



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-05-88-T

Date: 30 July 2008

Original: English

**IN TRIAL CHAMBER II**

**Before:** Judge Carmel Agius, Presiding  
Judge O-Gon Kwon  
Judge Kimberly Prost  
Judge Ole Bjørn Støle – Reserve Judge

**Registrar:** Mr. Hans Holthuis

**Decision of:** 30 July 2008

**PROSECUTOR**

v.

**VUJADIN POPOVIĆ  
LJUBIŠA BEARA  
DRAGO NIKOLIĆ  
LJUBOMIR BOROVIČANIN  
RADIVOJE MILETIĆ  
MILAN GVERO  
VINKO PANDUREVIĆ**

**PUBLIC**

**DECISION ON NIKOLIĆ'S MOTION SEEKING A VARIATION OF THE  
CONDITIONS OF HIS PROVISIONAL RELEASE**

**Office of the Prosecutor**  
Mr. Peter McCloskey

**Government of Republika Srpska**

**Government of the Netherlands**

**Counsel for the Accused**

Mr. Zoran Živanović and Ms. Mira Tapušковиć for Vujadin Popović  
Mr. John Ostojić and Mr. Predrag Nikolić for Ljubiša Beara  
Ms. Jelena Nikolić and Mr. Stéphane Bourgon for Drago Nikolić  
Mr. Aleksandar Lazarević and Mr. Christopher Gosnell for Ljubomir Borovčanin  
Ms. Natacha Fauveau Ivanović and Mr. Nenad Petrušić for Radivoje Miletić  
Mr. Dragan Krgović and Mr. David Josse for Milan Gvero  
Mr. Peter Haynes and Mr. Đorđe Sarapa for Vinko Pandurević

**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”);

**BEING SEISED OF** the "Urgent Motion on Behalf of Drago Nikolić Seeking a Variation of the Conditions of his Provisional Release Under Custodial Conditions Granted on Humanitarian Grounds", filed publicly on 30 July 2008 (“Motion”), in which Nikolić seeks a variation of the conditions of his provisional release so that he may contact Witness 3DW23 and Witness 3DW24 only in the presence of a third person, on the condition that Nikolić not discuss the proceedings with these Witnesses;

**NOTING** the Trial Chamber’s “Decision on Nikolić’s Motion for Provisional Release” of 21 July 2008 (“Provisional Release Decision”), which granted Nikolić’s motion for provisional release under custodial conditions and made *inter alia* the following order:

Nikolić shall not have any contact whatsoever or in any way interfere with any victim or potential witness or otherwise interfere in any way with the proceedings or the administration of justice,<sup>1</sup>

**NOTING** that Witness 3DW23 and Witness 3DW24 are Nikolić’s daughter and brother respectively;<sup>2</sup>

**NOTING** Nikolić’s “strong desire” to be authorised to contact his daughter and brother during his upcoming period of provisional release, given that they will be present at family reunions and Nikolić’s father’s memorial service;<sup>3</sup>

**NOTING** that that Nikolić’s attendance at his father’s memorial service was a humanitarian ground upon which Nikolić was granted provisional release,<sup>4</sup> and that Witness 3DW23 and Witness 3DW24 will be present at this memorial service;<sup>5</sup>

**NOTING** that the Prosecution has no objection to the Motion;<sup>6</sup>

**CONSIDERING** that varying the conditions of Nikolić’s provisional release as requested in the Motion does not affect the Trial Chamber’s analysis of the circumstances surrounding the granting of that provisional release in the Provisional Release Decision;<sup>7</sup>

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<sup>1</sup> Provisional Release Decision, para. 22 (b)(vi)(8).

<sup>2</sup> Motion, para. 6.

<sup>3</sup> Motion, paras. 6–8.

<sup>4</sup> Provisional Release Decision, paras. 18, 21.

<sup>5</sup> Motion, paras. 6, 10.

<sup>6</sup> T. 24343–24344 (private session) (30 July 2008). *See also* Motion, paras. 3, 9.

**PURSUANT TO** Article 29 of the Statute and Rules 54 and 65,

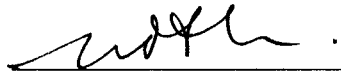
**HEREBY GRANTS** the Motion, and **ORDERS** as follows:

1. Paragraph 22(b)(vi)(8) of the Provisional Release Decision shall be deleted and replaced with the following:

8. Subject to paragraph 8(a), Nikolić shall not have any contact whatsoever or in any way interfere with any victim or potential witness – other than Witness 3DW23, his daughter, and Witness 3DW24, his brother – or otherwise interfere in any way with the proceedings or the administration of justice,

8(a). With respect to any form of contact between Nikolić and Witnesses 3DW23 and 3DW24, such contact shall not involve any discussion regarding whatever aspect of the proceedings in this case,

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



Carmel Agius  
Presiding

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

[Seal of the Tribunal]

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<sup>7</sup> See Provisional Release Decision, paras. 17–21.