



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: 30 July 2008

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: 30 July 2008

PROSECUTOR

v.

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

PUBLIC

**DECISION ON NIKOLIĆ'S MOTION SEEKING A VARIATION OF THE
CONDITIONS OF HIS PROVISIONAL RELEASE**

Office of the Prosecutor
Mr. Peter McCloskey

Government of Republika Srpska

Government of the Netherlands

Counsel for the Accused

Mr. Zoran Živanović and Ms. Mira Tapušковиć for Vujadin Popović
Mr. John Ostojić and Mr. Predrag Nikolić for Ljubiša Beara
Ms. Jelena Nikolić and Mr. Stéphane Bourgon for Drago Nikolić
Mr. Aleksandar Lazarević and Mr. Christopher Gosnell 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

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 "Urgent Motion on Behalf of Drago Nikolić Seeking a Variation of the Conditions of his Provisional Release Under Custodial Conditions Granted on Humanitarian Grounds", filed publicly on 30 July 2008 (“Motion”), in which Nikolić seeks a variation of the conditions of his provisional release so that he may contact Witness 3DW23 and Witness 3DW24 only in the presence of a third person, on the condition that Nikolić not discuss the proceedings with these Witnesses;

NOTING the Trial Chamber’s “Decision on Nikolić’s Motion for Provisional Release” of 21 July 2008 (“Provisional Release Decision”), which granted Nikolić’s motion for provisional release under custodial conditions and made *inter alia* the following order:

Nikolić shall not 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,¹

NOTING that Witness 3DW23 and Witness 3DW24 are Nikolić’s daughter and brother respectively;²

NOTING Nikolić’s “strong desire” to be authorised to contact his daughter and brother during his upcoming period of provisional release, given that they will be present at family reunions and Nikolić’s father’s memorial service;³

NOTING that that Nikolić’s attendance at his father’s memorial service was a humanitarian ground upon which Nikolić was granted provisional release,⁴ and that Witness 3DW23 and Witness 3DW24 will be present at this memorial service;⁵

NOTING that the Prosecution has no objection to the Motion;⁶

CONSIDERING that varying the conditions of Nikolić’s provisional release as requested in the Motion does not affect the Trial Chamber’s analysis of the circumstances surrounding the granting of that provisional release in the Provisional Release Decision;⁷

¹ Provisional Release Decision, para. 22 (b)(vi)(8).

² Motion, para. 6.

³ Motion, paras. 6–8.

⁴ Provisional Release Decision, paras. 18, 21.

⁵ Motion, paras. 6, 10.

⁶ T. 24343–24344 (private session) (30 July 2008). *See also* Motion, paras. 3, 9.

PURSUANT TO Article 29 of the Statute and Rules 54 and 65,

HEREBY GRANTS the Motion, and **ORDERS** as follows:

1. Paragraph 22(b)(vi)(8) of the Provisional Release Decision shall be deleted and replaced with the following:

8. Subject to paragraph 8(a), Nikolić shall not have any contact whatsoever or in any way interfere with any victim or potential witness – other than Witness 3DW23, his daughter, and Witness 3DW24, his brother – or otherwise interfere in any way with the proceedings or the administration of justice,

8(a). With respect to any form of contact between Nikolić and Witnesses 3DW23 and 3DW24, such contact shall not involve any discussion regarding whatever aspect of the proceedings in this case,

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



Carmel Agius
Presiding

Dated this thirtieth day of July 2008
At The Hague
The Netherlands

[Seal of the Tribunal]

⁷ See Provisional Release Decision, paras. 17–21.