



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-05-87-T
Date: 10 July 2008
Original: English

IN THE TRIAL CHAMBER

Before: Judge Iain Bonomy, Presiding
Judge Ali Nawaz Chowhan
Judge Tsvetana Kamenova
Judge Janet Nosworthy, Reserve Judge

Registrar: Mr. Hans Holthuis

Decision of: 10 July 2008

PROSECUTOR

v.

**MILAN MILUTINOVIĆ
NIKOLA ŠAINOVIĆ
DRAGOLJUB OJDANIĆ
NEBOJŠA PAVKOVIĆ
VLADIMIR LAZAREVIĆ
SRETEN LUKIĆ**

**PUBLIC
WITH CONFIDENTIAL AND *EX PARTE* ANNEX A AND
CONFIDENTIAL ANNEX B**

DECISION ON OJDANIĆ MOTION FOR TEMPORARY PROVISIONAL RELEASE

Office of the Prosecutor

Mr. Thomas Hannis
Mr. Chester Stamp

Government of Republic of Serbia

Government of The Netherlands

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Mr. Tomislav Višnjić and Mr. Norman Sepenuk for Mr. Dragoljub Ojdanić
Mr. John Ackerman and Mr. Aleksandar Aleksić for Mr. Nebojša Pavković
Mr. Mihajlo Bakrač and Mr. Đuro Čepić for Mr. Vladimir Lazarević
Mr. Branko Lukić and Mr. Dragan Ivetić for Mr. Sreten Lukić

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 a “General Ojdanic Motion for Provisional Release Based on Compassionate Grounds,” filed 28 May 2008 (“Motion”), and hereby renders its decision thereon.

I. Brief procedural background

1. On 5 December 2006, the Chamber denied the six Accused’s joint application for provisional release over the winter recess.¹ The Appeals Chamber affirmed this decision.²
2. On 22 May 2007, the Chamber denied the application of Accused Dragoljub Ojdanić (“Accused”) for provisional release over the summer recess, holding, *inter alia*, that he had not demonstrated how the circumstances that led to the denial of his application in December 2006 had changed so as to materially affect the approach taken by the Chamber at that time.³ On 4 July 2007, the Chamber granted the Accused’s motion for temporary provisional release on the basis of his familial circumstances.⁴ On 11 July 2007, the Duty Judge of the Tribunal granted a motion by the Accused to vary the address in Belgrade to which he was to be provisionally released.⁵
3. On 7 December 2007, the Chamber denied a motion for temporary provisional release.⁶
4. On 29 April 2008, the Ojdanić Defence requested temporary provisional release on humanitarian grounds, based upon a recent medical diagnosis.⁷ On 2 May 2008, the Chamber exercised its discretion and granted the application of Accused for a temporary provisional release, holding that the criteria set forth by Rule 65(B) of the Rules had been satisfied, and that it was

¹ Decision on Joint Defence Motion for Provisional Release During Winter Recess, 5 December 2006.

² *Prosecutor v. 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.

³ Decision on Ojdanić Motion for Provisional Release, 22 May 2007, para. 11.

⁴ Decision on Ojdanić Motion for Temporary Provisional Release, 4 July 2007, para. 8 (public with confidential annex).

⁵ Confidential Order Varying 4 July 2007 Decision on Ojdanić Motion for Temporary Provisional Release, 11 July 2007.

⁶ Decision on Ojdanić Motion for Temporary Provisional Release, 7 December 2007, para. 11 (public with confidential annex).

⁷ General Ojdanić Motion for Temporary Provisional Release, 29 April 2008, para. 6, Annex A (public with confidential annex).

appropriate for the Accused to be provisionally released under strictly controlled conditions, including 24-hour surveillance.⁸

5. It is against this procedural backdrop that the Chamber will now turn to the submissions of the parties.

II. Submissions

A. Motion

6. In the Motion, the Accused requests temporary provisional release for a period of 40 days (10 June until 20 July) on humanitarian grounds, based upon a recent medical diagnosis that had been cited in his previous 29 April 2008 motion for provisional release.⁹ The Accused also links his provisional release to the preparation of his final trial brief.¹⁰ The Accused further argues that he has fully complied with all previous provisional release orders, that his past conduct illustrates that he is not a flight risk, and that the guarantees of the Government of the Republic of Serbia (“Serbia”) militate in favour of his release¹¹ and submits a personal guarantee that he, if provisionally released, will obey all orders of the Chamber and will return for the conclusion of the trial.¹² Finally, the Accused cites the presumption of innocence enshrined in the Statute of the Tribunal and avers that, as a general rule, an accused should remain free until final judgment in a trial.¹³

7. The Trial Chamber is in receipt of guarantees from Serbia, confirming that it will respect all orders made by the Chamber in respect of the provisional release of the Accused.¹⁴ The Netherlands, in its capacity as host country and limiting itself to the practical consequences relating to such a provisional release, has represented that it has no objection to the Accused’s provisional release.¹⁵ Under these circumstances, the Chamber is of the view that both Serbia and The Netherlands have been given an opportunity to be heard on this matter.

⁸ Decision on Ojdanić Motion for Temporary Provisional Release, 2 May 2008, para. 19 (public with confidential annex).

⁹ Confidential Corrigendum to “General Ojdanic Motion for Provisional Release Based on Compassionate Grounds”, 29 May 2008.

¹⁰ Motion, para. 6.

¹¹ Motion, paras. 9-10.

¹² General Ojdanic’s Personal Guarantee Related to Motion for Provisional Release Based on Compassionate Grounds, 20 May 2008.

¹³ Motion, para. 11.

¹⁴ Confidential Addendum to General Ojdanić Motion for Provisional Release Based on Compassionate Grounds Guarantees of Government of Republic of Serbia, 2 June 2008, para. 1.

¹⁵ Letter from Deputy Director of Protocol for the Dutch Minister of Foreign Affairs, dated 3 June 2008.

B. Response

8. On 3 June 2008, the Prosecution filed its Response, expressing its concerns that recent political events in Serbia have weakened the reliability of the guarantees, specifically the fact that there is currently no government in Serbia and there remains the potential for the formation of a new government that will refuse to cooperate with ICTY. The Prosecution also expresses concern over recent arrests of staff of the Military Medical Academy for supplying false medical documentation and that the Accused may be determined unfit to travel back to the Hague, should he seek medical treatment in Serbia.¹⁶

9. The Prosecution articulates its general opposition to the provisional release of any of the six Accused at this stage of the proceedings.¹⁷ Although the Prosecution recognises that there is precedent for limited and strictly-controlled provisional releases in cases of a compelling showing of unusual or special circumstances on compassionate grounds, which is a matter best left to the discretion of the Chamber, it is argued that the circumstances in the Motion are not adequate to justify a release of the Accused.¹⁸ As argued by the Prosecution, there is no change of circumstances since the last provisional release warranting yet another, nor is there an indication that the Accused is unable properly to attend to his medical condition at the UNDU.¹⁹

10. In the event that the Chamber grants the release, the Prosecution requests the Chamber to “consider requiring electronic monitoring and/or 24-hour security details” of the Accused.²⁰

11. Finally the Prosecution requests, pursuant to Rule 65(E), a stay of any decision to grant to the Motion.²¹

C. Reply and Addendum

12. On 9 June 2008, the Accused, after having been granted leave,²² filed a reply, in which he addresses the Prosecution’s arguments regarding the credibility of Serbia, the assertions made regarding the Military Medical Academy, the lack of change in circumstances, and the relief requested. Regarding the credibility of Serbia, the Accused argues that the Prosecution

¹⁶ Confidential Prosecution Response to General Ojdanić’s Motion for Provisional Release Based on Compassionate Grounds, 3 June 2008 (“Response”), paras. 5–9.

¹⁷ Response, para. 5.

¹⁸ Response, para. 10.

¹⁹ Response, paras. 11–12.

²⁰ Response, para. 14.

²¹ Response, para. 15.

²² Decision on Ojdanić Defence Request for Leave to File Reply, 6 June 2008 (“Reply”).

misrepresents the facts relating to Serbia's political climate, pointing to the constitutional nature of the Serbian Government and the results of recent elections.²³ He also notes the recent arrest by Serbia of Ljubiša Petković, in compliance with a 13 May 2008 order from the Tribunal.²⁴ On 11 June 2008, the Accused filed an addendum to the reply, noting the 11 June 2008 arrest by Serbian authorities of Stojan Župljanin as an example of Serbia's dedication to cooperation with the Tribunal.²⁵

13. Regarding the allegations raised by the Prosecution regarding the Military Medical Academy, the Accused argues that recent events have no connection to himself, and that he will only be there to receive medical treatment.²⁶ Given his condition, the Accused reaffirms that he presents no flight risk. In response to the Prosecution's assertion that there has been no change in circumstances, the Accused reaffirms the nature of his ongoing medical condition.²⁷ Finally, the Accused amends the dates requested for the temporary provisional release.²⁸

D. Corrigendum

14. On 3 July 2008, the Ojdanić Defence filed a corrigendum further altering the dates requested for the temporary provisional release due to recent developments.

III. Applicable law

15. Pursuant to Rule 65(A), once detained, an accused may not be provisionally released except upon an order of a Chamber. Under Rule 65(B), 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, after having given the host country and the state to which the accused seeks to be released the opportunity to be heard.²⁹ Where one of the criteria required by Rule 65(B) has not been met, a Chamber must deny provisional release and need not consider the other conditions.³⁰

²³ Confidential Reply to the Prosecution Response to the Motion for Provisional Release Based on Compassionate Grounds, 9 June 2008 ("Reply"), paras. 4–10.

²⁴ Reply, para. 8.

²⁵ Confidential Addendum to the Ojdanic Reply to the Prosecution Response to Motion for Provisional Release Based on Compassionate Grounds, 11 June 2008, paras. 2–4.

²⁶ Reply, paras. 11–14.

²⁷ Reply, paras. 15–16.

²⁸ Reply, para. 18.

²⁹ *Prosecutor v. Haradinaj, Balaj and Brahimaj*, Case No. IT-04-84-AR65.2, Decision on Lahi Brahimaj's Interlocutory Appeal Against the Trial Chamber's Decision Denying his Provisional Release, 9 March 2006, para. 6.

³⁰ *Prosecutor v. Lukić and Lukić*, Case No. IT-98-32/1-AR65.1, Decision on Defence Appeal Against Trial Chamber's Decision on Sredoje Lukic's Motion for Provisional Release, 16 April 2007, paras. 6, 23; *Prosecutor v. Popović et*

16. In deciding whether the requirements of Rule 65(B) have been met, a Chamber must consider all of those relevant factors that a reasonable 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.³¹ What these relevant factors are, as well as the weight to be accorded to them, depends upon the particular circumstances of each case.³² 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.³³ The Chamber is required to assess these circumstances not only as they exist at the time when it reaches 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.³⁴

17. Rule 65(B), which governs provisional release during trial, makes no mention of compassionate or humanitarian grounds. However, the jurisprudence of the Tribunal has recognised that Chambers enjoy a measure of discretion when considering motions pursuant to Rule 65 where compassionate or humanitarian concerns may permit a more limited provisional release.³⁵

18. Importantly, where an accused applies for provisional release following the denial of a previous application, “it is incumbent on that accused to satisfy the Trial Chamber that there has been a change in circumstances that materially affects the approach taken in earlier provisional release decisions regarding the same accused.”³⁶

al., Case No. IT-05-88-AR65.3, Decision on Interlocutory Appeal of Trial Chamber’s Decision Denying Ljubomir Borovčanin Provisional Release, 1 March 2007 (“Popović Decision”), para. 6.

³¹ *Prosecutor v. Stanišić*, Case No. IT-04-79-AR65.1, Decision on Prosecution’s Interlocutory Appeal of Míćo Stanišić’s Provisional Release, 17 October 2005 (“Stanišić Decision”), para. 8.

³² *Ibid.*

³³ *Prosecutor v. Boškoski and Tarčulovski*, Case No. IT-04-82-AR65.1, Decision on Interlocutory Appeal from Trial Decision Denying Johan Tarčulovski’s Motion for Provisional Release, 4 October 2005, para. 7.

³⁴ *Stanišić Decision*, para. 8.

³⁵ See Decision on Šainović Motion for Temporary Provisional Release, 7 June 2007, paras. 7–11; see also *Prosecutor v. Popović et al.*, Case No. IT-05-88-AR65.3, Decision on Interlocutory Appeal of Trial Chamber’s Decision Denying Ljubomir Borovčanin Provisional Release, 1 March 2007, para. 5 (“Popović Decision”); *Prosecutor v. Limaj et al.*, Case No. IT-03-66-A, Decision Granting Provisional Release to Haradin Bala to Attend His Brother’s Memorial Service and to Observe the Traditional Period of Mourning, 1 September 2006, p. 1; *Prosecutor v. Blagoje Simić*, Case No. IT-95-9-A, Decision on Motion of Blagoje Simić for Provisional Release for a Fixed Period to Attend Memorial Services for His Mother, 5 May 2006, p. 3; *Prosecutor v. Limaj et al.*, Case No. IT-03-66-A, Decision Granting Provisional Release to Haradin Bala to Attend His Daughter’s Memorial Service, 20 April 2006, p. 2; *Prosecutor v. Stanislav Galić*, Case No. IT-98-29-A, Decision on Defence Request for Provisional Release of Stanislav Galić, 23 March 2005, para. 15; *Prosecutor v. Blagoje Simić*, Case No. IT-95-9-A, Decision on Motion of Blagoje Simić Pursuant to Rule 65(I) for Provisional Release for a Fixed Period to Attend Memorial Service for His Father, 21 October 2004, para. 20; *Prosecutor v. Kordić and Čerkez*, Case No. IT-95-14/2-A, Decision on Dario Kordić’s Request for Provisional Release, 19 April 2004, paras. 8–12.

³⁶ *Popović Decision*, para. 12.

IV. Discussion

19. The Chamber has carefully considered all the submissions in relation to this matter and has taken all relevant factors bearing upon the issue of provisional release into account.

A. Recent precedent

20. The Chamber finds it helpful to briefly discuss below the Appeals Chamber's recent decision in the *Prlić et al.* case, in which it overturned the Trial Chamber's grant of provisional release to five of the accused in that case. The Appeals Chamber stated (in relevant part) as follows:

19. The Appeals Chamber finds that the Trial Chamber committed a discernible error in failing to explicitly discuss the impact of its 98*bis* Ruling when granting provisional release. In deciding to grant the Accused provisional release the Trial Chamber essentially relied on the compliance by the Accused with the terms imposed by the Trial Chamber in prior decisions on provisional release. In this regard, the Impugned Decisions fail to assess the requirements of Rule 65(B) of the Rules in the present context of the proceedings, and particularly in light of the Trial Chamber's imminent 98*bis* Ruling.

20. The Appeals Chamber considers that the 98*bis* Ruling in this case constitutes a significant enough change in circumstance to warrant the renewed and explicit consideration by the Trial Chamber of the risk of flight posed by the accused pursuant to Rule 65(B) of the Rules. Significantly, the Trial Chamber held that ... "a reasonable Trial Chamber could conclude that there was a joint criminal enterprise during the periods covered by the indictment."

21. The Appeals Chamber further finds that the Trial Chamber committed a discernible error in considering that the justifications for release put forth by the Accused might be regarded as humanitarian grounds capable of justifying the granting of a short period of provisional release in the cases of Ćorić, Praljak and Petković. In the cases of Stojić and Prlić the Trial Chamber considered Prlić's request to visit his ailing father and brother and Stojić's request to visit his ailing spouse, brother and parents, to be requests based on humanitarian grounds without offering any indication of how much weight it ascribed thereto. Nonetheless, in all cases, the Appeals Chamber finds that the various justifications for release offered by the Accused are not sufficiently compelling, particularly in light of the 98*bis* Ruling, to warrant the exercise of the Trial Chamber's discretion in favour of granting the Accused provisional release. The Appeals Chamber accordingly finds that the circumstances of this case indicate that a Trial Chamber properly exercising its discretion should have denied provisional release.³⁷

The Appeals Chamber therefore held that the *Prlić* Chamber erred by not offering an indication of how much weight it ascribed to the justifications for temporary provisional release on humanitarian grounds. The Appeals Chamber then went on to hold that these various justifications were not

³⁷ *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 Ćorić, 11 March 2008 (footnotes omitted).

sufficiently compelling, particularly in light of the Rule 98 *bis* ruling, to warrant the exercise of the Trial Chamber's discretion in favour of granting the accused provisional release without offering any indication of how much weight it ascribed thereto. This Chamber does not interpret the *Prlić* decision as a *per se* legal ruling that provisional release must always be denied after a Rule 98 *bis* ruling, provided that the Chamber discusses and weighs all the factors relevant to the provisional release motion.

21. Even more recently, the Appeals Chamber, in *Prlić et al.*, has stated the following:

Concerning the humanitarian reasons sufficient to justify provisional release, the Appeals Chamber notes that the development of the Tribunal's jurisprudence implies that an application for provisional release brought at a late stage of proceedings, and in particular after the close of the Prosecution case, will only be granted when serious and sufficiently compelling humanitarian reasons exist. . . . Therefore, provisional release should only be granted at a late stage of the proceedings when sufficiently compelling humanitarian reasons exist to justify the release. Furthermore, even when provisional release is found to be justified in light of the nature of the circumstances, the length of the release should nonetheless be proportional to these circumstances³⁸

The Chamber has carefully considered and applied this holding of the Appeals Chamber when assessing the following circumstances of the Accused, as advanced in the Motion.

B. Relevant factors

22. The Chamber, to some extent, shares the concerns of the Prosecution in relation to the guarantees of Serbia. Indeed, the Chamber recently had occasion to request the President of the Tribunal to report Serbia to the United Nations Security Council for failure to cooperate in securing the attendance of a witness; happily, arrangements subsequently were made for the witness to give evidence. Despite the history of its dealings with the Tribunal, Serbia has never failed to facilitate the return of an accused in this case over the past several years. Moreover, Serbia's arrest of alleged perpetrators in connection with the Military Medical Academy seems to demonstrate that Serbia is making efforts to root out elements that may jeopardise the arrest and return of accused. The Chamber notes that recent developments in Serbia go to allay the Prosecution's concerns about the recent lack of government there. The Chamber notes also the particular arrangements to control the Accused that will be put into place by Serbia detailed below. The Chamber, in these specific circumstances, therefore is willing to rely upon Serbia to facilitate the return of the Accused, as

³⁸ *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", 21 April 2008, para. 17 (footnote omitted); *but see Prosecutor v. Prlić et al.*, Case No. IT-04-74-AR65.6, Reasons for Decision on Prosecution's Urgent Appeal Against "*Décision Relative à la Demande de Mise en Liberté Provisoire de l'Accusé Pušić*" Issued on 14 April 2008, 23 April 2008, para. 15.

well as ensuring that he does not endanger victims, witnesses, or other persons while he is on a temporary provisional release.

23. [See confidential and *ex parte* annex.]

24. [See confidential and *ex parte* annex.]

25. [See confidential and *ex parte* annex.]

26. [See confidential and *ex parte* annex.]

27. Based upon the compelling humanitarian considerations set forth in the Motion (as well as the guarantees of Serbia), the Chamber considers that it would be appropriate for the Accused to be provisionally released for a limited duration, under strictly controlled conditions, including 24-hour surveillance. Serbia has recently represented to the Chamber that its implementation of the Chamber's order of 24-hour surveillance includes the following:

- (a) That at all times two police officers are in the presence of the Accused.
- (b) That the Accused is not allowed to move anywhere without these two police officers.
- (c) That two police officers are placed, at all times, in front of the Accused's dwelling, in order to make sure that he does not leave the premises.
- (d) That the police officers will, at all times, ensure the apprehension of the Accused in the event of escape or failure to meet any of the conditions set out in the Decision.³⁹

The Chamber is satisfied that the above interpretation of the Chamber's order of 24-hour surveillance, as well as the other conditions set forth in the Order below, is sufficient to ensure that the Accused will return for trial and not endanger victims, witnesses, or other persons. Such arrangements are also *en rapport* with the Prosecution's submission that the Chamber should consider requiring 24-hour security details of the Accused. For the foregoing reasons, the Chamber considers that the criteria of Rule 65(B) are satisfied and is prepared to exercise its discretion to grant provisional release on the basis of the humanitarian grounds set forth in the Motion. The Chamber will adjust the dates of the requested temporary provisional release so that they are consistent with recent developments in the trial schedule.

³⁹ Republic of Serbia's Submission Related to Trial Chamber's Order of 18 March 2008, 20 March 2008.

28. The Chamber has taken into account the fact that it dismissed the Accused's Rule 98 *bis* motion for a judgement of acquittal, and it finds that this does not outweigh the relevant humanitarian concerns.

29. The Chamber notes that the Medical Officer of the UNDU has certified that the Accused is fit to travel to Serbia *and then back again* to The Hague in order to attend the continuation of the trial. This should sufficiently put to rest the Prosecution's concern in this regard.

C. Request for stay

30. The Accused's temporary provisional release has been scheduled to commence eight days from the date of this decision. As such, the Chamber finds that a stay is not necessary, and that the Prosecution will have sufficient time in which to lodge any appeal.

V. Disposition

31. For the foregoing reasons and pursuant to Article 29 of the Statute of the Tribunal and Rules 54 and 65 of the Rules of Procedure and Evidence of the Tribunal, the Trial Chamber hereby **GRANTS** the Motion, in part, and **ORDERS** as follows:

- (a) On **Friday, 18 July 2008**, Dragoljub Ojdanić ("Accused") shall be transported to the appropriate airport in the Netherlands by the Dutch authorities.
- (b) At the appropriate airport, the Accused shall be provisionally released into the custody of an official of the Government of the Republic of Serbia ("Serbia") to be designated prior to the Accused's release in accordance with operative paragraph (m) hereunder, who shall accompany the Accused for the remainder of his travel to and from the address(es) detailed in confidential annex B to this Decision.
- (c) On his return, the Accused shall be accompanied by a designated official of Serbia, who shall deliver the Accused to the custody of the Dutch authorities at the appropriate airport, and the Dutch authorities shall then transport the Accused back to the United Nations Detention Unit in The Hague.
- (d) During the period of his provisional release, the Accused shall abide by the following conditions,
 - i. the Accused shall remain at the address(es) detailed in confidential annex B to this Decision;

- ii. Serbia shall provide 24-hour surveillance of the Accused throughout his presence in Serbia; and
 - iii. the Accused shall surrender his passport to the Ministry of Justice of Serbia for the duration of his provisional release.
- (e) Before leaving the United Nations Detention Unit in The Hague, the Accused shall provide details of his itinerary to the Ministry of Justice of the Netherlands and to the Registrar of the Tribunal.
 - (f) The Accused shall not have any contact with any co-Accused in the case.
 - (g) The Accused shall not have any contact whatsoever, or in any way interfere with, any victim or potential witness or otherwise interfere in any way with proceedings before the Tribunal or with the administration of justice.
 - (h) The Accused shall not discuss his case with anyone, including the media, apart from his counsel.
 - (i) The Accused shall continue to cooperate with the Tribunal and comply with any further Orders or Decisions of this Trial Chamber regarding his provisional release.
 - (j) The Accused shall comply strictly with any requirements of the authorities of Serbia, which are necessary for them to comply with their obligations pursuant to this Order.
 - (k) The Accused shall return to the United Nations Detention Unit in The Hague on **Tuesday, 12 August 2008.**
 - (l) The Accused shall comply strictly with any further Order of the Trial Chamber varying the terms of or terminating his provisional release.
 - (m) The Government of Serbia shall assume the following responsibilities:
 - (i) *Designation of an official of Serbia*, into whose custody the Accused shall be provisionally released and who shall accompany the Accused from the appropriate airport in The Netherlands to the address(es) detailed in confidential annex B to this Decision, and *notification, as soon as practicable, to the Trial Chamber and the Registrar of the Tribunal of the name of the designated official.*
 - (ii) Provision of 24-hour surveillance of the Accused throughout his stay in Serbia.

- (iii) Provision of the personal security and safety of the Accused while on provisional release.
- (iv) Responsibility, at the request of the Trial Chamber or the parties, for facilitating all means of cooperation and communication between the parties, and assurance of the confidentiality of any such communication(s).
- (v) Responsibility for informing the Trial Chamber of any failure by the Accused to comply with the terms of this Order.
- (vi) Responsibility for immediately arresting and detaining the Accused, should he breach any of the conditions of this Order.
- (vii) Responsibility, once the Accused has returned to the United Nations Detention Unit in The Hague, *for the submission of a written report to the Trial Chamber* as to the compliance of the Applicant with the terms of this Order.

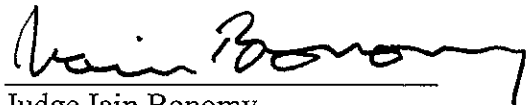
32. Pursuant to Rules 54 and 65 of the Rules of Procedure and Evidence of the Tribunal, the Trial Chamber hereby **INSTRUCTS** the Registrar of the Tribunal to consult with the Ministry of Justice in the Netherlands as to the practical arrangements for the provisional release of the Accused, and to continue to detain the Accused at the United Nations Detention Unit in The Hague until such time as the Trial Chamber and the Registrar have been notified of the name of the designated official of the Government of the Republic of Serbia into whose custody the Accused is to be provisionally released.

33. Pursuant to Article 29 of the Statute of the Tribunal and Rules 54 and 65 of the Rules of Procedure and Evidence of the Tribunal, the Trial Chamber hereby **REQUESTS** the authorities of all states through which the Accused will travel:

- (a) to hold the Accused in custody for any time that he will spend in transit at an airport in their territories; and
- (b) to arrest and detain the Accused pending his return to the United Nations Detention Unit in The Hague, should he attempt to escape.

34. The Trial Chamber, pursuant to Rule 65(E) of the Rules of Procedure and Evidence of the Tribunal, hereby **DENIES** the Prosecution's request for a stay.

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



Judge Iain Bony
Presiding

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

[Seal of the Tribunal]