



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: 17 July 2008
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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: 17 July 2008

THE PROSECUTOR

v.

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

PUBLIC with CONFIDENTIAL ANNEX

**DECISION ON THE ACCUSED PRLIĆ'S MOTION
FOR PROVISIONAL RELEASE**

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
Ms Senka Nožica and Mr Karim A. A. Khan for Bruno Stojić
Mr Božidar Kovačić and Ms Nika Pinter for Slobodan Praljak
Ms Vesna Alaburić and Mr Nicholas Stewart for Milivoj Petković
Ms Dijana Tomašegović-Tomić and Mr Dražen Plavec for Valentin Ćorić
Mr Fahrudin Ibrišimović and Mr Roger Sahota for Berislav Pušić

I. INTRODUCTION

1. 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”) is seized of a motion for provisional release by the Accused Jadranko Prlić (“Accused Prlić”) filed confidentially by Counsel for the Accused Prlić (“Prlić Defence”) on 25 June 2008.

II. PROCEDURAL BACKGROUND

2. On 25 June 2008, the Prlić Defence confidentially filed “Jadranko Prlić’s Motion for Provisional Release” (“Motion”), in which for humanitarian reasons it requests provisional release of the Accused Prlić to the Republic of Croatia for as long as possible during the period between 26 July and 24 August 2008.¹

3. On 10 July 2008, the Office of the Prosecutor (“Prosecution”) confidentially filed a Prosecution Consolidated Response to Defence Applications for Provisional Release During the Summer Recess (“Response”), in which the Prosecution opposes the release of the Accused Prlić.²

III. APPLICABLE LAW

4. Under Rule 65 (A) of the Rules of Procedure and Evidence (“Rules”), once detained, an accused may not be released except upon an order of a Chamber. According to Rule 65 (B), release may be ordered by the Chamber only after giving the host country and the State to which the accused seeks to be released the opportunity to be heard and 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.

¹ Motion, p. 1, III.

² Response, paras 2, 10-14, 49.

5. According to established Tribunal jurisprudence, the Trial Chamber has discretionary power over the decision to grant or deny provisional release pursuant to Rule 65 of the Rules.³ To assess whether the conditions set forth in Rule 65 (B) of the Rules have been met, the Chamber must take into account all the relevant factors that a reasonable Trial Chamber would take in order to make its decision.⁴ The Chamber must then give reasons for its decision on these points.⁵ The relevance of the factors referred to and the weight to be ascribed to them is decided on a case-by-case basis.⁶ Because they depend primarily on the facts of the case in question, all requests for provisional release are examined in the light of the particular situation of the accused.⁷ The Chamber must examine this situation when deciding on provisional release, but, as far as it is able, must foresee what this situation will be like when the accused is to return to the Tribunal.⁸

6. According to recent rulings by the Appeals Chamber, the close of the Prosecution case constitutes an important change of situation that requires a new and

³ *The Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-AR65.A, Decision on Prosecution Appeal of Decision on Provisional Release and Motions to Present Additional Evidence Pursuant to Rule 115, 26 June 2008 (“*Jovica Stanišić Decision*”), para. 3; *The Prosecutor v. Milutinović et al.*, Case No. IT-05-87-AR65.2, Decision on Interlocutory Appeal of Denial of Provisional Release During the Winter Recess, 14 December 2006 (“*Milutinović Decision*”), para. 3; *The Prosecutor v. Popović et al.*, Case No. IT-65-88-AR65.2, Decision on Defence’s Interlocutory Appeal of Trial Chamber’s Decision Denying Ljubomir Borovčanin Provisional Release, 30 June 2006, para. 5; *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-AR65.7, Decision on “Prosecution’s Appeal from Décision relative à la Demande de mise en liberté provisoire de l’Accusé Petković dated 31 March 2008, 21 April 2008 (“*Petković Decision*”), para. 5; *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-AR65.8, Decision on Prosecution’s Appeal from Décision relative à la demande de mise en liberté provisoire de l’Accusé Prlić, dated 7 April 2008, 25 April 2008 (“*Prlić Decision of 25 April 2008*”), para. 7.

⁴ *The Prosecutor v. Mićo Stanišić*, Case No. IT-04-79-AR65.1, Decision on Prosecution’s Interlocutory Appeal of Mićo Stanišić’s Provisional Release, 17 October 2005 (“*Miće Stanišić Decision*”), para. 8; *Jovica Stanišić Decision*, para. 35; *Petković Decision*, para. 8; *Prlić Decision of 25 April 2008*, para. 10.

⁵ *Jovica Stanišić Decision*, para. 35; *Petković Decision*, para. 8; *Prlić Decision of 25 April 2008*, para. 10; *Miće Stanišić Decision*, para. 8.

⁶ *Jovica Stanišić Decision*, para. 35; *Petković Decision*, para. 8; *Prlić Decision of 25 April 2008*, para. 10.

⁷ *The Prosecutor v. Bošković and Tarčulovski*, Case No. IT-04-82-AR65.1, Decision on Johan Tarčulovski’s Interlocutory Appeal on Provisional Release, 4 October 2005 (“*Tarčulovski Decision*”), para. 7; *Jovica Stanišić Decision*, para. 35; *Petković Decision*, para. 8; *Prlić Decision of 25 April 2008*, para. 10; *Miće Stanišić Decision*, para. 8.

⁸ *Jovica Stanišić Decision*, para. 35; *Petković Decision*, para. 8; *Prlić Decision of 25 April 2008*, para. 10; *Miće Stanišić Decision*, para. 8.

detailed evaluation of an accused's risk of flight.⁹ Under these conditions, even if the Trial Chamber is convinced that sufficient guarantees have been given, it may not exercise its discretionary power to grant provisional release unless sufficiently compelling humanitarian reasons cause the scales to tip in this direction.¹⁰ Consequently, provisional release may only be granted "at a late stage of the proceedings, and in particular after the close of the Prosecution case, when sufficiently compelling humanitarian reasons exist to justify the release and, even when provisional release is found to be justified in light of the nature of the circumstances, the length of the release should nonetheless be proportional to these circumstances."¹¹

7. Nonetheless, according to Appeals Chamber precedents, the Trial Chamber can best assess these matters if procedural circumstances such as the close of the Prosecution case increase the risk of flight during provisional release.¹²

IV. ARGUMENTS OF THE PARTIES

8. In support of the Motion, the Prlić Defence makes reference initially to the fundamental principles of presumption of innocence and the accused's right to liberty protected by numerous international conventions.¹³ It then maintains (1) that the Accused Prlić has already enjoyed provisional release six times and he surrendered to the Tribunal voluntarily;¹⁴ (2) that while on provisional release, the Accused Prlić demonstrated that he was neither a flight risk nor a risk to others;¹⁵ (3) that the Chamber has already examined the effect of its Rule 98 *bis* Decision¹⁶ on the possible flight risk of the Accused Prlić who, despite this 98 *bis* Decision, was granted release and complied fully with the conditions set out by the Chamber in its decisions in this

⁹ *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-AR65.5, Decision on Prosecution's Consolidated Appeal against Decisions to Provisionally Release the Accused Prlić, Stojić, Praljak, Petković and Ćorić, 11 March 2008 ("Prlić Decision of 11 March 2008"), para. 20.

¹⁰ Prlić Decision of 11 March 2008, para. 21; Prlić Decision of 25 April 2008, para. 16; Petković Decision, para. 17.

¹¹ Petković Decision, para. 17; Prlić Decision of 25 April 2008, para. 16.

¹² Milutinović Decision, para. 15.

¹³ Motion, paras. 1-2, 6.

¹⁴ Motion, para. 18.

¹⁵ Motion, para. 19.

regard;¹⁷ (4) that the Accused Prlić has shown himself to be a model detainee at the United Nations Detention Unit (“Detention Unit”) and that he has fully demonstrated his respect for all those concerned in the trial, above all, the witnesses;¹⁸ (5) that the Government of the Republic of Croatia unconditionally guarantees once again that the Accused Prlić, upon release, will: (a) abide by all conditions set out by the Chamber, and (b) return to the custody of the Detention Unit without incident on the scheduled date;¹⁹ (6) that the Government of the Republic of Croatia guarantees that it will supervise the Accused Prlić throughout his provisional release in accordance with the Chamber’s Order, and is prepared to cover all costs relevant to the release of the Accused (travel and security).²⁰

9. For compelling humanitarian reasons that it regards as sufficient to justify the provisional release of the Accused Prlić, the Prlić Defence draws particular attention to the state of health of the father and brother of the Accused Prlić.²¹ In this connection, the Prlić Defence sent the Chamber two medical certificates dated 27 May 2008 testifying to the precarious health of the father and brother of the Accused Prlić.²² Furthermore, the Prlić Defence also submits that the health of the Accused Prlić’s mother is also precarious, that she cannot travel to visit her son and that she must remain with her ailing husband as his only support. The Accused Prlić fears that provisional release for the period in question will be the last opportunity for him to see his parents and his brother alive and believes that they will all benefit physically from seeing one another.²³

10. The Prlić Defence also makes reference to the partially dissenting Opinion of Judge Güney to the *Prlić* Decision of 25 April 2008,²⁴ in which Judge Güney affirms that when sufficiently compelling humanitarian reasons have been put forward, the Chamber may grant provisional release even though it is not convinced that the

¹⁶ Oral decision rendered under Rule 98 *bis* of the Rules, Court Transcript (French), pp. 27200 to 27238, 20 February 2008 (“98 *bis* Decision”).

¹⁷ Motion, para. 20.

¹⁸ Motion, para. 21.

¹⁹ Motion, para. 22.

²⁰ Motion, para. 22.

²¹ Motion, para. 24.

²² Motion, para. 24; Medical certificate of the father of the Accused Prlić annexed to the Motion of 27 May 2008; Medical certificate of the brother of the Accused Prlić annexed to the Motion of 27 May 2008.

²³ Motion, para. 25.

²⁴ Partially Dissenting Opinion of Judge Güney to the *Prlić* Decision of 25 April 2008 (“Partially Dissenting Opinion of Judge Güney”).

accused fulfils the obligations incumbent upon him according to Rule 65 (B) of the Rules.²⁵ The Prlić Defence also submits that Rule 65 (B) does not refer to the need to show humanitarian grounds for provisional release to be granted.²⁶

11. In its Response, the Prosecution objects to provisional release for the Accused Prlić because, *inter alia*, the period he requested is excessive and because none of the reasons offered by the Accused in support of his request for release constitute sufficiently compelling humanitarian grounds to justify it.²⁷

12. The Prosecution acknowledges that the humanitarian grounds put forth by the Prlić Defence were recognised by the Appeals Chamber as justifying the previous provisional release of the Accused Prlić,²⁸ but it submits that these grounds cannot remain compelling indefinitely.²⁹ It also holds that the period requested by the Accused Prlić – said by the Prosecution to be one month – is excessive and recalls that the Appeals Chamber found that the last provisional release of two weeks was too long and that seven days were more appropriate.³⁰

13. In the alternative, should the Chamber grant the Motion, the Prosecution requests that provisional release not exceed seven days, which would be sufficient time for him to visit the members of his family (including travel),³¹ and that it be subject to strict terms and conditions.³² In particular, the Prosecution requests that the Chamber prohibit the Accused (1) from any and all travel to or presence in Bosnia and Herzegovina; (2) from having any contact with any victims; (3) from discussing the case except with his counsel, and (4) from any and all contact with the media.³³

14. Finally, should the Trial Chamber grant the Motion, the Prosecution requests a stay of the Trial Chamber's decision until a decision has been taken on the appeal it intends to lodge.³⁴

²⁵ Motion, para. 13; Partially Dissenting Opinion of Judge Güney, para. 6.

²⁶ Motion, para. 14.

²⁷ Response, paras. 2, 12-14, 49.

²⁸ Prlić Decision of 25 April 2008, para. 17.

²⁹ Response, para. 12.

³⁰ Response, paras. 12-14; Prlić Decision of 25 April 2008.

³¹ Response, paras 14, 50.

³² Response, paras 2, 47, 50.

V. DISCUSSION

15. Firstly, the Chamber finds that, pursuant to Rule 65 (B) of the Rules, the Government of the Kingdom of the Netherlands, the host country, informed the Chamber in its letter dated 9 July 2008 that it did not have any objections to the procedure for a possible provisional release.³⁵

16. In its letter dated 17 June 2008, the Government of the Republic of Croatia submitted to the Chamber a report on the measures adopted by the Croatian authorities during the Accused Prlić's last release.³⁶ In its letter of 18 June 2008 the Government of the Republic of Croatia provided guarantees that the Accused Prlić, if a motion for provisional release were to be granted by the Chamber, would not influence or pose a danger, during his provisional release, to any victim, witness or any other person and would return to The Hague on the date ordered by the Chamber.³⁷

17. The Chamber finds that the Accused Prlić has complied with all the conditions and guarantees on his reappearance imposed during his earlier provisional releases in keeping with the orders and decisions of the Trial Chambers rendered on 30 July 2004,³⁸ 1 July 2005,³⁹ 26 June 2006,⁴⁰ 8 December 2006,⁴¹ 11 June 2007,⁴² 29 November 2007,⁴³ and 25 April 2008.⁴⁴ The Chamber stresses, in particular, that the

³³ Response, para. 47.

³⁴ Response, para. 48.

³⁵ Letter from the Ministry of Foreign Affairs of the Netherlands dated 9 July 2008.

³⁶ Letter from the Ministry of Justice of the Republic of Croatia in annex to the Motion, dated 17 June 2008.

³⁷ Letter from the Ministry of Justice of the Republic of Croatia in annex to the Motion, dated 18 June 2008.

³⁸ *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Order on Provisional Release of Jadranko Prlić, 30 July 2004.

³⁹ *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.

⁴⁰ Decision on Motion for Provisional Release of the Accused Prlić, 26 June 2007; the dates of provisional release of the Accused Prlić as stated in the previous decision were amended by the Order Amending the Decision on the Accused Prlić's Request for Provisional Release, 4 July 2006.

⁴¹ Decision on the Motion for Provisional Release of the Accused Prlić, 8 December 2006.

⁴² Decision on the Motion for Provisional Release of the Accused Prlić, 11 June 2007.

⁴³ Decision on the Motion for Provisional Release of the Accused Prlić, 29 November 2007.

⁴⁴ Further Decision Regarding the Decision on Provisional Release of the Accused Prlić, 25 April 2008; the dates of the provisional release of the Accused Prlić stated in the previous decision were amended in the Decision Amending the Further Decision Regarding the Decision on Provisional Release of the Accused Prlić, 28 April 2008.

Accused Prlić complied with the conditions imposed during his last provisional release which took place after the close of the Prosecution case. The Chamber further notes that the Prosecution does not challenge the fact that the Accused Prlić will appear upon termination of his provisional release.⁴⁵ The Chamber holds that the guarantees to reappear offsetting the risk of flight, such as those imposed on the Accused Prlić during his last provisional release,⁴⁶ effectively neutralise all possible risk of flight. Regarding his respectful conduct during his earlier provisional releases, the Chamber is assured that the Accused Prlić, if released, will appear for the continuation of his trial.

18. Furthermore, for these same reasons, the Chamber is of the opinion that the Accused Prlić, if released, will not pose a danger to any victim, witness or any other person, which, again, is not challenged by the Prosecution.⁴⁷

19. Nevertheless, according to the Appeals Chamber, regarding the stage of the proceedings and the close of the Prosecution case, the Chamber has the duty to determine, in addition, if the humanitarian grounds put forward by the Prlić Defence are sufficiently compelling to justify the provisional release of the Accused Prlić.⁴⁸

20. The Prlić Defence submits that Rule 65 (B) does not mention humanitarian grounds for provisional release to be granted and, with respect to this, refers to the position of Judge Güney elaborated in the Partially Dissenting Opinion of Judge Güney.⁴⁹ At the same time, the Prlić Defence acknowledges the Chamber's obligation of loyalty towards the Appeals Chamber.⁵⁰ Hence, and in keeping with the majority position of the Appeals Chamber, the Chamber considers it necessary to examine the humanitarian grounds raised by the Prlić Defence in order to assess whether they are sufficiently compelling to justify the provisional release of the Accused Prlić.⁵¹

21. The Prosecution does not contest the fact that the humanitarian grounds raised by the Prlić Defence were sufficient to justify the last provisional release of the

⁴⁵ Response.

⁴⁶ Further Decision Regarding the Decision on Provisional Release of the Accused Prlić, 25 April 2008.

⁴⁷ Response. This danger is not assessed *in abstracto* – it has to be real. *Mičo Stanišić* Decision, para. 27.

⁴⁸ *Petković* Decision, para. 17; *Prlić* Decision of 25 April 2008, para. 16.

⁴⁹ Motion, paras. 13-14.

⁵⁰ Motion, para. 16.

⁵¹ Motion, para. 24.

Accused Prlić. Nevertheless, it objects to having the same humanitarian grounds being used indefinitely to justify the Accused's provisional release.⁵² With respect to this, the Chamber recalls that it has the duty to consider each motion on provisional release in the light of the particular circumstances of the Accused⁵³ and that such an assessment is made at the time when it reaches its decision on provisional release.⁵⁴ Consequently, as long as the Chamber considers that a ground raised by an accused is current and sufficiently compelling, it may justify the provisional release of an accused.

22. Regarding the medical certificates submitted by the Prlić Defence, the Chamber finds the state of health of the father and brother of the Accused Prlić very serious. The Chamber proceeded with an in-depth assessment, given in the confidential annex attached hereto, and holds that the presence of the Accused Prlić at the side of his brother and his parents for a short period could assist them in overcoming their hardships. Therefore, the Chamber characterises the humanitarian grounds raised by the Prlić Defence as sufficiently compelling to justify the provisional release of the Accused Prlić.

23. The Chamber recalls that in order to establish whether the requirements of Rule 65 (B) of the Rules have been met, the Chamber must consider all the relevant factors which a reasonable Trial Chamber would be expected to consider in order to come to a decision.⁵⁵ In this case, the Chamber must also consider the fact that the Accused Prlić surrendered voluntarily to the Tribunal and his exemplary conduct before and during the proceedings, even after the close of the Prosecution case. Furthermore, the Chamber will suspend hearings during the summer court recess. Consequently, during this period, there will be no court activity which will require the presence of the Accused Prlić.

24. Furthermore, the Chamber recalls that, in keeping with the case-law of the Appeals Chamber, the excessive length of actual or likely detention is an additional discretionary consideration which can be taken into account in determining

⁵² Response, para. 12.

⁵³ *Tarčulovski* Decision, para. 7; *Jovica Stanišić* Decision, para. 35; *Petković* Decision, para. 8; *Prlić* Decision of 25 April 2008, para. 10; *Mičo Stanišić* Decision, para. 8.

⁵⁴ *Jovica Stanišić* Decision, para. 35; *Petković* Decision, para. 8; *Prlić* Decision of 25 April 2008, para. 10; *Mičo Stanišić* Decision, para. 8.

provisional release if all the requirements of Rule 65 (B) of the Rules have been met.⁵⁶ To this effect, the Prlić Defence also refers to a report the Registrar of the Tribunal submitted at a Diplomatic Seminar organised by the Tribunal on 10 June 2008 (“Registrar’s Report”) wherein he gave an overview of the United Nations Detention Unit (“Detention Unit”) and of the equipment at the disposal of the accused.⁵⁷ The Chamber observes that in his report, the Registrar discussed the “unique status of the UNDU detainee population, and noted that ”

“Whilst the UNDU is a remand institution, the average period of detention is significantly longer than the one of national jurisdictions and possibly even closer to many penitentiary institutions. This inevitably has a detrimental affect upon the mental state of the detainees as they are awaiting or undergoing complex trials and appeals over an extended period of time, causing long term stress which is well-known to induce or exacerbate health conditions.”⁵⁸

The Registrar also discussed the question of the impact of lengthy detentions and hearings on the health of the detainees:

“In addition, the prolonged pre-trial and trial detention, the stress of the trial, the geographical distance from their relatives are circumstances which contribute to exacerbate their overall health condition, both physical and psychological.”⁵⁹

With respect to the separation of the detainees from their families, the Registrar considered that:

“The distance from the detainees’ family and the familial social support network, as well as the detainees’ lack of familiarity with the surroundings, inevitably impact on the health condition of the detainees.”⁶⁰

The Registrar ended his report with the following conclusion:

⁵⁵ *Mičo Stanišić* Decision, para. 8; *Jovica Stanišić* Decision, para. 35; *Petković* Decsion, para. 8; *Prlić* Decision of 25 April 2008, para. 10.

⁵⁶ *The Prosecutor v. Haradinaj et al.*, Case No. IT-04-84-AR65.2, Decision on Lahi Brahimaj’s Interlocutory Appeal Against the Trial Chamber’s Decision Denying His Provisional Release, 9 March 2006, para. 23; *The Prosecutor v. Dragomir Milošević*, Case No. IT-98-29/1-PT, Decision on Third Motion for Provisional Release, 16 August 2006, p. 3. It is to be noted that this Decision was confirmed by the Appeals Chamber, *The Prosecutor v. Dragomir Milošević*, Case No. IT-98-29/1-AR65.1, Decision on Appeal Against Decision Denying Motion for Provisional Release, 17 October 2006, paras. 8-9.

⁵⁷ Motion, para. 5, footnote no. 8; Speech by Mr Hans Holthuis, Registrar, ICTY Diplomatic Seminar, The Hague, 10 June 2008.

⁵⁸ Motion, para. 5, footnote no. 8; Registrar’s Report, p. 3.

“Despite the measures in place at the UNDU as mentioned, in view of the statistics of the present population of the UNDU (*i.e.*, advanced average age, adverse personal circumstances and existence of serious medical conditions), the risk of the occurrence of a life threatening incident can be described as relatively high. Whilst I do not wish to sound alarmist, I do wish to present a realistic picture and share with you our concerns in this respect.”⁶¹

25. The Chamber finds that the present case is particularly lengthy because of its scale, complexity and the large number of accused. Except for several short periods of provisional release, the Accused Prlić has been detained in the Detention Unit since the commencement of the proceedings on 25 April 2006,⁶² that is for more than two years. The Chamber further notes that the trial will not be terminated before 2010. Thus, the Tribunal is responsible for the health of the accused who are under its authority and custody. Concerned for the well-being of the accused, the Chamber holds that the possibility that the Accused Prlić has been suffering seriously from his lengthy detention in the Detention Unit, such as described in the Registrar’s Report, is a supplementary factor to be taken into account when making a decision pursuant to Rule 65 (B) of the Rules. The Chamber considers that a certain period outside the Detention Unit and in a family environment during the court recess will allow the Accused Prlić to recuperate. Accordingly, the Chamber hopes to prevent a possible deterioration of the physical and mental state of the Accused, as discussed in the Registrar’s Report.

26. The Chamber further recalls that pursuant to the case-law of the Appeals Chamber, the length of provisional release at a late stage of the proceedings, and in particular after the close of the Prosecution case, is to be proportionate to the circumstances and compelling humanitarian reasons justifying provisional release.⁶³

⁵⁹ Registrar’s Report, p. 7.

⁶⁰ Registrar’s Report, p. 3.

⁶¹ Registrar’s Report, p. 8.

⁶² *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Order on Provisional Release of Jadranko Prlić, 30 July 2004; *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; Decision on Motion for Provisional Release of the Accused Prlić, 26 June 2007, the dates of provisional release of the Accused Prlić as stated in the previous decision were amended by the Order Amending the Decision on the Accused Prlić’s Request for Provisional Release, 4 July 2006; Decision on the Motion for Provisional Release of the Accused Prlić, 8 December 2006; Decision on the Motion for Provisional Release of the Accused Prlić, 11 June 2007; Decision on the Motion for Provisional Release of the Accused Prlić, 29 November 2007; Further Decision Regarding the Decision on Provisional Release of the Accused Prlić, 25 April 2008, the dates of the release of the Accused Prlić stated in the previous decision were amended in the Decision Amending the Further Decision Regarding the Decision on Provisional Release of the Accused Prlić, 28 April 2008.

⁶³ *Petković* Decision, para. 17; *Prlić* Decision of 25 April 2008, para. 16.

In addition, the Chamber recalls that the factors it has to take into account influence not only the decision on whether or not to grant provisional release, but also its duration, if any. Thus, *inter alia*, the Chamber must find a balance between the nature and weight of the circumstances justifying provisional release for humanitarian reasons and its duration.⁶⁴

27. In this case, the Accused Prlić seeks provisional release for as long as possible.⁶⁵ The Chamber, for its part, holds it necessary to limit the duration of provisional release to a period not in excess of the time necessary for the Accused Prlić to visit his ill family members and to recuperate, but which includes the time of the round trip journey. Consequently the Chamber holds that a provisional release not in excess of 12 days is proportionate to the gravity of the illness of the father and brother of the Accused Prlić and to the necessity of permitting the Accused Prlić to rest after two years of detention.

V. CONCLUSION

28. For these reasons, and in light of the Registrar's Report, the Chamber is convinced that the Accused Prlić offers sufficiently compelling humanitarian grounds and holds that provisional release not exceeding 12 days (including travel) is proportionate to the gravity of the illnesses of the father and brother of the Accused Prlić and to the need to safeguard the health of the Accused himself and to prevent any repercussions on his health from the length of his detention. Consequently, in the exercise of its discretionary power, the Trial Chamber decides to grant provisional release to the Accused Prlić.

29. In view of the circumstances of the case and the stage of the proceedings, the Chamber decides to impose upon the Accused Prlić the following guarantees: that the Accused Prlić remain within the confines set forth by the Trial Chamber⁶⁶ and report daily to the police. The Chamber also decides to order the Croatian authorities to

⁶⁴ *Petković* Decision, para. 17; *Prlić* Decision of 25 April 2008, para. 18.

⁶⁵ Motion, para. III.

⁶⁶ See in this regard the confidential Annex attached to this Decision.

supervise the Accused Prlić twenty-four hours a day during his stay and to provide a situation report every three days.

30. As such, the Accused Prlić will be released for the dates and according to the conditions set forth in the confidential annex attached to the present Decision.

31. Nonetheless, the Chamber decides to stay execution of its decision to release the Accused Prlić until a ruling has been made on the Appeal the Prosecution intends to lodge.⁶⁷

VI. DISPOSITION

32. **FOR THE FOREGOING REASONS**, the Chamber,

PURSUANT TO Rule 65 (B) of the Rules,

GRANTS the Motion,

ORDERS the provisional release of the Accused Prlić for the dates and according to the conditions set forth in the confidential annex attached to the present Decision,

AND

ORDERS a stay of execution of the present decision until the Appeals Chamber has ruled on the Appeal the Prosecution intends to lodge against this Decision.

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

/signed/

Jean-Claude Antonetti

⁶⁷ Response, para. 48.

Presiding Judge

Done this seventeenth day of July 2008

At The Hague

The Netherlands

[Seal of the Tribunal]