



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: 26 June 2006
Original: ENGLISH
French

IN THE TRIAL CHAMBER

Before: Judge Jean-Claude Antonetti
Judge Árpád Prandler
Judge Stefan Trechsel

Registrar: Mr Hans Holthuis

Decision of: 26 June 2006

THE PROSECUTOR

v.

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

CONFIDENTIAL

**DECISION ON MOTION FOR PROVISIONAL RELEASE OF THE
ACCUSED PRLIĆ**

The Office of the Prosecutor:

Mr Kenneth Scott
Mr Daryl Mundis

Counsel for the Accused:

Mr Michael Karnavas and Ms Suzana Tomanović for Jadranko Prlić

The Republic of Croatia

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”);

BEING SEIZED OF the confidential “Jadranko Prlić’s Motion for Provisional Release” and its four annexes filed on 1 June 2006 (“Jadranko Prlić’s Motion”) by Counsel for the Accused Jadranko Prlić (“Defence for the Accused Prlić”) whereby the Defence for the Accused Prlić requests, for humanitarian reasons, the provisional release of the Accused Jadranko Prlić (“Accused Prlić”) to Makarska, Republic of Croatia, between 14 July 2006 and 14 August 2006;

NOTING the confidential “Prosecution Response to Defence Applications for Provisional Release during Summer Recess” filed on 15 June 2006 (“Prosecution Response”) by the Office of the Prosecutor (“Prosecution”);

CONSIDERING that in support of its Motion the Defence for the Accused Prlić submits that: 1) Jadranko Prlić surrendered voluntarily to the Tribunal;¹ 2) while on earlier release the Accused Prlić fully complied with the conditions imposed by the Trial Chamber in its decision on provisional release;² 3) attached to the previous application for provisional release were guarantees provided by the Government of the Republic of Croatia to the effect that the Accused Prlić would return to The Hague to appear for trial on the date determined by the Chamber;³ 4) in its letter of 26 May 2006 the Government of the Republic of Croatia pledged that the Accused Prlić would comply with the conditions imposed by the Tribunal should the application for provisional release be granted by the Chamber and guaranteed that the Accused Prlić would return to The Hague at the request of the Chamber;⁴ and 5) the parents of the Accused Prlić, who live in Makarska, and his brother are in a precarious state of health;⁵

CONSIDERING that in its Response the Prosecution opposes the applications for provisional release of all the accused primarily because the reasons given by the

¹ Jadranko Prlić’s Motion, p. 1.

² Jadranko Prlić’s Motion, p. 1 and 2.

³ Jadranko Prlić’s Motion, p. 1.

⁴ Jadranko Prlić’s Motion, p. 2; Annex 2 to Jadranko Prlić’s Motion.

accused in support of their applications do not constitute humanitarian grounds for release;⁶

CONSIDERING alternatively that should the Chamber grant the motions, the Prosecution requests that: 1) the accused be prohibited from entering and travelling in Bosnia and Herzegovina; and 2) the accused be prohibited from having any contact with any witness, potential witness or victim;⁷

CONSIDERING that pursuant to Rule 65 of the Rules of Procedure and Evidence (“Rules”) the Chamber may order provisional release “only if it is satisfied that the accused will appear for trial and, if released, will not pose a danger to any victim, witness or other person”;

CONSIDERING that the Accused Prlić, while on earlier release, complied with all the conditions imposed by Trial Chamber I in its orders dated 30 July 2004⁸ and 1 July 2005;⁹

CONSIDERING that the host country has not objected to any provisional release proceedings;¹⁰

CONSIDERING that in its letter of 26 May 2006 the Government of the Republic of Croatia provided guarantees to the effect that the Accused would return to The Hague and would not abscond if released;

CONSIDERING further that the Republic of Croatia has undertaken to cover the transport costs of the Accused Prlić from The Netherlands to Makarska and back;

CONSIDERING in addition that, given the Accused’s appropriate behaviour on a previous occasion, the Chamber is satisfied that, if released, the Accused Prlić will not pose a danger to any victim, witness or other person;

CONSIDERING that the Chamber will adjourn proceedings for the summer recess and that the presence of the Accused Prlić will therefore not be required in court;

⁵ Jadranko Prlić’s Motion, p. 1; Annexes 2 and 3 to Jadranko Prlić’s Motion.

⁶ Prosecution Response, para. 5.

⁷ Prosecution Response, para. 6.

⁸ *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Order on Provisional Release of Jadranko Prlić, 30 July 2004.

⁹ *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Order on Jadranko Prlić’s Motion for Variation of Conditions of Provisional Release, 1 July 2005.

CONSIDERING that the application for provisional release submitted by the Accused Prlić to visit his ailing parents and brother may be considered as a request based on humanitarian grounds;

CONSIDERING that the Defence for the Accused Prlić submitted medical certificates to the effect that the father and brother of the Accused Prlić are ill;

CONSIDERING that a brief visit by the Accused Prlić might help his father and brother in their hour of need;

CONSIDERING that the conditions set out in Rule 65 of the Rules have been met;

CONSIDERING, however, that the period of provisional release should be limited to nine days, including travel;

CONSIDERING that such a short visit will enable the police authorities of the Republic of Croatia to carry out effective surveillance of the Accused Prlić, thereby providing an additional guarantee that he will appear for trial after the summer recess;

CONSIDERING that the Chamber is the opinion that during his stay in his country the Accused Prlić must be under continuous surveillance by the authorities of the Republic of Croatia in order to guarantee his own safety and appearance for trial;

CONSIDERING further that in order to facilitate surveillance as ordered, the Chamber has decided that wherever possible the Accused will be released in succession;

CONSIDERING therefore that the Accused Prlić will be released from 14 July 2006 to 22 July 2006;

FOR THE FOREGOING REASONS,

PURSUANT TO Rule 65 of the Rules

GRANTS Jadranko Prlić's Motion in part; and

ORDERS the provisional release of the Accused Prlić from 14 July 2006 to 22 July 2006 under the following conditions:

¹⁰ See oral communication by the Ministry of Foreign Affairs, 22 June 2006.

ORDERS the Accused Prlić:

- 1) upon arrival to submit to surveillance by the authorities of the Republic of Croatia under the conditions set out below;
- 2) to remain within the confines of Makarska, Republic of Croatia;
- 3) to surrender his passport to the Ministry of the Interior of the Republic of Croatia;
- 4) within one day of his arrival, to provide the address at which he will be staying to the Ministry of the Interior and to the Registrar of the Tribunal and to advise them of any change of address within one day of such change;
- 5) not to have any contact or interfere in any way with victims or potential witnesses;
- 6) not to interfere in any way with the proceedings or the good administration of justice, in particular by destroying evidence;
- 7) not to discuss the case except with his Counsel and not to have any contact with the media;
- 8) to have no contact with any other accused before the Tribunal;
- 9) to comply strictly with any requirements of the authorities of the Republic of Croatia to enable them to comply with their obligations under this order and their guarantees;
- 10) to return to the Tribunal on 22 July 2006;
- 11) to comply strictly with any further order of the Chamber varying the terms of, or terminating the provisional release;
- 12) not to act in any official function in the Republic of Croatia;

REQUESTS the Government of the Republic of Croatia, including the local police:

- 1) to ensure compliance with the conditions imposed on the Accused Prlić by the Trial Chamber;

- 2) to ensure that the transport costs of the Accused Prlić from The Netherlands to his place of residence and back are covered;
- 3) to designate an official of the Republic of Croatia into whose custody the Dutch authorities will release the Accused Prlić at Schiphol Airport (or any other airport in The Netherlands) and who will escort the Accused Prlić during the rest of his journey to his place of temporary residence;
- 4) to ensure that an official designated by the Republic of Croatia shall escort the Accused Prlić on his return flight to the Kingdom of The Netherlands at the end of his provisional release and hand over the Accused Prlić to the Dutch authorities in the Kingdom of The Netherlands at such time and place to be determined by the Trial Chamber;
- 5) to facilitate, at the request of the Trial Chamber or the parties, all forms of cooperation and communication between the parties and to guarantee the confidentiality of any such communication;
- 6) not to issue a new passport or travel document to the Accused Prlić for any travel purposes;
- 7) to submit the Accused Prlić to continuous physical surveillance during his stay;
- 8) to guarantee the personal safety and security of the Accused Prlić for the duration of his provisional release;
- 9) to immediately inform the Registrar of the Tribunal of the nature of any threat to the safety of the Accused Prlić and submit to the Registrar full reports on the investigations carried out to this effect;
- 10) to immediately detain the Accused Prlić should he breach any of the conditions of his provisional release and immediately report any such breach to the Trial Chamber;

REQUESTS the Registrar of the Tribunal:

- 1) to consult with the Ministry of Justice of The Netherlands as to the practical arrangements for the release of the Accused Prlić;

- 2) to hold the Accused Prlić in detention while the necessary arrangements are being made for his journey;
- 3) to forward this Decision to the competent authorities;

REQUESTS the Dutch authorities:

- 1) to transport the Accused Prlić to Schiphol Airport (or any other airport in the Kingdom of The Netherlands) as soon as possible;
- 2) at the airport, to release the Accused Prlić into the custody of the official designated by the Government of the Republic of Croatia;
- 3) upon his return, to take the Accused Prlić into their custody at such time and place to be determined by the Trial Chamber and to transport him to the United Nations Detention Unit;

REQUESTS the authorities of all States through which the Accused will travel:

- 1) to hold the Accused Prlić in custody for any time he will spend in transit at the airport;
- 2) to arrest and detain the Accused Prlić pending his return to the United Nations Detention Unit should he attempt to escape.

DECIDES that this Decision shall be rendered public only after the return of the sixth and last Accused to the United Nations Detention Unit.

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

/signed/

Judge Jean-Claude Antonetti
Presiding Judge

Done this twenty-sixth day of June 2006
At The Hague
The Netherlands

[Seal of the Tribunal]