



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-00-41-PT
Date: 23 November 2005
Original: English

THE PRESIDENT OF THE INTERNATIONAL TRIBUNAL

Before: Judge Fausto Pocar, President

Registrar: Mr. Hans Holthuis

Decision of: 23 November 2005

THE PROSECUTOR

v.

PAŠKO LJUBIČIĆ

**DECISION ON REQUEST FOR MODIFICATION OF CONDITIONS OF
DETENTION**

Counsel for the Prosecutor

Mr. Mark Harmon

Counsel for the Accused

Mr. Tomislav Jonjić
Ms. Nika Pinter

A handwritten signature in black ink, appearing to be 'R' or 'R.', located in the bottom right corner of the page.

1. Paško Ljubičić (“Ljubičić”) has filed before me a request for modification of the conditions of his detention pursuant to Rule 64 of the Rules of Procedure and Evidence (“Rules”).¹ In his Request, Ljubičić asks that I permit him to be detained under house arrest in his wife’s flat, at the address: Mostar. Vukovarska ulica 38, until the beginning of his trial at the Tribunal, “or until the validity of the decision on referral of the case to the national authorities”.² I understand this second request to mean that he be detained under house arrest at his wife’s flat unless a determination is made that his case should be referred to the authorities of Bosnia and Herzegovina pursuant to Rule 11*bis*.

2. Rule 64 is titled “Detention of 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.

3. As is clear from the wording of the Rule, the facilities in which an accused shall be detained upon transfer to the seat of the Tribunal are to be provided by the host country or another country. If an accused is to be housed in a facility other than the United Nations Detention Unit, then that other facility must be one provided by the host country, or the other country to which the accused seeks to be detained.³ The accused has failed to establish that the authorities of BiH have provided the facility as is required under the Rule. The Rule does not permit an accused to be detained in a private dwelling solely nominated by the accused himself.

4. As the Rule does not permit the modification of conditions of detention requested by Ljubičić, his Request is dismissed.

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

Dated this 23rd day of November 2005,
At The Hague,
The Netherlands.



Judge Fausto Pocar
President

[Seal of the Tribunal]

¹ Request for Modification of Conditions of Detention, 14 November 2005 (“Request”).

² Request, para. 12.

³ See *Prosecutor v Blaškić*, Case IT-95-14-T, Decision on the Motion of the Defence Filed Pursuant to Rule 64 of the Rules of Procedure and Evidence, 3 April 1996, at para. 24.