



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: 6 March 2012  
Original: ENGLISH  
French

**IN TRIAL CHAMBER III**

**Before:** Judge Jean-Claude Antonetti, Presiding  
Judge Árpád Prandler  
Judge Stefan Trechsel  
Reserve Judge Antoine Kesia-Mbe Mindua

**Registrar:** Mr John Hocking

**Decision of:** 6 March 2012

**THE PROSECUTOR**

v.

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

***PUBLIC***

**PUBLIC REDACTED VERSION OF ORDER ON MOTION TO EXTEND  
PROVISIONAL RELEASE OF ACCUSED ĆORIĆ**

**The Office of the Prosecutor:**

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  
Ms Nika Pinter and Ms Natacha Fauveau-Ivanović for Slobodan Praljak  
Ms Vesna Alaburić and Mr Zoran Ivanišević for Milivoj Petković  
Ms Dijana Tomašegović-Tomić and Mr Dražen Plavec for Valentin Ćorić  
Mr Fahrudin Ibrišimović and Mr Roger Sahota for Berislav Pušić

**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 “Valentin Ćorić’s Motion Seeking Renewal of Provisional Release” filed as a confidential and *ex parte* document by Counsel for the Accused Valentin Ćorić (“Accused Ćorić” and “Ćorić Defence”) on 24 February 2012 (“Motion”), to which confidential and *ex parte* Annex A is attached, in which the Ćorić Defence asks the Chamber to extend the provisional release of the Accused Ćorić indefinitely until delivery of the judgement or, in the alternative, by three months,<sup>1</sup>

**NOTING** the “Prosecution Response to Valentin Ćorić’s Motion Seeking Renewal of Provisional Release” filed as a confidential and *ex parte* document by the Office of the Prosecutor (“Prosecution”) on 29 February 2012 (“Response”) in which (1) the Prosecution objects to the Motion, (2) requests that a public redacted version of the Motion be ordered and (3) that the Chamber’s decision also be issued in a public redacted version,<sup>2</sup>

**NOTING** the “Decision on Valentin Ćorić’s Request for Provisional Release”, rendered by the Chamber as a confidential and *ex parte* document with two confidential and *ex parte* annexes on 29 November 2011, in which the Chamber ordered the provisional release of the Accused Ćorić [REDACTED] for a limited duration and set out the procedure to be followed for any requests for an extension of the said provisional release (“Decision of 29 November 2011”),<sup>3</sup>

**NOTING** the “Decision on Prosecution Appeal of Decision on Valentin Ćorić’s Provisional Release”, rendered by the Duty Judge as a confidential and *ex parte* document on 20 December 2011, in which the Duty Judge denied the Prosecution’s appeal of the Decision of 29 November 2011 and ordered the provisional release of the Accused Ćorić until [REDACTED] (“Decision of 20 December 2011”),<sup>4</sup>

---

<sup>1</sup> Motion, para. 9 and p. 3.

<sup>2</sup> Response, paras 1, 10 and 11.

<sup>3</sup> Decision of 29 November 2011, p. 13 and confidential and *ex parte* Annex 2 to the Decision of 29 November 2011.

<sup>4</sup> Decision of 20 December 2011, para. 22.

**NOTING** the “Decision on Request for Variation of Conditions of Provisional Release of the Accused Valentin Ćorić”, rendered by the Chamber as a confidential and *ex parte* document on 15 February 2012, in which the Chamber denied the request of the Accused Ćorić for a variation of the conditions of his provisional release,

**CONSIDERING** that in the Motion, the Ćorić Defence submits that sufficiently compelling humanitarian reasons exist<sup>5</sup> and that the conditions under Rule 65 of the Rules of Procedure and Evidence (“Rules”) have been fully met, thereby justifying an extension of the provisional release of the Accused Ćorić,<sup>6</sup>

**CONSIDERING** that the Ćorić Defence argues that during his release, the Accused Ćorić adhered to all the conditions set out by the Chamber in the Decision of 29 November 2011;<sup>7</sup> that the Government of Croatia has once again provided guarantees ensuring the appearance of the Accused Ćorić;<sup>8</sup> that no other conditions have arisen that would invalidate the Chamber’s findings in the original decision to provisionally release the Accused Ćorić, that the provisional release of the Accused Ćorić continues to be justified,<sup>9</sup> and, finally, that since the Chamber has not scheduled any hearings in the next three months the Accused Ćorić is not required to be present at the Tribunal,<sup>10</sup>

**CONSIDERING** that, in support of its Response, the Prosecution alleges that the Ćorić Defence failed to adequately specify which sufficiently compelling humanitarian reasons justify extending his provisional release, thereby making it impossible for the Chamber to exercise its discretionary power,<sup>11</sup>

**CONSIDERING** that the Prosecution also submits that the Chamber cannot grant provisional release to the Accused Ćorić until delivery of the judgement and recalls that the Chamber already ruled on this issue when it stated that if it were to grant provisional release for an indefinite period, it would not be able to determine the risk

---

<sup>5</sup> Motion, paras 6 and 8; p. 3.

<sup>6</sup> Motion, pp. 1 and 3

<sup>7</sup> Motion, para. 4.

<sup>8</sup> Motion, para. 5 and Annex A.

<sup>9</sup> Motion, para. 7.

<sup>10</sup> Motion, para. 10.

<sup>11</sup> Response, paras 1 and 2.

of flight;<sup>12</sup> that, consequently, regarding this issue the Motion is equivalent to a request for reconsideration, for which there are no grounds,<sup>13</sup>

**CONSIDERING** that the Prosecution argues, amongst other things, that extending the provisional release by three months would negatively impact the credibility of the Tribunal, the proper administration of justice and, notably, the witnesses and victims and this would not be assuaged by the Chamber's security measures;<sup>14</sup> that this extended release is contrary to the Tribunal's goal of contributing to stability in the former Yugoslavia,<sup>15</sup>

**CONSIDERING** that the Prosecution alleges furthermore that the Chamber should indicate when it expects to render the judgement in the present case so as to be able to justify an extension of the Accused's provisional release;<sup>16</sup> that in this respect, the principle of a presumption of innocence cannot exclusively serve as a basis for a decision on provisional release and there is no right to a "court recess" provisional release,<sup>17</sup>

**CONSIDERING** that the Prosecution submits that in its final trial brief, it presented ample evidence against the Accused Ćorić on the basis of which it requested a sentence of 35 years and that, in light of the evidence it must have analysed by now, the Chamber should be able to determine whether extending the Accused's release is justified; that if the Accused Ćorić is convicted by the Chamber, he would not be prejudiced by his return to detention,<sup>18</sup>

**CONSIDERING** that the Chamber notes that in its letter of 16 February 2012, the Government of the Republic of Croatia provided assurances to guarantee that, if the Chamber extended his provisional release, the Accused Ćorić would not influence or endanger victims, witnesses or any other person during his provisional release and would return to The Hague on the date ordered by the Chamber,<sup>19</sup>

---

<sup>12</sup> Response, para. 3.

<sup>13</sup> Motion, para. 3.

<sup>14</sup> Response, paras 4-6.

<sup>15</sup> Response, para. 5.

<sup>16</sup> Response, para. 7.

<sup>17</sup> Response, para. 8.

<sup>18</sup> Response, para. 9.

<sup>19</sup> Motion, confidential and *ex parte* Annex A.

**CONSIDERING** that the Chamber notes in light of the reports submitted by the Croatian authorities pursuant to the Decision of 29 November 2011 that the Accused Čorić has complied with the conditions of his provisional release,

**CONSIDERING** that, in light of the above, the Chamber is satisfied that, should his provisional release be extended, the Accused Čorić would return to the United Nations Detention Unit; that he would not endanger victims, witnesses or any other person and that, consequently, the conditions under Rule 65 (B) of the Rules have been met,

**CONSIDERING** that, with regard to the Prosecution's argument that an extended provisional release of the Accused Čorić would negatively impact the Tribunal's goal of contributing to stability in the former Yugoslavia,<sup>20</sup> the Chamber recalls the "*Ordonnance relative à la demande de prolongation de la mise en liberté provisoire de l'Accusé Jadranko Prlić*", rendered as a public document on 29 February 2012 ("Order of 29 February 2012"), in which it deemed that the Tribunal contributed to stability in the former Yugoslavia by prosecuting persons accused of having committed crimes in the region and that, with that goal in mind, the decision on whether to extend the provisional release requested in the Motion must be made by respecting the conditions of the Statute, the Rules and the case-law of the Appeals Chamber which guarantee the fairness of the trial,<sup>21</sup>

**CONSIDERING** that, with respect to the argument that the Prosecution seems to raise that the Chamber must already know, after a year of deliberation, whether the Accused Čorić is guilty or not and should base its decision on whether to extend the Accused's release on this finding,<sup>22</sup> the Chamber also deems it necessary to refer to its Order of 29 February 2012 in which it notably reminded the Prosecution of the principle of respecting the presumption of innocence,<sup>23</sup>

**CONSIDERING** that the Chamber deems that the Prosecution has not provided facts in support of its argument that an extended provisional release would negatively impact victims and witnesses even though there is nothing to indicate that this may have occurred during the previous provisional releases of the Accused Čorić, or in general within the present case,

---

<sup>20</sup> Response, para. 5.

<sup>21</sup> Order of 29 February 2012, p. 4.

<sup>22</sup> Response, para. 9.

<sup>23</sup> Order of 29 February 2012, pp. 4 and 5.

**CONSIDERING** that the Chamber recalls the amendment to Rule 65 (B) of the Rules on 20 October 2011 and deems that, consequently, it will not consider the argument raised by the Ćorić Defence concerning sufficiently compelling humanitarian reasons,

**CONSIDERING**, consequently, that it is not necessary to render this decision *ex parte*,

**CONSIDERING** that, in light of the foregoing, the Chamber deems that extending the provisional release of the Accused Ćorić for a limited period and under the same conditions as those set out in the Decision of 29 November 2011, namely a provisional release granted under strict measures such as 24-hour surveillance by clearly identifiable authorities and confined to the city of [REDACTED], would enable the Chamber to keep control over the said release,

**CONSIDERING**, finally, that the Chamber does not deem it necessary to order the Ćorić Defence to file a public redacted version of the Motion and deems that a public redacted version of the present Decision is sufficient to meet the requirements of transparency and the public character of the proceedings,

**FOR THE FOREGOING REASONS,**

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

**PARTIALLY GRANTS** the Motion,

**ORDERS** an extension of the provisional release of the Accused Ćorić until [REDACTED],

**ORDERS** that the conditions renewing the present provisional release pursuant to Rule 65 (B) of the Rules set out in confidential and *ex parte* Annex 1 to the Decision of 29 November 2011 apply *mutatis mutandis* to all motions that the Accused Ćorić wishes to make,

**AND**

**ORDERS** that the conditions of the provisional release set out in confidential and *ex parte* Annex 2 to the Decision of 29 November 2011 apply *mutatis mutandis* to the present decision.

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

*/signed/*

---

Jean-Claude Antonetti  
Presiding Judge

Done this sixth day of March 2012  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**