



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: 30 November 2011
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 John Hocking

Decision of: 30 November 2011

THE PROSECUTOR

v.

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

PUBLIC WITH ONE PUBLIC ANNEX AND ONE CONFIDENTIAL ANNEX

**DECISION ON MOTION FOR PROVISIONAL RELEASE OF THE
ACCUSED MILIVOJ PETKOVIĆ**

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
Mr 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 the “Motion of Milivoj Petković for Release Pending Judgement”, filed as a public document with a public annex (“Motion”) on 14 November 2011 by Counsel for the Accused Milivoj Petković (“Petković Defence”; “Accused Petković”).

II PROCEDURAL BACKGROUND

2. On 14 November 2011, the Petković Defence filed a Motion in which it seeks provisional release for the Accused Petković until the final judgement is rendered in the present case.¹

3. On 16 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 Petković.²

4. On 28 November 2011, the Office of the Prosecutor (“Prosecution”) filed as a confidential document the “Prosecution Response to Milivoj Petković’s Motion for Provisional Release” (“Response”) in which the Prosecution objects, in particular, to the provisional release of the Accused Petković for an indefinite period.³ On the same day, the Prosecution filed as a public document a redacted version of the Response.

5. On 21 November 2011, the Petković Defence filed as a confidential document the “Motion of Milivoj Petković for Provisional Release” with four confidential annexes (“Second Motion”) in which the Petković Defence asks the Chamber to grant provisional release to the Accused Petković in Split from 15 December 2011 to 15 January 2012.⁴

¹ Motion, paras 2 and 29.

² Letter from the Netherlands concerning the provisional release of Milivoj Petković of 16 November 2011 and filed with the Registry on 18 November 2011.

³ Response, paras 1 and 20.

⁴ Second Motion, para. 24.

6. On 25 November 2011, the Ministry of Foreign Affairs of the Netherlands sent a letter to the Tribunal indicating that it did not object to the Second Motion.⁵

7. On 28 November 2011, the Prosecution filed as a confidential document the "Prosecution Response to Milivoj Petković's Alternative Motion for Provisional Release" ("Second Response"), in which it objects, first of all, to the Second Motion⁶ and asks the Chamber, in the alternative, should it grant the Second Motion, to release the Accused only for a period that is proportional to the humanitarian reasons presented by the Petković Defence⁷ and to stay its decision to allow the Prosecution to file an appeal before the Appeals Chamber.⁸

III. DROIT APPLICABLE

8. The Chamber notes that on 20 October 2011, Rule 65 (B) of the Rules of Procedure and Evidence ("Rules") was amended to read as follows:

9. "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."

10. Bearing in mind this amendment, the Chamber refers to the only developments that have occurred regarding the application of Rules 65 (A) and (B) of the Rules.⁹

⁵ Letter from the Netherlands concerning the provisional release of Milivoj Petković of 25 November 2011 and filed with the Registry on 28 November 2011.

⁶ Second Response, paras 1, 3, 4 and 6.

⁷ Second Response, paras 5 and 7.

⁸ Second Response, para. 8.

⁹ See in this respect, and in particular, "Decision on Accused Praljak's Motion for Provisional Release", confidential with confidential annex, 4 December 2009, paras 10 and 11; "Decision on Accused Bruno Stojić's Motion for Provisional Release", confidential with confidential annex, 9 December 2009, paras 6 and 7; "Decision on Motion for Provisional Release of the Accused Petković, confidential with confidential annex, 9 December 2009 ("Petković Decision of 9 December 2009"),

11. In this respect the Chamber recalls that in its previous decisions it has pointed out that under the provisions of Rule 65 (A) of the Rules, once detained an accused may only be released upon an order of the Chamber. In accordance with Rule 65 (B) of the Rules, the Chamber may order provisional release only after giving the host state 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.

12. Furthermore, Tribunal case-law has long held that the decision whether to grant or to refuse provisional release pursuant to Rule 65 of the Rules comes under the Chamber's discretionary power.¹⁰ 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 Trial Chamber would be reasonably expected to consider in coming to a decision.¹¹ The Chamber must then provide a reasoned opinion of the factors leading to its decision.¹² What these relevant factors are, as well as the weight to be accorded to them, depends upon the particular circumstance of each case.¹³ As it relies first and foremost on the facts in the particular case, each request 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 specific circumstances

paras 5 and 6; "Decision on Motion for Provisional Release of Accused Stojić", confidential with confidential annex, 2 November 2011, para. 7; and "Decision on Jadranko Prlić's Motion for Provisional Release", public with one confidential annex and one public annex, 24 November 2011, paras 7 to 10.

¹⁰ *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", public, 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", public, 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", public, 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", public, 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*", public, 25 April 2008 ("*Prlić Decision of 25 April 2008*"), para. 7.

¹¹ *The Prosecutor v. Mićo Stanišić*, Case No. IT-04-79-AR65.1, "Decision on Prosecution's Interlocutory Appeal of Mićo Stanišić's Provisional Release", public, 17 October 2005 ("*Miće 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.

¹² *Jovica Stanišić Decision*, para. 35; *Petković Decision of 21 April 2008*, para. 8; *Prlić Decision of 25 April 2008*, para. 10; *Miće Stanišić Decision*, para. 8.

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

of the Accused.¹⁴ The Chamber is required to assess these circumstances when it rules on the provisional release, but also, as much as can be foreseen, to envisage how those circumstances may evolve once the Accused is due to appear before the Tribunal.¹⁵

IV ARGUMENTS OF THE PARTIES

13. First, the Chamber notes that with respect to developments hereinafter that relate to the Motion, there is no need at this stage to take up again the arguments of the Parties concerning the Second Motion.

14. The Accused Petković seeks provisional release to be with his wife in Split and to be able to pay an occasional visit to his mother in Vrpolje¹⁶ until the judgement is rendered.¹⁷

15. In support of the Motion, the Petković Defence recalls the case-law of the European Court of Human Rights in the matter of provisional detention which should be an exceptional measure.¹⁸

16. It emphasises that the Chamber has already granted provisional release for the Accused Petković fourteen times, pointing out each time that the Accused met all the requirements of Rule 65 (B) of the Rules.¹⁹

17. The Petković Defence moreover maintains that during the 14 instances of provisional release, the Accused Petković complied with all the conditions imposed

¹⁴ *The Prosecutor v. Boškoski and Tarčulovski*, Case No. IT-04-82-AR65.1, "Decision on Johan Tarčulovski's Interlocutory Appeal on Provisional Release", public, 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; *Mičo 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.

¹⁵ *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.

¹⁶ See footnote 8, p. 12.

¹⁷ Motion, para. 29.

¹⁸ Motion, paras 8 and 9.

¹⁹ Motion, paras 15 and 23.

by the Chamber;²⁰ returned to The Hague when ordered by the Chamber²¹ and has never caused any disorder either in the Republic of Croatia or in the Republic of Bosnia and Herzegovina.²²

18. In respect to the condition linked to the existence of sufficiently compelling humanitarian grounds for the Accused Petković, the Petković Defence refers the Chamber to the arguments presented in its previous request, should the Chamber wish to take them into consideration.²³

19. The Petković Defence concludes that, to the extent that, with respect to the conduct of the Accused Petković during his last provisional releases, there is no reason to think that he would pose any danger to the victims, witnesses and any other persons or that he would interfere in any way with the proper administration of justice,²⁴ he should therefore be released pending the judgement.²⁵

20. In its Response, the Prosecution recalls that, under Rule 64 of the Rules, once transferred to The Hague to be tried, an Accused shall be detained. According to the Prosecution, this is justified by the fact that the Tribunal does not have the power to execute its own arrest warrants and relies on international authorities for this. Moreover, 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 all distinguish the Tribunal from national courts.²⁶ Finally, according to the Prosecution, the criteria that must be considered by the Chamber when deciding on using its discretionary power in the matter of provisional release, vary from those that must be used by national courts.²⁷ According to the Prosecution, the case-law of the European Court of Human Rights must, therefore, be read and assessed in light of this context.²⁸

21. Furthermore, the Prosecution recalls that in exercising its discretionary power when deciding on provisional release, the Tribunal has always applied the principle of

²⁰ Motion, paras 19 and 23.

²¹ Motion, paras 20 and 23.

²² Motion, para. 21.

²³ Motion, para. 24 et 25.

²⁴ Motion, para. 26.

²⁵ Motion, para. 29.

²⁶ Response, para. 2.

²⁷ Response, paras 4 to 6.

²⁸ Response, para. 3.

proportionality according to which the length of release granted must be proportional to the justification advanced by the requesting party. This principle of proportionality has remained unchanged, according to the Prosecution, since the amendment of Rule 65 (B) of the Rules.²⁹

22. With respect to the assessment of the requirements of Rule 65 (B), the Prosecution submits that, should the Chamber decide to release the Accused Petković until the judgement is rendered, it would not be able to assess the flight risk since the date is currently unknown.³⁰ Moreover, the Prosecution believes that due to the advanced stage of the proceedings and the disproportionate length of provisional release requested, the Chamber should not grant the request.³¹

23. The Prosecution argues furthermore that a release following the Rule 98 *bis* Decision could have a prejudicial effect on the victims and could undermine the credibility of the Tribunal amongst the victims and witnesses in all Tribunal proceedings.³² According to the Prosecution, granting indefinite provisional release until a judgement is rendered would be contrary to one of the Tribunal's goals: to help establish stability in the former Yugoslavia. In this sense, the Prosecution recalls that the Appeal Chamber followed the jurisprudence of the European Court of Human Rights by holding that public impact can be a factor to take into consideration when deciding on provisional release.³³

24. The Prosecution argues finally that the requirement of sufficiently compelling humanitarian reasons must always apply due to the advanced stage in the proceedings, despite the amendment to Rule 65 (B). The Prosecution deems furthermore that the humanitarian grounds argued by the Petković Defence do not justify an indefinite provisional release.³⁴

²⁹ Response, para. 10.

³⁰ Response, para. 11.

³¹ Response, para. 12.

³² Response, para. 13.

³³ Response, para. 14.

³⁴ Response, paras 16 to 19.

25. In light of the preceding arguments, the Prosecution requests that the Chamber deny the Motion or, should it decide to grant it, that it stay the decision in order to allow the Prosecution to lodge an appeal against it.³⁵

IV. DISCUSSION

26. The Chamber notes that pursuant to Rule 65 (B) of the Rules, the Government of the Netherlands, the host state, informed the Chamber in its letter of 16 November 2011 that it did not object to a possible provisional release of the Accused Petković.³⁶

27. Furthermore, in a letter dated 3 November 2011, the Government of the Republic of Croatia provided guarantees that if a motion for provisional release were to be granted by the Chamber, the Accused Petković would not influence or endanger any victims, witnesses or any other person during his provisional release, and would return to The Hague on the date ordered by the Chamber.³⁷ The Chamber notes that in its letter of 3 November 2011, the Government of the Republic of Croatia submits that economic and security considerations militate in favour of a simultaneous departure and return of those Accused to whom the Chamber decides to grant provisional release³⁸.

28. 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 coming to a decision.³⁹

29. In this case, with respect to the risk of flight of the Accused Petković, the Chamber notes that in addition to surrendering voluntarily to the Tribunal on 5 April

³⁵ Response, paras 20 and 21.

³⁶ Letter from the Ministry of Foreign Affairs of the Netherlands regarding the provisional release of Milivoj Petković dated 16 November 2011.

³⁷ Letter of Guarantee from the Ministry of Justice of the Republic of Croatia dated 3 November 2011, enclosed in an annex to the Motion.

³⁸ *Ibid.*

³⁹ *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.

2004, he has always complied with the conditions and guarantees of his previous provisional releases, pursuant to the orders and decisions rendered by the Chamber.⁴⁰

30. Furthermore, the Chamber deems that, should it decide to grant the Motion, the guarantees to reappear provided against the risk of flight that may be imposed on the Accused Petković, such as the ongoing surveillance by the police authorities of the Republic of Croatia, would offset any possible risk of flight.

31. For these reasons, the Chamber is satisfied that, if released, the Accused Petković would return to the United Nations Detention Unit ("UNDU").

32. For these same reasons, the Chamber is of the opinion that the Accused Petković, were he released in the Republic of Croatia, would not pose a danger to victims, witnesses or other persons,⁴¹ all the more so as the trial has now concluded and there are no further witnesses to be heard by the Chamber.⁴²

33. Finally, the Chamber notes that closing arguments concluded on 2 March 2011 and that on the same day, the Presiding Judge declared the hearings closed.⁴³ Consequently, there will be no judicial activity requiring the presence of the Accused Petković in court until the judgement is delivered.

⁴⁰ "Order on Provisional Release of Milivoj Petković", public, 30 July 2004; "Decision on Motion for Provisional Release of the Accused Petković", confidential, 26 June 2006; "*Décision relative à la demande de mise en liberté provisoire de l'Accusé Petković*", partially confidential, 8 December 2006; "Decision on the Motion for Provisional Release of the Accused Petković", public with confidential annex, 11 June 2007; "Order to Amend the Decision on the Motion for Provisional Release of the Accused Petković", confidential, 10 July 2007; "Decision on the Motion for Provisional Release of the Accused Petković", public with a confidential annex, 29 November 2007; "Further Decision to the Decision on Provisional Release of the Accused Petković", public with confidential annex, 22 April 2008; "*Décision relative à la demande de mise en liberté provisoire de l'Accusé Petković*", public with confidential annex, 17 July 2008; "Decision on the Accused Petković's Motion for Provisional Release", public with confidential annex, 5 December 2008; "Decision on Urgent Motion for Provisional Release of the Accused Milivoj Petković to Undergo Major Surgery in Croatia", confidential and *ex parte* with confidential and *ex parte* annex, 29 January 2009; "Decision on the Accused Petković's Motion for Provisional Release", public with confidential annex, 17 June 2009; Petković Decision of 9 December 2009; "Decision on Motion for Provisional Release of the Accused Petković", confidential with confidential annex, 12 July 2010; "Decision on Motion for Provisional Release of the Accused Petković", confidential with confidential annex, 9 December 2010; "Decision on Milivoj Petković's Motion for Provisional Release", confidential with confidential annex, 24 June 2011.

⁴¹ This danger is not assessed *in abstracto* – it must be real. *Miće Stanišić* Decision, para. 27.

⁴² "Amended Scheduling Order (Final Trial Briefs, Closing Arguments for the Prosecution and the Defence)", public, 22 November 2010, p. 11.

⁴³ Hearing of 2 March 2011, Transcript in French, page 52976.

34. The Chamber finds, therefore, that the requirements of 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, if 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".⁴⁴

37. The Chamber recalls, moreover, that as the hearings have ended, the presence of the Accused Petković is no longer required in court. Furthermore, the Accused Petković is no longer required to assist his counsel, whose presence is no longer required in The Hague, in the preparation of his defence as the latter, like the other defence cases, has now ended.

38. Furthermore, the Chamber has already noted that, save for short periods of release, the Accused Petković 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 Petković could still face a lengthy period of provisional detention.

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 has always ensured that provisional releases of the accused are accompanied by very strict security measures, such as close 24-hour police escort, confinement of the accused to the town where they will reside during their release and a requirement for the Croatian authorities to provide the Chamber with regular reports on whether the conditions of provisional release have been respected. This is also one of the reasons why the Chamber requires the police authorities in charge of providing 24-hour surveillance of the Accused to be

clearly identifiable as police authorities. The Chamber deems that such measures also testify to the fact that the trial of the Accused is ongoing and that he remains, therefore, 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.⁴⁵ 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 satisfied that the requirements imposed by Rule 65 (B) of the Rules have been met in this case. Consequently, in exercising its discretionary power, the Chamber decides to grant provisional release to the Accused Petković in Split, in the 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 day the judgement is rendered. It is the Chamber's duty 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 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 and to avoid travel costs, the Petković 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 1 to the present Decision. The Chamber will then assess once more, depending on the documentation presented by the Petković Defence and the arguments of the other Parties, whether the

⁴⁴ "Decision on Slobodan Praljak's Motion for Provisional Release", public, 21 April 2011 ("Praljak Decision of 21 April)", para. 30; *see also* "Decision on Jadranko Prlić's Motion for Provisional Release", public, 21 April 2011, para. 31.

requirements of Rule 65 (B) have been met 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 Split, with the exception of a 24-hour visit once a month to see his mother in Vrpolje. The Chamber also deems it necessary for the provisional release of the Accused Petković to take place under a clearly identifiable 24-hour surveillance of the Accused Petković by the Croatian authorities for the duration of his stay, including in Vrpolje. 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 Petković 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 Petković will therefore be released on the dates and subject to the conditions set forth in confidential Annex 2 to the present Decision.

47. Nevertheless, the Chamber decides to stay its decision to release the Accused Petković 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 the Second Motion **MOOT**,

PARTIALLY GRANTS the Motion,

ORDERS the provisional release of the Accused Petković on the dates and under the conditions set forth in confidential Annex 2 to the present Decision,

⁴⁵ Response, para. 8.

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 respects.

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

/signed/ _____

Jean-Claude Antonetti
Presiding Judge

Done this thirtieth day of November 2011

The Hague

The Netherlands

[Seal of the Tribunal]

ANNEX 1**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.