



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

Case No. IT-98-29/1-PT  
Date: 16 August 2006  
Original: English

**IN THE TRIAL CHAMBER I**

**Before:** Judge Alphons Orie, Presiding  
Judge Christine Van Den Wyngaert  
Judge Bakone Justice Moloto

**Registrar:** Mr. Hans Holthuis

**Decision of:** 16 August 2006

**PROSECUTOR**

v.

**DRAGOMIR MILOŠEVIĆ**

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**DECISION ON THIRD MOTION  
FOR PROVISIONAL RELEASE**

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**The Office of the Prosecutor:**

Mr. Alex Whiting  
Mr. David Akerson  
Mr. Manoj Sachdeva

**Counsel for the Accused:**

Mr. Branislav Tapušković  
Ms. Branislava Isailović

**TRIAL CHAMBER I** (“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 (“Tribunal”);

**BEING SEIZED** of the “Motion for Provisional Release” (“Motion”), filed by counsel for Dragomir Milošević (“Defence” and “Accused”, respectively) on 29 June 2006, in which the Defence requests that the Accused be provisionally released pursuant to Rule 65 of the Tribunal’s Rules of Procedure and Evidence (“Rules”);

**NOTING** that motions by the Accused for provisional release have been denied on two previous occasions;<sup>1</sup>

**NOTING** the “Prosecution Response to Accused’s Third Motion for Provisional Release” (“Response”), filed confidentially by the Office of the Prosecutor (“Prosecution”) on 13 July 2006, opposing the Motion on the basis that there is no material change in circumstances to justify reconsideration of the Second Decision denying provisional release;

**NOTING** the guarantees submitted on behalf of the Republic of Serbia in the event the Accused is granted provisional release;<sup>2</sup>

**CONSIDERING** that the Trial Chamber will only review the Motion on the basis of new information or circumstances enabling it to reconsider the First and Second Decision;

**CONSIDERING** that, according to Rule 65(B) of the Tribunal’s Rules of Procedure and Evidence (“Rules”), in determining whether to grant provisional release to an accused, it is for the accused to satisfy the Trial Chamber of two matters: (i) that he will appear for trial, and (ii) that, if released, he will not pose a danger to any victim, witness or other person, and that the Trial Chamber may exercise discretion, with due consideration to the particular circumstances of the present case, in deciding whether provisional release should be granted;<sup>3</sup>

**CONSIDERING** that in the Motion, the Defence merely reiterates its previous submissions regarding the likelihood that the Accused will appear for trial and that he will not pose a danger to anyone, if released;

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<sup>1</sup> Decision on Defence Motion for Provisional Release, 13 July 2005 (“First Decision”); Decision on Second Defence Motion for Provisional Release, 9 February 2006 (“Second Decision”).

<sup>2</sup> Conclusion, signed 22 June 2006.

<sup>3</sup> *Prosecutor v. Haradinaj et al.*, Case No. IT-04-84-PT, Decision on Ramush Haradinaj’s Motion for Provisional Release, 6 June 2005; *Prosecutor v. Kovačević*, Case No. IT-97-24-PT, Decision on Defence Motion for Provisional Release, 21 January 1998, *Prosecutor v. Brđanin and Talić*, Case No. IT-99-36-PT, Decision on Motion by Momir Talić for Provisional Release, 28 March 2001.

**CONSIDERING** that the Defence's arguments in relation to these criteria were extensively considered in the First and Second Decision, and need not be revisited here;

**CONSIDERING** that the only novel submission in the Motion concerns the length of the Accused's pre-trial detention, which the Defence finds to be excessive, also in light of the purported uncertainty as to the start of trial proceedings;

**CONSIDERING** that the only new information brought before the Trial Chamber in the Motion is the lapse of time since the Second Decision, the Accused now being in pre-trial detention for one year and eight months;

**CONSIDERING** that the actual or likely excessive length of pre-trial detention is an additional discretionary consideration to be taken into account when deciding on provisional release, all requirements under Rule 65(B) of the Rules being met;<sup>4</sup>

**CONSIDERING** that the trial of the Accused is likely to start in early 2007;

**FINDING** that, in light of the above, the period of time the Accused will spend in pre-trial detention is not excessive;

**FOR THE FOREGOING REASONS**

**PURSUANT TO** Rule 65 of the Rules

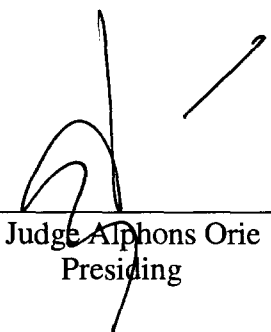
The Motion is **DENIED**.

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

Done this sixteenth day of August 2006

At The Hague

The Netherlands



Judge Alphons Orié  
Presiding

[Seal of the Tribunal]

<sup>4</sup> *Prosecutor v. Haradinaj et al.*, Case No. IT-04-84-AR65.2, Decision on Lahi Brahimaj's Interlocutory Appeal Against the Trial Chamber's Decision Denying his Provisional Release, 9 March 2006, para. 23.