



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: 29 November 2007
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: 29 November 2007

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 PRLIĆ**

The Office of the Prosecutor:

Mr Kenneth Scott
Mr Douglas Stringer

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”),

SEIZED of “Jadranko Prlić’s Motion for Provisional Release” and its two annexes, filed confidentially by Counsel for the Accused Jadranko Prlić (“Defence for the Accused Prlić”) on 13 November 2007 (“Jadranko Prlić’s Motion”), wherein the Defence for the Accused Prlić requests his provisional release, for humanitarian reasons, to the Republic of Croatia during the winter 2007 judicial recess,

NOTING the “Prosecution Consolidated Response to Defence Applications for Provisional Release During Winter Recess”, filed confidentially by the Office of the Prosecutor (“Prosecution”) on 15 November 2007 (“Response”),

CONSIDERING that in support of the Motion, the Defence for the Accused Prlić submits that: (1) Jadranko Prlić surrendered voluntarily to the Tribunal; (2) the Accused Prlić has been provisionally released on four occasions and fully complied with the conditions imposed by the Chamber in its decisions on provisional release; (3) the Government of the Republic of Croatia has pledged that the Accused Prlić will comply with the conditions imposed by the Tribunal should the application for provisional release be granted by the Chamber, guaranteed that the Accused Prlić will return to The Hague at the request of the Chamber and will cover all costs associated with his release, and finally (4) the Accused Prlić’s parents and brother suffer from ill health,

CONSIDERING that in the Response, the Prosecution again opposes the provisional release of all the Accused 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 Jadranko Prlić’s Motion, the Prosecution requests that: (1) the Accused Prlić be prohibited from setting foot or travelling in Bosnia and Herzegovina; (2) the Accused Prlić be prohibited from having contact with any witness, potential witness (be it a witness called by the

Prosecution, Defence or the Chamber) or victim; (3) the Accused Prlić be prohibited from discussing the case with anyone other than his Counsel and (4) from having any contact with the media,

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 the Trial Chambers in their orders and decisions dated 30 July 2004,¹ 1 July 2005,² 26 June 2006,³ 8 December 2006,⁴ and 11 June 2007,⁵

CONSIDERING that the host country has not objected to any possible provisional release proceedings,⁶

CONSIDERING that in its letter of 5 November 2007, the Government of the Republic of Croatia provided guarantees to the effect that the Accused Prlić would return to The Hague and would not abscond,

CONSIDERING in addition that, given the Accused’s appropriate behaviour on previous occasions of provisional release, the Chamber is satisfied that, if released, the Accused Prlić 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,

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

² *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.

³ Decision on Motion for Provisional Release of the Accused Prlić, 26 June 2006; the dates of the Accused Prlić’s provisional release mentioned in the previous decision were amended by the Order Amending the Decision on the Accused Prlić’s Request for Provisional Release, 4 July 2006.

⁴ Decision on the Motion for Provisional Release of the Accused Prlić, 8 December 2006.

⁵ Decision on the Motion for Provisional Release of the Accused Prlić, 11 June 2007.

⁶ See letter from the Ministry of Foreign Affairs dated 15 November 2007.

CONSIDERING moreover that the Chamber will adjourn proceedings for the winter 2007/2008 judicial recess and that the presence of the Accused Prlić will therefore not be required in court during this period,

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 his brother and his father are ill,

CONSIDERING that a short visit by the Accused Prlić might help his brother and parents in their hour of need,

CONSIDERING therefore that the Chamber decides to grant the provisional release of the Accused Prlić,

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 Prlić, thereby providing an additional guarantee that he will appear for trial after the judicial recess,

CONSIDERING that the Chamber is of the opinion that during his stay in the Republic of Croatia, the Accused Prlić 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 Prlić will be provisionally released during the dates and subject to the conditions set out in the confidential annex to this decision,

FOR THE FOREGOING REASONS,

PURSUANT TO Rule 65 of the Rules,

PARTIALLY GRANTS Jadranko Prlić's motion,

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

DENIES the Accused Prlić's motion in all other respects,

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

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

/signed/

Jean-Claude Antonetti
Presiding Judge

Done this twenty-ninth day of November 2007
At The Hague
The Netherlands

[Seal of the Tribunal]