



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-AR65.33

Date: 16 May 2012

Original: English

IN THE APPEALS CHAMBER

Before: Judge Arlette Ramaroson, Presiding
Judge Patrick Robinson
Judge Mehmet Güney
Judge Fausto Pocar
Judge Andréia Vaz

Registrar: Mr. John Hocking

Decision of: 16 May 2012

PROSECUTOR

v.

**JADRANKO PRLIĆ
BRUNO STOJIĆ
SLOBODAN PRALJAK
MILIVOJ PETKOVIĆ
VALENTIN ĆORIĆ
BERISLAV PUŠIĆ**

PUBLIC

**DECISION ON THE PROSECUTION'S APPEAL OF THE
DECISION ON FURTHER EXTENSION OF BRUNO STOJIĆ'S
PROVISIONAL RELEASE**

The Office of the Prosecutor:

Mr. Peter Kremer QC

Counsel for the Accused:

Mr. Michael G. Karnavas and Ms. Suzana Tomanović for Mr. Jadranko Prlić
Ms. Senka Nožica and Mr. Karim A. A. Khan for Mr. Bruno Stojić
Ms. Nika Pinter and Ms. Nataša Fauveau-Ivanović for Mr. Slobodan Praljak
Ms. Vesna Alaburić and Mr. Zoran Ivanišević for Mr. Milivoj Petković
Ms. Dijana Tomašegović-Tomić and Mr. Drazen Playec for Mr. Valentin Ćorić
Mr. Fahrudin Ibrišimović and Mr. Roger Sahota for Mr. 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 “Tribunal”, respectively) is seised of an appeal filed by the Office of the Prosecutor (“Prosecution”) on 15 March 2012¹ against a decision issued confidentially by Trial Chamber III of the Tribunal (“Trial Chamber”) on 8 March 2012 (“Impugned Decision”), which extends the provisional release of Bruno Stojić (“Stojić”) until 21 June 2012.² Stojić responded on 19 March 2012.³ The Prosecution did not file a reply.

I. BACKGROUND

2. On 1 December 2011, the Trial Chamber found that the criteria of Rule 65(B) of the Rules of Procedure and Evidence of the Tribunal (“Rules”) were satisfied and exercised its discretion to grant Stojić provisional release for three months.⁴ The Trial Chamber also decided that, before the expiry of the three-month period, Stojić could apply for an extension of his provisional release and established the procedure to be followed in this respect.⁵ On 20 December 2011, the Duty Judge dismissed an appeal lodged by the Prosecution against the Decision Granting Provisional Release.⁶ On 8 March 2012, the Trial Chamber extended Stojić’s provisional release until 21 June 2012.⁷

II. STANDARD OF REVIEW

3. The Appeals Chamber recalls that an interlocutory appeal is not a *de novo* review of the Trial Chamber’s decision.⁸ The Appeals Chamber has previously held that a decision on provisional

¹ Prosecution Appeal of Ordonnance relative à la demande de prolongation de la mise en liberté provisoire de l’accusé Bruno Stojić, 15 March 2012 (“Appeal”).

² *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-T, Order on Bruno Stojić’s Motion for Extension of His Provisional Release, 8 March 2012 (confidential; public redacted version filed on the same day) (the English translations of the French originals were filed on 15 March 2012).

³ Bruno Stojić’s Response to Prosecution Appeal of Ordonnance relative à la demande de prolongation de la mise en liberté provisoire de l’accusé Bruno Stojić, 19 March 2012 (“Response”).

⁴ *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-T, Decision on Bruno Stojić’s Motion for Provisional Release, 1 December 2011 (confidential and *ex parte* with two confidential and *ex parte* annexes) (the English translation of the French original was filed on 7 December 2011) (“Decision Granting Provisional Release”), paras 38-39, pp. 12-13.

⁵ Decision Granting Provisional Release, paras 39-40, Annex 1.

⁶ *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-AR65.30, Decision on Prosecution Appeal of Decision on Bruno Stojić’s Provisional Release, 20 December 2011, para. 22.

⁷ Impugned Decision, p. 6. Although the date until which the provisional release of Stojić has been extended was confidential, the Appeals Chamber does not find that this information warrants giving the present decision confidential status. Cf. *Prosecutor v. Vujadin Popović et al.*, Case No. IT-05-88-A, Decision on Vinko Pandurević’s Urgent Motion for Provisional Release on Compassionate Grounds, 11 January 2012, para. 18; *Prosecutor v. Vujadin Popović et al.*, Case No. IT-05-88-A, Decision on Prosecution Motion for Reconsideration of Filing Status of the Appeals Chamber’s Decision on Vinko Pandurević’s Provisional Release of 11 January 2012, 17 January 2012, pp. 2-3.

⁸ See, e.g., *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-AR65.26, Decision on Prosecution Appeal of Decision on Provisional Release of Jadranko Prlić, 15 December 2011 (“Decision of 15 December 2011”) para. 3 and references cited therein.

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release by the Trial Chamber under Rule 65 of the Rules is a discretionary one.⁹ Accordingly, the relevant inquiry is not whether the Appeals Chamber agrees with that discretionary decision, but rather whether the Trial Chamber has correctly exercised its discretion in reaching that decision.¹⁰

4. In order to successfully challenge a discretionary decision on provisional release, a party must demonstrate that the Trial Chamber has committed a “discernible error”.¹¹ The Appeals Chamber will only overturn a Trial Chamber’s decision on provisional release where it is found to be: (i) based on an incorrect interpretation of governing law; (ii) based on a patently incorrect conclusion of fact; or (iii) so unfair or unreasonable as to constitute an abuse of the Trial Chamber’s discretion.¹² The Appeals Chamber will also consider whether the Trial Chamber has given weight to extraneous or irrelevant considerations or has failed to give weight or sufficient weight to relevant considerations in reaching its decision.¹³

III. APPLICABLE LAW

5. Under Rule 65(B) of the Rules, a Chamber may grant provisional release 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 having given both the host country and the State to which the accused seeks to be released the opportunity to be heard.¹⁴ Provisional release may be ordered at any stage of the trial proceedings prior to the rendering of the final judgement, and a Trial Chamber in granting such a release, may consider the existence of sufficiently compelling humanitarian grounds.¹⁵

6. In deciding whether the requirements of Rule 65(B) of the Rules have been met, a Trial Chamber must consider all of those relevant factors which a reasonable Trial Chamber would have been expected to take into account before coming to a decision. It must then provide a reasoned opinion indicating its view on those relevant factors.¹⁶ What these relevant factors are, as well as the weight to be accorded to them, depends upon the particular circumstances of each case.¹⁷ This is because 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.¹⁸ The Trial Chamber is required to assess these circumstances not only as they exist at the time when it reaches

⁹ See, e.g., Decision of 15 December 2011, para. 3 and references cited therein.

¹⁰ See, e.g., Decision of 15 December 2011, para. 3 and references cited therein.

¹¹ See, e.g., Decision of 15 December 2011, para. 4 and references cited therein.

¹² See, e.g., Decision of 15 December 2011, para. 4 and references cited therein.

¹³ See, e.g., Decision of 15 December 2011, para. 4 and references cited therein.

¹⁴ See, e.g., Decision of 15 December 2011, para. 5 and references cited therein.

¹⁵ Rule 65(B). See also Decision of 15 December 2011, para. 5.

¹⁶ See, e.g., Decision of 15 December 2011, para. 6 and references cited therein.

¹⁷ See, e.g., Decision of 15 December 2011, para. 6 and references cited therein.

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its decision on provisional release but also, as much as can be foreseen, at the time the accused is expected to return to the Tribunal.¹⁹

IV. DISCUSSION

A. Preliminary Matter

7. The Prosecution argues that the Trial Chamber committed an error of law in not ordering Stojić to file a public redacted version of his Original Motion because, in the Trial Chamber's view, the filing of the public redacted version of the Impugned Decision satisfied the requirement of transparency and public nature of the proceedings.²⁰ In the interests of justice, the Prosecution further requests the Appeals Chamber to order Stojić to file a public redacted version of his Original Motion.²¹ Stojić responds that it does not object to the filing of a public redacted version of his Original Motion or to the lifting of its confidential and *ex parte* status.²² The Appeals Chamber finds that the Prosecution, in this case, has not demonstrated that the Trial Chamber's issuance of a public redacted version of its Impugned Decision was insufficient to satisfy the requirement of public proceedings. Therefore, the Appeals Chamber dismisses this argument. Nonetheless, given that Stojić does not oppose filing a public redacted version of his Original Motion, the Appeals Chamber invites him to do so.

B. Analysis

8. The Prosecution submits that the Impugned Decision should be reversed.²³ It argues that, when granting the extension of the provisional release of Stojić, the Trial Chamber committed a discernible error by failing to properly exercise its discretion by: i) ignoring "the principle of detention"; ii) failing to consider other important factors such as the gravity of the crimes charged; iii) failing to consider the impact of further provisional release on the international public's confidence in the proper administration of justice; and iv) failing to address the insufficiency of Stojić's request for provisional release.²⁴ Stojić responds that the Prosecution fails to demonstrate

¹⁸ See, e.g., Decision of 15 December 2011, para. 6 and references cited therein.

¹⁹ See, e.g., Decision of 15 December 2011, para. 6 and references cited therein.

²⁰ Appeal, paras 2, 15-16, referring to *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-T, Bruno Stojić's Motion for Extension of His Provisional Release, 27 February 2012 (confidential and *ex parte* with a confidential and *ex parte* annex) ("Original Motion").

²¹ Appeal, paras 2, 17.

²² Response, para. 30. See also Response, para. 29.

²³ Appeal, paras 1, 17.

²⁴ Appeal, paras 1, 4-17.

that the Trial Chamber committed a discernible error in the exercise of its discretion and that, accordingly, the Appeal should be dismissed.²⁵

1. Alleged abuse of discretion by ignoring the “principle of detention”

9. The Prosecution submits that the Trial Chamber failed to exercise its discretion by not considering Rules 64 and 65(A) of the Rules and the Tribunal’s unique jurisdiction, which favours “detention as the rule and not the exception”.²⁶

10. Stojić responds that the Trial Chamber did not abuse its discretion as Rule 64 of the Rules is the general provision on detention while Rule 65(B) of the Rules constitutes the *lex specialis* and that, therefore, the latter overrides the former.²⁷ Moreover, he argues that Rule 65(B) of the Rules already takes into account the Tribunal’s unique jurisdiction because the stringent requirements for provisional release provided therein mirror the Tribunal’s role, nature and significance.²⁸ Stojić further argues that this argument is raised for the first time on appeal.²⁹

11. As a preliminary remark, the Appeals Chamber notes that the Prosecution did not advance this argument in its Response to Stojić’s Original Motion and raised this argument for the first time on appeal.³⁰ The Appeals Chamber recalls that a trial chamber “is generally not required to deal with matters which the parties have not raised before it, unless it considers those matters to be vital to the issues it has to decide upon” and that “the appeal’s process is not meant to offer the parties a remedy to their previous failings at trial.”³¹ Nonetheless, the Appeals Chamber finds that this argument merits consideration.

12. The Appeals Chamber finds that the Prosecution has failed to demonstrate that the Trial Chamber erred by ignoring the basic premise of the rule-based framework of detention, favouring detention as the rule and not the exception. In this context, the Appeals Chamber recalls that Rules 64 and 65(A) of the Rules provide that an accused, upon being transferred to the seat of the Tribunal, shall be detained and that he may not be released except upon an order of a Chamber. Rule 65(B) of the Rules sets out the cumulative requirements to be met for a trial chamber to grant

²⁵ Response, paras 1, 3, p. 12.

²⁶ Appeal, para. 4. See also Appeal, paras 1, 3, 5.

²⁷ Response, para. 12.

²⁸ Response, para. 13. See also Response, para. 20.

²⁹ Response, para. 10.

³⁰ See *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-T, Prosecution Response to Bruno Stojić’s Motion for Extension of His Provisional Release, 5 March 2012 (confidential and *ex parte*) (“Response to Stojić’s Original Motion”).

³¹ See, e.g., *Prosecutor v. Zdravko Tolimir et al.*, Case No. IT-04-80-AR65.1, Decision on Interlocutory Appeal Against Trial Chamber’s Decisions Granting Provisional Release, 19 October 2005 (“Decision of 19 October 2005”), para. 32 and references cited therein.

provisional release.³² Contrary to the Prosecution's argument, the Trial Chamber was not required to consider Rules 64 and 65(A) of the Rules but needed only to determine whether the requirements of Rule 65(B) of the Rules were met. The Trial Chamber was satisfied that Stojić met the requirements of Rule 65(B) of the Rules before ordering the extension of his provisional release.³³ Thus, the Prosecution has failed to demonstrate that the Trial Chamber abused its discretion in this regard.

2. Alleged abuse of discretion by failing to consider other important factors, such as the gravity and scale of the crimes charged

13. The Prosecution submits that the Trial Chamber erred in failing to consider other relevant factors such as the gravity and scale of the crimes charged, Stojić's involvement in those crimes, and the advanced stage of the proceedings.³⁴ With respect to the latter factor, the Prosecution argues that it has been acknowledged as relevant by the Appeals Chamber and should be taken into account when assessing Stojić's flight risk.³⁵ Moreover, the Prosecution submits that the Trial Chamber's focus on the presumption of innocence ignores the jurisprudence of the Tribunal that such factor is not determinative³⁶ and that the Trial Chamber erred in stating that "[i]f it is sufficient to use a more lenient measure than mandatory detention, it must be applied."³⁷

14. Stojić responds that the gravity of the crimes charged is not disputed and that the Trial Chamber correctly rejected the Prosecution argument's that it should have assessed the evidence presented at trial in order to establish whether or not to extend his provisional release.³⁸ Stojić further responds that the Trial Chamber did not rely upon the presumption of innocence to justify Stojić's extension of provisional release, but merely to reject the Prosecution's submissions "that weight should be given to evidence which has already been assessed by the Trial Chamber".³⁹ With respect to the advanced stage of the proceedings and its impact on flight risk, Stojić argues that the Trial Chamber correctly found that he was not at flight risk and further imposed strict security measures.⁴⁰

³² See, e.g., *Prosecutor v. Jadranko Prlić et al.*, Case No. 04-74-AR65.13, Decision on Prosecution's Appeal of the Trial Chamber's 10 December 2008 Decision on Prlić Provisional Release During Winter Recess, 18 December 2008 (confidential), para. 7. See also *supra*, para. 5.

³³ Impugned Decision, p. 4.

³⁴ Appeal, paras 1, 3, 6-9.

³⁵ Appeal, paras 8-9.

³⁶ Appeal, para. 3, referring to *Prosecutor v. Milan Milutinović et al.*, Case No. IT-05-87-AR65.2, Decision on Interlocutory Appeal of Denial of Provisional Release During Winter Recess, 14 December 2006, para. 12.

³⁷ Appeal, para. 3, citing Impugned Decision, p. 5.

³⁸ Response, paras 16, 18, 21.

³⁹ Response, para. 19.

⁴⁰ Response, para. 22.

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15. While the Trial Chamber did not dwell upon the seriousness and the scale of the crimes charged, Stojić's role in them and the advanced stage of the proceedings, it was not required to do so.⁴¹ The Trial Chamber's concern was to ensure that, if granted an extension of his provisional release, Stojić would return to the United Nations Detention Unit ("UNDU") and would not pose a danger to any victim, witness or other person. In so doing, the Trial Chamber considered that Stojić respected the conditions of his provisional release and that the Government of the Republic of Croatia provided further guarantees for Stojić's extension of provisional release.⁴² Moreover, the Trial Chamber recalled it was sensitive to the possible negative effect on victims and witnesses and, therefore, decided that the strict security measures of provisional release should apply *mutatis mutandis* to the extension of the provisional release.⁴³ On this basis, the Trial Chamber concluded that Stojić met the requirements of Rule 65(B) of the Rules.⁴⁴ In these circumstances, the Appeals Chamber dismisses this argument.

16. The Appeals Chamber further dismisses the Prosecution's argument that the Trial Chamber's focus on the presumption of innocence ignores the jurisprudence of the Tribunal that such factor is not determinative. While the presumption of innocence was one of the factors that the Trial Chamber considered, it did not find that this factor was a determinative one in assessing whether Stojić satisfied the requirements of Rule 65(B) of the Rules.⁴⁵ The Appeals Chamber therefore dismisses this argument.

17. Accordingly, the Appeals Chamber finds that the Prosecution has failed to demonstrate that the Trial Chamber abused its discretion.

3. Alleged abuse of discretion by failing to consider the impact of further provisional release on the international public's confidence in the proper administration of justice

18. The Prosecution submits that the Trial Chamber erred in failing to consider the "obvious" negative impact of Stojić's continued provisional release "on the international public's confidence in the proper administration of justice", as recognised by domestic courts.⁴⁶ In addition, the Prosecution argues that the Trial Chamber abused its discretion in not considering the Prosecution's

⁴¹ *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 Re-Consideration, Clarification, Request for Release and Applications for Leave to Appeal, 8 September 2004 ("Decision of 8 September 2004"), para. 31. The Appeals Chamber notes that, in the Decision Granting Provisional Release, the Trial Chamber mentioned the potential effect that the release of a person accused of serious crimes could have on the victims of those crimes. See Decision Granting Provisional Release, para. 36.

⁴² Impugned Decision, p. 4.

⁴³ Impugned Decision, pp. 5-6.

⁴⁴ Impugned Decision, p. 4.

⁴⁵ Impugned Decision, p. 4.

⁴⁶ Appeal, paras 1, 3, 10-12.

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argument in this regard and in limiting its discussion to the fact that “Stojić is subjected to 24-hour surveillance”.⁴⁷

19. Stojić responds that the Trial Chamber discussed this issue in the Impugned Decision.⁴⁸ He adds that by referring to only one case from the Canadian Supreme Court, the Prosecution failed to demonstrate the existence of a general principle of law deriving from domestic legal systems in this respect.⁴⁹ Furthermore, Stojić responds that the Prosecution fails to show that, in addition to the requirements of Rule 65(B) of the Rules, public confidence in the administration of justice is an additional requirement or a factor that a reasonable trial chamber must take into account when granting provisional release.⁵⁰

20. The Appeals Chamber notes that the Trial Chamber explicitly considered whether the extension of Stojić’s provisional release would have a negative impact on the credibility of the Tribunal and the proper administration of justice.⁵¹ In this regard, the Trial Chamber found that “the task of the Tribunal is to try those who have been accused of serious crimes committed in the region and to render justice to victims of these crimes through just and fair trials”.⁵² The Appeals Chamber finds that the Prosecution has failed to articulate a concrete basis tied to the circumstances of the extension of Stojić’s provisional release to substantiate its argument that the extension of Stojić’s provisional release would negatively impact the international public’s confidence in the proper administration of justice.⁵³ In the view of the Appeals Chamber, it is irrelevant that some domestic jurisdictions – such as the Supreme Court of Canada – recognise such negative effects on the community as a whole when releasing individuals charged with serious crimes.⁵⁴ Accordingly, the Appeals Chamber finds that the Prosecution has failed to demonstrate that the Trial Chamber abused its discretion in this regard.

⁴⁷ Appeal, para. 13, referring to Impugned Decision, p. 5.

⁴⁸ Response, para. 23, referring to Impugned Decision, p. 5.

⁴⁹ Response, para. 24. See also Response, para. 25.

⁵⁰ Response, paras 25-26.

⁵¹ Impugned Decision, pp. 4-5, referring to Response to Stojić’s Original Motion, paras 4-5.

⁵² Impugned Decision, pp. 4-5.

⁵³ See Decision of 15 December 2011, para. 11. In the view of the Appeals Chamber, the Prosecution seems to concede that it did not substantiate its argument in this respect as it stated that it “is not required to produce evidence of this impact” because it is “obvious”. See Appeal, para. 11.

⁵⁴ Cf. Decision of 8 September 2004, para. 31.

4. Alleged abuse of discretion by failing to address the insufficiency of Stojić's request for extending his provisional release

21. The Prosecution argues that Stojić's submissions for extending his provisional release were unsubstantiated and that the Trial Chamber's failure to consider this insufficiency is an abuse of discretion.⁵⁵

22. Stojić responds that his Original Motion was adequately developed and that, in extending his provisional release, the Trial Chamber considered Stojić's arguments with respect to each requirement of Rule 65(B) of the Rules.⁵⁶ He further argues that the Prosecution fails to show how the Impugned Decision was so unfair or unreasonable as to constitute an abuse of discretion.⁵⁷

23. The Appeals Chamber notes that the Prosecution did not advance this argument in its Response to Stojić's Original Motion and raised this argument for the first time on appeal.⁵⁸ The Appeals Chamber recalls its finding above that an interlocutory appeal is not meant to offer the parties a remedy to their previous failings at trial.⁵⁹ Therefore, the Appeals Chamber will not deal with the Prosecution's cursory argument.⁶⁰

V. DISPOSITION

24. For the foregoing reasons, the Appeals Chamber **DISMISSES** the Appeal and **INVITES** Stojić to file a public redacted version of his Original Motion.

Judge Güney appends a partially dissenting opinion.

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

Done this 16th day of May 2012,
At The Hague,
The Netherlands.



Judge Arlette Ramaroson
Presiding

[Seal of the Tribunal]

⁵⁵ Appeal, paras 1, 14.

⁵⁶ Response, para. 28.

⁵⁷ Response, para. 28.

⁵⁸ See Response to Stojić's Original Motion.

⁵⁹ See *supra*, para. 11.

⁶⁰ Cf. Decision of 19 October 2005, para. 32.

PARTIALLY DISSENTING OPINION OF JUDGE GÜNEY

1. In this Decision, the Majority concludes that the Prosecution failed to demonstrate the insufficiency of the public redacted nature of the Impugned Decision as satisfying the requirement of public proceedings before this Tribunal.¹ I respectfully disagree.

2. In the Impugned Decision, the Trial Chamber concluded that, because a public redacted version of the order was to be filed, it was not “necessary to order the *Stojić* Defence to file a redacted and public version of the Motion”.² The public redacted version of the order, in the Trial Chamber’s view, was sufficient “to satisfy the requirements of transparency and public nature of the proceedings”.³ In its Appeal, the Prosecution alleges that the Trial Chamber committed an error of law, as it was in the interest of justice that the accused be ordered to file a public version of the Motion.⁴

3. Although the Prosecution could have articulated its argument in greater detail, I agree that the standard regarding the public nature of proceedings was misapplied by the Trial Chamber. This amounts to an error of law. Indeed, the Appeals Chamber has repeatedly affirmed the unequivocal principle that “all submissions filed before the Tribunal shall be public unless there are exceptional reasons for keeping them confidential”⁵, while also instructing parties to file public redacted versions of their confidential submissions.⁶ The Trial Chamber kept the Original Motion confidential simply because the relevant parts of it would be made public via the public redacted version of the order. I consider this reasoning flawed, since, *a fortiori*, if the content of the Original Motion was to be public, there is no reason to keep it confidential. In my view, the Trial Chamber should have ordered *Stojić* to file a public redacted version of the Original Motion – to which I note *Stojić* does not object –⁷ at the request of the Prosecution or *proprio motu*.

¹ Appeals Decision, para. 7.

² Impugned Decision, p. 6.

³ Impugned Decision, p. 6.

⁴ Appeal, para. 2.

⁵ Cf. Rules 69 and 78 (applicable by virtue of Rule 107) of the Rules. *Prosecutor v. Ramush Haradinaj et al.*, Case No. IT-04-84-A, Decision on Lahi Brahimaj’s Application for Provisional Release, 25 May 2009, para. 5; *Prosecutor v. Milomir Stakić*, Case No. IT-97-24-A, Decision on the Defence Motion for Extension of Time, 26 April 2004, para. 6. See also *Prosecutor v. Siméon Nchamihigo*, Case No. ICTR-2001-63-A, Decision on the Prosecution Motion on the Filing of the Defence Notice of Appeal, 30 March 2009, p. 2; *Prosecutor v. Ferdinand Nahimana*, Case No. ICTR-99-52-A, Order to Appellant Hassan Ngeze to File Public Versions of His Notice of Appeal and Appellant’s Brief, 30 August 2007 (“*Nahimana et al.* Order of 30 August 2007”), p. 2.

⁶ *Nahimana et al.* Order of 30 August 2007, p. 2.

⁷ Response, para. 30.

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

Done this 16th day of May 2012,
At The Hague,
The Netherlands.



Judge Mehmet Güney

[Seal of the Tribunal]