



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-AR65.16

Date: 20 July 2009

Original: English

**IN THE APPEALS CHAMBER**

**Before:** Judge Patrick Robinson, Presiding  
Judge Mehmet Güney  
Judge Andréia Vaz  
Judge Theodor Meron  
Judge Carmel Agius

**Registrar:** Mr. John Hocking

**Decision of:** 20 July 2009

**PROSECUTOR**

v.

**JADRANKO PRLIĆ  
BRUNO STOJIĆ  
SLOBODAN PRALJAK  
MILIVOJ PETKOVIĆ  
VALENTIN ĆORIĆ  
BERISLAV PUŠIĆ**

**PUBLIC REDACTED VERSION**

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**DECISION ON PROSECUTION'S APPEAL AGAINST DECISION ON PUŠIĆ'S MOTION  
FOR PROVISIONAL RELEASE**

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**Office of the Prosecutor**

Mr. Kenneth Scott  
Mr. Douglas Stringer

**Counsel for the Accused**

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

1. The Appeals 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 (“Appeals Chamber” and “Tribunal”, respectively) is seised of the “Prosecution Appeal of the Trial Chamber’s Decision of 17 June 2009 Granting the Accused Pušić Provisional Release”, filed confidentially and partially *ex parte* on 18 June 2009 (“Appeal”) against the “*Décision relative à la Demande de mise en liberté provisoire de l’Accusé Pušić*”, issued confidentially and partially *ex parte* on 17 June 2009 (“Impugned Decision”),<sup>1</sup> granting provisional release to Berislav Pušić (“Pušić”).

## I. BACKGROUND

2. On 20 May 2009, Pušić filed confidentially, with confidential Annex A and confidential and partially *ex parte* Annex B, a motion requesting provisional release for a period deemed appropriate by the Trial Chamber during the 2009 summer judicial recess.<sup>2</sup> On 17 June 2009, the Trial Chamber issued the Impugned Decision, finding that Pušić, if released, would not pose a flight risk and would not endanger victims, witnesses, or other persons.<sup>3</sup> The Trial Chamber also found that “the humanitarian grounds put forward by [Pušić] ... are sufficiently important to justify the provisional release”.<sup>4</sup> The Chamber therefore granted provisional release to Pušić and ordered a stay of the Impugned Decision, following the Prosecution’s indication that it intended to file an appeal should provisional release be granted.<sup>5</sup> On 18 June 2009, the Prosecution filed this Appeal. Pušić filed a response on 22 June 2009.<sup>6</sup> The Prosecution filed a reply on 23 June 2009.<sup>7</sup>

## II. STANDARD OF REVIEW

3. The Appeals Chamber recalls that an interlocutory appeal is not a *de novo* review of a Trial Chamber’s decision.<sup>8</sup> The Appeals Chamber has previously held that a decision on provisional

<sup>1</sup> The Impugned Decision was filed with a confidential and partially *ex parte* annex.

<sup>2</sup> *Prosecutor v. Prlić et al.*, Case No. IT-04-74-T, Application for Provisional Release of Berislav Pušić, 20 May 2009 (“Motion”), para. 1 (confidential and partially *ex parte*).

<sup>3</sup> Impugned Decision, paras 21–22.

<sup>4</sup> Impugned Decision, para. 25; *see also* confidential and partially *ex parte* annex, paras 10–11.

<sup>5</sup> Impugned Decision, paras 31–32.

<sup>6</sup> Berislav Pušić’s Response to the Prosecution Appeal of the Trial Chamber’s Decision of 17 June 2009 Granting the Accused Pušić Provisional Release, 22 June 2009 (“Response”).

<sup>7</sup> Prosecution Reply to the Berislav Pušić’s Response to the Prosecution Appeal of the Trial Chamber’s Decision of 17 June 2009 Granting the Accused Pušić Provisional Release, 23 June 2009 (“Reply”).

<sup>8</sup> *See, e.g., Prosecutor v. Prlić et al.*, Case No. IT-04-74-AR65.11, Decision on Praljak’s Appeal of the Trial Chamber’s 2 December 2008 Decision on Provisional Release, 17 December 2008, para. 4 (“*Praljak* Decision”); *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 (“*Brahimaj* Decision”), para. 5; *Prosecutor v. Stanišić*, Case No. IT-04-79-AR65.1, Decision on Prosecution’s Interlocutory Appeal of Mićo Stanišić’s Provisional

release by the Trial Chamber under Rule 65 of the Rules of Procedure and Evidence of the Tribunal (“Rules”) is a discretionary one. Accordingly, the relevant inquiry is not whether the Appeals Chamber agrees with that discretionary decision, but rather whether the Trial Chamber has correctly exercised its discretion in reaching that decision.<sup>9</sup>

4. In order to successfully challenge a discretionary decision on provisional release, a party must demonstrate that the Trial Chamber has committed a “discernible error”.<sup>10</sup> The Appeals Chamber will only overturn a Trial Chamber’s decision on provisional release where it is found to be (a) based on an incorrect interpretation of governing law; (b) based on a patently incorrect conclusion of fact; or (c) so unfair or unreasonable as to constitute an abuse of the Trial Chamber’s discretion.<sup>11</sup> The Appeals Chamber will also consider whether the Trial Chamber has given weight to extraneous or irrelevant considerations or has failed to give weight or sufficient weight to relevant considerations in reaching its decision.<sup>12</sup>

### III. APPLICABLE LAW

5. Under Rule 65(B) of the Rules, a Chamber may grant provisional release only if it is satisfied that, if released, the accused will appear for trial and will not pose a danger to any victim, witness, or other person; and after having given the host country and the State to which the accused seeks to be released, the opportunity to be heard.<sup>13</sup>

6. In deciding whether the requirements of Rule 65(B) of the Rules have been met, a Trial Chamber must consider all of those relevant factors which a reasonable Trial Chamber would have been expected to take into account before coming to a decision.<sup>14</sup> It must then provide a reasoned opinion indicating its view on those relevant factors.<sup>15</sup> What these relevant factors are, as well as the weight to be accorded to them, depends upon the particular circumstances of each case.<sup>16</sup> This is because decisions on motions for provisional release are fact intensive and cases are considered

Release, 17 October 2005 (“*Stanišić Decision*”), para. 6; *Prosecutor v. Boškoski and Tarčulovski*, Case No. IT-04-82-AR65.2, Decision on Ljube Boškoski’s Interlocutory Appeal on Provisional Release, 28 September 2005, para. 5.

<sup>9</sup> See, e.g., *Praljak Decision*, para. 4; *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; *Prosecutor v. Popović et al.*, Case No. IT-05-88-AR65.2, Decision on Defence’s Interlocutory Appeal of Trial Chamber’s Decision Denying Ljubomir Borovčanin Provisional Release, 30 June 2006, para. 5.

<sup>10</sup> *Praljak Decision*, para. 5 (citation omitted).

<sup>11</sup> *Ibid.*

<sup>12</sup> *Prosecutor v. Popović et al.*, Case No. IT-05-88-AR65.7, Decision on Vujadin Popović’s Interlocutory Appeal Against the Decision on Popović’s Motion for Provisional Release, 1 July 2008, para. 6.

<sup>13</sup> *Praljak Decision*, para. 6; see also *Brahimaj Decision*, para. 6.

<sup>14</sup> *Praljak Decision*, para. 6; see also *Brahimaj Decision*, para. 6.

<sup>15</sup> *Praljak Decision*, para. 7; *Brahimaj Decision*, para. 10.

<sup>16</sup> *Praljak Decision*, para. 7; *Stanišić Decision*, para. 8.

on an individual basis in light of the particular circumstances of the individual accused.<sup>17</sup> The Trial Chamber is required to assess these circumstances not only as they exist at the time when it reaches its decision on provisional release but also, as much as can be foreseen, at the time the accused is expected to return to the Tribunal.<sup>18</sup> If the Trial Chamber is satisfied that the requirements of Rule 65(B) have been met, it has a discretion as to whether or not to grant provisional release to an accused. An application for provisional release brought at a late stage of proceedings, and in particular after the close of the Prosecution case, should only be granted when sufficiently compelling humanitarian reasons exist.<sup>19</sup>

#### IV. DISCUSSION

7. The Prosecution argues that the Trial Chamber committed a discernible error of fact and law in the Impugned Decision when it granted provisional release to Pušić. It appeals the Impugned Decision on three grounds. First, the Prosecution contends that the Trial Chamber based its finding that Pušić's state of health was fragile "on a patently incorrect conclusion of fact". Second, the Prosecution asserts that the Impugned Decision relies on outdated medical evidence and that there is no current medical evidence in the record that supports a release, apart from a report dated 13 May 2009, which actually contradicts the Impugned Decision. Third, even if the Trial Chamber did not err as alleged under grounds 1 and 2 of the Appeal, the Trial Chamber misinterpreted the governing law when it found that Pušić's provisional release was justified and that further treatment for his health condition was necessary in Croatia.<sup>20</sup>

##### **Grounds 1 and 2: Whether the Trial Chamber erred in finding that Pušić's state of health was fragile and Whether the Trial Chamber erred by relying on outdated medical reports**

8. Because the arguments of the Prosecution and Pušić relating to grounds 1 and 2 are intertwined, the Appeals Chamber will discuss them together.

9. Regarding ground 1, the Prosecution submits that the Trial Chamber committed an error of fact when it concluded that Pušić's state of health was fragile based upon (a) Pušić's repeated absences from court and (b) the medical report of 13 May 2009. The Prosecution contends that the absences from court are not evidence of [REDACTED], observing that one notice refers to [REDACTED] and the others refer simply to "illness" but provide no detailed explanation for the absences. Accordingly, the Prosecution avers that the only relevant evidence in the record "at any

<sup>17</sup> *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.

<sup>18</sup> *Praljak* Decision, para. 7; *Stanišić* Decision, para. 8.

<sup>19</sup> See *Praljak* Decision, para. 15.

<sup>20</sup> Appeal, para. 2.

time during recent months” is the 13 May 2009 report, which states, “[REDACTED]”, and then confirms that Pušić is able to continue to attend court. It is therefore stated by the Prosecution that there is no proper evidentiary basis in the record for the Trial Chamber’s conclusion that Pušić’s health is currently fragile.<sup>21</sup>

10. Pušić responds, first, that the Prosecution has failed to raise this objection during previous appeals regarding provisional release.<sup>22</sup> Second, Pušić points out that the Trial Chamber was not constrained, as a matter of law, from considering medical reports from a previous period when deciding upon the Motion for provisional release.<sup>23</sup> Third, Pušić states that the Chamber based its decision on some material that had not been disclosed to the Prosecution.<sup>24</sup> Fourth, it is argued that the absences from court filed on the record have been mischaracterised by the Prosecution because they confirm that Pušić has been too unwell to attend court and on occasion include a short explanation of some of the reasons for the absence.<sup>25</sup> Moreover, Pušić argues that it is inconsistent for the Prosecution to take the position that the absences from court should be taken into account, while the prior medical reports should not.<sup>26</sup> Finally, Pušić points out that [REDACTED] 13 May report “is the product of an ongoing programme [REDACTED] and should be seen in conjunction with all her previous [medical] reports and those produced by her colleagues and any relevant correspondence between them”.<sup>27</sup>

11. The Prosecution, in its reply, states that material prior to the 13 May report can be recited as part of Pušić’s medical history, but that each new application for provisional release must be accompanied by current information confirming the sufficiently compelling humanitarian reasons for the release. Moreover, citing previous reports cannot be a sufficient basis for a finding that is contrary to the only current evidence on the record.<sup>28</sup> The Prosecution argues that, if the Trial Chamber has in fact relied upon evidence to which the Prosecution is not privy, then the Prosecution has been treated unfairly; nevertheless, the Prosecution avers that there is no statement in the record that the Trial Chamber, in reaching the Impugned Decision, relied upon any such information.<sup>29</sup>

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<sup>21</sup> Appeal, paras 9–12.

<sup>22</sup> Response, para. 8.

<sup>23</sup> Response, paras 8, 10.

<sup>24</sup> Response, para. 9.

<sup>25</sup> Response, para. 10.

<sup>26</sup> Response, para. 10.

<sup>27</sup> Response, para. 11.

<sup>28</sup> Reply, para. 4.

<sup>29</sup> Reply, para. 3.

12. Regarding ground 2, the Prosecution argues that a Trial Chamber, when considering an application for provisional release, “cannot simply or totally rely on past information, even if that information might have supported release at an earlier time”.<sup>30</sup> It is then pointed out by the Prosecution that the medical reports before the Chamber were [REDACTED] report of 15 December 2008, [REDACTED] report of 27 December 2008, and [REDACTED] report of 13 May 2009, with only the ultimate one being since the time of Pušić’s last provisional release. The Prosecution further argues that the first two “outdated” reports are contradicted by the 13 May report, which states that Pušić is in satisfactory and stable condition.<sup>31</sup>

13. In response, Pušić argues that the Trial Chamber was fully entitled to consider all the reports together and that it would have been “absurd” for the Chamber to read the last report in isolation from the prior two. Moreover, Pušić avers that the Prosecution has taken a single sentence of the report out of context and disregarded the rest of the report, which, according to Pušić, states that, [REDACTED].<sup>32</sup>

14. The Prosecution, in reply, rebuts this contention and points out that the assessment of Pušić as of “[REDACTED]” is the very first sentence of the 13 May 2009 report and is clearly intended as a summary of Pušić’s current condition.<sup>33</sup>

15. The first issue that the Appeals Chamber will address is that of the Trial Chamber’s alleged consideration of material not on the record, a matter raised by Pušić himself in his Response. As stated by the Prosecution, there is no indication in the Impugned Decision that the Trial Chamber relied upon information not on the record or not available to the Prosecution; there is therefore no issue here for the Appeals Chamber to consider.

16. As to Pušić’s argument that the Prosecution has failed to raise objections similar to the ones in the Appeal during previous appeals regarding provisional release, the Appeals Chamber recalls that each appeal must be taken on its own merits. Just because the Prosecution may not have raised similar arguments about Pušić’s health in a previous appeal does not mean that it is precluded from doing so now and on the current facts of this case.

17. The Appeals Chamber will now address the Prosecution’s argument that the Trial Chamber relied upon outdated evidence in making its determination that there were sufficiently compelling humanitarian reasons for the release. The Trial Chamber’s decision on Pušić’s release was a fact

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<sup>30</sup> Appeal, para. 13.

<sup>31</sup> Appeal, paras 13–15.

<sup>32</sup> Response, paras 14–15.

<sup>33</sup> Reply, para. 5.

intensive one that was considered on an individual basis in light of Pušić's particular circumstances.<sup>34</sup> The Trial Chamber was required to assess these circumstances not only as they existed at the time when it reached its decision, but also, as much as can be foreseen, at the time that Pušić was expected to return to the Tribunal.<sup>35</sup> As such, it was well within the discretion of the Trial Chamber to have considered all the medical reports as a whole in order to gain as in-depth an understanding as possible into the medical situation of Pušić. It was also well within the discretion of the Trial Chamber to take into account the notices of absence from court, filed by the Registry of the Tribunal, along with all the other material before it. The Prosecution concedes that "earlier material can ... fairly be recited as part of the Accused's medical history"; however, it argues that each new application for provisional release must be accompanied by current information confirming the sufficiently compelling humanitarian reasons for the release.<sup>36</sup> The Appeals Chamber notes that in this case there was in fact a new medical report—the one of 13 May 2009—upon which the Trial Chamber relied. Accordingly, the Prosecution's arguments to the contrary are without merit. The Appeals Chamber is satisfied that the Trial Chamber did consider sufficiently current information with respect to Pušić's health condition in reaching its decision that sufficiently compelling humanitarian reasons existed for his release.

18. As a result, the Appeals Chamber will now turn to the next contention of the Prosecution, namely that the Trial Chamber erred when it cited previous reports as a sufficient basis for a finding that was contrary to the only current evidence on the record.<sup>37</sup> In the confidential and partially *ex parte* annex to the Impugned Decision, the Trial Chamber exhaustively analysed the past and present medical reports regarding the [REDACTED] health condition of Pušić. In paragraph 9 of the annex, the Chamber summarised the 13 May 2009 report, which outlines Pušić's treatment in detail. Having carefully reviewed this report, as well as the previous reports, the Appeals Chamber cannot accept the Prosecution's claim that this report contradicts the previous reports. The report [REDACTED]. [REDACTED] assessment [REDACTED] does not mean that Pušić has recovered, but rather far from it, as is reported on in detail in the medical report. On this basis, it cannot be said that the information in the most recent medical report materially contradicts the prior reports; nor can it be said that the Trial Chamber erred when it characterised Pušić's

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<sup>34</sup> See *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, para. 7.

<sup>35</sup> *Praljak* Decision, para. 7; *Stanišić* Decision, para. 8.

<sup>36</sup> Reply, para. 4.

<sup>37</sup> Appeal, paras 9–12; Reply, para. 4.

health as “frail” in the Impugned Decision, based upon an analysis of all the relevant medical reports.<sup>38</sup>

19. The Prosecution’s grounds of appeal 1 and 2 are therefore rejected.

**Ground 3: Whether the Trial Chamber erred in misinterpreting the governing law**

20. The Prosecution next argues that, assuming that the Trial Chamber did not err in determining that Pušić’s health is fragile, the Trial Chamber erred as a matter of law by (a) releasing Pušić so that his overall health situation would be benefited and (b) holding that further treatment was necessary in Croatia.<sup>39</sup>

21. The Prosecution argues that an overall health benefit is not sufficient, as a matter of law, for granting a provisional release on humanitarian grounds. Moreover, the Prosecution argues that the legal standard is whether adequate medical treatment is available in The Netherlands, and not what might be better, optimal, or recommended. In the words of the Prosecution, “receiving something less than optimal treatment ... cannot be a basis for compelling humanitarian justification for release”.<sup>40</sup> Moreover, it is argued that there is no information on the record detailing the course of treatment that Pušić will follow in Croatia or even that any treatment is being organised.<sup>41</sup> Finally, the Prosecution points to the fact that the Chamber ordered a further medical examination of Pušić prior to his release to Croatia—and for this assessment to be communicated to his attending physicians in Zagreb—<sup>42</sup>as further evidence that the current reports are “entirely inadequate”.<sup>43</sup>

22. Pušić responds that he has a [REDACTED] medical condition and that the Trial Chamber reasonably determined that his need for medical treatment constituted a sufficiently compelling humanitarian reason justifying provisional release.<sup>44</sup> As for the prescribed treatment that is to be followed while on provisional release, Pušić points out that he has been regularly treated at the [REDACTED] during previous provisional releases as can be seen from the extensive record of correspondence between [REDACTED] and that [REDACTED] recommends [REDACTED] during any court recesses when he is in Zagreb (in her report of 27 December 2008).<sup>45</sup> In respect of

<sup>38</sup> Impugned Decision, confidential and partially *ex parte* annex, para. 11.

<sup>39</sup> Appeal, para. 16.

<sup>40</sup> Appeal, paras 18–20.

<sup>41</sup> Appeal, para. 21.

<sup>42</sup> Impugned Decision, confidential and partially *ex parte* annex, para. 12.

<sup>43</sup> Appeal, para. 22.

<sup>44</sup> Response, para. 16.

<sup>45</sup> Response, para. 17.



the adequacy of the treatment in The Netherlands, Pušić responds to the Prosecution's contentions by pointing out that, in his specific case, [REDACTED].<sup>46</sup>

23. In reply, the Prosecution argues,

To simply recite that an accused has seen a medical practitioner and that such practitioner has indicated that a release may be beneficial does not satisfy ICTY law or make the necessary findings, adequately supported by evidence in the record – especially where the current overall medical assessment is [REDACTED].<sup>47</sup>

24. In analysing this ground of appeal, the Appeals Chamber notes that [REDACTED], in her 13 May 2009 report, [REDACTED], indicates, “[REDACTED]”.<sup>48</sup> In the confidential and partially *ex parte* annex to the Impugned Decision, after having analysed the medical reports, including the 13 May report, the Trial Chamber concluded as follows:

9. [REDACTED]

10. [REDACTED]

11. [REDACTED]<sup>49</sup>

25. [REDACTED] As such, the Prosecution fails to demonstrate a discernible error.

26. Finally, in relation to the further medical report, which the Trial Chamber ordered to be undertaken before Pušić's release and transmitted to his treating doctor in Zagreb, the Appeals Chamber does not agree with the Prosecution that this is evidence that the Trial Chamber did not have adequate information before it when making its decision on Pušić's release. The Trial Chamber was simply, and responsibly, ensuring that the most up to date information possible was provided to Pušić's doctors in Zagreb in order to make sure that the latest information was available to the Zagreb medical personnel so as to guarantee the most efficacious treatment during his provisional release.

27. The Prosecution's ground of appeal 3 is therefore rejected.

<sup>46</sup> Response, para. 18 (quoting *Prosecutor v. Prlić et al.*, Case No. IT-04-74-AR65.12, Decision on Prosecution's Appeal of the Trial Chamber's 5 December 2008 Decision to Provisionally Release Accused Pušić During the Winter Recess 2008-2009, issued confidentially and *ex parte* on 16 December 2008, para. 14).

<sup>47</sup> Reply, para. 5.

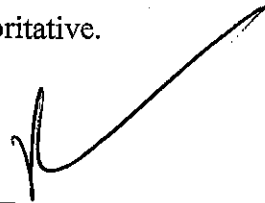
<sup>48</sup> Motion, confidential and partially *ex parte* Annex B.

<sup>49</sup> Impugned Decision, confidential and partially *ex parte* annex, paras 9–11 (footnotes omitted).

**V. DISPOSITION**

28. For the foregoing reasons, the Appeals Chamber **DISMISSES** the Appeal.

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



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Judge Patrick Robinson  
Presiding

Judge Mehmet Güney appends a dissenting opinion.

Dated this twentieth day of July 2009  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**

## OPINION DISSIDENTE DU JUGE GÜNEY

1. Lors de plusieurs décisions antérieures,<sup>50</sup> j'ai eu l'occasion d'exprimer mon désaccord avec l'interprétation de l'article 65 (B) du Règlement de Procédure et de Preuve ("Règlement")<sup>51</sup> donnée dans la Décision du 11 mars 2008<sup>52</sup> dans l'affaire *Le Procureur c. Prlić et consorts* (« décision *Petković* ») par la majorité. Cette interprétation adoptée dans la décision *Petković* impose, dans le cadre d'une demande de mise en liberté provisoire suite à une décision prise en application de l'article 98 *bis* du Règlement, une condition supplémentaire, à savoir "des raisons humanitaires suffisamment impérieuses",<sup>53</sup> à celles énoncées à l'article 65 (B) du Règlement.
2. Pour les raisons déjà invoquées dans mes opinions dissidentes précédentes, j'éprouve des difficultés à partager l'opinion majoritaire des Juges dans la présente décision, selon laquelle l'existence d'une « raison humanitaire suffisamment impérieuse » relative à la condition médicale de l'accusé Pušić soit nécessaire pour autoriser sa mise en liberté provisoire.

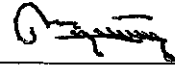
<sup>50</sup> *Le Procureur c/ Prlić et consorts*, affaire n° IT-04-74-AR65.14, Decision on Jadranko Prlić's Appeal Against the Decision relative to la demande de mise en liberté provisoire de l'Accusé Prlić, 9 April 2009, 5 juin 2009, Opinion Partiellement Dissidente du Juge Güney; *Le Procureur c/ Prlić et consorts*, affaire n° IT-04-74-AR65.7, Décision concernant l'appel interjeté par l'Accusation contre la Décision relative à la demande de mise en liberté provisoire de l'Accusé Petković rendue le 31 mars 2008, 21 avril 2008, Opinion Partiellement Dissidente du Juge Güney; *Le Procureur c/ Prlić et consorts*, affaire n° 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 avril 2008, Opinion Partiellement Dissidente du Juge Güney; *Le Procureur c/ Prlić et consorts*, affaire n° IT-04-74-AR65.6, Motifs de la Décision du 14 avril 2008 concernant l'appel urgent interjeté par l'Accusation contre la Décision relative à la demande de mise en liberté provisoire de l'Accusé Pušić, 23 avril 2008; *Le Procureur c/ Popović et consorts*, affaire n° IT-05-88-AR65.4, Decision on Consolidated Appeal Against Decision on Borovčanin's Motion for a Custodial Visit and Decisions on Gvero's and Miletić's Motions for Provisional Release During the Break in the Proceedings, 15 mai 2008, Opinion Partiellement Dissidente des Juges Liu et Güney.

<sup>51</sup> Règlement de Procédure et de Preuve, tel qu'amendé le 4 novembre 2008.

<sup>52</sup> *Le Procureur c/ Prlić et consorts*, affaire n° IT-04-74-AR65.5, Décision relative à l'appel unique interjeté par l'Accusation contre les décisions ordonnant la mise en liberté provisoire des Accusés Prlić, Stojić, Praljak, Petković et Čorić, 11 mars 2008.

<sup>53</sup> *Le Procureur c/ Prlić*, Affaire n° IT-04-74-AR65.5, Decision on Prosecutor's Consolidated Appeal Against Decisions to Provisionally Release the Accused Prlić, Stojić, Praljak, Petković and Čorić, 11 mars 2008. J'aimerais préciser que je ne faisais pas parti du Collège de Juges qui a rendu cette décision.

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



Judge Mehmet Güney

Dated this twentieth day of July 2009  
At The Hague,  
The Netherlands

**[Seal of the Tribunal]**