



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: 19 February 2008
Original: ENGLISH
French

IN TRIAL CHAMBER III

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

Registrar: Mr Hans Holthuis

Decision of: 19 February 2008

THE PROSECUTOR

v.

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

PUBLIC WITH CONFIDENTIAL ANNEX

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

The Office of the Prosecutor:

Mr Kenneth Scott
Mr Douglas Stringer

Counsel for the Accused:

Mr Božidar Kovačić and Ms Nika Pinter for Slobodan Praljak

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”);

SEIZED of “Slobodan Praljak’s Motion for Provisional Release”, filed confidentially by Counsel for the Accused Slobodan Praljak (“Defence for the Accused Praljak”) on 28 January 2008 (“Motion”), to which a confidential annex is attached, and of “Slobodan Praljak’s Supplemental Motion for Provisional Release”, filed confidentially by the Defence for the Accused Praljak on 29 January 2008, in which the Defence for the Accused Praljak requests, for humanitarian reasons, his provisional release to the Republic of Croatia for as long as possible during the period from 7 February 2008 to 20 April 2008,

NOTING the “Prosecution Consolidated Response to Defence Applications for Provisional Release of the Accused Prlić, Stojić, Praljak, Petković and Čorić Prior to the Defence Case”, filed confidentially by the Office of the Prosecutor (“Prosecution”) on 5 February 2008 (“Response”),

NOTING the “Joint Waiver of Right to Attend Status Conferences”, filed confidentially by Counsel for the Accused Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković and Valentin Čorić (“Accused”) on 11 February 2008, in which the Accused renounce their right to be present at two meetings scheduled by the Chamber pursuant to Rule 65 *ter* of the Rules of Procedure and Evidence (“Rules”),

CONSIDERING that in support of the Motion, the Defence for the Accused Praljak submits that: (1) the Accused Praljak surrendered voluntarily to the Tribunal; (2) while on earlier releases the Accused Praljak fully complied with the conditions imposed by the Trial Chamber in its decisions on provisional release; (3) the Government of the Republic of Croatia pledges that the Accused Praljak will comply with the conditions imposed by the Tribunal should the application for provisional release be granted by the Chamber and guarantees that the Accused Praljak will return to The Hague at the request of the Chamber; (4) the Accused Praljak personally pledges to fully comply with all the conditions of his provisional release imposed by

the Chamber, and finally (5) the Accused Praljak wishes to deal with some administrative matters, undergo some medical tests, and visit with his family,

CONSIDERING that in the Response, the Prosecution opposes the provisional release of all the Accused on the ground that the periods they have requested are excessive and because none of the reasons given by the Accused in support of their motions for provisional release constitute humanitarian grounds for release,

CONSIDERING alternatively that should the Chamber grant the Motion, the Prosecution requests that: (1) the Accused Praljak be prohibited from setting foot or travelling in Bosnia and Herzegovina; (2) the Accused Praljak be prohibited from having any contact with any witnesses or victims; (3) the Accused Praljak be prohibited from discussing the case with anyone other than his Counsel; (4) the Accused Praljak be prohibited from having any contact with the media, and finally (5) the provisional release not be granted prior to the oral decision rendered pursuant to Rule 98 *bis*,

CONSIDERING that pursuant to Rule 65 (B) of the 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 Praljak, while on earlier release, complied with all the conditions imposed by the Trial Chambers in their orders and decisions dated 30 July 2004,¹ 1 July 2005,² 14 October 2005,³ 26 June 2006,⁴ 8 December 2006,⁵ 11 June 2007,⁶ and 29 November 2007,⁷

CONSIDERING that the host country has not objected to any possible provisional release proceedings,⁸

CONSIDERING that in a letter dated 22 January 2008, the Government of the Republic of Croatia provided guarantees to the effect that, should the Chamber grant

¹ *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Order on Provisional Release of Slobodan Praljak, 30 July 2004.

² *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Order on Slobodan Praljak's Motion for Variation of Conditions of Provisional Release, 1 July 2005.

³ *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Decision to Grant Accused Slobodan Praljak's Supplemental Application for Variation of Conditions of Provisional Release, 14 October 2005.

⁴ Decision on Motion for Provisional Release of the Accused Praljak, 26 June 2006.

⁵ Decision on the Motion for Provisional Release of the Accused Praljak, 8 December 2006.

⁶ Decision on the Motion for Provisional Release of the Accused Praljak, 11 June 2007.

⁷ Decision on the Motion for Provisional Release of the Accused Praljak, 29 November 2007.

⁸ See letter from the Dutch Ministry of Foreign Affairs dated 31 January 2008.

provisional release, the Accused Praljak will not influence or pose a danger to any victim, witness or other person while on provisional release and will return to The Hague on the date ordered by the Chamber,⁹

CONSIDERING that the Accused Praljak pledges to fully comply with all the conditions for provisional release imposed by the Chamber,

CONSIDERING in addition that, given the Accused's appropriate behaviour on previous occasions, the Chamber is satisfied that, if released, the Accused Praljak will return for the resumption of his trial and not pose a danger to any victim, witness or other person,

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

CONSIDERING that the provisional release of the Accused Praljak in the Republic of Croatia could facilitate the preparation of the defence case with his Counsel, who are also expected to be there,

CONSIDERING that the Accused Praljak's request to deal with administrative matters and to undergo medical tests may justify the granting of a short period of provisional release,

CONSIDERING furthermore that the Chamber will adjourn proceedings from 21 February 2008 to 4 May 2008 and that during this period, the presence of the Accused Praljak will be required only to attend, should the need arise, the two meetings on 17 and 26 March 2008, which were scheduled by the Chamber pursuant to Rule 65 *ter* of the Rules, and the pre-Defence conference pursuant to Rule 73 *ter* of the Rules, scheduled for 21 April 2008,¹⁰

CONSIDERING as a result that in the exercise of its discretionary power, the Chamber authorizes the provisional release of the Accused Praljak,

⁹ See the letter from the Ministry of Justice of the Republic of Croatia in the annex to the Motion, dated 22 January 2008.

¹⁰ Decision on Motion for Extension of Time for the Commencement of the Defence Case and Adopting a New Schedule, 28 January 2008 and Scheduling Order, 14 February 2008.

CONSIDERING, however, that the provisional release should be limited to a short period, including return 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 Praljak, thereby providing an additional guarantee that he will appear for the resumption of trial,

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

CONSIDERING therefore that the Accused Praljak will be provisionally released during the dates and subject to the conditions set out in the confidential annex to this decision,

FOR THESE REASONS,

IN ACCORDANCE with Rule 65 of the Rules,

PARTIALLY GRANTS the Motion,

ORDERS the provisional release of the Accused Praljak during the dates and subject to the conditions set out in the confidential annex to this decision **AND**

DENIES the Motion in all other respects,

JUDGE ANTONETTI appending a dissenting opinion as regards the public nature of this decision.

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

/signed/

Jean-Claude Antonetti
Presiding Judge

Done this nineteenth day of February 2008
At The Hague
The Netherlands

[Seal of the Tribunal]