



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: 24 November 2011
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: 24 November 2011

THE PROSECUTOR

v.

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

PUBLIC

WITH ONE CONFIDENTIAL ANNEX AND ONE PUBLIC ANNEX

**DECISION ON JADRANKO PRLIĆ'S MOTION FOR 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 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

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 “Jadranko Prlić’s Motion for Provisional Release” filed as a public document on 31 October 2011 by Counsel for the Accused Jadranko Prlić (“Prlić Defence”; “Accused Prlić”), accompanied by two public annexes and one confidential annex (“Motion”).

II. PROCEDURAL BACKGROUND

1. On 31 October 2011, the Prlić Defence filed the Motion seeking the provisional release of the Accused Prlić until the final judgement is rendered in the present case.¹

2. On 3 November 2011, the Ministry of Foreign Affairs of the Kingdom of the Netherlands (“Netherlands”) sent a letter to the Tribunal indicating that it did not object to the provisional release of the Accused Prlić.²

3. On 14 November 2011, the Office of the Prosecutor (“Prosecution”) filed as a confidential document the “Prosecution Response to Jadranko Prlić’s Motion for Provisional Release” (“Response”) in which the Prosecution objects, in particular, to the provisional release of the Accused Prlić for an indefinite period of time.³

4. On 15 November 2011, the Prlić Defence filed as a confidential document “Jadranko Prlić’s Motion for Provisional Release for Humanitarian Reasons during the 2011/2012 Winter Recess Period” (“Second Motion”), in which the Prlić Defence respectfully asks the Chamber to grant provisional release of the Accused Prlić to Zagreb from 15 December 2011 to 15 January 2012.⁴

5. On 17 November 2011, the Prosecution filed as a confidential and *ex parte* document the “Prosecution Response to Jadranko Prlić’s Second Motion for

¹ Motion, pp. 1 and 7; para. 15.

² Letter from the Kingdom of the Netherlands concerning the provisional release of Jadranko Prlić dated 3 November 2011 and filed with the Registry on 8 November 2011.

³ Response para. 15.

⁴ Second Motion, para. 11.

Provisional Release” (“Second Response”), in which it chiefly objects to the Second Motion and respectfully asks the Chamber, should it grant the Second Motion, to release the Accused for a period strictly proportionate to the humanitarian reasons argued by the Prlić Defence, and to stay the said decision so as to allow the Prosecution to lodge an appeal with the Appeals Chamber.⁵

6. On 21 November 2011, the Prlić Defence filed as a confidential document the “Leave to Reply & Reply to Prosecution Response to Jadranko Prlić’s Motion for Provisional Release for Humanitarian Reasons during the 2011/2012 Winter Recess Period” (“Reply to the Second Response”), in which the Prlić Defence asks the Chamber for leave to reply to the arguments put forth in the Second Response and responds to these arguments.⁶

III. APPLICABLE LAW

7. The Chamber notes that on 28 October 2011, Rule 65 (B) of the Rules of Procedure and Evidence (“Rules”) was amended as follows:

“Release may be ordered at any stage of the trial proceedings prior to the rendering of the final judgement by a Trial 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. The existence of sufficiently compelling humanitarian grounds may be considered in granting such release.”

8. Bearing in mind this amendment, the Chamber refers the Parties to the only developments that have occurred regarding the application of Rules 65 (A) and (B) of the Rules.⁷

9. The Chamber recalled that under Rule 65 (A) of the Rules, once detained, an accused may not be released except upon an order of a Chamber. In accordance with

⁵ Second Response, paras 7-9.

⁶ Reply to the Second Response, pp. 1 and 2.

⁷ “Decision on Accused Stojić’s Motion for Provisional Release”, confidential with confidential Annex, 9 December 2009, (“Decision of 9 December 2009”), paras 6 and 7 and “Decision on Motion for Provisional Release of Accused Bruno Stojić”, confidential with confidential annex, 2 November 2011.

Rule 65 (B) of the Rules, the Chamber may order provisional release 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.

10. Furthermore, Tribunal jurisprudence has long held that the decision whether to grant provisional release pursuant to Rule 65 of the Rules comes under the Chamber's discretionary power.⁸ 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 coming to a decision.⁹ It must then provide a reasoned opinion indicating its view on those relevant factors.¹⁰ What these relevant factors are, as well as the weight to be accorded to them, depends upon the particular circumstance of each case.¹¹ This is because decisions on motions for provisional release are fact intensive and each motion for provisional release is considered, as recalled by the Appeals Chamber in particular in the Prlić Decision of 5 June 2009, in light of the particular circumstances of the individual accused.¹² This assessment must occur at the time the Chamber decides on matters of provisional

⁸ *The Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-AR65.4, "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, 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 of 21 April 2008"), para. 5; *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-AR65.8, "*Décision relative à l'appel interjeté par l'Accusation contre la décision relative à la demande de mise en liberté provisoire de l'Accusé Prlić rendue le 7 avril 2008*", 25 April 2008 ("*Prlić* Decision of 25 April 2008"), para. 7.

⁹ *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 of 21 April 2008, para. 8; *Prlić* Decision of 25 April 2008, para. 10.

¹⁰ *Jovica Stanišić* Decision, para. 35; *Petković* Decision of 21 April 2008, para. 8; *Prlić* Decision of 25 April 2008, para. 10; *Mićo Stanišić* Decision, para. 8.

¹¹ *Jovica Stanišić* Decision, para. 35; *Petković* Decision of 21 April 2008, para. 8; *Prlić* Decision of 25 April 2008, para. 10.

¹² *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, para. 7; *Jovica Stanišić* Decision, para. 35; *Petković* Decision of 21 April 2008, para. 8; *Prlić* Decision of 25 April 2008, para. 10; *Mićo Stanišić* Decision, para. 8. *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-AR65.14, "Decision on Jadranko Prlić's Appeal Against the '*Décision relative à la demande de mise en liberté provisoire de l'Accusé Prlić*', 9 April 2009", 5 June 2009, para. 13 ("*Prlić* Decision of 5 June 2009").

release, but the Chamber is also obliged, to the extent foreseeable, to envisage how those circumstances may evolve once the Accused returns to the Tribunal.¹³

IV. ARGUMENTS OF THE PARTIES

11. The Chamber recalls *in limine* that, taking into account the arguments below relating to the Motion, it would not be appropriate, at this stage, to consider the arguments of the Parties relating to the Second Motion.

12. The Chamber notes furthermore that the Prosecution filed the Response to the Motion as a confidential document. Nevertheless, the Response contains no mention of the Accused's personal information or other details that would justify its confidential nature, all the more so because the Motion itself is a public document. The Chamber deems, therefore, that in order to ensure that the hearings are conducted in public as much as possible, it is appropriate to lift the confidential status of the Response.

13. In support of the Motion, the Prlić Defence recalls firstly that several times the Chamber ruled that the Accused Prlić would appear at the Tribunal at the end of his provisional release and that he would not pose a danger to any victim, witness or other person, thereby meeting the requirements set out under Rule 65 (B) of the Rules.¹⁴

14. The Prlić Defence argues, furthermore, that there are no discernible changes in the circumstances that led the Chamber to find, in its previous decision on the provisional release of the Accused in April 2011, that the Accused met the requirements set out under Rule 65 (B) of the Rules.¹⁵

15. With respect to the requirement of sufficiently compelling humanitarian reasons, the Prlić Defence argues that following the amendment to the Rules, it is now at the Chamber's discretion whether to take these reasons into account or not.¹⁶

¹³ *Jovica Stanišić* Decision, para. 35; *Petković* Decision of 21 April 2008, para. 8; *Prlić* Decision of 25 April 2008, para. 10; *Mičo Stanišić* Decision, para. 8.

¹⁴ Motion, paras 8 and 9.

¹⁵ Motion, para. 10.

¹⁶ Motion, paras 11 and 12.

16. The Prlić Defence notes that in its last decision on the provisional release of the Accused Prlić, the Chamber held that, in light of the advanced stage in the proceedings and the length of detention already served by the Accused, the requirement to prove additional sufficiently compelling reasons was unwarranted.¹⁷

17. The Prlić Defence concludes that, should the Accused Prlić meet all the requirements set out under Rules 65 (B) and is presumed innocent, he should be released pending a final judgement.¹⁸

18. In its Response, the Prosecution recalls that pursuant to Rule 64 of the Rules, once transferred to The Hague to be tried, an accused must be placed in detention. According to the Prosecution, this is justified by the fact that the Tribunal does not have the power to enforce its own arrest warrants and must depend on international authorities for that. Furthermore, the gravity of the alleged crimes, the legal and factual complexity of the case and the distance between the Tribunal and the region in which those crimes took place distinguish the Tribunal from national courts.¹⁹

19. The Prosecution argues furthermore that a Trial Chamber should base its decision for provisional release on an assessment of public interest rather than on the presumption of innocence.²⁰

20. The Prosecution recalls furthermore that by exercising its discretionary power whether to order provisional release, the Tribunal has consistently applied a principle of proportionality according to which the duration of the provisional release granted must be proportionate to the justification argued by the requesting party. According to the Prosecution, this principle of proportionality has remained unchanged since the amendment of Rule 65 (B) of the Rules.²¹ It would be impossible for the Trial Chamber to assess this proportionality should it decide to release the Accused for an indefinite period of time.²²

¹⁷ Motion, para. 13 referring to “Decision on Jadranko Prlić’s Motion for Provisional Release”, 21 April 2011, para. 38 (“Decision of 21 April 2011”).

¹⁸ Motion, para. 14.

¹⁹ Response, para. 3.

²⁰ Response, para. 5.

²¹ Response, para. 7.

²² Response, para. 14.

21. With respect to the assessment of the conditions under Rule 65 (B), the Prosecution claims that should the Chamber decide to release the Accused pending the date of delivery of the judgement, it would be impossible for the Chamber to assess his flight risk since this date remains unknown for the moment.²³ Furthermore, the Prosecution is of the opinion that, given the advanced stage in the proceedings and the disproportionate duration of the release requested, the Chamber should deny the Motion.²⁴

22. Moreover, the Prosecution also argues that provisional release after the decision rendered pursuant to Rule 98 *bis* of the Rules could have a prejudicial effect on the victims and could undermine the credibility of the Tribunal among the victims and witnesses in all Tribunal cases.²⁵ According to the Prosecution, to grant provisional release pending the Judgement goes against one of the goals of the Tribunal: to contribute to the stability in the former Yugoslavia. In this respect, the Prosecution recalls that the Appeals Chamber accords with the case law of the European Court of Human Rights in deeming that public impact can be a factor to be taken into consideration in decisions on provisional release.²⁶

23. Finally, the Prosecution claims that the condition of sufficiently compelling humanitarian reasons must always be applied when the procedure is at an advanced stage, despite the amendment to Rule 65 (B). The end of the hearing is not in itself a sufficient reason to justify provisional release of the Accused pending the Judgement.²⁷

24. In view of the earlier arguments, the Prosecution asked the Chamber to deny the Motion or, should it decide to grant it, to stay its decision in order to allow the Prosecution to file an appeal against it.²⁸

²³ Response, para. 8.

²⁴ Response, para. 9.

²⁵ Response, para. 10.

²⁶ Response, para. 11.

²⁷ Response, para. 13.

²⁸ Response, paras 15 and 16.

IV DISCUSSION

25. The Chamber notes that, in accordance with Rule 65 (B) of the Rules, the Government of the Netherlands, the host state, informed the Chamber in a letter of 17 November 2011 that it did not object to the procedure for the possible provisional release of the Accused Prlić.²⁹

26. Furthermore, in a letter dated 24 October 2011, the Government of the Republic of Croatia has provided guarantees that should the request for provisional release be granted by the Chamber, the Accused Prlić would not influence or pose a danger to victims, witnesses or any other person and would return to The Hague at the date ordered by the Chamber.³⁰ The Chamber notes that in its letter of 24 October 2011, the Government of the Republic of Croatia recommends that, due to economic and security considerations, there should be a simultaneous departure and return of the Accused to whom the Chamber decides to grant provisional release.³¹

27. 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 when ruling.³²

28. In this case, with respect to the risk of flight of the Accused Prlić, the Chamber notes that, in addition to having surrendered voluntarily to the Tribunal on 5 April 2004, the Accused has complied, with the exception of the incidents that occurred during the provisional release from 28 July to 8 August 2008,³³ with the

²⁹ Letter from the Ministry of Foreign Affairs of the Kingdom of the Netherlands concerning the provisional release of Jadranko Prlić dated 17 November 2011.

³⁰ Letter of guarantee from the Ministry of Justice of the Republic of Croatia dated 24 October 2011 enclosed in Annexe 2 to the Motion.

³¹ *Ibid.*

³² *Mičo Stanišić* Decision, para. 8; *Jovica Stanišić* Decision, para. 35; *Petković* Decision of 21 April 2008, para. 8; *Prlić* Decision of 25 April 2008, para. 10.

³³ See in particular, "Decision on Motion for Provisional Release of the Accused Prlić", confidential with confidential annex, 10 December 2008, paras 32 to 34; and "Decision on the Accused Prlić's Motion for Provisional Release", confidential with confidential annex, 17 July 2008 ("*Prlić* Decision of 17 July 2008").

conditions and guarantees of his previous provisional releases in application of the orders and decisions of the Chamber.³⁴

29. On this point, the Chamber notes that, in the Prlić Decision of 5 June 2009, the Appeals Chamber considered that the previous breaches of the conditions, though they must be taken into consideration by the Chamber, do not necessarily lead to a denial of the motion for provisional release and do not relieve the Trial Chamber from assessing whether the requirements under Rule 65 (B) of the Rules have been met in this case.³⁵

30. Moreover, the Chamber deems that, were it to grant the Motion, the guarantees to reappear to counter the risk of flight which are likely to be imposed on the Accused Prlić, such as ongoing surveillance by the police authorities of the Republic of Croatia, would offset any potential risk of flight.

31. For these reasons, the Chamber is convinced that, should the Accused Prlić be released, he would return to the United Nations Detention Unit (“UNDU”).

32. For these same reasons, the Chamber is of the opinion that, should the Accused Prlić be released in the Republic of Croatia, he would not pose a danger to

³⁴ “Order on Provisional Release of Jadranko Prlić”, public, 30 July 2004; “Order on Jadranko Prlić’s Motion for Variation of Conditions of Provisional Release”, public, 1 July 2005; “*Décision relative à la demande de mise en liberté provisoire de l’Accusé Prlić*”, partially confidential, 8 December 2006; “Decision on Motion for Provisional Release of the Accused Prlić”, confidential, 26 June 2006; the dates for release of the Accused Prlić announced in this decision were amended by the “Order Amending the Decision on the Accused Prlić’s Request for Provisional Release”, confidential, 4 July 2006; Prlić Decision of 17 July 2008; “Decision on the Motion for Provisional Release of the Accused Prlić”, 11 June 2007, public with confidential Annex; “Decision on the Motion for Provisional Release of the Accused Prlić”, 29 November 2007, public with confidential Annex; Prlić Decision of 25 April 2008; the dates for provisional release of the Accused Prlić announced in this decision were amended by the “Decision Amending the Further Decision Regarding the Decision on Provisional Release of the Accused Prlić”, 28 April 2008, confidential; “*Décision relative à la demande de mise en liberté de l’Accusé Prlić*”, confidential with a confidential Annex, 29 May 2009, paras 10-13; “Decision on the Accused Prlić’s Motion for Provisional Release”, confidential with confidential annex, 29 June 2009; “Decision on the Accused Prlić’s Request for Provisional Release”, confidential with confidential annex, 9 December 2009; “Decision on Motion for Provisional Release of the Accused Prlić”, 9 July 2010, confidential with confidential Annex; “Decision on Motion for Provisional Release by the Accused Prlić”, 8 December 2010, confidential with confidential Annex; “Decision on Motion for Provisional Release of the Accused Prlić”, 16 February 2011, confidential with confidential Annex; “Decision on Jadranko Prlić’s Motion for Provisional Release, confidential and *ex parte* with confidential and *ex parte* annex, 7 July 2011.

³⁵ *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-AR65.14, “Decision on Jadranko Prlić’s Appeal Against the ‘*Décision relative à la demande de mise en liberté provisoire de l’Accusé Prlić*’, 9 April 2009”, public, 5 June 2009, para. 12.

victims, witnesses or other persons,³⁶ all the more so because the trial has now concluded and there are no additional witnesses to be heard by the Chamber.³⁷

33. Finally, the Chamber notes that the closing arguments ended on 2 March 2011 and that on that same day, the Presiding Judge declared the hearings closed.³⁸ Consequently, from now until the delivery of the judgement, there will be no judicial activity requiring the presence of the Accused Prlić in court.

34. The Chamber finds therefore that the conditions under Rule 65 (B) of the Rules have been met in this case.

35. The Chamber must also assess, in the exercise of its discretionary power, whether to grant provisional release to the Accused and, should it decide to do so, for how long.

36. In this respect, the Chamber recalls the Appeal Chamber's case law in which, pursuant to international principles of human rights, "[i]f it is sufficient to use a more lenient measure than mandatory detention, it must be applied".³⁹

37. The Chamber moreover recalls that, since the hearings have closed, the presence of the Accused Prlić is no longer required in court. Furthermore, the Accused Prlić is no longer required to assist his counsel, whose presence is no longer required in The Hague, in the preparation of his defence since, like the other defences, his defence has now ended.⁴⁰

38. Additionally, the Chamber has already noted that, save for short periods of release, the Accused Prlić has remained in provisional detention for over five years. The complexity and the scope of the case may also result in a lengthy period of deliberation prior to the delivery of the judgement. It is therefore reasonable to presume that the Accused Prlić could still face a lengthy period of provisional detention.⁴¹

³⁶ This danger is not assessed *in abstracto* – it must be real. *Mičo Stanišić* Decision, para. 27.

³⁷ "Amended Scheduling Order (Final Trial Briefs, Closing Arguments for the Prosecution and the Defence)", public, 22 November 2010, p. 11.

³⁸ Hearing of 2 March 2011, Transcript in French ("T(F)") page 52976.

³⁹ Decision of 21 April 2011, para. 31.

⁴⁰ *Ibid.*, para. 35.

⁴¹ *Ibid.*, para. 36.

39. Nevertheless, the Chamber is aware of the potential effect that the release of a person accused of crimes as serious as those with which he is charged in the Indictment could have on the victims of these crimes. The Chamber recalls in this respect that this is one of the reasons why it always ensured that provisional releases of the accused were accompanied by very strict security measures, such as close and clearly defined 24-hour police escort, confinement of the accused to the town where they resided during their release and a requirement for the Croatian authorities to provide the Chamber with regular reports on whether the conditions of provisional release were respected. The Chamber deems that such measures also testify to the fact that the trial of the Accused is ongoing and that he therefore remains under the authority of the Tribunal until the final judgement, and they should contribute to reducing the potential effect that the release of the Accused in the Republic of Croatia could have on victims and witnesses.

40. The Chamber also agrees with the Prosecution's argument that, if it were to grant provisional release to the Accused for an indefinite period, the Chamber would not be able to determine the flight risk.⁴² This is why the Chamber deems it necessary to limit the length of the provisional release in the terms set out below.

VI CONCLUSION

41. For these reasons, the Chamber is therefore satisfied that the requirements imposed by Rule 65 (B) of the Rules have been fulfilled in this case. Therefore, in exercising its discretionary power, the Chamber decides to grant provisional release of the Accused Prlić in Zagreb, Republic of Croatia.

42. In respect of the length of the provisional release, the Chamber deems that it would be disproportionate, at this stage, to leave it undefined or, rather, until the judgement is rendered. It is its responsibility to keep control of the progress of the provisional release. To this end, it has decided to fix this release to a period of three

⁴² Response, para. 8.

months. This period could be extended, if the Chamber remains satisfied that the requirements set out in Rule 65 (B) continue to be fulfilled.

43. In the interest of judicial economy, the Prlić Defence may seize the Chamber of a new motion for provisional release pursuant to Rule 65 (B) of the Rules before the expiry of the current provisional release in accordance with the terms set out by the Chamber in Annex 2, attached to the present Decision. The Chamber will then assess once more, depending on the documentation presented by the Prlić Defence and the arguments of the other Parties, whether the requirements of Rule 65 (B) have been fulfilled and whether the provisional release should be extended for the Accused and on what conditions.

44. In view of the circumstances in this case, the Chamber deems it necessary to limit the release of the Accused to the city of Zagreb. The Chamber also deems it necessary for the provisional release of the Accused Prlić to take place under 24-hour surveillance of the Accused Prlić by the Croatian authorities for the duration of his stay. The Chamber also deems it necessary to receive a situation report from the Croatian authorities every fourteen days. The Chamber wishes furthermore to point out that in case one or more of the conditions accompanying this decision is breached, the provisional release of the Accused Prlić will be revoked immediately.

45. Finally, the Chamber wishes to remind the Accused, as it has explained above, that he remains throughout the duration of his release, under the authority of the Tribunal. Therefore, the Chamber requests that the Accused ensure his conduct remains respectful and discreet.

46. The Accused Prlić will therefore be released on the dates and subject to the conditions set forth in confidential Annex 1, attached to the present Decision.

47. Nevertheless, the Chamber decides to stay its decision to release the Accused Prlić pending a ruling on the appeal the Prosecution intends to lodge.

FOR THE FOREGOING REASONS,

PURSUANT to Rules 65 (B) and 65 (E) of the Rules,

DEEMS that the Second Motion has become **MOOT**,

DEEMS that the Reply to the Second Response has become **MOOT**,

ORDERS the Registry to file the Response as a public document

PARTIALLY GRANTS the Motion,

ORDERS the provisional release of the Accused Plić on the dates and under the conditions set forth in confidential Annex 1, attached to the present Decision,

ORDERS a stay of execution of the present decision pending a ruling by the Appeals Chamber on the appeal that the Prosecution intends to lodge against this decision,
AND

DENIES the Motion in all other respect.

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

/signed/

Jean-Claude Antonetti
Presiding Judge

Done this twenty-fourth day of November 2011
The Hague
The Netherlands

[Seal of the Tribunal]

ANNEX 2**Guidelines on the Filing of Motions for an Extension of Provisional
Release**

- 1) The Chamber is not in a position to render a decision on a new motion for provisional release (“New Motion”) before the date set for the Accused’s return to the Tribunal unless it is filed pursuant to the following guidelines;
- 2) The New Motion shall be filed by Counsel for the Accused pursuant to Rule 65 (B) of the Rules no later than **20 days** before the date set for the Accused’s return to the Tribunal;
- 3) The Prosecution and the other Parties shall have seven days from the day of filing the New Motion to respond;
- 4) The Chamber shall not accept replies to the said responses;
- 5) The Chamber shall render a decision on the New Motion as soon as possible before the date set for the Accused’s return to the Tribunal.