

IT-01-48-PT  
D 5639-D 5638  
12 FEBRUARY 2004

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UNITED  
NATIONS



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: IT-01-48-PT  
Date: 12 February 2004  
Original: English

**THE PRESIDENT OF THE TRIBUNAL**

Before: Judge Theodor Meron, President  
Registrar: Mr Hans Holthuis  
Decision of: 12 February 2004

**THE PROSECUTOR**

v.

**Sefer HALILOVIĆ**

**DECISION ON DEFENCE MOTION CONCERNING CONDITIONS OF DETENTION**

**Counsel for the Prosecution**

Mr Ekkehard Withopf  
Mr Vladimir Tochilovsky  
Ms Marie Tuma  
Mr Manoj Sachdeva

**Counsel for the Defence**

Mr Stefan Kirsch  
Mr Guénaél Mettraux

Case IT-01-48-PT

12 February 2004

1. Sefer Halilović ("Accused") filed a motion<sup>1</sup> before Trial Chamber III requesting that the conditions of his detention be modified during trial to permit the Accused to reside in a "safe-house" or apartment in The Hague under conditions set by the Trial Chamber. The Accused is currently on provisional release.<sup>2</sup> The Trial Chamber made it a condition of the release that the Accused return to the Detention Unit at the commencement of his trial.<sup>3</sup> The Trial Chamber has referred the Motion to me as the proper authority to consider the Motion pursuant to Rule 64 of the Rules of Procedure and Evidence.

2. Rule 64 is titled "Detention on Remand" and provides as follows:

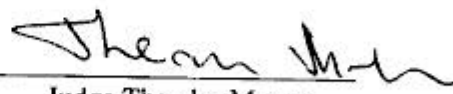
Upon being transferred to the seat of the Tribunal, the accused shall be detained in facilities provided by the host country, or by another country. In exceptional circumstances, the accused may be held in facilities outside of the host country. The President may, on the application of a party, request modification of the conditions of detention of an accused.

4. Rule 64 assumes that an accused is in fact in detention. The trial of the Accused, however, has not yet commenced and the Accused is still on provisional release. Accordingly, the Accused is requesting that I authorise a modification of the conditions of detention of the Accused in circumstances where the Accused is not yet detained. In my view it is not appropriate under Rule 64 to make any orders in relation to the detention of an accused until the time and conditions of his detention are fixed.

5. For the above reasons the Motion of the Defence is dismissed as premature.

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

Dated this 12<sup>th</sup> day of February 2004,  
At The Hague,  
The Netherlands.



Judge Theodor Meron  
President

[Seal of the Tribunal]

<sup>1</sup> Partly Confidential, Defence Motion Concerning Conditions of Detention During Trial, 15 December 2003 ("Motion").  
<sup>2</sup> Decision on Request for Pre-Trial Provisional Release, 13 December 2001.  
<sup>3</sup> *Ibid*, pg 4.