



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 STOJIĆ**

The Office of the Prosecutor:

Mr Kenneth Scott
Mr Daryl Mundis

Counsel for the Accused:

Ms Senka Nožica and Mr Peter Murphey for Bruno Stojić

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 partly confidential “Bruno Stojić’s Motion for Provisional Release” and its two annexes (Confidential Annex I and Annex 2) filed on 1 June 2006 (“Bruno Stojić’s Motion”) by Counsel for the Accused Bruno Stojić (“Defence for the Accused Stojić”) whereby the Defence for the Accused Stojić requests the provisional release of the Accused Bruno Stojić (“Accused Stojić”) to Zagreb, Republic of Croatia, for three weeks during the 2006 summer recess;

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”);

NOTING the confidential “Addendum to Motion of Bruno Stojić for Period of Provisional Release During 2006 Summer Recess” and its two annexes filed on 21 June 2006 (“Addendum”) by the Defence for the Accused Stojić whereby the Defence for the Accused Stojić submits new family reasons in support of its initial application for the provisional release of the Accused Stojić;

CONSIDERING that in support of its Motion and Addendum the Defence for the Accused Stojić submits that: 1) the Accused Stojić surrendered voluntarily to the Tribunal;¹ 2) while on earlier release the Accused Stojić fully complied with the conditions imposed by the Trial Chamber in its decision on provisional release;² 3) in its letter of 24 May 2006 the Government of the Republic of Croatia pledged that the Accused Stojić 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 Stojić would return to The Hague at the request of the Chamber;³ 4) the Accused Stojić personally pledges that he will fully comply with all the conditions of provisional release imposed by the Tribunal;⁴ and 5) as the spouse of the Accused

¹ Bruno Stojić’s Motion, para. 2.

² Bruno Stojić’s Motion, paras. 3 ; Confidential Annex 1 to Bruno Stojić’s Motion.

³ Bruno Stojić’s Motion, para. 4; Annex 2 to Bruno Stojić’s Motion.

⁴ Bruno Stojić’s Motion, para. 3.

Stojić is in a precarious state of health and his parents are 75 years old a visit by the Accused Stojić would be beneficial to them;⁵

CONSIDERING that in its Response the Prosecution opposes the motions for provisional release of all the accused primarily because the reasons given by the accused in support of their motions 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 Stojić, while on earlier release, complied with all the conditions imposed by Trial Chamber I in its order dated 30 July 2004;⁸

CONSIDERING that the host country has not objected to any provisional release proceedings;⁹

CONSIDERING that in its letter of 24 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 Stojić from The Netherlands to Zagreb and back;

CONSIDERING that the Accused Stojić pledges that he will fully comply with all the conditions for provisional release imposed by the Tribunal;

⁵ Addendum, paras. 3 and 4; Annex 1 and Annex 2 to Addendum.

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 Bruno Stojić, 30 July 2004.

⁹ See Ministry of Foreign Affairs letter of 13 June 2006.

CONSIDERING in addition that, given the Accused's appropriate behaviour on the previous occasion, the Chamber is satisfied that, if released, the Accused Stojić 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 Stojić will therefore not be required in court;

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

CONSIDERING that the Defence for the Accused Stojić submitted medical certificates to the effect that the spouse of the Accused Stojić is ill;

CONSIDERING that a brief visit by the Accused Stojić might help his spouse in her 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 Stojić, 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 Stojić 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 Stojić will be released from 23 July 2006 to 31 July 2006;

FOR THE FOREGOING REASONS,

PURSUANT TO Rule 65 of the Rules

GRANTS Bruno Stojić's Motion in part; and

ORDERS the provisional release of the Accused Stojić from 23 July 2006 to 31 July 2006 under the following conditions:

ORDERS the Accused Stojić:

- 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 Zagreb, 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 whatsoever or in any way interfere 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 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 31 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 Stojić by the Trial Chamber;
- 2) to ensure that the transport costs of the Accused Stojić 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 Stojić at Schiphol Airport (or any other airport in The Netherlands) and who will escort the Accused Stojić 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 Stojić on his return flight to the Kingdom of The Netherlands at the end of his provisional release and hand over the Accused Stojić 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 Stojić for any travel purposes;
- 7) to submit the Accused Stojić to continuous physical surveillance during his stay;
- 8) to guarantee the personal safety and security of the Accused Stojić 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 Stojić and to submit to the Registrar full reports on the investigations carried out to this effect;

10) to immediately detain the Accused Stojić should he breach any of the conditions of his provisional release and to 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 Stojić;
- 2) to hold the Accused Stojić 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 Stojić 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 Stojić into the custody of the official designated by the Government of the Republic of Croatia;
- 3) upon his return, to take the Accused Stojić 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 Stojić in custody for any time he will spend in transit at the airport;
- 2) to arrest and detain the Accused Stojić 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]