



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-04-74-T
Date: 11 June 2007
Original: ENGLISH
French

IN TRIAL CHAMBER III

Before: Judge Jean-Claude Antonetti
Judge Árpád Prandler
Judge Stefan Trechsel
Reserve Judge Antoine Kesia-Mbe Mindua

Registrar: Mr Hans Holthuis

Decision of: 11 June 2007

THE PROSECUTOR

v.

Jadranko PRLIĆ
Bruno STOJIĆ
Slobodan PRALJAK
Milivoj PETKOVIĆ
Valentin ĆORIĆ
Berislav PUŠIĆ

CONFIDENTIAL ANNEX

**DECISION ON THE MOTION FOR PROVISIONAL RELEASE OF THE
ACCUSED PETKOVIĆ**

The Office of the Prosecutor:

Mr Kenneth Scott

Counsel for the Accused:

Ms Vesna Alaburić and Mr Nicholas Stewart for Milivoj Petković

The Republic of Croatia

TRIAL CHAMBER III (“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”),

SEIZED of the “Motion of Milivoj Petković for Provisional Release Under Rule 65 During the Forthcoming Summer Recess (13 July – 12 August 2007)” and its two annexes, filed confidentially by Counsel for Milivoj Petković (“Defence for the Accused Petković”) on 17 May 2007 (“Accused Petković’s Motion”), whereby the Defence for the Accused Petković requests, for humanitarian reasons, his provisional release to the Republic of Croatia during the summer judicial recess,

NOTING the confidential “Prosecution Consolidated Response to Defence Applications for Provisional Release During Summer Holiday”, filed by the Prosecution on 1 June 2007 (“Response”),

NOTING the “Addendum to the Annex II of Milivoj Petković Motion for Provisional Release Under Rule 65 During the Forthcoming Summer Recess (13 July – 12 August 2007)” and its annex (“Addendum”), filed confidentially by the Defence for the Accused Petković on 29 May 2007,

CONSIDERING that in support of its Motion, the Defence for the Accused Petković submits that: (1) while on earlier release the Accused Petković fully complied with the conditions imposed by the Trial Chamber in its decisions on provisional release; (2) in a letter of 8 May 2007, the Government of the Republic of Croatia pledged that the Accused Petković would comply with the conditions imposed by the Tribunal should the application for provisional release be granted by the Chamber and guaranteed that the Accused Petković would return to The Hague at the request of the Chamber,¹ and (3) the Accused Petković, his father, and his wife all suffer from ill health,

CONSIDERING that in its Response, the Prosecution again opposes the provisional release of all the Accused because none of the reasons given by the Accused in

¹ Accused Petković's Motion, para. 13; Annex to the Accused Petković's Motion.

support of their motions for provisional release constitute humanitarian grounds for release,

CONSIDERING alternatively that should the Chamber grant the Accused Petković's Motion, the Prosecution requests that: (1) the Accused Petković be prohibited from setting foot or travelling in Bosnia and Herzegovina; (2) the Accused Petković be prohibited from having any contact with any witness, potential witness or victim; (3) the Accused Petković be prohibited from discussing the case with anyone other than his Counsel and from having any contact with the media, and (4) the period of provisional release be significantly reduced,

CONSIDERING that pursuant to Rule 65 of the Rules of Procedure and Evidence ("Rules") the Chamber may order provisional release "only if it is satisfied that the accused will appear for trial and, if released, will not pose a danger to any victim, witness or other person",

CONSIDERING that the Accused Petković, while on earlier releases, complied with all the conditions imposed by the Trial Chambers in their orders and decisions dated 30 July 2004,² 7 October 2005,³ 26 June 2006,⁴ and 8 December 2006,⁵

CONSIDERING that the host country has not objected to any provisional release proceedings,⁶

CONSIDERING that in its letter of 8 May 2007 the Government of the Republic of Croatia provided guarantees to the effect that the Accused Petković would return to The Hague and would not abscond,

CONSIDERING in addition that, given his appropriate behaviour on previous occasions, the Chamber is satisfied that, if released, the Accused Petković will not pose a danger to any victim, witness or other person,

² *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Order on Provisional Release of Milivoj Petković, 30 July 2004.

³ *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Decision to Grant Milivoj Petković's Application for Variation of Conditions of Provisional Release, 7 October 2005.

⁴ *The Prosecutor v. Prlić et al.*, Case no. IT-04-74-T, Decision on Motion for Provisional Release of the Accused Petković, 26 June 2006.

⁵ *The Prosecutor v. Prlić et al.*, Case no. IT-04-74-T, Decision on the Motion for Provisional Release of the Accused Petković, 8 December 2006.

⁶ See letter from the Ministry of Foreign Affairs dated 23 May 2007.

CONSIDERING that the Chamber will adjourn proceedings for the Christmas recess and that the presence of the Accused Petković will therefore not be required in court;

CONSIDERING that the application for provisional release submitted by the Accused Petković is justified based on humanitarian grounds;

CONSIDERING that in the annexes to the Accused Petković's Motion and to the Addendum, the Defence for the Accused Petković submitted medical certificates confirming that the father and spouse of the Accused Petković are ill,

CONSIDERING that a visit by the Accused Petković to his father and spouse might help them in their hour of need,

CONSIDERING that the Accused Petković has indicated that he himself suffers from ill health, and that he has submitted medical documentation to that effect,

CONSIDERING that the conditions set out in Rule 65 of the Rules have therefore been met,

CONSIDERING, however, that the provisional release should be limited to a short period, including return travel,

CONSIDERING that such a short visit will enable the police authorities of the Republic of Croatia to carry out effective surveillance of the Accused Petković, thereby providing an additional guarantee that he will appear for trial after the judicial recess,

CONSIDERING that the Chamber is of the opinion that during his stay in the Republic of Croatia the Accused Petković must be under continuous surveillance by the authorities of the Republic of Croatia in order to guarantee his safety and appearance for trial,

CONSIDERING therefore that the Accused Petković will be provisionally released during the dates and subject to the conditions set out in the confidential annex to this decision,

FOR THE FOREGOING REASONS,

PURSUANT TO Rule 65 of the Rules,

GRANTS the Accused Petković's Motion in part,

JUDGE ANTONETTI appending a partially dissenting opinion as regards the partly confidential nature of the present decision and,

ORDERS the provisional release of the Accused Petković during the dates and subject to the conditions set out in the confidential annex to this decision.

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

/signed/

Jean-Claude Antonetti
Presiding Judge

Done this eleventh day of June 2007
At The Hague
The Netherlands

[Seal of the Tribunal]