



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: 27 August 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: 27 August 2012

THE PROSECUTOR

v.

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

PUBLIC WITH PUBLIC ANNEX

**PUBLIC REDACTED VERSION OF “ORDER TO VARY TERMS OF
PROVISIONAL RELEASE FOR ACCUSED SLOBODAN PRALJAK”**

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 Nika Pinter and Ms 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 Čorić
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”),

PROPRIO MOTU

NOTING the “Decision on Slobodan Praljak’s Motion for Provisional Release” rendered as a confidential and *ex parte* document on 30 November 2011 (“Decision of 30 November 2011”); the “Decision on Motion for Extension of Provisional Release of Accused Slobodan Praljak and Modification of Conditions” rendered as a confidential and *ex parte* document on 8 March 2012, and the “Order on Motion for Extension of Provisional Release of Accused Slobodan Praljak and Modification of Conditions”, rendered as a confidential and *ex parte* document on 11 June 2012 (“Decision of 11 June 2012”), in which the Chamber, respectively, granted and extended the provisional release of the Accused Praljak to Zagreb [REDACTED],

NOTING the Decision of 22 August 2012 rendered as a public document by the Registrar of the Tribunal, to which one confidential and *ex parte* annex and one public annex are attached (“Registrar’s Decision of 22 August 2012”) in which he decides notably: that the Accused Praljak is entirely able to remunerate his counsel in full and that he is ineligible for the assignment of Tribunal-paid counsel;¹ that the Accused shall bear the entirety of the costs of his defence, including all funds previously expended by the Tribunal, namely 3,293,347.49 euro;² that the Accused shall reimburse the Tribunal to this amount within 90 days of the date upon which he is notified of the Registrar’s Decision of 22 August 2012³ and to stay the said decision until the deadline of 15 days in which to appeal has expired, or until the Accused has lodged his appeal,⁴

CONSIDERING that the Chamber granted and subsequently extended the provisional release of the Accused Praljak, under 24-hour surveillance by Croatian authorities, on the ground that the requirements of Rule 65 (B) of the Rules of Procedure and Evidence (“Rules”) had been met and, notably, that the Chamber was

¹ Registrar’s Decision of 22 August 2012, p. 6.

² Registrar’s Decision of 22 August 2012, p. 6.

³ Registrar’s Decision of 22 August 2012, p. 7.

satisfied that if the Accused Praljak were released, he would return to the United Nations Detention Unit (“UNDU”),⁵

CONSIDERING 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 coming to a decision.⁶

CONSIDERING that in the Registrar’s Decision of 22 August 2012, the Registrar decided that the Accused Praljak must reimburse the Tribunal to the amount of 3,293,347.49 euros⁷ within 90 days of the date upon which he is notified of the said decision,⁸

CONSIDERING that the Chamber deems that the Registrar’s Decision of 22 August 2012 constitutes a new fact that it must take into account when ruling on the appropriateness of keeping the Accused Praljak on provisional release, and if so, under which conditions,

CONSIDERING that in the Decision of 30 November 2011, the Chamber assessed the flight risk of the Accused Praljak in light of the guarantees to reappear likely to be imposed on the Accused Praljak and deemed that continuous surveillance by the police authorities of the Republic of Croatia would offset all possible risk of flight,

CONSIDERING that, bearing in mind the new fact of the Registrar’s Decision of 22 August 2012, the Chamber deems it necessary to re-evaluate the flight risk of the Accused Praljak despite the Registrar having stayed the said decision until a possible appeal from the Accused Praljak,

⁴ Registrar’s Decision of 22 August 2012, p. 7.

⁵ Decision of 30 November 2011, para. 33 and Decision of 11 June 2012, p. 6.

⁶ See notably the Decision of 30 November 2011, para. 30, Decision of 8 March 2012, p. 5 and *The Prosecutor v. Mićo Stanišić*, Case No. IT-04-79-AR65.1, “Decision on Prosecution’s Interlocutory Appeal of Mićo Stanišić’s Provisional Release”, public, 17 October 2005, para. 8; *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”, public, 26 June 2008, para. 35; *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””, public, 21 April 2008, para. 8 ; *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”, public, 25 April 2008, para. 10.

⁷ Registrar’s Decision of 22 August 2012, p. 6.

⁸ Registrar’s Decision of 22 August 2012, p. 7.

CONSIDERING that the Chamber deems that, bearing in mind the sum to be claimed by the Registrar, the Registrar's Decision of 22 August 2012 could give rise to fears about an increase in the flight risk of the Accused,

CONSIDERING, consequently, that the Chamber deems it necessary to put in place stricter guarantees of return on his provisional release, such as home confinement, in order to offset any possible risk of flight,

CONSIDERING that the Chamber deems that with regard to this reinforcement of security measures imposed on the Accused Praljak, it is satisfied that if the Accused Praljak remains on provisional release he will return to the UNDU,

CONSIDERING that the Chamber decides, consequently, to vary the terms of the provisional release of the Accused Praljak as defined in confidential and *ex parte* Annex 2 attached to the Decision of 30 November 2011, and to place him under home confinement,

CONSIDERING that, with the exception of home confinement, all the other terms of the provisional release as specified in confidential and *ex parte* Annex 2 to the Decision of 30 November 2011, including the date of the Accused's return to the UNDU as specified in the Decision of 11 June 2012, remain unchanged,

FOR THE FOREGOING REASONS,

PURSUANT to Rule 65 (B) of the Rules,

ORDERS home confinement of the Accused Praljak in Zagreb, under the conditions set out in confidential and *ex parte* Annex to the present Decision, **AND**

ORDERS that all the other conditions of the provisional release set out in confidential and *ex parte* Annexes 1 and 2 to the Decision of 30 November 2011 continue to apply *mutatis mutandis* to the present decision,

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

/signed/

Jean-Claude Antonetti

Presiding Judge

Done this twenty-seventh day of August 2012

The Hague

The Netherlands

[Seal of the Tribunal]

ANNEX

[REDACTED]