



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-02-65-PT
Date: 21 July 2005
Original: ENGLISH

IN THE TRIAL CHAMBER

Before: Judge Patrick Robinson Presiding
Judge O-Gon Kwon
Judge Iain Bonomy

Registrar: Mr. Hans Holthius

Order of: 21 July 2005

PROSECUTOR

v.

**ŽELJKO MEJAKIĆ
MOMČILO GRUBAN
DUŠAN FUŠTAR
DUŠKO KNEŽEVIĆ**

**ORDER TERMINATING PROVISIONAL RELEASE OF
MOMČILO GRUBAN**

The Office of the Prosecutor:

Ms. Carla del Ponte
Ms. Ann Sutherland

Counsel for the Accused:

Mr. Jovan Simić and Mr. Zoran Živanović, for Željko Mejačić
Mr. Branko Lukić, for Momčilo Gruban
Mr. Theodore Scudder and Mr. Dragan Ivetić, for Dušan Fuštar
Ms. Slobodanka Nedić, for Duško Knežević

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”),

proprio motu

NOTING that the Trial Chamber granted the request for provisional release of Momčilo Gruban on 17 July 2002 (“Provisional Release Decision”), and that his provisional release is subject to certain terms and conditions including, *inter alia*, “to return to the International Tribunal at such time and on such date as the Trial Chamber may order” and “to comply strictly with any order of the Trial Chamber varying the terms of, or terminating his provisional release”,¹

NOTING that the Office of the Prosecutor (“Prosecution”) filed a “Request by the Prosecutor Under Rule 11 *bis*” on 2 September 2004 (“Prosecutor’s Rule 11 *bis* Request”), in which it requested the referral of the case against Momčilo Gruban and his three co-accused (collectively, “Accused”) to Bosnia and Herzegovina, and that the President of the International Tribunal transferred the Prosecutor’s Rule 11 *bis* Request to the Referral Bench of the International Tribunal (“Referral Bench”) for determination,

NOTING that, for the delivery of its decision on the Prosecutor’s Rule 11 *bis* Request, the Referral Bench scheduled a public hearing to be held “in the presence of the Accused and their Counsels” and that, as ordered by the Referral Bench, Momčilo Gruban was present at the hearing,²

NOTING that the Referral Bench granted the Prosecutor’s Rule 11 *bis* Request to refer the case to Bosnia and Herzegovina and ordered, *inter alia*, the Registrar of the International Tribunal to arrange for the transport of each of the Accused and their personal belongings to Bosnia and Herzegovina within 30 days of its decision becoming final,³

NOTING that the Defence of the Accused, including Momčilo Gruban, and the Government of Serbia and Montenegro, opposed the Prosecutor’s Rule 11 *bis* Request to refer the case to Bosnia and Herzegovina,

CONSIDERING that the circumstances upon which provisional release is granted to Momčilo Gruban have materially changed in that a decision to refer the case to Bosnia and Herzegovina has

¹ *Prosecutor v. Gruban*, Case No. IT-95-4-PT, “Decision on Request for Pre-Trial Provisional Release”, 17 July 2002, p. 5.

² *Prosecutor v. Mejakić et al.*, “Scheduling Order for a Hearing”, 8 July 2005.

³ *Prosecutor v. Mejakić et al.*, “Decision on Prosecutor’s Motion for Referral of Case Pursuant to Rule 11 *bis*”, 20 July 2005.

been made and that he will no longer be tried before the International Tribunal, and that the guarantees provided by Momčilo Gruban and the Governments of Serbia and Montenegro,⁴ and Republic of Serbia, will no longer be applicable,

CONSIDERING THEREFORE that it is necessary for the Trial Chamber to terminate the provisional release granted to Momčilo Gruban,

PURSUANT to Rules 54 and 65 of the Rules of Procedure and Evidence of the International Tribunal,

HEREBY TERMINATES the Provisional Release Decision without prejudice to the right of Momčilo Gruban to make another application for provisional release.

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



Judge Robinson
Presiding

Dated this twenty-first day of July 2005
At The Hague
The Netherlands

[Seal of the Tribunal]

⁴ At the time, the Federal Republic of Yugoslavia.