



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: 10 December 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:** 10 December 2008

**PROSECUTOR**

v.

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

**PUBLIC**

**DECISION ON MILETIĆ'S MOTION FOR PROVISIONAL RELEASE**

**Office of the Prosecutor**

Mr. Peter McCloskey

**Government of the Republic of Serbia**

**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

**Government of The Netherlands**

**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”), is seised of the “General Miletić’s Motion for Provisional Release for Humanitarian Reasons During Winter Judicial Recess”, filed confidentially in the original French on 21 November 2008 (“Motion”),<sup>1</sup> and hereby renders its decision thereon.

## I. PROCEDURAL BACKGROUND

1. Since his voluntary surrender, Miletić has been granted provisional release several times,<sup>2</sup> with the last occasion being on 21 July 2008 (“Decision of 21 July 2008”).<sup>3</sup>

2. In the Motion, Miletić requests provisional release during the forthcoming recess in the proceedings.<sup>4</sup> On 21 November 2008, the Prosecution filed confidentially the “Prosecution’s Response to Accused Miletić’s “Requête du General Miletić Aux Fins de Mise en Liberté Provisoire Pour des Raisons Humanitaires Pendant les Vacances Judiciaires d’Hiver”” (“Response”), and on 24 November 2008, Miletić filed confidentially in the original French “General Miletić’s Request for Leave to Reply and Reply to Prosecution Response to Motion for Provisional Release” (“Reply”).<sup>5</sup>

## II. SUBMISSIONS OF THE PARTIES

### A. Motion

3. Miletić requests the Trial Chamber to grant provisional release for the period 20 December 2008 to 9 January 2009,<sup>6</sup> or until another date designated by the Trial Chamber.<sup>7</sup> Miletić argues that since the Decision of 21 July 2008 granting Miletić provisional release there has been no change which could impact the assessment of the requisite conditions under Rule 65(B) of the Rules of

<sup>1</sup> English translation filed on 25 November 2008.

<sup>2</sup> Decision on Joint Motion of the Accused Miletić and Gvero for Temporary Provisional Release from 15 July 2006 Until the Continuation of Trial, 13 July 2006; Decision on Defence Motions for Provisional Release of Radivoje Miletić and Milan Gvero, 7 December 2006; Decision on Motion for Provisional Release from 21 July 2007 Until the Resumption of Trial, 13 July 2007; Decision on Motions for Provisional Release During the Winter Judicial Recess, 7 December 2007; Decision on Miletić Request for Provisional Release During the Break in the Proceedings, 9 April 2008 (“Decision of 9 April 2008”); Further Decision on Decision on Miletić’s Motion for Provisional Release, 22 May 2008 (“Decision of 22 May 2008”).

<sup>3</sup> See Decision on Miletić’s Motion for Provisional Release, 21 July 2008.

<sup>4</sup> Motion, para. 2.

<sup>5</sup> English translation filed on 26 November 2008.

<sup>6</sup> The Trial Chamber notes that although Miletić requests provisional release in the period ending 9 January in para. 2 of the Motion, in both para 20 of the Motion, and in the Reply, Miletić requests provisional release in the period ending “19 January”. Given that the winter recess ends on 9 January, the Trial Chamber considers the references to 19 January to be a mistake.

<sup>7</sup> Motion, para. 2.

Procedure and Evidence (“Rules”) and submits that all the conditions under Rule 65(B) have been met.<sup>8</sup>

4. In the Motion, Miletić emphasises that he voluntarily surrendered as soon as he became aware of the indictment against him, and has always respected all of the decisions and orders from the Tribunal by strictly complying with the conditions imposed on him during previous periods of provisional release.<sup>9</sup> Furthermore, Miletić has always returned to the United Nations Detention Unit (“UNDU”) on the date determined by the Tribunal.<sup>10</sup> If provisionally released, Miletić agrees to respect all the conditions imposed on him by the Tribunal and to return to the UNDU on the date determined by the Tribunal.<sup>11</sup> Miletić also pledges to continue to abide by the terms of a personal guarantee he made when he applied for provisional release in April 2005.<sup>12</sup>

5. Miletić states that if granted provisional release, he will stay in his flat in Belgrade and will be under surveillance by officials of the Republic of Serbia.<sup>13</sup> Miletić submits that his presence in Belgrade will not present any threat to victims, witnesses, or any other persons and he pledges not to contact any person who might be called to testify in the case.<sup>14</sup>

6. Miletić claims that his defence case, which is currently being presented, should be completed by 19 December 2008.<sup>15</sup> In the event that the Defence case has not been completed at that time, the Defence is certain that all factual witnesses will have testified and that only the expert witness might be called after the winter judicial recess.<sup>16</sup> Miletić pledges not to have any contact with the expert witness.<sup>17</sup>

7. Miletić seeks provisional release on the humanitarian grounds that he has suffered the loss of three immediate family members since the commencement of the trial (his mother, father and sister).<sup>18</sup> Although Miletić was on provisional release in Belgrade when his sister passed away last January, he was not able to attend her funeral because it was held in Republika Srpska.<sup>19</sup> Miletić therefore wishes to attend a service honouring his sister on the first anniversary of her death, in

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<sup>8</sup> *Ibid.*, para. 11.

<sup>9</sup> *Ibid.*, para. 5.

<sup>10</sup> *Ibid.*, para. 5.

<sup>11</sup> *Ibid.*, para. 6.

<sup>12</sup> *Ibid.*, para. 8. *See also* Request for Provisional Release, 25 April 2005, Annex 3, filed confidentially.

<sup>13</sup> *Ibid.*, para. 7.

<sup>14</sup> *Ibid.*, para. 7.

<sup>15</sup> *Ibid.*, para. 12.

<sup>16</sup> *Ibid.*, para. 12.

<sup>17</sup> *Ibid.*, para. 12.

<sup>18</sup> *Ibid.*, para. 13.

<sup>19</sup> *Ibid.*, para. 13.

accordance with Serbian tradition.<sup>20</sup> The memorial service will be held in Belgrade on 23 December 2008.<sup>21</sup> A further reason advanced by Miletić is that he wishes to visit his wife, who receives constant medical treatment.<sup>22</sup> In view of the nature of Miletić's wife's illness, it is submitted that Miletić's presence by her side would be of great benefit to her.<sup>23</sup>

8. Although Miletić concedes that the proceedings are in an advanced stage, he submits that the reasons put forward in the Motion are "serious reasons".<sup>24</sup> Miletić further argues that the Trial Chamber should assess humanitarian reasons in the context of other factors, in particular taking into account the conduct of Miletić, including his immediate surrender and that he has always respected the conditions determined by the Tribunal when on provisional release.<sup>25</sup>

9. Miletić provides a guarantee from the Government of the Republic of Serbia.<sup>26</sup> The Trial Chamber also acknowledges receipt of the correspondence from The Netherlands.<sup>27</sup>

### **B. Response**

10. The Prosecution opposes the Motion on the grounds that at this late stage of trial, there are no sufficiently compelling circumstances to justify the provisional release of Miletić for any period.<sup>28</sup>

11. The Prosecution argues that since the Trial Chamber last assessed Miletić's circumstances in the Decision of 21 July 2008, the proceedings have advanced considerably.<sup>29</sup> The Prosecution submits that the posture of the case has changed because four co-Accused have already completed their Defence cases and the Miletić Defence case is currently underway.<sup>30</sup> It further submits that during the course of the Defence cases, the Prosecution's case against all members of the alleged joint criminal enterprise of which Miletić was a member has been strengthened through the introduction of favourable evidence.<sup>31</sup> The Prosecution argues that for these reasons, there is an increased risk of flight which must be carefully balanced in respect of the humanitarian reasons

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<sup>20</sup> *Ibid.*, para. 13.

<sup>21</sup> *Ibid.*, para. 13. *See also* Annex 2, filed confidentially.

<sup>22</sup> *Ibid.*, para. 14. *See also* Annex 3, filed confidentially.

<sup>23</sup> *Ibid.*, para. 16.

<sup>24</sup> *Ibid.*, para. 17.

<sup>25</sup> *Ibid.*, para. 17.

<sup>26</sup> *Ibid.*, para. 9. *See also* Annex 1, filed confidentially.

<sup>27</sup> Correspondence from Host Country Regarding the Provisional Release of Radivoje Miletić, 28 November 2008.

<sup>28</sup> Response, para. 1.

<sup>29</sup> *Ibid.*, para. 4.

<sup>30</sup> *Ibid.*, para. 4.

<sup>31</sup> *Ibid.*, para. 4.

offered in the Motion.<sup>32</sup> Further, the material changes on the posture of the case and its strength against the Accused, warrant the Trial Chamber's fresh assessment of Miletić's circumstances in relation to the requirements for provisional release.<sup>33</sup>

12. The Prosecution submits that as regards the humanitarian grounds advanced in support of the Motion, the Trial Chamber's previous findings are not binding, and should not be adopted without a full review of the supporting documentation annexed to the Motion.<sup>34</sup> The Prosecution therefore concludes that the Trial Chamber should conduct a *de novo* review of the circumstances relevant to any decision on Miletić's request.<sup>35</sup>

### C. Reply

13. Miletić first requests leave to file a reply.<sup>36</sup> Miletić argues that the Prosecution's argument that the case against him is now stronger owing to the introduction of favourable evidence during the Defence cases is "subjective and corresponds neither with the Accused's appreciation of the evidence nor with the reality of the evidence before the Trial Chamber".<sup>37</sup> Miletić further argues that when assessing his risk of flight, the Trial Chamber should first and foremost assess his prior conduct.<sup>38</sup> Miletić stresses that all the requisite conditions under Rule 65(B) have been met and the humanitarian reasons put forth by are such that they amply justify his provisional release.<sup>39</sup>

## III. LAW

14. Rule 65(A) provides that once detained, an accused may not be provisionally released except upon an order of a Chamber. Under Rule 65(B), a Trial Chamber may order the provisional release of an accused only if it is satisfied that, if released, the accused will appear for trial and will not pose a danger to any victim, witness or other person, and after giving the host country and the state to which the accused seeks to be released the opportunity to be heard.<sup>40</sup> Rule 65(C) provides

<sup>32</sup> *Ibid.*, para. 4.

<sup>33</sup> *Ibid.*, para. 4.

<sup>34</sup> *Ibid.*, para. 5.

<sup>35</sup> *Ibid.*, para. 5.

<sup>36</sup> Reply, para. 10.

<sup>37</sup> *Ibid.*, para. 5.

<sup>38</sup> *Ibid.*, para. 6.

<sup>39</sup> *Ibid.*, paras. 7–8.

<sup>40</sup> See, *inter alia*, *Prosecutor v. Milutinović et al.*, Case No. IT-05-87-AR65.6, Decision on "Prosecution's Appeal from Decision on Lazarević Motion for Temporary Provisional Release Dated 26 September 2008, 23 October 2008 ("Appeals Chamber Decision of 23 October 2008"), paras. 6–7; *Prosecutor v. Popović et al.*, Case Nos. IT-05-88-AR65.4, IT-05-88-AR65.5 and IT-05-88-AR65.6, Decision on Consolidated Appeal Against Decision on Borovčanin's Motion for a Custodial Visit and Decisions on Gvero's and Miletić's Motions for Provisional Release During the Break in the Proceedings, 15 May 2008 ("Appeals Chamber Decision of 15 May 2008"), para. 5; Appeals Chamber Decision of 15 May 2008, para. 6; *Prosecutor v. Popović et al.*, Case No. IT-05-88-AR65.7, Decision on

that “[t]he Trial Chamber may impose such conditions upon the release of the accused as it may determine appropriate, including the execution of a bail bond and the observance of such conditions as are necessary to ensure the presence of the accused for trial and the protection of others”.

15. A decision on a request for provisional release must address all relevant factors which a reasonable Trial Chamber would have been expected to take into account before coming to a decision and include a reasoned opinion indicating its view on those relevant factors.<sup>41</sup> What these relevant factors are, as well as the weight to be attributed to them, depends upon the particular circumstances of each case,<sup>42</sup> since “decisions on motions for provisional release are fact intensive, and cases are considered on an individual basis in light of the particular circumstances of the individual accused.”<sup>43</sup>

16. In addition, the Appeals Chamber has held that a Rule 98 *bis* decision declining to enter a judgement of acquittal after the close of the Prosecution case is “a significant enough change in circumstance to warrant the renewed and explicit consideration by the Trial Chamber of the risk of flight by the Accused.”<sup>44</sup> It further held that “when considering a provisional release motion at the post-98 *bis* stage of the proceedings, even when a Trial Chamber is satisfied that sufficient guarantees exist to offset the flight risk of an accused, it should not exercise its discretion to grant provisional release unless sufficiently compelling humanitarian reasons tip the balance in favour of allowing provisional release.”<sup>45</sup> The humanitarian grounds raised by an accused as a basis for provisional release must be assessed in the context of the two requirements of Rule 65(B), and the Trial Chamber must be satisfied that the conditions of provisional release are sufficient to address any concerns in relation to the requirements of Rule 65(B).<sup>46</sup>

17. The Appeals Chamber has also held that where provisional release is found to be justified on humanitarian grounds, the duration of provisional release should be proportional to the period of

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Vujadin Popović’s Interlocutory Appeal against the Decision on Popović’s Motion for Provisional Release, 1 July 2008 (“Appeals Chamber Decision of 1 July 2008”), para. 7.

<sup>41</sup> See, *inter alia*, Appeals Chamber Decision of 23 October 2008, para. 7; Appeals Chamber Decision of 15 May 2008, para. 6; Appeals Chamber Decision of 1 July 2008, para. 8.

<sup>42</sup> See, *inter alia*, Appeals Chamber Decision of 15 May 2008, para. 7; Appeals Chamber Decision of 1 July 2008, para. 8.

<sup>43</sup> Appeals Chamber Decision of 15 May 2008, para. 6 (referring to *Prosecutor v. Boškoski and Tarčulovski*, Case No. IT-04-82-AR65.1, Decision on Johan Tarčulovski’s Interlocutory Appeal on Provisional Release, 4 October 2005, para. 7).

<sup>44</sup> See, *inter alia*, *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 Čorić, 11 March 2008 (“*Prlić Appeals Chamber Decision of 11 March 2008*”), paras. 19–20.

<sup>45</sup> See, for example, Appeals Chamber Decision of 15 May 2008, para. 24.

<sup>46</sup> See, for example, Decision on Miletić’s Motion for Provisional Release, 21 July 2008, para. 15.

time necessary to carry out the humanitarian purpose of the release.<sup>47</sup> Accordingly, “a Trial Chamber must address the proportionality between the nature and weight of the circumstances of a particular case and the duration of provisional release requested”.<sup>48</sup>

#### IV. DISCUSSION

18. The Trial Chamber notes that Miletić voluntarily surrendered to the Tribunal upon notification of the charges against him and that he has been granted provisional release on several occasions.<sup>49</sup> Miletić has always been compliant with the conditions imposed upon him during these previous periods of provisional release. The most recent periods of provisional release were granted in May and July 2008,<sup>50</sup> after the Trial Chamber orally rendered its decision on the accused’s submissions pursuant to Rule 98 *bis* (“Rule 98 *bis* Decision”), in which the Trial Chamber declined to enter a judgement of acquittal with reference to any of the accused after the conclusion of the Prosecution case.<sup>51</sup>

19. The Trial Chamber, when granting Miletić’s provisional release on both of these occasions, conducted a clear assessment of the risk of flight posed by Miletić in light of the Rule 98 *bis* Decision.<sup>52</sup> In its Decision of 22 May 2008, the Trial Chamber considered, *inter alia*, the charges against Miletić, his voluntary surrender and his compliance with the conditions imposed upon him during other periods of provisional release, and concluded that Miletić did not pose a flight risk, nor did he pose a threat to any witness, victim or other person associated with the case.<sup>53</sup> The Trial Chamber’s conclusion in the Decision of 22 May 2008 that the Rule 98 *bis* Decision did not increase Miletić’s risk of flight<sup>54</sup> was upheld by the Appeals Chamber.<sup>55</sup>

20. The Trial Chamber acknowledges that four of the Accused in the present trial have completed the presentation of their respective cases, and that Miletić’s defence team is currently presenting its case. Because of this new circumstance, the Trial Chamber must consider the requirements of Rule 65 anew. The more advanced stage of the proceedings and the subsequent introduction of additional evidence on the trial record must be considered with reference to the

<sup>47</sup> Appeals Chamber Decision of 15 May 2008, paras. 18, 32.

<sup>48</sup> Appeals Chamber Decision of 15 May 2008, para. 18.

<sup>49</sup> See *supra*, fn. 2, 3.

<sup>50</sup> Decision of 22 May 2008; Decision of 21 July 2008.

<sup>51</sup> T. 21460-21473 (3 March 2008).

<sup>52</sup> Decision of 22 May 2008, paras. 29–35; Decision of 21 July 2008, paras. 15–17.

<sup>53</sup> Decision of 9 April 2008, paras. 32, 37.

<sup>54</sup> Decision of 22 May 2008, para. 34.

<sup>55</sup> *Prosecutor v. Popović et al.*, Case Nos. IT-05-88-AR65.4, IT-05-88-AR65.5 and IT-05-88-AR65.6, Decision on Consolidated Appeal Against Decision on Borovčanin’s Motion for a Custodial Visit and Decisions on Gvero’s and

particular circumstances of Miletić in terms of risk of flight. Weighed against Miletić's surrender, his previous compliance with provisional release conditions and his reassurances not to have any contact with any of his remaining witnesses or any other person who may be called to testify in this case, the Trial Chamber is of the view that the development of the proceedings since Miletić's last period of provisional release does not alter Miletić's risk of flight or the threat posed to persons associated with the case in any material way. The Trial Chamber is therefore satisfied that Miletić does not pose a flight risk or a threat to any victim, witness or person associated with this case.

21. Miletić has also raised humanitarian grounds in support of his request for provisional release: (i) the serious illness of his wife, (ii) the opportunity to attend a memorial service in Belgrade on the first anniversary of his sister's death, and (iii) the loss of three immediate family members since the commencement of the trial (his mother, father and sister).<sup>56</sup>

22. First, the Trial Chamber recalls that in its Decision of 9 April 2008, it granted Miletić provisional release to Belgrade for a period of 14 days, including a three-day visit to the graves of his relatives in Republika Srpska.<sup>57</sup> The Appeals Chamber found that "the Trial Chamber did not err in determining that the humanitarian grounds provided by Miletić warranted provisional release to the Republika Srpska for a three-day period [...]", but found that "the Trial Chamber's grant of an additional 11 days to visit his family in Belgrade was unreasonable".<sup>58</sup> The Appeals Chamber accordingly declared that it would have limited Miletić's provisional release to the period of time necessary for Miletić to visit the graves of his relatives, and remanded the decision to the Trial Chamber,<sup>59</sup> which finally granted Miletić provisional release for a period of four days only to Republika Srpska.<sup>60</sup>

23. Regarding the grounds advanced in the Motion, the Trial Chamber notes the documentation attached to the Motion confirming the seriousness of Miletić's wife's illness,<sup>61</sup> as well as Miletić's submission that his presence by her side would be of benefit to her. The Trial Chamber also notes that in addition to the loss of his mother, father and sister in a relatively short period of time, Miletić was unable to attend his sister's funeral last January and would value the opportunity to pay his respects at a memorial service one year after her death, in accordance with Serbian tradition.

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Miletić's Motions for Provisional Release During the Break in the Proceedings, 15 May 2008 ("Appeals Chamber Decision of 15 May 2008"), para. 29.

<sup>56</sup> Motion, paras. 13–14.

<sup>57</sup> Decision of 9 April 2008, para. 38.

<sup>58</sup> Appeals Chamber Decision of 15 May 2008, para. 32.

<sup>59</sup> Appeals Chamber Decision of 15 May 2008, paras. 32, 34.

<sup>60</sup> Decision of 22 May 2008.

<sup>61</sup> See Motion, Annex 3, filed confidentially.



24. The Trial Chamber is satisfied in the particular circumstances of the case and of Miletić himself—his seriously ill wife, the opportunity to attend a memorial service for his sister, and the loss of three immediate relatives since the beginning of the trial—that the above-mentioned grounds amount to compelling humanitarian reasons that justify the granting of provisional release.

25. Applying the test in Rule 65(B), the Trial Chamber is satisfied with the guarantee provided by the Government of the Republic of Serbia,<sup>62</sup> and is in receipt of written confirmation from the host country that it has no objection to release.<sup>63</sup> Moreover, as set out above, in the particular circumstances pertaining to Miletić, the Trial Chamber is convinced that Miletić will return for the continuation of the trial and will pose no threat to witnesses, victims, or any other person in this case. The Trial Chamber, however, noting the advanced stage of the proceedings and the time required to fulfil the humanitarian grounds upon which the Motion is based, is of the opinion that provisional release is justified only for a limited period of 7 days (excluding travel time) under the conditions specified below.

## V. DISPOSITION

26. For these reasons, pursuant to Article 29 of the Statute of the Tribunal and Rules 54 and 65 of the Rules, the Trial Chamber hereby:

- (a) **GRANTS** leave to Miletić to file the Reply;
- (b) **GRANTS** the Motion, and **ORDERS** the provisional release of Miletić on the following terms and conditions:
  - (i) Miletić shall be provisionally released for a period not exceeding 7 days (excluding travel time); the exact dates of his provisional release shall be determined in consultations between the UNDU, the Registrar and a representative of the Trial Chamber, and shall allow Miletić to be present in Belgrade on 23 December 2008 to attend the memorial service for his sister;
  - (ii) Miletić shall be transported to Schiphol airport in The Netherlands by the Dutch authorities;
  - (iii) at Schiphol airport, Miletić shall be provisionally released into the custody of a designated official of the Republic of Serbia, who shall accompany him for the

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<sup>62</sup> See Motion, Annex 1, filed confidentially.

<sup>63</sup> Correspondence from Host Country Regarding the Provisional Release of Radivoje Miletić, 28 November 2008.

remainder of his travel to Belgrade, Republic of Serbia and to his place of residence therein;

(iv) during the period of his provisional release, Miletić shall abide by the following conditions, and the authorities of the Republic of Serbia, including the local police, shall ensure compliance with such conditions:

1. to provide the addresses at which he will be staying in Belgrade to the Ministry of Internal Affairs of the Republic of Serbia and the Registrar of the Tribunal, before leaving the UNDU in The Hague;
2. to remain within the confines of the municipality of Belgrade;
3. to surrender his passport to the relevant authorities of the Republic of Serbia;
4. to report each day to the police in Belgrade at a local police station to be designated by the authorities of the Republic of Serbia;
5. to consent to having the Ministry of Internal Affairs of the Republic of Serbia check with the local police about his presence and to the making of occasional, unannounced visits by the same Ministry or by a person designated by the Registrar of the Tribunal;
6. not to have any contact with the co-accused in the case;
7. not to 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;
8. not to discuss his case with anyone, including the media, other than with his counsel;
9. to comply strictly with any requirements of the authorities of the Republic of Serbia necessary to enable them to comply with their obligations under this Decision and their guarantees;
10. to comply strictly with any further order of the Tribunal varying the terms of or terminating his provisional release;

(v) Miletić shall return to the UNDU no later than 8 January 2009, unless otherwise ordered by the Trial Chamber. He shall be accompanied from his place of residence in Belgrade by the designated officials of the Republic of Serbia, who shall deliver him into the custody of the Dutch authorities at Schiphol airport; the Dutch authorities shall then transport him back to the UNDU;

(c) **REQUIRES** the Republic of Serbia to assume responsibility as follows:

(i) by designating officials of the Republic of Serbia into whose custody Miletić shall be provisionally released and who shall accompany Miletić from Schiphol airport to the Republic of Serbia and to his respective place of residence, and notifying, as soon as practicable, the Trial Chamber and the Registrar of the Tribunal of the name of the designated officials;

(ii) for the personal security and safety of Miletić while on provisional release;

(iii) for all expenses concerning transport of Miletić from Schiphol airport to Belgrade and back;

(iv) for all expenses concerning accommodation and security of Miletić while on provisional release;

(v) at the request of the Tribunal, or the parties, to facilitate all means of cooperation and communication between the parties and to ensure the confidentiality of any such communication;

(vi) to arrest and detain Miletić immediately if he should breach any of the conditions of this Decision; and

(vii) to report immediately to the Trial Chamber any breach of the conditions set out above;

(d) **INSTRUCTS** the Registrar to consult with the Ministry of Justice of the Kingdom of the Netherlands as to the practical arrangements for the provisional release of Miletić;

(e) **REQUESTS** the authorities of all states through which Miletić will travel:

(i) to hold Miletić in custody for any time he will spend in transit at the airport;

(ii) to arrest and detain Miletić pending his return to the UNDU, should he attempt to escape; and

- (f) **ORDERS** that Miletić shall be immediately detained should he breach any of the foregoing terms and conditions of his provisional release.

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



Carmel Agius  
Presiding

Dated this tenth day of December 2008  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**