



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: 29 November 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: 29 November 2007

THE PROSECUTOR

v.

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

PUBLIC WITH CONFIDENTIAL ANNEX

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

The Office of the Prosecutor:

Mr Kenneth Scott
Mr Douglas Stringer

Counsel for the Accused:

Ms Senka Nožica and Mr Karim A. A. Khan for Bruno Stojić

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 Bruno Stojić for Period of Provisional Release on Humanitarian Grounds During 2007 Winter Recess” and its three confidential annexes, filed confidentially by Counsel for the Accused Bruno Stojić (“Defence for the Accused Stojić”) on 12 November 2007 (“Accused Stojić’s Motion”), wherein the Defence for the Accused Stojić requests, first, his provisional release during the winter judicial recess and, second, his provisional release from 23 January 2008 until 13 March 2008,

NOTING the “Prosecution Consolidated Response to Defence Applications for Provisional Release During Winter Recess”, filed confidentially by the Office of the Prosecutor (“Prosecution”) on 15 November 2007 (“Response”),

CONSIDERING that in support of its Motion, the Defence for the Accused Stojić submits that: (1) the Accused Stojić surrendered voluntarily to the Tribunal; (2) while on earlier release the Accused Stojić fully complied with the conditions imposed by the Trial Chamber in its decisions on provisional release; (3) in a letter of 5 November 2007, the Government of the Republic of Croatia pledged that the Accused Stojić 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 Stojić would return to The Hague at the request of the Chamber; (4) the Accused Stojić personally pledged to fully comply with all the conditions of provisional release imposed by the Tribunal, and finally (5) the Accused Stojić’s presence would be beneficial to his spouse, his brother and his parents, who all suffer from ill health,

CONSIDERING that in support of the request for provisional release from 23 January 2008 until 13 March 2008, the Defence for the Accused Stojić refers to the “Scheduling Order” rendered by the Chamber on 22 October 2007 and argues that the Chamber will not be sitting during that period,

CONSIDERING that in the Response, the Prosecution again opposes the provisional release of all the Accused because none of the reasons given by the Accused in support of their motions for provisional release constitute humanitarian grounds for release,

CONSIDERING alternatively that should the Chamber grant the Accused Stojić's Motion, the Prosecution requests that: (1) the Chamber prohibit the Accused Stojić from setting foot or travelling in Bosnia and Herzegovina, (2) the Accused Stojić be prohibited from having any contact with any witness, potential witness (be it a witness called by the Prosecution, Defence or Chamber) or victim; (3) the Accused Stojić be prohibited from discussing the case with anyone other than his Counsel and (4) from having any contact with the media,

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 Stojić, while on earlier release, complied with all the conditions imposed by the pre-trial Chamber in its order dated 30 July 2004¹ and the Chamber in its decisions dated 26 June 2006,² 8 December 2006³ and 11 June 2007,⁴

CONSIDERING that the host country has not objected to any provisional release proceedings,⁵

CONSIDERING that in its letter of 5 November 2007, the Government of the Republic of Croatia provided guarantees to the effect that the Accused would return to The Hague and would not abscond,

CONSIDERING that the Accused Stojić pledges to fully comply with all the conditions for provisional release imposed by the Tribunal,

¹ *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Order on Provisional Release of Bruno Stojić, 30 July 2004.

² Decision on Motion for Provisional Release of the Accused Stojić, 26 June 2006.

³ Decision on the Motion for Provisional Release of the Accused Stojić, 8 December 2006.

⁴ Decision on the Motion for Provisional Release of the Accused Stojić, 11 June 2007.

⁵ See letter from the Ministry of Foreign Affairs dated 26 November 2007.

CONSIDERING in addition that, given the Accused's appropriate behaviour while on previous provisional release, the Chamber is satisfied that, if released, the Accused Stojić will return for the resumption of his trial and not pose a danger to any victim, witness or other person,

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

CONSIDERING furthermore that the Chamber will adjourn proceedings for the winter 2007/2008 judicial recess and that the presence of the Accused Stojić will therefore not be required in court during this period,

CONSIDERING that the application for provisional release submitted by the Accused Stojić to visit his ailing spouse, brother and parents may be considered as a request based on humanitarian grounds,

CONSIDERING that the Defence for the Accused Stojić submitted medical certificates to the effect that his spouse, brother and parents are ill,

CONSIDERING that the presence of the Accused Stojić at their side might help them in their hour of need,

CONSIDERING therefore that the Chamber decides to grant the Accused Stojić provisional release,

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 Stojić, thereby providing an additional guarantee that he will appear for trial after the judicial recess,

CONSIDERING that as regards the request for provisional release between 23 January 2008 and 13 March 2008, the Chamber notes that the "Scheduling Order" rendered by the Chamber on 22 October 2007 has since been amended,⁶ that the

⁶ Second Modified Scheduling Order, 22 November 2007.

Chamber will be sitting until 6 February 2008⁷ and that, consequently, the request in this respect is moot,

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

CONSIDERING therefore that the Accused Stojić 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,

DISMISSES as moot the application for provisional release between 23 January 2008 and 13 March 2008,

GRANTS Bruno Stojić's Motion,

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

JUDGE ANTONETTI appending a dissenting opinion as regards the public nature of the present decision.

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

/signed/

Jean-Claude Antonetti
Presiding Judge

Done this twenty-ninth day of November 2007
At The Hague
The Netherlands

[Seal of the Tribunal]

⁷ *Ibid.*