



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-04-80-AR 65.1  
Date: 22 July 2005  
Original: English

**BEFORE THE APPEALS CHAMBER**

**Before:** Judge Theodor Meron, President  
Judge Fausto Pocar  
Judge Daqun Liu  
Judge Florence Mumba  
Judge Amin El Mahdi

**Registrar:** Mr. Hans Holthuis

**Order of:** 22 July 2005

**THE PROSECUTOR**

v.

**Zdravko TOLIMIR  
Radivoje MILETIĆ  
Milan GVERO**

**DECISION ON PROSECUTION'S CONSOLIDATED URGENT MOTION TO STAY  
ORDERS ON PROVISIONAL RELEASE CONCERNING THE ACCUSED RADIVOJE  
MILETIĆ AND MILAN GVERO**

**Counsel for the Prosecutor**

Carla Del Ponte

**Counsel for the Defence**

Natacha Fauveau Ivanović for Radivoje Miletic  
Dragan Krgović for Milan Gvero

**I, THEODOR MERON**, President 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 (“Tribunal”),

**NOTING** the “Prosecution’s Consolidated Urgent Motion to Stay Orders on Provisional Release Concerning the Accused Radivoje Miletić and Milan Gvero”, filed by the Prosecution on 22 July 2005 (“Motion”);

**CONSIDERING** the Trial Chamber’s “Order on Prosecution’s Motion to Stay Orders on Provisional Release Concerning the Accused Radivoje Miletić and Milan Gvero Pursuant to Rule 65 and Rule 127”, issued on 21 July 2005 (“Order”), in which the Trial Chamber rejected the Prosecution’s motion for a stay on the basis that no good cause had been shown for the Prosecution’s failure to comply with Rule 65(E);

**NOTING** the Prosecution’s submission that, notwithstanding any procedural irregularities, the Appeals Chamber has the inherent discretion to grant the Prosecution’s Motion for a stay in the interests of justice;


**CONSIDERING** that the Prosecutor failed to comply with Rule 65(E)’s requirement that the Prosecutor “shall make” any application “for a stay [pending appeal] of a decision by the Trial Chamber to release an accused” “at the time of filing [the Prosecutor’s] response to the initial application for provisional release by the accused”;

**CONSIDERING** that the Prosecution has failed to demonstrate any exceptional circumstances not contemplated by the Rule that would justify waiving this clear requirement in the interests of justice;

**HEREBY DISMISS** the Prosecution’s motion.

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

Done this 22nd day of July 2005,  
At The Hague,  
The Netherlands.

  
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Judge Theodor Meron  
Presiding Judge

**[Seal of the Tribunal]**