



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-05-88-T

Date: 13 July 2007

Original: English

IN TRIAL CHAMBER II

Before: Judge Carmel Agius, Presiding
Judge O-Gon Kwon
Judge Kimberly Prost
Judge Ole Bjørn Støle – Reserve Judge

Registrar: Mr. Hans Holthuis

Decision of: 13 July 2007

PROSECUTOR

v.

**VUJADIN POPOVIĆ
LJUBIŠA BEARA
DRAGO NIKOLIĆ
LJUBOMIR BOROVČANIN
RADIVOJE MILETIĆ
MILAN GVERO
VINKO PANDUREVIĆ**

PUBLIC

**DECISION ON MOTION FOR PROVISIONAL RELEASE FROM 21 JULY
2007 UNTIL THE RESUMPTION OF TRIAL**

Office of the Prosecutor

Mr. Peter McCloskey

Republic of Serbia

Counsel for the Accused

Mr. Zoran Živanović and Ms. Julie Condon for Vujadin Popović
Mr. John Ostojić and Mr. Christopher Meek for Ljubiša Beara
Ms. Jelena Nikolić and Mr. Stéphane Bourgon for Drago Nikolić
Mr. Aleksandar Lazarević and Mr. Miodrag Stojanović for Ljubomir Borovčanin
Ms. Natacha Fauveau Ivanović and Mr. Nenad Petrušić for Radivoje Miletić
Mr. Dragan Krgović and Mr. David Josse for Milan Gvero
Mr. Peter Haynes and Mr. Đorđe Sarapa for Vinko Pandurević

Kingdom of the Netherlands

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”);

BEING SEISED OF the “Joint Defence Motion by the Accused Radivoje Miletić and Milan Gvero for Provisional Release from 21 July 2007 until the Resumption of the Trial”, filed partly confidentially on 26 June 2007 (“Motion”), in which the Accused Radivoje Miletić and Milan Gvero (collectively “Accused”) request the Trial Chamber to grant provisional release pursuant to Rule 65 of the Rules of Procedure and Evidence (“Rules”) from 21 July 2007 to five days prior to the date set for the resumption of the trial;¹

NOTING the Republic of Serbia’s guarantees with regard to ensuring compliance with an order the Trial Chamber may issue concerning the terms and conditions of provisional release of the Accused;²

NOTING the “Prosecution Response to Joint Defence Motion by the Accused Radivoje Miletić and Milan Gvero for Provisional Release from 21 July 2007 until the Resumption of the Trial”, filed confidentially on 10 July 2007, in which the Prosecution does not object to the Motion;³

NOTING the letter to the Registry from the host country regarding the Motion, filed on 10 July 2007, in which the host country does not object to the Motion;⁴

CONSIDERING that, pursuant to Rule 65(B), a Trial Chamber may order the provisional release of an accused only after giving the host country and the state to which the accused seeks to be released the opportunity to be heard and only if it is satisfied that the following two requirements are met: (i) the accused will appear for trial, (ii) if released, the accused will not pose a danger to any victim, witness or other person;

CONSIDERING Rule 65 (C) according to which the Trial Chamber may impose such conditions upon the release of the accused as it may determine appropriate, including the execution of a bail bond and the observance of such conditions as are necessary to ensure the presence of the accused for trial and the protection of others;

¹ Motion, paras. 4, 9, 15.

² Motion, para. 11, Confidential Annexes 1 and II.

³ Prosecution Response, para. 2.

⁴ Correspondence from Host Country Re. Provisional Release Motion, 10 July 2007.

NOTING the previous decisions of this Trial Chamber granting the Accused provisional release;⁵

CONSIDERING that both Accused surrendered voluntarily to the Tribunal and were provisionally released on several occasions, and each time, they complied fully with the terms and conditions imposed upon them by the Trial Chamber;

CONSIDERING that the Trial Chamber is satisfied that, if temporarily released during the break in proceedings over the Tribunal's summer judicial recess, the Accused will return for the resumption of the trial and will not pose a danger to any victim, witness or other person;

FOR THE FOREGOING REASONS,

PURSUANT to Article 29 of the Statute of the Tribunal and Rules 54 and 65 of the Rules;

HEREBY GRANTS the Motion and **ORDERS** the provisional release of the Accused on the following terms and conditions:

- a. as soon as practicable on or after 21 July 2007, the Accused Radivoje Miletić and Milan Gvero shall be transported to Schiphol airport in The Netherlands by the Dutch authorities,
- b. at Schiphol airport, the Accused shall be provisionally released into the custody of a designated official of the Republic of Serbia, who shall accompany the Accused for the remainder of their travel to Belgrade, Republic of Serbia and to their places of residence therein,
- c. during the period of their provisional release, the Accused shall abide by the following conditions, and the authorities of the Republic of Serbia, including the local police, shall ensure compliance with such conditions:
 - i. to provide the addresses at which they will be staying in Belgrade to the Ministry of Internal Affairs of the Republic of Serbia and the Registrar of the Tribunal, before leaving the United Nations Detention Unit ("UNDU") in The Hague,

⁵ *Prosecutor v. Tolimir, Miletić, and Gvero*, Case No. IT-04-80-PT ("*Tolimir et al.*"), Decision Concerning Motion for Provisional Release of Radivoje Miletić, 19 July 2005; *Tolimir et al.*, Decision Concerning Motion for Provisional Release of Milan Gvero, 19 July 2005; Decision on Joint Motion of the Accused Miletić and Gvero for Temporary Provisional Release from 15 July 2006 Until the Continuation of Trial, 13 July 2006; Decision on Defence Motions for Provisional Release of Radivoje Miletić and Milan Gvero, 7 December 2006.

- ii. to remain within the confines of the municipality of Belgrade;
 - iii. to surrender their passport to the Ministry of Internal Affairs of the Republic of Serbia,
 - iv. to report each day to the police in Belgrade at a local police station to be designated by the authorities of the Republic of Serbia,
 - v. to consent to having the Ministry of Internal Affairs of the Republic of Serbia check with the local police about their presence and to the making of occasional, unannounced visits upon the Accused by the same Ministry or by a person designated by the Registrar of the Tribunal,
 - vi. not to have any contact with the co-accused in the case,
 - vii. not to have any contact whatsoever or in any way interfere with any victim or potential witness or otherwise interfere in any way with the proceedings or the administration of justice,
 - viii. not to discuss their case with anyone, including the media, other than with their counsel,
 - ix. to comply strictly with any requirements of the authorities of the Republic of Serbia necessary to enable them to comply with their obligations under this Decision and their guarantees,
 - x. to comply strictly with any further order of the Tribunal varying the terms of or terminating their provisional release,
- d. The Accused shall return to the UNDU no later than 13 August 2007, unless otherwise ordered by the Trial Chamber. They shall be accompanied from their places of residence in Belgrade by the designated officials of the Republic of Serbia, who shall deliver the Accused into the custody of the Dutch authorities at Schiphol airport; the Dutch authorities shall then transport the Accused back to the UNDU;

REQUIRES the Republic of Serbia to assume responsibility as follows:

- a. by designating officials of the Republic of Serbia into whose custody the Accused shall be provisionally released and who shall accompany the Accused from Schiphol airport to the Republic of Serbia and to their respective place of residence, and

notifying, as soon as practicable, the Trial Chamber and the Registrar of the Tribunal of the name of the designated officials,

- b. for the personal security and safety of the Accused while on provisional release,
- c. for all expenses concerning transport of the Accused from Schiphol airport to Belgrade and back,
- d. for all expenses concerning accommodation and security of the Accused while on provisional release,
- e. at the request of the Tribunal, or the parties, to facilitate all means of cooperation and communication between the parties and to ensure the confidentiality of any such communication,
- f. to arrest and detain the Accused immediately if they should breach any of the conditions of this Decision, and
- g. to report immediately to the Trial Chamber any breach of the conditions set out above;


INSTRUCTS the Registrar to consult with the Ministry of Justice of the Kingdom of the Netherlands as to the practical arrangements for their release;

REQUESTS the authorities of all states through which they will travel:

- (i) to hold the Accused in custody for any time they will spend in transit at the airport,
- (ii) to arrest and detain the Accused pending their return to the UNDU, should they attempt to escape; and

ORDERS that the Accused shall be immediately detained should they breach any of the foregoing terms and conditions of their provisional release.

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

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke at the end, positioned above a thin horizontal line.

Carmel Agius
Presiding

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

[Seal of the Tribunal]