



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-98-30/1-A
Date: 07 August 2003
Original: English

THE PRESIDENT OF THE INTERNATIONAL TRIBUNAL

Before: Judge Theodor Meron, President

Registrar: Mr. Hans Holthuis

Order of: 07 August 2003

**ORDER OF THE PRESIDENT IN RESPONSE TO
MIROSLAV KVOČKA'S REQUEST FOR PARDON**

Counsel for the Defence:

Mr. Krstan Simić

Counsel for the Prosecution:

Mr. Christopher Staker

I, THEODOR MERON, President 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 ("International Tribunal");

BEING SEISED of the "Request for Granting Pardon to Miroslav Kvočka", dated 21 July 2003 ("Request");

NOTING the "Prosecution's Response to the 'Request for Granting Pardon to Miroslav Kvočka'", filed on 29 July 2003, which opposes the Request;

NOTING "Kvočka's Reply to 'Prosecution Response to the Request for Granting Pardon to Miroslav Kvočka'", filed on 31 July 2003, in which Miroslav Kvočka reiterates his request for pardon asserting, *inter alia*, that his sentence is *de facto* final;

NOTING that, on 2 November 2001, Trial Chamber I rendered its Judgement in *The Prosecutor v. Miroslav Kvočka, Milojica Kos, Mlado Radić, Zoran Žigić and Dragoljub Prcać*, IT-98-30/1-T ("Judgement"), in which it sentenced Miroslav Kvočka ("Applicant") to seven (7) years' imprisonment;

NOTING that Miroslav Kvočka filed a notice of appeal against the Judgement on 13 November 2001 and that appeal proceedings are currently pending before the Appeals Chamber;

NOTING former President Jorda's "Decision of the President on the Early Release of Miroslav Kvočka", rendered on 13 December 2002 ("Decision on Early Release");

CONSIDERING that, pursuant to Article 28 of the Statute, Rule 124 of the Rules of Procedure and Evidence ("Rules"), and Article 7 of the Practice Direction on the Procedure for the Determination of Applications for Pardon, Commutation of Sentence and Early Release of Persons Convicted by the International Tribunal (IT/146, 7 April 1999), the President of the International Tribunal determines, after consultation with the appropriate Judges, whether requests for pardon should be granted;

CONSIDERING that, according to Rule 102 (A) of the Rules as interpreted in the Decision on Early Release, the Applicant's Request is not receivable because the enforcement of the judgement is stayed and not final because of the current appeal proceedings;


CONSIDERING FURTHER that the Applicant's Request cannot be interpreted alternatively as a petition for provisional release and, even if it could be so interpreted, the President of the International Tribunal lacks the authority to rule on petitions for provisional release;

FOR THESE REASONS,

DISMISS the Request and **NOTE** that, to be properly considered, a petition for provisional release should be filed before the Appeals Chamber.

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

Done this 7th day of August 2003,
At The Hague,
The Netherlands.


Theodor Meron
President of the International Tribunal

[Seal of the Tribunal]