERING that the Accused did not raise with the Trial Chamber at that hearing the possibility that he intended to apply to reside in Republika Srpska,

CONSIDERING that, contrary to the assertions of the Gruban Defence, the law on cooperation with the International Tribunal was adopted prior to the hearing on provisional release,


CONSIDERING that the Accused is seeking to return to the area of the alleged crimes and his return may reasonably be expected to affect victims, witnesses and others still living in the area, and that the Accused has not demonstrated otherwise to the satisfaction of the Trial Chamber,

CONSIDERING also that the distance from Belgrade is not such as to prevent regular personal contact between the Accused and his family and that the personal safety of the Accused may be better assured away from the area of the alleged crimes,

PURSUANT TO Rule 65 of the Rules

HEREBY DENIES the Application.

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



Richard May
Presiding

Dated this twentieth day of September 2002
At The Hague,
The Netherlands

[Seal of the Tribunal]