



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: 17 July 2008
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IN TRIAL CHAMBER III

Before: Judge Jean-Claude Antonetti, Presiding
Judge Árpád Prandler
Judge Stefan Trechsel
Reserve Judge Antoine Kesia-Mbe Mindua

Registrar: Mr Hans Holthuis

Decision of: 17 July 2008

THE PROSECUTOR

v.

**Jadranko PRLIĆ
Bruno STOJIC
Slobodan PRALJAK
Milivoj PETKOVIĆ
Valentin ĆORIĆ
Berislav PUŠIĆ**

PUBLIC with CONFIDENTIAL ANNEX

**DECISION ON THE ACCUSED ĆORIĆ'S
REQUEST FOR PROVISIONAL RELEASE**

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
Ms Senka Nožica and Mr Karim A. A. Khan for Bruno Stojić
Mr Božidar Kovačić and Ms Nika Pinter for Slobodan Praljak
Ms Vesna Alaburić and Mr Nicholas 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

I. INTRODUCTION

1. 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”) is seized of a request for provisional release by the Accused Valentin Ćorić (“Accused Ćorić”) filed confidentially by Counsel for the Accused Ćorić (“Ćorić Defence”) on 30 June 2008.

II. PROCEDURAL BACKGROUND

2. On 30 June 2008, the Ćorić Defence confidentially filed “Valentin Ćorić’s Request for Provisional Release” (“Request”), in which for humanitarian reasons it requests provisional release of the Accused Ćorić to the Republic of Croatia during the period from 26 July to 24 August 2008.¹

3. On 10 July 2008, the Office of the Prosecutor (“Prosecution”) confidentially filed the Prosecution Consolidated Response to Defence Applications for Provisional Release During the Summer Recess (“Response”), in which the Prosecution opposes the release of the Accused Ćorić.²

III. APPLICABLE LAW

4. Under Rule 65 (A) of the Rules of Procedure and Evidence (“Rules”), once detained, an accused may not be released except upon an order of a Chamber. According to Rule 65 (B), release may be ordered by the Chamber 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 accused will appear for trial and, if released, will not pose a danger to any victim, witness or other person.

¹ Request, p. 1, para. 18.

² Response, paras 2, 34-38, 49.

5. According to established Tribunal jurisprudence, the Chamber has discretionary power over the decision to grant or deny provisional release pursuant to Rule 65 of the Rules.³ To assess whether the conditions set forth in Rule 65 (B) of the Rules have been met, the Chamber must take into account all the relevant factors that a reasonable Trial Chamber would take in order to make its decision.⁴ The Chamber must then give reasons for its decision on these points.⁵ The relevance of the factors referred to and the weight to be ascribed to them is decided on a case-by-case basis.⁶ Because they depend primarily on the facts of the case in question, all requests for provisional release are examined in the light of the particular situation of the accused.⁷ The Chamber must examine this situation when deciding on provisional release, but, as far as it is able, must foresee what this situation will be like when the accused is to return to the Tribunal.⁸

6. According to recent rulings by the Appeals Chamber, the close of the Prosecution case constitutes an important change of situation that requires a new and

³ *The Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-AR65.4, Decision on Prosecution Appeal of Decision on Provisional Release and Motions to Present Additional Evidence Pursuant to Rule 115, 26 June 2008 (“*Jovica Stanišić* Decision”), para. 3; *The Prosecutor v. Milutinović et al.*, Case No. IT-05-87-AR65.2, Decision on Interlocutory Appeal of Denial of Provisional Release During the Winter Recess, 14 December 2006 (“*Milutinović* Decision”), para. 3; *The Prosecutor v. Popović et al.*, Case No. IT-65-88-AR65.2, Decision on Defence’s Interlocutory Appeal of Trial Chamber’s Decision Denying Ljubomir Borovčanin Provisional Release, 30 June 2006, para. 5; *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-AR65.7, Decision on “Prosecution’s Appeal from Décision relative à la Demande de mise en liberté provisoire de l’Accusé Petković dated 31 March 2008, 21 April 2008 (“*Petković* Decision”), para. 5; *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-AR65.8, Decision on Prosecution’s Appeal from Décision relative à la demande de mise en liberté provisoire de l’Accusé Prlić, dated 7 April 2008, 25 April 2008 (“*Prlić* Decision of 25 April 2008”), para. 7.

⁴ *The Prosecutor v. Mićo Stanišić*, Case No. IT-04-79-AR65.1, Decision on Prosecution’s Interlocutory Appeal of Mićo Stanišić’s Provisional Release, 17 October 2005 (“*Mićo Stanišić* Decision”), para. 8; *Jovica Stanišić* Decision, para. 35; *Petković* Decision, para. 8; *Prlić* Decision of 25 April 2008, para. 10.

⁵ *Jovica Stanišić* Decision, para. 35; *Petković* Decision, para. 8; *Prlić* Decision of 25 April 2008, para. 10; *Mićo Stanišić* Decision, para. 8.

⁶ *Jovica Stanišić* Decision, para. 35; *Petković* Decision, para. 8; *Prlić* Decision of 25 April 2008, para. 10.

⁷ *The Prosecutor v. Bošković and Tarčulovski*, Case No. IT-04-82-AR65.1, Decision on Johan Tarčulovski’s Interlocutory Appeal on Provisional Release, 4 October 2005 (“*Tarčulovski* Decision”), para. 7; *Jovica Stanišić* Decision, para. 35; *Petković* Decision, para. 8; *Prlić* Decision of 25 April 2008, para. 10; *Mićo Stanišić* Decision, para. 8.

⁸ *Jovica Stanišić* Decision, para. 35; *Petković* Decision, para. 8; *Prlić* Decision of 25 April 2008, para. 10; *Mićo Stanišić* Decision, para. 8.

detailed evaluation of an accused's risk of flight.⁹ Under these conditions, even if the Trial Chamber is convinced that sufficient guarantees have been given, it may not exercise its discretionary power to grant provisional release unless sufficiently compelling humanitarian reasons cause the scales to tip in this direction.¹⁰ Consequently, provisional release may only be granted "at a late stage of the proceedings, and in particular after the close of the Prosecution case, when sufficiently compelling humanitarian reasons exist to justify the release and, even when provisional release is found to be justified in light of the nature of the circumstances, the length of the release should nonetheless be proportional to these circumstances."¹¹

7. Nonetheless, according to Appeals Chamber precedents, the Chamber can best assess these matters if procedural circumstances such as the close of the Prosecution case increase the risk of flight during provisional release.¹²

IV. ARGUMENTS OF THE PARTIES

8. In support of the Request, the Ćorić Defence maintains that (1) the Accused Ćorić complied with all the conditions imposed on him during his preceding provisional releases;¹³ (2) the Government of the Republic of Croatia has issued guarantees ensuring that the Accused Ćorić will comply with the conditions imposed by the Chamber if the Accused Ćorić is granted provisional release;¹⁴ (3) the Government of the Republic of Croatia has issued guarantees whereby, if released, the Accused Ćorić: (a) will return to The Hague on the date set by the Chamber, and (b) will not pose a danger to any witness, victim or any other person,¹⁵ and (c) it is prepared to take all the measures ordered by the Chamber;¹⁶ (4) the Accused Ćorić voluntarily surrendered to the Tribunal and has always acted respectfully toward the

⁹ *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-AR65.5, Decision on Prosecution's Consolidated Appeal against Decisions to Provisionally Release the Accused Prlić, Stojić, Praljak, Petković and Ćorić, 11 March 2008 ("Prlić Decision of 11 March 2008"), para. 20.

¹⁰ Prlić Decision of 11 March 2008, para. 21; Prlić Decision of 25 April 2008, para. 16; Petković Decision, para. 17.

¹¹ Petković Decision, para. 17; Prlić Decision of 25 April 2008, para. 16.

¹² Milutinović Decision, para. 15.

¹³ Request, paras. 4, 8.

¹⁴ Request, paras. 3, 5.

¹⁵ Request, paras. 3, 5.

Chamber;¹⁷ (5) the Government of the Kingdom of The Netherlands has always consented to the provisional release of the Accused Ćorić;¹⁸ and (6) that the risk of flight of the Accused Ćorić has not increased following the decision taken by the Chamber pursuant to Rule 98 *bis* of the Rules and that it is inexistent.¹⁹ Finally, the Accused Ćorić states he will submit to the conditions and limitations imposed by the Chamber and proposes several others.²⁰

9. As for the compelling humanitarian reasons that it regards as sufficient to justify the provisional release of the Accused Ćorić, the Ćorić Defence draws attention to the state of health of the Accused Ćorić's daughter, wife and his own.²¹ In this connection, the Ćorić Defence sent the Chamber medical certificates dated 2 and 13 June 2008 and a medical file on the state of health of the Accused Ćorić's wife dated 29 February 2008, 6 March 2008, 2 April 2008, 6 June 2008 and 10 June²² testifying to the precarious health of the Accused Ćorić's daughter and wife.²³

10. The Ćorić Defence submits that the position of the Appeals Chamber which requires, for the granting of provisional release to an accused after the close of the Prosecution case, the existence of compelling humanitarian grounds is fundamentally flawed and disregards the case-law of the Tribunal. Furthermore, the Ćorić Defence argues that the compelling humanitarian grounds requirement is inconsistent with the fact that the requirement of "exceptional circumstances" was removed from Rule 65 (B) of the Rules by an amendment dated 17 November 1999.²⁴ To this effect, the Ćorić Defence refers to the partially dissenting Opinion of Judge Güney to the *Prlić* Decision of 25 April 2008,²⁵ in which Judge Güney confirmed this position.²⁶ In

¹⁶ Request, paras. 5, 8.

¹⁷ Request, para. 8.

¹⁸ Request, para. 8.

¹⁹ Request, para. 8.

²⁰ Request, para. 18.

²¹ Request, paras. 10-17.

²² The exact year of the entry 10 June 200_ is illegible.

²³ Request, paras. 10-17. Medical certificate of the Accused Ćorić's daughter dated 2 June 2008 annexed to the Request; Medical certificate of the Accused Ćorić's wife dated 26 February 2008 annexed to the Request; Medical file of the Accused Ćorić's wife annexed to the Request (the exact year of the report dated 10 June is illegible).

²⁴ Request, para. 9; IT/32/REV.17.

²⁵ Partially Dissenting Opinion of Judge Güney to the *Prlić* Decision of 25 April 2008 ("Partially Dissenting Opinion of Judge Güney").

²⁶ Request, para. 9; Partially Dissenting Opinion of Judge Güney, paras. 5-7.

addition, the Ćorić Defence also argues that the affect of the length of the trial and detention was not given its due weight.²⁷

11. In its Response, the Prosecution objects to provisional release for the Accused Ćorić because, *inter alia*, the period he requested is excessive and because none of the reasons offered by the Accused in support of his request for release constitute sufficiently compelling humanitarian grounds to justify it.²⁸

12. The Prosecution considers that the length of the trial and the time spent in provisional detention do not constitute compelling humanitarian grounds justifying the provisional release of the Accused Ćorić.²⁹ The Prosecution claims that the arguments of the Ćorić Defence are based on similar grounds raised by the Ćorić Defence in the last motion for provisional release, which was denied by the Chamber.³⁰

13. In the alternative, should the Chamber grant the Request, the Prosecution requests that provisional release not exceed seven days, which would be sufficient time for him to visit the members of his family (including travel),³¹ and that it be subject to strict conditions.³² In particular, the Prosecution requests that the Chamber prohibit the Accused (1) from any and all travel to or presence in Bosnia and Herzegovina; (2) from having any contact with any victims; (3) from discussing the case with anyone except his counsel, and (4) from any and all contact with the media.³³

14. Finally, should the Trial Chamber grant the Request, the Prosecution requests a stay of the Trial Chamber's decision until a decision has been taken on the appeal it intends to lodge.³⁴

²⁷ Request, para. 9.

²⁸ Response, paras. 2, 36, 49.

²⁹ Response, para. 36.

³⁰ Response, para. 37; Decision on the Request for Provisional Release of the Accused Ćorić, 8 April 2008.

³¹ Response, paras 38, 50.

³² Response, paras 2, 47, 50.

V. DISCUSSION

15. Firstly, the Chamber finds that, pursuant to Rule 65 (B) of the Rules, the Government of the Kingdom of the Netherlands, the host country, informed the Chamber in its letter dated 2 July 2008 that it did not have any objections to the procedure for a possible provisional release.³⁵

16. In its letter dated 16 June 2008, the Government of the Republic of Croatia provided guarantees that the Accused Ćorić, if a motion for provisional release were to be granted by the Chamber, would not influence or pose a danger, during his provisional release, to any victim, witness or any other person and would return to The Hague on the date ordered by the Chamber.³⁶

17. The Chamber finds that the Accused Ćorić has complied with all the conditions and guarantees on his reappearance imposed during his earlier provisional releases in keeping with the orders and decisions of the Trial Chambers rendered on 30 July 2004,³⁷ 30 November 2004,³⁸ 9 March 2005,³⁹ 17 May 2005,⁴⁰ 15 July 2005,⁴¹ 7 October 2005,⁴² 13 June 2006,⁴³ 26 June 2006,⁴⁴ 8 December 2006,⁴⁵ 11 June 2007⁴⁶ and 29 November 2007.⁴⁷ The Chamber further notes that the Prosecution does not challenge the fact that the Accused Ćorić will appear upon termination of his provisional release.⁴⁸ Even though the close of the Prosecution case constitutes, according to the Appeals Chamber, an important change in the circumstances which

³³ Response, para. 47.

³⁴ Response, para. 48.

³⁵ Letter from the Ministry of Foreign Affairs of the Netherlands dated 2 July 2008.

³⁶ Letter from the Ministry of Justice of the Republic of Croatia in annex to the Request, dated 16 June 2008.

³⁷ *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Order on Provisional Release of Valentin Ćorić, 30 July 2004.

³⁸ *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Order on Valentin Ćorić's Application for Variation of Conditions of Provisional Release, 30 November 2004.

³⁹ *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Decision on Valentin Ćorić's Second Application for Variation of Conditions of Provisional Release, 9 March 2005.

⁴⁰ *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Decision on Valentin Ćorić's Urgent Motion for Variation of Conditions of Provisional Release, 17 May 2005.

⁴¹ *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Decision on Valentin Ćorić's Fourth Revised Motion for Variation of Conditions of Provisional Release, 15 July 2005.

⁴² *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Decision to Grant Valentin Ćorić's Fifth Application for Variation of Conditions of Provisional Release, 7 October 2005.

⁴³ Order on the Urgent Motion for Provisional Release of Valentin Ćorić, 13 June 2006.

⁴⁴ Decision on Motion for Provisional Release of the Accused Ćorić, 26 June 2006.

⁴⁵ Decision on the Motion for Provisional Release of the Accused Ćorić, 8 December 2006.

⁴⁶ Decision on the Motion for Provisional Release of the Accused Ćorić, 11 June 2007.

⁴⁷ Decision on the Motion for Provisional Release of the Accused Ćorić, 29 November 2007.

requires a new and detailed assessment of the risk of flight of an accused,⁴⁹ the Chamber holds that the guarantees to reappear in order to offset the risk of flight, such as those imposed on the Accused Ćorić, neutralise all possible risk of flight. Regarding his respectful conduct during his earlier provisional releases, the Chamber is assured that the Accused Ćorić, if released, will appear for the continuation of his trial.

18. Furthermore, for these same reasons, the Chamber is of the opinion that the Accused Ćorić, if released, will not pose a danger to any victim, witness or any other person, which, again, is not challenged by the Prosecution.⁵⁰

19. Nevertheless, according to the Appeals Chamber, regarding the stage of the proceedings and the close of the Prosecution case, the Chamber has the duty to determine, in addition, if the humanitarian grounds put forward by the Ćorić Defence are sufficiently compelling to justify the provisional release of the Accused Ćorić.⁵¹

20. The Ćorić Defence submits that Rule 65 (B) does not require humanitarian grounds for provisional release to be granted and, with respect to this, refers to the position of Judge Güney elaborated in the Partially Dissenting Opinion of Judge Güney.⁵² However, the Chamber refers to the majority position of the Appeals Chamber and therefore considers it necessary to examine the humanitarian grounds raised by the Ćorić Defence in order to assess whether they are sufficiently compelling to justify the provisional release of the Accused Ćorić.

21. The Prosecution argues that the submissions of the Ćorić Defence are based on similar grounds as those raised by the Ćorić Defence in the previous request for provisional release denied by the Chamber.⁵³ With respect to this, the Chamber recalls that it has the duty to consider each motion on provisional release in the light of the particular circumstances of the Accused⁵⁴ and that such an assessment is made at the

⁴⁸ Response.

⁴⁹ *Prlić* Decision of 11 March, para. 20.

⁵⁰ Response. This danger is not assessed *in abstracto* – it has to be real. *Mičo Stanišić* Decision, para. 27.

⁵¹ *Petković* Decision, para. 17; *Prlić* Decision of 25 April 2008, para. 16.

⁵² Request, para. 9.

⁵³ Response, para. 37; Decision on the Request for Provisional Release of the Accused Ćorić, 8 April 2008.

⁵⁴ *Tarčulovski* Decision, para. 7; *Jovica Stanišić* Decision, para. 35; *Petković* Decision, para. 8; *Prlić* Decision of 25 April 2008, para. 10; *Mičo Stanišić* Decision, para. 8.

time when it reaches its decision on provisional release, but also, that it has to envisage within foreseeable limits how the circumstances will have changed when the accused reappears before the Tribunal.⁵⁵ Consequently, as long as the Chamber considers that a ground raised by an accused – in light of the current situation - is sufficiently compelling, it may justify the provisional release of an accused.

22. Regarding the medical certificates submitted by the Ćorić Defence, the Chamber finds the state of health of the daughter and wife of the Accused Ćorić very serious. The Chamber proceeded with an in-depth assessment, given in the confidential annex attached hereto, and holds that the presence of the Accused Ćorić at the side of his daughter and his wife for a short period could assist them in overcoming their hardships. Therefore, the Chamber characterises the humanitarian grounds raised by the Ćorić Defence as sufficiently compelling to justify the provisional release of the Accused Ćorić.

23. The Chamber recalls that in order to establish whether the requirements of Rule 65 (B) of the Rules have been met, the Chamber must consider all the relevant factors which a reasonable Trial Chamber would be expected to consider in order to come to a decision.⁵⁶ In this case, the Chamber must also consider the fact that the Accused Ćorić surrendered voluntarily to the Tribunal and his exemplary conduct before and during the proceedings, even after the close of the Prosecution case. Furthermore, the Chamber will suspend hearings during the summer court recess. Consequently, during this period, there will be no court activity which will require the presence of the Accused Ćorić.

24. The Ćorić Defence considers that the length of the trial and detention should be appropriately taken into account by the Chamber in its assessment of the humanitarian grounds, which is challenged by the Prosecution.⁵⁷ The Chamber recalls that, in keeping with the case-law of the Appeals Chamber, the excessive length of actual or likely detention is an additional discretionary consideration which can be

⁵⁵ *Jovica Stanišić* Decision, para. 35; *Petković* Decision, para. 8; *Prlić* Decision of 25 April 2008, para. 10; *Mičo Stanišić* Decision, para. 8.

⁵⁶ *Mičo Stanišić* Decision, para. 8; *Jovica Stanišić* Decision, para. 35; *Petković* Decision, para. 8; *Prlić* Decision of 25 April 2008, para. 10.

⁵⁷ Request, para. 9; Response, para. 36.

taken into account in determining provisional release if all the requirements of Rule 65 (B) of the Rules have been met.⁵⁸

25. To this effect, the Chamber refers to a report the Registrar of the Tribunal submitted at a Diplomatic Seminar organised by the Tribunal on 10 June 2008 (“Registrar’s Report”) wherein he gave an overview of the United Nations Detention Unit (“Detention Unit”) and of the equipment at the disposal of the accused.⁵⁹ The Chamber observes that in his report, the Registrar discussed the “unique status of the UNDU detainee population,” and noted that:

“Whilst the UNDU is a remand institution, the average period of detention is significantly longer than the one of national jurisdictions and possibly even closer to many penitentiary institutions. This inevitably has a detrimental affect upon the mental state of the detainees as they are awaiting or undergoing complex trials and appeals over an extended period of time, causing long term stress which is well-known to induce or exacerbate health conditions.”⁶⁰

The Registrar also discussed the question of the impact of lengthy detentions and hearings on the health of the detainees:

“In addition, the prolonged pre-trial and trial detention, the stress of the trial, the geographical distance from their relatives are circumstances which contribute to exacerbate their overall health condition, both physical and psychological.”⁶¹

With respect to the separation of the detainees from their families, the Registrar considered that:

“The distance from the detainees’ family and the familial social support network, as well as the detainees’ lack of familiarity with the surroundings, inevitably impact on the health condition of the detainees.”⁶²

The Registrar ended his report with the following conclusion:

⁵⁸ *The Prosecutor v. Haradinaj et al.*, Case No. IT-04-84-AR65.2, Decision on Lahi Brahimaj’s Interlocutory Appeal Against the Trial Chamber’s Decision Denying His Provisional Release, 9 March 2006, para. 23; *The Prosecutor v. Dragomir Milošević*, Case No. IT-98-29/1-PT, Decision on Third Motion for Provisional Release, 16 August 2006, p. 3. It is to be noted that this Decision was confirmed by the Appeals Chamber, *The Prosecutor v. Dragomir Milošević*, Case No. IT-98-29/1-AR65.1, Decision on Appeal Against Decision Denying Motion for Provisional Release, 17 October 2006, paras. 8-9.

⁵⁹ Speech by Mr Hans Holthuis, Registrar, ICTY Diplomatic Seminar, The Hague, 10 June 2008.

⁶⁰ Registrar’s Report, pp. 3-4.

⁶¹ Registrar’s Report, p. 7.

⁶² Registrar’s Report, p. 3.

“Despite the measures in place at the UNDU as mentioned, in view of the statistics of the present population of the UNDU (*i.e.*, advanced average age, adverse personal circumstances and existence of serious medical conditions), the risk of the occurrence of a life threatening incident can be described as relatively high. Whilst I do not wish to sound alarmist, I do wish to present a realistic picture and share with you our concerns in this respect.”⁶³

26. The Chamber finds that the present case is particularly lengthy because of its scale, complexity and the large number of accused. Except for several short periods of provisional release, the Accused Ćorić has been detained in the Detention Unit since the commencement of the proceedings on 25 April 2006,⁶⁴ that is for more than two years. The Chamber further notes that the trial will not be terminated before 2010. The Tribunal is responsible for the health of the accused who are under its authority and custody. Concerned for the well-being of the accused, the Chamber thus holds that the possibility that the Accused Ćorić has been suffering seriously from his lengthy detention in the Detention Unit, such as described in the Registrar’s Report, is a supplementary factor to be taken into account when making a decision pursuant to Rule 65 (B) of the Rules. The Chamber considers that a certain period outside the Detention Unit and in a family environment during the court recess will allow the Accused Ćorić to recuperate. In this manner, the Chamber hopes to prevent a possible deterioration of the physical and mental state of the Accused, as discussed in the Registrar’s Report.

27. The Chamber further recalls that pursuant to the case-law of the Appeals Chamber, the length of provisional release at a late stage of the proceedings, and in particular after the close of the Prosecution case, is to be proportionate to the circumstances and sufficiently compelling humanitarian reasons justifying provisional

⁶³ Registrar’s Report, p. 8.

⁶⁴ *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Order on Provisional Release of Valentin Ćorić, 30 July 2004; *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Order on Valentin Ćorić’s Application for Variation of Conditions of Provisional Release, 30 November 2004; *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Decision on Valentin Ćorić’s Second Application for Variation of Conditions of Provisional Release, 9 March 2005; *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Decision on Valentin Ćorić’s Urgent Motion for Variation of Conditions of Provisional Release, 17 May 2005; *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Decision on Valentin Ćorić’s Fourth Revised Motion for Variation of Conditions of Provisional Release, 15 July 2005; *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Decision to Grant Valentin Ćorić’s Fifth Application for Variation of Conditions of Provisional Release, 7 October 2005; Order on the Urgent Motion for Provisional Release of Valentin Ćorić, 13 June 2006; Decision on Motion for Provisional Release of the Accused Ćorić, 26 June 2006; Decision on the Motion for Provisional Release of the Accused Ćorić, 8 December 2006; Decision on the Motion for Provisional Release of the Accused Ćorić, 11 June 2007; Decision on the Motion for Provisional Release of the Accused Ćorić, 29 November 2007.

release.⁶⁵ In addition, the Chamber recalls that the factors it has to take into account influence not only the decision on whether or not to grant provisional release, but also its duration, if any. Thus, *inter alia*, the Chamber must find a proper balance between the nature and weight of the circumstances justifying provisional release for humanitarian reasons and its duration.⁶⁶

28. In this case, the Accused Čorić seeks provisional release for the period from 26 July to 24 August 2008.⁶⁷ The Chamber, for its part, holds it necessary to limit the duration of provisional release to a period not in excess of the time necessary for the Accused Čorić to visit his ill family members and to recuperate, but which also includes the time of the round trip journey. Consequently the Chamber holds that a provisional release not in excess of 14 days is proportionate to the gravity of the illness of the wife and daughter of the Accused Čorić and to the necessity of permitting the Accused Čorić to rest after two years of detention.

V. CONCLUSION

29. For these reasons, and in light of the Registrar's Report, the Chamber is convinced that the Accused Čorić offers sufficiently compelling humanitarian grounds and holds that provisional release not exceeding 14 days (including travel) is proportionate to the gravity of the illnesses of the daughter and wife of the Accused Čorić and to the need to safeguard the health of the Accused himself and to prevent any repercussions on his health from the length of his detention. Consequently, in the exercise of its discretionary power, the Trial Chamber decides to grant provisional release to the Accused Čorić.

30. In view of the circumstances of the case and the stage of the proceedings, the Chamber decides to impose upon the Accused Čorić the following guarantees: that the Accused Čorić remain within the confines set forth by the Trial Chamber⁶⁸ and report daily to the police. The Chamber also decides to order the Croatian obligations to

⁶⁵ *Petković* Decision, para. 17; *Prlić* Decision of 25 April 2008, para. 16.

⁶⁶ *Petković* Decision, para. 17; *Prlić* Decision of 25 April 2008, para. 18.

⁶⁷ Request, paras. 1, 18.

⁶⁸ See in this regard the confidential Annex attached to this Decision.

supervise the Accused Ćorić twenty-four hours a day during his stay and to provide a situation report every three days.

31. As such, the Accused Ćorić will be released for the dates and according to the conditions set forth in the confidential annex attached to the present Decision.

32. Nonetheless, the Chamber decides to stay execution of its decision to release the Accused Ćorić until a ruling has been made on the Appeal the Prosecution intends to lodge.⁶⁹

VI. DISPOSITION

33. **FOR THE FOREGOING REASONS**, the Chamber,

PURSUANT TO Rule 65 (B) of the Rules,

PARTLY GRANTS the Request,

ORDERS the provisional release of the Accused Ćorić for the dates and according to the conditions set forth in the confidential annex attached to the present Decision,

AND

ORDERS a stay of execution of the present decision until the Appeals Chamber has ruled on the Appeal the Prosecution intends to lodge against this Decision.

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

/signed/

Jean-Claude Antonetti
Presiding Judge

Done this seventeenth day of July 2008
At The Hague
The Netherlands

[Seal of the Tribunal]

⁶⁹ Response, para. 48.