



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: 3 December 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: 3 December 2012

THE PROSECUTOR

v.

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

PUBLIC

**PUBLIC REDACTED VERSION OF “ORDER ON MOTION OF MILIVOJ
PETKOVIĆ FOR EXTENSION OF PROVISIONAL RELEASE”**

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 Mme 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 the “Motion of Milivoj Petković for Extension of Provisional Release”, filed as a public document by Counsel for the Accused Milivoj Petković (“Accused Petković” and “Petković Defence”) on 26 November 2012 (“Motion”) with a public annex in which the Petković Defence requests the extension of the provisional release of the Accused Petković for a period of three months,¹

NOTING the “Prosecution Response to Motion of Milivoj Petković for Extension of Provisional Release”, filed by the Office of the Prosecutor (“Prosecution”) as a confidential document on 28 November 2012 (“Response”), in which the Prosecution does not oppose the Motion,²

NOTING the “Decision on Motion for Provisional Release of the Accused Milivoj Petković”, rendered by the Chamber as a public document with one public annex and one confidential annex on 30 November 2011 (“Decision of 30 November 2011”), in which the Chamber ordered the provisional release of the Accused Petković to Split for a limited period with the possibility of paying a 24-hour visit once a month to his mother,³ and set out the procedure to be followed for any request to extend the said provisional release,⁴

NOTING the “Decision on Motion for Extension of Provisional Release of Accused Milivoj Petković and Modification of Conditions”, rendered by the Chamber as a confidential document on 14 March 2012 (“Decision of 14 March 2012”), in which the Chamber granted an extension of provisional release of the Accused Petković [REDACTED] and granted more frequent visits to his mother,⁵

NOTING the “Order on Motion of Milivoj Petković for Extension of Provisional Release”, rendered by the Chamber as a confidential document on 10 September 2012

¹ Motion, paras 5 and 20.

² Response, para. 1.

³ Confidential Annex 2 to the Decision of 30 November 2011.

⁴ Public Annex 1 to the Decision of 30 November 2011.

(“Order of 10 September 2012”), in which the Chamber granted an extension of the provisional release of the Accused Petković under the same conditions as those imposed by the Decision of 14 March 2012,

CONSIDERING that in the Motion, the Petković Defence argues that the Accused Petković complied with the conditions imposed by the Chamber during each release, including the latest extension of his provisional release granted by the Chamber in the Decision of 10 September 2012;⁶ that the Government of the Republic of Croatia has once again provided guarantees that the Accused Petković will reappear;⁷ that there are no new circumstances that would lead to the conclusion that the Accused Petković will not comply with the conditions of a new extension of his provisional release;⁸ and that the circumstances relating to the mother of the Accused Petković remain the same, thus justifying the same conditions as before, should an extension of his provisional release be granted,⁹

CONSIDERING that, in view of the previous decisions of the Chamber and the Appeals Chamber, the Prosecution does not oppose the Motion in its Response insofar as the existing conditions imposed on the Accused Petković for his provisional release remain the same,¹⁰

CONSIDERING that the Chamber finds that in the letter of 14 November 2012, the Government of the Republic of Croatia provided guarantees that, should the Accused Petković be granted an extension to his provisional release by the Chamber, he would not influence or pose a threat to victims, witnesses or any other persons and would return to The Hague on the date ordered by the Chamber,¹¹

CONSIDERING that the Chamber finds that, in light of the reports presented by the Croatian authorities pursuant to the Decision of 30 November 2011, the Accused Petković has complied with the conditions of his provisional release modified in the Decision of 14 March 2012,

⁵ Decision of 14 March 2012, pp. 7 and 8. The Accused Petković was allowed by the Chamber to visit his mother in [REDACTED] four times a month for 12 hours under clearly identifiable 24-hour police escort provided by the Croatian authorities.

⁶ Motion, paras 8 to 14.

⁷ Motion, para. 18 and annex.

⁸ Motion, para. 13.

⁹ Motion, paras 15 to 17.

¹⁰ Response, para. 1.

¹¹ Annex to the Motion.

CONSIDERING that the Chamber is of the opinion that compliance with the conditions of the provisional release and the guarantees provided by the Republic of Croatia for each new request for an extension of provisional release are sufficient to assess whether the requirement under Rule 65 (B) of the Rules of Procedure and Evidence (“Rules”) have been met,

CONSIDERING that in view of the aforementioned, the Chamber is persuaded that the Accused Petković would return to the United Nations Detention Unit (“UNDU”), should his provisional release be extended; that he would not pose a threat to victims, witnesses and any other persons and that, consequently, the requirements under Rule 65 (B) of the Rules have been met,

CONSIDERING that in view of the aforementioned, the Chamber deems that an extension of the provisional release of the Accused Petković for a limited period and under the same conditions as those set out in the Decision of 30 November 2011, modified by the Decision of 14 March 2012, would allow the Chamber to keep control of the progress of this provisional release,

CONSIDERING, finally, that the Chamber recalls that it can order the immediate return of the Accused Petković to the UNDU at any time, should it render the final judgement before the expiry of the period of extended provisional release set by the Chamber,

FOR THE FOREGOING REASONS,

PURSUANT TO Rule 65 (B) of the Rules,

GRANTS the Motion,

DECIDES to extend the provisional release of the Accused Petković [REDACTED],

DECIDES that the conditions of the provisional release set out in public Annex 1 and confidential Annex 2 to the Decision of 30 November 2011, with the modifications set out in the Decision of 14 March 2012, 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 third day of December 2012
At The Hague
The Netherlands

[Seal of the Tribunal]