



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-AR65.5
Date: 22 February 2008
Original: English

IT-04-74-AR65-5
A14-A12
22 February 2008

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IN THE APPEALS CHAMBER

Before: Judge Fausto Pocar, Presiding
Judge Liu Daqun
Judge Andréia Vaz
Judge Theodor Meron
Judge Wolfgang Schomburg

Registrar: Mr. Hans Holthuis

Decision of: 22 February 2008

PROSECUTOR
v.
JADRANKO PRLIĆ
BRUNO STOJIĆ
SLOBODAN PRALJAK
MILIVOJ PETKOVIĆ
VALENTIN ĆORIĆ
and **BERISLAV PUŠIĆ**

PUBLIC

**DECISION ON PROSECUTION'S REQUEST TO STAY THE DECISIONS
TO PROVISIONALLY RELEASE THE ACCUSED PRLIĆ, STOJIĆ,
PRALJAK, PETKOVIĆ AND ĆORIĆ**

Office of the Prosecutor

Mr. Kenneth Scott
Mr. Daryl Mundis

Counsel for the Accused

Mr. Michael Karnavas and Ms. Suzana Tomanović for Jadranko Prlić
Ms. Senka Nožica and Mr. Karim Khan for Bruno Stojić
Mr. Božidar Kovačić and Ms. Nika Pinter for Slobodan Praljak
Ms. Vesna Alaburić and Mr. Nicolas Stewart for Milivoj Petković
Ms. Dijana Tomašegović-Tomić and Mr. Dražen Plavec for Valentin Ćorić
Mr. Fahrudin Ibrišimović and Mr. Roger Sahota for Berislav Pušić

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1. The Appeals 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 (“Appeals Chamber” and “International Tribunal”, respectively) is seized of an appeal by the Office of the Prosecutor (“Prosecution”)¹ against five separate decisions rendered by Trial Chamber III on 19 February 2008 (collectively, “Impugned Decisions”)² in which Trial Chamber III granted provisional release to Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković and Valentin Ćorić (collectively, “Accused”).

2. The Prosecution requests, as a matter of urgency, that the Appeals Chamber immediately order a stay of the Impugned Decisions and allow the Appeal by reversing the Trial Chamber’s decision to grant the Accused provisional release for various periods.³ The Appeals Chamber considers, nonetheless, that the only matter of urgency before it concerns the imminent provisional release of the Accused.⁴ The Appeals Chamber reserves its position on all other matters raised in the Appeal and reminds the Accused that they have ten days within which to file a response with arguments on the Appeal as such.⁵

3. The Appeals Chamber finds that a stay of the Impugned Decisions is warranted in the circumstances in order to preserve the objective of the Prosecution’s Appeal.⁶ The Prosecution’s Appeal has been validly filed pursuant to Rule 65(D) of the Rules. It is therefore within the competence of the Appeals Chamber to render a decision on an application for a stay filed before it, particularly where the purpose of that decision is to preserve the objective of an appeal pending before it.⁷

4. On the basis of the foregoing the Appeals Chamber,

¹ Prosecution’s Consolidated Appeal from Decision to Provisionally Release the Accused Prlić, Stojić, Praljak, Petković and Ćorić Prior to the Defence Case” (“Appeal”). This motion was filed by the Prosecution after office hours on 21 February and was distributed early in the morning of 22 February 2008.

² *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-T, *Décision relative à la demande de mise en liberté provisoire de l’accusé Prlić*, 19 February 2008; *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-T, *Décision relative à la demande de mise en liberté provisoire de l’accusé Stojić*, 19 February; *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-T, *Décision relative à la demande de mise en liberté provisoire de l’accusé Praljak*, 19 February 2008; *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-T, *Décision relative à la demande de mise en liberté provisoire de l’accusé Petković*, 19 February 2008; *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-T, *Décision relative à la demande de mise en liberté provisoire de l’accusé Ćorić*, 19 February 2008.

³ Appeal, p. 5.

⁴ The Trial Chamber dismissed the “Prosecution Consolidated Request Pursuant to Rule 65(E) for a Stay of Provisional Release Regarding the Accused Prlić, Stojić, Praljak, Petković and Ćorić Prior to the Defence Case and Variation of Time Limit Pursuant to Rule 127(A)(i)” in its “*Décision sur la demande de l’Accusation de surseoir à l’exécution des décisions relatives aux demandes de mise en liberté*” rendered on 21 February 2008.

⁵ Practice Direction on Procedure for the Filing of Written Submissions in Appeal Proceedings Before the International Tribunal, IT/155/Rev. 3, 16 September 2005, II.2.

⁶ In this regard, see *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-AR65.1, Order on the Prosecution’s Motion for a Stay, 10 August 2004, p. 3.

⁷ *The Prosecutor v. Jadranko Prlić et al.*, Case Nos. IT-04-74-AR65.1, IT-04-74-AR65.2, IT-04-74-AR65.3, Decision on Motions for Reconsideration, Clarification, Request for Release and Applications for Leave to Appeal, 8 September 2004 (“Prlić Decision of 8 September 2004”), para. 15.

ORDERS that the Impugned Decisions to provisionally release the Accused be stayed until the Appeals Chamber renders its decision on the merits of the Prosecution's Appeal.

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

Done this 22nd day of February 2008,
At The Hague,
The Netherlands.



Judge Fausto Pocar
President

[Seal of the International Tribunal]