



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-05-87-T

Date: 4 July 2007

Original: English

IN THE TRIAL CHAMBER

Before: Judge Iain Bonomy, Presiding
Judge Ali Nawaz Chowhan
Judge Tsvetana Kamenova
Judge Janet Nosworthy, Reserve Judge

Registrar: Mr. Hans Holthuis

Decision of: 4 July 2007

PROSECUTOR

v.

**MILAN MILUTINOVIĆ
NIKOLA ŠAINOVIĆ
DRAGOLJUB OJDANIĆ
NEBOJŠA PAVKOVIĆ
VLADIMIR LAZAREVIĆ
SRETEN LUKIĆ**

PUBLIC

DECISION ON MILUTINOVIĆ MOTION FOR TEMPORARY PROVISIONAL RELEASE

Office of the Prosecutor

Mr. Thomas Hannis
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Counsel for the Accused

Mr. Eugene O'Sullivan and Mr. Slobodan Zečević for Mr. Milan Milutinović
Mr. Toma Fila and Mr. Vladimir Petrović for Mr. Nikola Šainović
Mr. Tomislav Višnjić and Mr. Norman Sepenuk for Mr. Dragoljub Ojdanić
Mr. John Ackerman and Mr. Aleksandar Aleksić for Mr. Nebojša Pavković
Mr. Mihajlo Bakrač and Mr. Đuro Čepić for Mr. Vladimir Lazarević
Mr. Branko Lukić and Mr. Dragan Ivetić for Mr. Sreten Lukić

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 (“Tribunal”) is seised of “Mr. Milan Milutinović’s Motion for Temporary Provisional Release on Compassionate Grounds”, filed confidentially on 20 June 2007 (“Motion”), and hereby renders its decision thereon.

1. On 15 March 2007, Milutinović (“Applicant”) filed a motion for provisional release.¹ In its decision of 22 May 2007, the Trial Chamber denied that motion, reasoning that the Applicant had not satisfied the Trial Chamber that there had been a change in circumstances that materially affected the approach taken in the decision denying the Applicant provisional release of 5 December 2006.² The Trial Chamber stated, however, that its decision was without prejudice to any future motion for provisional release of a more limited duration on compassionate grounds.³

2. The Applicant now moves the Trial Chamber for temporary provisional release on compassionate grounds for an unspecified period of time, but submits that “he will accept and comply with all the terms and conditions the Trial Chamber deems fit to attach to his temporary release”.⁴ The Applicant specifies two locations in Belgrade, Republic of Serbia, to which he proposes to travel, should his Motion be granted. One location is a medical facility, the other is his family residence.⁵ The ground upon which the Applicant bases his Motion is his desire to consult with, and be examined by, his treating cardiologist in Belgrade.⁶ The Applicant also submits that he “has always been in full compliance with the terms and conditions of his previous periods of provisional release”.⁷

3. On 21 June 2007, the Prosecution filed its response to the Motion,⁸ in which it states its “general opposition” to the provisional release of any of the six Accused in this case at this stage, but recognises the Trial Chamber’s discretion nevertheless to grant provisional release on compassionate grounds.⁹ The Prosecution submits that there is “no showing that the proposed

¹ Milan Milutinović’s Motion for Provisional Release During the Upcoming Court Recess, 15 March 2007 (“March Motion for Provisional Release”). The Trial Chamber notes that the Prosecution erroneously referred to the date of the March Motion for Provisional Release in its response. See Response, para. 5, p. 3.

² Decision on Milutinović Motion for Provisional Release, 22 May 2007 (“22 May Decision”), para. 15.

³ 22 May Decision, para. 17.

⁴ Motion, para. 6.

⁵ Motion, para. 5.

⁶ Motion, paras 3–4.

⁷ Motion, para. 6.

⁸ Prosecution Response to Milan Milutinović’s Motion for Provisional Release on Compassionate Grounds, 21 June 2007 (“Response”).

⁹ Response, para. 7.

examination could not be effectively conducted here in The Hague, nor that arrangements could not be made for Mr. Milutinović's personal cardiologist to travel here to do that".¹⁰ The Prosecution notes that, should the Applicant be granted provisional release, the Trial Chamber should consider requiring "electronic monitoring and/or 24-hour security details."¹¹

4. The Trial Chamber is in receipt of a letter from the Ministry of Foreign Affairs of The Netherlands, in which The Netherlands – in its capacity as host country – represents that it has no objection to the Applicant's provisional release.¹² The Trial Chamber is also in receipt of the confidential "Conclusion of the Government of the Republic of Serbia", dated 22 March 2007, confirming that Serbia will respect all orders made by this Trial Chamber in respect of the provisional release of the Applicant.

5. In its "Decision on Šainović Motion for Temporary Provisional Release", issued 7 June 2007 ("7 June Šainović Decision"), the Trial Chamber detailed the law in relation to granting provisional release on compassionate grounds. Applying the same legal principles to the Applicant's Motion, the Trial Chamber considers that in this case it is not appropriate that the Applicant be granted provisional release for a limited duration on compassionate grounds. The Applicant has made no showing that he is receiving inadequate health care at the UNDU. Therefore, it is not necessary for him to travel to Belgrade in order to undergo medical examination and consultation.¹³

6. For the foregoing reasons and pursuant to Articles 20 and 21 of the Statute and Rules 54 and 65 of the Rules of Procedure and Evidence, the Trial Chamber hereby DENIES the Motion.

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

Judge Iain Bony
Presiding

Dated this fourth day of July 2007
At The Hague
The Netherlands

[Seal of the Tribunal]

¹⁰ Response, para. 8.

¹¹ Response, para. 9.

¹² Letter from Mr. J.H.P.A.M. de Roy, Deputy Director of Protocol for the Minister of Foreign Affairs, to Chief CMSS, dated 26 June 2007.

¹³ See Decision on Pavković Motion for Temporary Provisional Release, 18 June 2007, para. 6.