



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: 19 February 2008
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: 19 February 2008

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 PRLIĆ**

The Office of the Prosecutor:

Mr Kenneth Scott
Mr Douglas Stringer

Counsel for the Accused:

Mr Michael Karnavas and Ms Suzana Tomanović for Jadranko Prlić

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 “Jadranko Prlić’s Motion for Provisional Release” filed confidentially by Counsel for the Accused Jadranko Prlić (“Defence for the Accused Prlić”) on 28 January 2008 (“Motion”), to which three annexes are attached, and of the “Corrigendum - Jadranko Prlić’s Motion for Provisional Release”, filed confidentially by the Defence for the Accused Prlić on 29 January 2008, in which the Defence for the Accused Prlić requests, for humanitarian reasons, his provisional release to the Republic of Croatia for a period of 74 days from 6 February 2008 to 20 April 2008,

NOTING the “Prosecution Consolidated Response to Defence Applications for Provisional Release of the Accused Prlić, Stojić, Praljak, Petković and Čorić Prior to the Defence Case”, filed confidentially by the Office of the Prosecutor (“Prosecution”) on 5 February 2008 (“Response”),

NOTING the “Joint Notice of Waiver of Right to Attend Status Conferences”, filed confidentially by Counsel for the Accused Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković and Valentin Čorić (“Accused”) on 11 February 2008, in which the Accused renounce their right to be present at two meetings scheduled by the Chamber pursuant to Rule 65 *ter* of the Rules of Procedure and Evidence (“Rules”),

CONSIDERING that in support of the Motion, the Defence for the Accused Prlić submits that: (1) Jadranko Prlić surrendered voluntarily to the Tribunal; (2) the Accused Prlić has been provisionally released on five occasions and fully complied with the conditions imposed by the Chamber in its decisions on provisional release; (3) the Government of the Republic of Croatia pledges that the Accused Prlić will comply with the conditions imposed by the Tribunal should the application for provisional release be granted by the Chamber, and guarantees that the Accused Prlić will return to The Hague at the request of the Chamber; (4) he wishes to visit his wife and children, and finally (5) his parents and brother suffer from ill health,

CONSIDERING that in the Response, the Prosecution opposes the provisional release of all the Accused on the ground that the periods they have requested are excessive and 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 Motion, the Prosecution requests that: (1) the Accused Prlić be prohibited from setting foot or travelling in Bosnia and Herzegovina; (2) the Accused Prlić be prohibited from having any contact with any witnesses or victims; (3) the Accused Prlić be prohibited from discussing the case with anyone other than his Counsel; (4) the Accused Prlić be prohibited from having any contact with the media, and finally (5) the provisional release not be granted prior to the oral decision rendered pursuant to Rule 98 *bis*,

CONSIDERING that pursuant to Rule 65 of the 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 Prlić, while on earlier release, complied with all the conditions imposed by the Trial Chambers in their orders and decisions dated 30 July 2004,¹ 1 July 2005,² 26 June 2006,³ 8 December 2006,⁴ 11 June 2007,⁵ and 29 November 2007,⁶

CONSIDERING that the host country has not objected to any possible provisional release proceedings,⁷

CONSIDERING that in a letter dated 22 January 2008, the Government of the Republic of Croatia provided guarantees to the effect that, should the application for provisional release be granted by the Chamber, the Accused Prlić would not pose a

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

² *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Order on Jadranko Prlić's Motion for Variation of Conditions of Provisional Release, 1 July 2005.

³ Decision on Motion for Provisional Release of the Accused Prlić, 26 June 2006; the dates of the Accused Prlić's provisional release mentioned in the previous decision were amended by the Order Amending the Decision on the Accused Prlić's Request for Provisional Release, 4 July 2006.

⁴ Decision on the Motion for Provisional Release of the Accused Prlić, 8 December 2006.

⁵ Decision on the Motion for Provisional Release of the Accused Prlić, 11 June 2007.

⁶ Decision on the Motion for Provisional Release of the Accused Prlić, 29 November 2007.

⁷ See the letter from the Dutch Ministry of Foreign Affairs dated 31 January 2008.

danger to any victims, witnesses or other person while on provisional release and would return to The Hague on the date ordered by the Chamber,⁸

CONSIDERING in addition that, given his appropriate behaviour on previous occasions of provisional release, the Chamber is satisfied that, if released, the Accused Prlić 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 that the provisional release of the Accused Prlić in the Republic of Croatia could facilitate the preparation of the defence case with his Counsel, who are also expected to be there,

CONSIDERING furthermore that in the annexes to the Motion, the Defence for the Accused Prlić provided medical certificates attesting to the fact that the Accused Prlić's brother and father are ill,

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

CONSIDERING furthermore that the Chamber will adjourn proceedings from 21 February 2008 to 4 May 2008 and that during this period, the presence of the Accused Prlić will be required only to attend, should the need arise, the two meetings on 17 and 26 March 2008, which were scheduled by the Chamber pursuant to Rule 65 *ter* of the Rules, and the pre-Defence conference pursuant to Rule 73 *ter* of the Rules, scheduled for 21 April 2008,⁹

CONSIDERING as a result that in the exercise of its discretionary power, the Chamber authorizes the provisional release of the Accused Prlić,

⁸ See the letter from the Ministry of Justice of the Republic of Croatia in the annex to the Motion, dated 22 January 2008.

⁹ Decision on Motion for Extension of Time for the Commencement of the Defence Case and Adopting a New Schedule, 28 January 2008 and Scheduling Order, 14 February 2008.

CONSIDERING nonetheless that his 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 Prlić, 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 Prlić 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 Prlić will be provisionally released during the dates and subject to the conditions set out in the confidential annex to this decision,

FOR THESE REASONS,

IN ACCORDANCE with Rule 65 of the Rules,

PARTIALLY GRANTS the Motion,

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

DENIES the Motion in all other respects,

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

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

/signed/

Jean-Claude Antonetti
Presiding Judge

Done this nineteenth day of February 2008
At The Hague
The Netherlands

[Seal of the Tribunal]