



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/  
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:** 17 July 2008

**THE PROSECUTOR**

v.

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

***PUBLIC with CONFIDENTIAL ANNEX and EX PARTE CONFIDENTIAL  
ANNEX***

**DECISION ON THE ACCUSED PUŠIĆ'S APPLICATION  
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 Berislav Pušić  
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 Čorić  
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 Application for provisional release by the Accused Berislav Pušić (“Accused Pušić”) filed confidentially by Counsel for the Accused Pušić (“Pušić Defence”) on 3 July 2008.

## II. PROCEDURAL BACKGROUND

2. On 3 July 2008, the Pušić Defence confidentially filed “Applicatio for Provisional Release of Berislav Pušić” (“Application”), in which for humanitarian reasons it requests provisional release of the Accused Pušić to the Republic of Croatia for as long as the Chamber should deem appropriate during the period between 26 July and 24 August 2008.<sup>1</sup>

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 Pušić.<sup>2</sup>

## 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.

5. According to established Tribunal jurisprudence, the Chamber has discretionary power over the decision to grant or deny provisional release pursuant to Rule 65 of the Rules.<sup>3</sup> 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.<sup>4</sup> The Chamber must then give reasons for its decision on these points.<sup>5</sup> The relevance of the factors referred to and the weight to be ascribed to them is decided on a case-by-case basis.<sup>6</sup> 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.<sup>7</sup> 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.<sup>8</sup>

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

---

<sup>1</sup> Application, p. 1, II.

<sup>2</sup> Response, paras 2, 39-45, 49.

<sup>3</sup> *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.

<sup>4</sup> *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 (“*Mićo Stanišić Decision*”), para. 8; *Jovica Stanišić Decision*, para. 35; *Petković Decision*, para. 8; *Prlić Decision of 25 April 2008*, para. 10.

<sup>5</sup> *Jovica Stanišić Decision*, para. 35; *Petković Decision*, para. 8; *Prlić Decision of 25 April 2008*, para. 10; *Mićo Stanišić Decision*, para. 8.

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

<sup>7</sup> *The Prosecutor v. Boškoski 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; *Mićo Stanišić Decision*, para. 8.

<sup>8</sup> *Jovica Stanišić Decision*, para. 35; *Petković Decision*, para. 8; *Prlić Decision of 25 April 2008*, para. 10; *Mićo Stanišić Decision*, para. 8.

detailed evaluation of an accused's risk of flight.<sup>9</sup> 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.<sup>10</sup> 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."<sup>11</sup>

7. Nonetheless, according to Appeals Chamber precedents, the 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.<sup>12</sup>

#### IV. ARGUMENTS OF THE PARTIES

8. In support of the Application, the Pušić Defence refers to the arguments it had raised during the other requests for provisional release: it maintains (1) that the Accused Pušić has already enjoyed provisional release on several occasions, (2) he always returned at the end of each period of provisional release and never constituted a danger to any victim, witness or other person<sup>13</sup> and (3) that the Government of the Republic of Croatia has renewed its guarantees to take all measures to ensure that the Accused Pušić does not constitute a danger to witnesses, victims or other persons.<sup>14</sup> Finally, the Pušić Defence asks the Chamber to order for the Accused Pušić the same conditions it ordered in its decision on provisional release of 19 March 2008.<sup>15</sup>

<sup>9</sup> *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 Čorić, 11 March 2008 ("Prlić Decision of 11 March 2008"), para. 20.

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

<sup>11</sup> Petković Decision, para. 17; Prlić Decision of 25 April 2008, para. 16.

<sup>12</sup> Milutinović Decision, para. 15.

<sup>13</sup> Motion, para. 4.

<sup>14</sup> Motion, para. 5.

<sup>15</sup> Motion, para. 5; Decision on the Application for Provisional Release of the Accused Pušić, 19 March 2008.

9. For compelling humanitarian reasons that it regards as sufficient to justify the provisional release of the Accused Pušić, the Pušić Defence draws particular attention to the state of health of the Accused Pušić and to the ailments of certain members of his family.<sup>16</sup> In this connection, the Pušić Defence sent the Chamber four *ex parte* reports attesting to the current health of the Accused.<sup>17</sup> The Accused Pušić requests provisional release so that he can receive medical treatment and holds that time spent with his family would promote his recovery and would be beneficial to his relatives.<sup>18</sup>

10. In its Response, the Prosecution objects to provisional release for the Accused Pušić 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.<sup>19</sup>

11. The Prosecution does not contest the fact that the Accused Pušić should receive medical treatment, but it holds that the factors advanced by the Pušić Defence do not constitute sufficiently compelling humanitarian grounds.<sup>20</sup> In this connection, it draws attention to the arguments advanced during its appeal against the last provisional release of the Accused Pušić.<sup>21</sup>

12. In the alternative, should the Chamber grant the Application, 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),<sup>22</sup> and that it be subject to strict terms and conditions.<sup>23</sup> 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.<sup>24</sup>

---

<sup>16</sup> Motion, paras 6-10.

<sup>17</sup> Motion, para. 6; *ex parte* Annex attached to the Motion.

<sup>18</sup> Motion, paras 6-7.

<sup>19</sup> Response, paras 2, 43-45, 49.

<sup>20</sup> Response, paras 43-45.

<sup>21</sup> Response, paras 43, 44.

<sup>22</sup> Response, paras 46, 50.

<sup>23</sup> Response, paras 2, 47, 50.

<sup>24</sup> Response, para. 47.

13. Finally, should the Chamber grant the Application, the Prosecution requests a stay of the Trial Chamber's decision until a decision has been taken on the appeal it intends to lodge.<sup>25</sup>

## V. DISCUSSION

14. 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.<sup>26</sup>

15. In its letter dated 16 June 2008, the Government of the Republic of Croatia provided its assurances to guarantee that the Accused Pušić, if a Application 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.<sup>27</sup>

16. The Chamber finds that the Accused Pušić has complied with all the conditions imposed during his earlier provisional releases in keeping with the orders and decisions of the Trial Chambers rendered on 30 July 2004,<sup>28</sup> 2 August 2005,<sup>29</sup> 15 November 2005,<sup>30</sup> 8 February 2006,<sup>31</sup> 26 June 2006,<sup>32</sup> 8 December 2006,<sup>33</sup> 11 June 2007,<sup>34</sup> 29 November 2007,<sup>35</sup> and 19 March 2008.<sup>36</sup> The Chamber notes, in particular,

---

<sup>25</sup> Response, para. 48.

<sup>26</sup> Letter from the Ministry of Foreign Affairs of the Netherlands dated 9 July 2008.

<sup>27</sup> Letter from the Ministry of Justice of the Republic of Croatia in annex to the Motion, dated 16 June 2008.

<sup>28</sup> *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Order on Provisional Release of Berislav Pušić, 30 July 2004.

<sup>29</sup> *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Order on Berislav Pušić's Motion for Variation of Conditions of Provisional Release, 22 August 2005.

<sup>30</sup> *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Decision on Berislav Pušić's Second Application for Variation of Conditions of Provisional Release, 15 November 2005.

<sup>31</sup> *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Decision on Berislav Pušić's Third Application for Variation of Conditions of Provisional Release, 8 February 2006.

<sup>32</sup> Decision on Motion for Provisional Release of the Accused Pušić, 26 June 2007. The dates of the provisional release mentioned in this decision were amended by the Order Amending the Decision on the Accused Pušić's Request for Provisional Release, 4 July 2006.

<sup>33</sup> Decision on Motion for Provisional Release of the Accused Pušić, 8 December 2006.

<sup>34</sup> Decision on Motion for Provisional Release of the Accused Pušić, 11 June 2007.

<sup>35</sup> Decision on Motion for Provisional Release of the Accused Pušić, 29 November 2007.

that the Accused Pušić 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 Pušić will appear upon termination of his provisional release.<sup>37</sup> The Chamber holds that the guarantees to reappear offsetting the risk of flight, such as those imposed on the Accused Pušić during his last provisional release,<sup>38</sup> effectively neutralise all possible risk of flight. Regarding his respectful conduct during his earlier provisional releases, the Chamber is assured that the Accused Pušić, if released, will appear for the continuation of his trial.

17. Furthermore, for these same reasons, the Chamber is of the opinion that the Accused Pušić, if released, will not pose a danger to any victim, witness or any other person, which, again, is not challenged by the Prosecution.<sup>39</sup>

18. 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 Pušić Defence are sufficiently compelling to justify the provisional release of the Accused Pušić.<sup>40</sup>

19. The Prosecution recalls the arguments advanced during its appeal against the last provisional release of the Accused Pušić and contests the claim that the humanitarian grounds advanced by the Pušić Defence justify his provisional release.<sup>41</sup>

20. Regarding the medical certificates submitted by the Pušić Defence, the Chamber finds the state of health of the Accused Pušić to be very serious. The Chamber proceeded with an in-depth assessment, given in the confidential annex and the *ex parte* annex attached hereto, and holds that the foreseeable substantial length of the proceedings and, consequently, keeping the Accused Pušić in provisional detention are having an extremely negative impact on his delicate state of health. It is convinced by the recommendations of doctors and experts that on-site treatment for

---

<sup>36</sup> Decision on Motion for Provisional Release of the Accused Pušić, 19 March 2008. *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT-AR65.6, Decision on Prosecution's Urgent Appeal Against "Decision relative à la demande de mise en liberté provisoire de l'Accusé Pušić," 14 April 2008.

<sup>37</sup> Response.

<sup>38</sup> Decision on the Application for Provisional Release of the Accused Pušić, 19 March 2008.

<sup>39</sup> Response. This danger is not assessed *in abstracto* – it has to be real. *Mičo Stanišić* Decision, para. 27.

<sup>40</sup> *Petković* Decision, para. 17; *Prlić* Decision of 25 April 2008, para. 16.

<sup>41</sup> Response, paras. 43-45.

the Accused Pušić, as set forth in the annex, will enable his health to recover and stabilise. The Chamber also holds that the presence of the Accused Pušić at the side of his family for a short period could assist them in overcoming their hardships. Therefore, the Chamber characterises the humanitarian grounds raised by the Pušić Defence as sufficiently compelling to justify the provisional release of the Accused Pušić.

21. The Chamber recalls that in order to establish whether the requirements of Rule 65 (B) of the Rules have been met, it must consider all the relevant factors which a reasonable Trial Chamber would be expected to consider in order to come to a decision.<sup>42</sup> In this case, the Chamber must also consider the fact that the Accused Pušić 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 Pušić.

22. 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 provisional release if all the requirements of Rule 65 (B) of the Rules have been met.<sup>43</sup> To this effect, the Pušić 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.<sup>44</sup> The Chamber observes that in his report, the Registrar discussed the “unique status of the UNDU detainee population, and noted that:

---

<sup>42</sup> *Mičo Stanišić* Decision, para. 8; *Jovica Stanišić* Decision, para. 35; *Petković* Decision, para. 8; *Prlić* Decision of 25 April 2008, para. 10.

<sup>43</sup> *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.

<sup>44</sup> Speech by Mr Hans Holthuis, Registrar, ICTY Diplomatic Seminar, The Hague, 10 June 2008.



“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.”<sup>45</sup>

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.”<sup>46</sup>

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.”<sup>47</sup>

The Registrar ended his report with the following conclusion:

“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.”<sup>48</sup>

23. 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 Pušić has been detained in the Detention Unit since the commencement of the proceedings on 25 April 2006,<sup>49</sup> that is for more than two

<sup>45</sup> Registrar’s Report, pp. 3-4.

<sup>46</sup> Registrar’s Report, p. 7.

<sup>47</sup> Registrar’s Report, p. 3.

<sup>48</sup> Registrar’s Report, p. 8.

<sup>49</sup> *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Order on Provisional Release of Berislav Pušić, 30 July 2004; *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Order on Berislav Pušić’s Motion for Variation of Conditions of Provisional Release, 22 August 2005; *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Decision on Berislav Pušić’s Second Application for Variation of Conditions of Provisional Release, 15 November 2005; *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Decision on Berislav Pušić’s Third Application for Variation of Conditions of Provisional Release, 8 February 2006; Decision on Motion for Provisional Release, 26 June 2007. The dates of the

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 Pušić 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 proper medical treatment and a certain period outside the Detention Unit and in a family environment during the court recess will allow the Accused Pušić to recuperate and regain his strength. 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.

24. 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.<sup>50</sup> In addition, the Chamber recalls that the factors it has the duty 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.<sup>51</sup>

25. In this case, the Accused Pušić seeks provisional release for the period deemed appropriate by the Trial Chamber between 26 July and 24 August 2008.<sup>52</sup> 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 Pušić to undergo medical treatment, to visit his ailing family members and to regain his strength, but which includes the time of the round trip journey. Consequently the Chamber holds that a

---

provisional release stated in this decision were amended in the Order Amending the Decision on the Accused Pušić's Request for Provisional Release, 4 July 2006; Decision on Motion for Provisional Release of the Accused Pušić, 8 December 2006; Decision on the Motion for Provisional Release of the Accused Pušić, 11 June 2007; Decision on the Motion for Provisional Release of the Accused Pušić, 29 November 2007; Decision on the Application for Provisional Release of the Accused Pušić, 19 March 2008; *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT-AR65.6, Decision on Prosecution's Urgent Appeal against *Décision relative à la Demande de mise en liberté provisoire de l'Accusé Pušić*, 14 April 2008.

<sup>50</sup> *Petković* Decision, para. 17; *Prlić* Decision of 25 April 2008, para. 16.

<sup>51</sup> *Petković* Decision, para. 17; *Prlić* Decision of 25 April 2008, para. 18.

<sup>52</sup> Motion, 1, II.

provisional release not in excess of 23 days is proportionate to the gravity of the health of the Accused Pušić and to the necessity of permitting the Accused Pušić to rest after two years of detention.

## V. CONCLUSION

26. For these reasons, and in light of the Registrar's Report, the Chamber is convinced that the Accused Pušić offers sufficiently compelling humanitarian grounds and holds that provisional release not exceeding 23 days (including travel) is proportionate to the gravity of the health of the Accused Pušić, to his need for medical treatment, 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 Pušić.

27. In view of the circumstances of the case and the stage of the proceedings, the Chamber decides to impose upon the Accused Pušić the guarantee that the Accused Pušić remain within the confines set forth by the Chamber.<sup>53</sup> The Chamber also decides to order the Croatian authorities to supervise the Accused Pušić twenty-four hours a day during his stay and to provide a situation report every three days.

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

29. Nonetheless, the Chamber decides to stay execution of its decision to release the Accused Pušić until a ruling has been made on the Appeal the Prosecution intends to lodge.<sup>54</sup>

## VI. DISPOSITION

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

---

<sup>53</sup> See in this regard the confidential Annex attached to this Decision.

<sup>54</sup> Response, para. 48.

**PURSUANT TO** Rule 65 (B) of the Rules,

**GRANTS** the Application,

**ORDERS** the provisional release of the Accused Pušić 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  
Presiding Judge

Done this seventeenth day of July 2008

At The Hague

The Netherlands

**[Seal of the Tribunal]**