



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: 6 June 2012
Original: ENGLISH
French

IN TRIAL CHAMBER III

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

Registrar: Mr John Hocking

Decision of: 6 June 2012

THE PROSECUTOR

v.

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

PUBLIC

**PUBLIC REDACTED VERSION OF ORDER ON MOTION TO EXTEND
PROVISIONAL RELEASE OF JADRANKO PRLIĆ**

The Office of the Prosecutor:

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 Ms Nika Pinter and Natacha Fauveau-Ivanović for Slobodan Praljak
Ms Vesna Alaburić and Mr Zoran Ivanišević for Milivoj Petković
Ms Dijana Tomašegović-Tomić and Mr Dražen Plavec for Valentin Ćorić
Mr Fahrudin Ibrišimović and Mr Roger Sahota for Berislav Pušić

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”),

SEIZED of “Jadranko Prlić’s Motion to Extend His Provisional Release”, filed as a confidential document by Counsel for the Accused Jadranko Prlić (“Accused” and “Prlić Defence”) on 24 May 2012 (“Motion”), with two confidential annexes, in which the Prlić Defence asks the Chamber to (1) extend the provisional release of the Accused Prlić by three months, and (2) to allow the Accused to stay in [REDACTED],¹

NOTING the “Prosecution Response to Jadranko Prlić’s Motion to Extend His Provisional Release”, filed by the Office of the Prosecutor (“Prosecution”) as a confidential document on 31 May 2011 (“Response”), in which the Prosecution opposes the Motion,²

NOTING the “Decision on Jadranko Prlić’s Motion for Provisional Release”, rendered by the Chamber as a public document with one confidential and one public annex on 24 November 2011 (“Decision of 24 November 2011”), in which the Chamber ordered the provisional release to Zagreb of the Accused Prlić for a limited period and established the procedure to be followed for any request to extend this provisional release,³

CONSIDERING that in the Motion the Prlić Defence submits that during his release, the Accused Prlić has complied with the conditions imposed by the Chamber in the Decision of 24 November 2011 and in the Order of 1 March 2012, authorising the extension by three months of the provisional release;⁴ that in its Decision of 23 April 2012, the Appeals Chamber upheld the Decision of 24 November 2011;⁵ that the Accused Prlić would like to be able to go [REDACTED]; that the Government of Croatia has once again provided guarantees for the return of the Accused and that

¹ Motion, p. 2.

² Response, para. 10.

³ Decision of 24 November 2011, p. 13 and public Annex 2 to the Decision of 24 November 2011.

⁴ “Redacted and Public Version of the Order on Jadranko Prlić’s Motion to Extend His Provisional Release”, public, 1 March 2012 (“Order of 1 March 2012”).

there are no new circumstances that could militate against extending the release of the Accused,⁶

CONSIDERING that in support of its Response the Prosecution submits, in particular, that the Prlić Defence did not justify the request to extend the provisional release of the Accused Prlić and simply referred the Chamber to the arguments presented in its previous motions; that the reasons that justified its request to extend the release of the Accused [REDACTED] are not sufficient to justify the present request for extension, which would mean that the Accused was free for an overall period of [REDACTED],⁷

CONSIDERING that the Prosecution submits, moreover, that the Prlić Defence has also not justified its request for the Chamber to allow the Accused Prlić to stay in [REDACTED],⁸

CONSIDERING that the Prosecution also claims that, according to the regime established by the Chamber and upheld by the Appeals Chamber, provisional release of an Accused is practically automatic as long as he does not violate the conditions of his provisional release; that the Chamber simply extends the provisional release of the Accused without him having to return to the United Nations Detention Unit (“UNDU”); that in this way the Chamber no longer evaluates whether the Accused will return to the UNDU when it orders him to do so; that the Chamber simply confirms that the conditions of provisional release imposed [REDACTED] continue to be observed, which cannot in any way replace an assessment of the flight risk and that with each extension of the provisional release, it becomes more difficult for the Chamber to make this assessment,⁹

CONSIDERING that the Chamber notes that in its letter of 15 May 2012, the Government of the Republic of Croatia provided the guarantees that, should the Chamber decide to extend the provisional release of the Accused Prlić, he would not

⁵ IT-04-74-AR65.31, *The Prosecutor v. Prlić et al.*, “Decision on the Prosecution’s Appeal of the Decision on Further Extension of Jadranko Prlić’s Provisional Release”, public, 23 April 2012 (“Decision of 23 April 2012”).

⁶ Motion, pp. 1 and 2 and Annex 1.

⁷ Response, paras 2 and 3.

⁸ Response, para. 4.

⁹ Response, paras. 6 to 8.

influence or endanger any victims, witnesses or other persons during his provisional release and would return to The Hague on the date ordered by the Chamber,¹⁰

CONSIDERING that in light of the reports provided by the Croatian authorities pursuant to the Decision of 24 November 2011, the Chamber deems that the Accused Prlić has complied with the conditions of his provisional release,

CONSIDERING that the Chamber is not persuaded by the Prosecution's argument that an extended provisional release could be in itself a factor that increases the flight risk of the Accused,¹¹

CONSIDERING that the Chamber notes that the Prosecution has not presented any evidence or indication of any flight risk of the Accused Prlić and that, on the contrary, the Prosecution itself acknowledges that the Accused complied with all the conditions imposed by the Chamber in relation to his provisional release,

CONSIDERING that the Chamber is of the opinion that the fact that the conditions of the provisional release were respected and that guarantees were provided by the Republic of Croatia for each new request to extend the provisional release is sufficient to assess whether the requirements under Rule 65 (B) of the Rules of Procedure and Evidence ("Rules") have been met,

CONSIDERING that, in view of the above, the Chamber is satisfied that, should his provisional release be extended, the Accused Prlić will return to the UNDU; that he will not pose a threat to victims, witnesses or other persons and that, consequently, the requirements under Rule 65 (B) of the Rules have been met,

CONSIDERING, however, that the Chamber finds like the Prosecution¹² that the Prlić Defence has not presented any argument justifying its request for a modification of the conditions of the provisional release of the Accused to allow him to stay in [REDACTED],¹³

CONSIDERING that the Chamber recalls in this respect that the conditions for the Accused Prlić are imposed not only in order to guarantee that he will not endanger

¹⁰ Annex 1 to the Motion.

¹¹ Response, paras 6 to 8.

¹² Response, para. 4.

¹³ Motion, pp. 1 and 2.

victims or witnesses and will return to the UNDU as soon as the Chamber so orders, but also to eliminate the effect that his release could have on the victims of the alleged crimes in this case,¹⁴ and that the Chamber could not relax them without a sufficiently compelling reason,

CONSIDERING that in view of the above, the Chamber deems that an extension of the provisional release of the Accused Prlić for a limited period and under the same conditions as those imposed by the Decision of 24 November 2011, in particular those referring to the place of residence, would allow the Chamber to keep control over the progress of this provisional release,

¹⁴ Order of 1 March 2012, p. 5.

FOR THE FOREGOING REASONS,

PURSUANT TO Rule 65 (B) of the Rules,

GRANTS IN PART the Motion,

DECIDES to extend the provisional release of the Accused Prlić until [REDACTED],

DECIDES that the conditions of the provisional release set forth in confidential Annex 1 and Annex 2 to the Decision of 24 November 2011 shall apply *mutatis mutandis* to the present Decision,

AND

DENIES the Motion in all other respects.

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

/signed/

Jean-Claude Antonetti
Presiding Judge

Done this sixth day of June 2012
At The Hague
The Netherlands

[Seal of the Tribunal]