THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA

IN THE TRIAL CHAMBER I

Original: English

Before: Judge Liu Daqun, Presiding
Judge Amin El Mahdi
Judge Alphonsus Martinus Maria Orie

Registrar: Mr. Hans Holthuis

Filed: 7th June 2004

THE PROSECUTOR

v.

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

THE ACCUSED VALENTIN ĆORIĆ'S APPLICATION FOR PROVISIONAL RELEASE

The Office of the Prosecutor:
Mr. Kenneth Scott,
Senior Trial Attorney

For the Accused Jadranko Prlić
Ćamil Salahović
Mr. Želimir Paar

For the Accused Bruno Stojić
Mr. Željko Olujić

For the Accused Slobodan Praljak
Mr. Krešimir Krsnik

For the Accused Milivoj Petković
Ms. Vesna Alaburić

For the Accused Valentin Ćorić
Mr. Tomislav Jonjić

For the Accused Berislav Pušić
Mr. Marinko Škobić

THE ACCUSED VALENTIN ĆORIĆ'S APPLICATION FOR PROVISIONAL RELEASE

Introduction.

1. Pursuant to Rule 65(A) of the Rules of Procedure and Evidence (the "Rules"), the accused Valentin Coric (the "Applicant") submits, to the Trial Chamber, an Application for Provisional Release. Rule 65(B) allows the Trial Chamber to temporarily release a detained person if all of the conditions of Rule 65 are satisfied. The Applicant holds that he has fulfilled those conditions.

Argumentation.

2. According to the minimum guarantees of the Tribunal Statute (the "Statute"), the accused is entitled to an expeditious trial.[1] Other international human rights documents such as The International Covenant on Civil and Political Rights (ICCPR)[2] and The European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)[3] also insure the accused such rights. It is quite evident that the Applicant's trial will not start soon. According to experience so far, it is obvious that the pre-trial stage will last for at least two years. The Trial Chamber II emphasises that "evidently, the length of pre-trial detention is one of the factors that must be considered in any application for provisional release".[4] Befogging an important distinction between pre-trial and trial detention, the Prosecution also conceded that the Trial Chamber, when considering the period of detention (sic!), should be guided by the standards enunciated by the European Court of Human Rights.[5] The Trial Chamber I in the *Ademi case* evaluated the fact that "in the system in the Tribunal, unlike generally that in national jurisdictions, there is no formal procedure in place

[1] The Statute, Article 20(1) and 21(4)(c).
[2] ICCPR, Article 9(3), sentence 1.
[3] ECHR, Article 5(3).
IT-02-59-PT, *The Prosecutor v. Darko Mrdja's,* Decision on Darko Mrdja's Request for Provisional Release, of 15. April 2002, para. 41. See also IT-99-36/1, *The Prosecutor v. Radoslav Brdjanin and Momir Talić,* Decision on Motion by Radoslav Brdjanin for Provisional Release, of 25. July 2000, paras. 24-28. [5]IT-95-9, *The Prosecutor* v. *Blagoje Simić et ah,* Decision on Miroslav Tadić's Application for Provisional Release, of 4. April 2000,, p. 3.

providing for periodic review of the necessity for continued pre-trial detention"[6] plays an important role in the duration of the pre-trial detention.

3. National regulations, that were in effect at the time of the events described in the Indictment against the Applicant, regarded detention as an exception not a rule.[7] The situation is the same up to this day.[8] The Tribunal is entrusted with bringing justice to the former Yugoslavia. This means justice not only for the victims and the innocent but also for the accused: "Justice (...) also means respect for the alleged offenders' fundamental rights. Therefore, no distinction can be drawn between persons facing criminal procedures in their home country or on an international level". Such a view is intensified by the presumption of innocence which is mutual to the Statute, according to which the accused will "be presumed innocent until proven guilty", and other international legal documents such as ICCPR[10] and ECHR.[11] Moreover, the Trial Chamber II concluded "that Article 20.1 of the Tribunal's Statute makes the rights of the accused the first consideration, and the need to protect victims and witnesses the secondary one". This was also conceded by the Prosecution.
4. International human rights documents also consider detention to be an exception not a rule. This applies for ICCPR,[14] as well as ECHR.[15] These human rights instruments

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[6]IT-01-46-PT, *The Prosecutor v. Rahim Ademi,* Order on Provisional Release, of 20. February 2002, para. 26.
[7] Hereby referring to the criminal procedure rules of the former Socialist Federal Republic of Yugoslavia, rules that applied then and still apply in Bosnia and Herzegovina and the Republic of Croatia today.
[8] Even today in Bosnia and Herzegovina and the Republic of Croatia detention is considered an exception, not at all a rule which is submitted to rigorous criteria and is strictly limited.
[9] IT-02-59-PT, *The Prosecutor* v. *Darko Mrdja's,* Decision on Darko Mrdja's Request for Provisional Release, of 15. April 2002, para. 27.
[10] Article 14(2) of the ICCPR.
[11] Article 6(2) of the ECHR.
[12]IT-99-36/1, *The Prosecutor v. Radoslav Brdjanin and Momir Talić,* Decision on Motion by Momir Talić for Provisional Release, of 28. March 2001., para. 36.
[13] IT-99-36/1, *The Prosecutor* v. *Radoslav Brdjanin and Momir Talić,* Decision on Motion by Momir Talić for Provisional Release, of 28. March 2001., para. 36.
[14] ICCPR, Article 9: *Liberty and Security of Person:* 1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law. [...] 3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial [...].
[15] ECHR, Article 5 (ii): *Right to liberty and security.* §1 Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with the procedure prescribed by law: [...] (c) the lawful arrest or detention of a person effected for the purpose of

form part of public international law, which were among others, adopted by the Republic Croatia and Bosnia and Herzegovina.[16] In terms of human rights, non-European documents, such as The American Convention on Human Rights[17] and The African Charter on Human and Peoples Rights[18], have the same or very similar regulations.

5. Resolution 43/173 adopted by the UN General Assembly, Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, of 9. Dec 1998, Principles 37, 38 and 39 also considers detention to be an exception, guarantees the detained person extensive protection and carries the responsibility of the existence of detention and the rights of the detained person onto state (judicial) authorities.[19]
6. It seems that the original version of the Rules considered detention to be a rule, not an exception, since release from detention was conditioned by the existence of the

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bringing him before the competent legal authority on reasonable suspicion of having committed an offence [...] §3 Everyone arrested or detained in accordance with the provisions of paragraph l(c) of this Article shall be promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial. [...]

[16] IT-02-59-PT, *The Prosecutor v. Darko Mrdja's,* Decision on Darko Mrdja's Request for Provisional Release, of 15. April 2002, paras. 24.-26.

[17] AmCHR, Article 7: *Right to Personal Liberty.* 1. Every person has the right to personal liberty and security. 2. No one shall be deprived of his physical liberty except for the reasons and under the conditions established beforehand by the constitution of the State Party concerned or by a law established pursuant thereto. 3. No one shall be subject to arbitrary arrest or imprisonment. [...] 5. Any person detained shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to be released without prejudice to the continuation of the proceedings. His release may be subject to guarantees to assure his appearance for trial. [...]

[18] AfCHPR, Articles 6 and 7: *{Article 6)* Every individual shall have the right to liberty and to the security of his person . No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained. *{Article 7)* Every individual shall have the right to have his cause heard. This comprises: [...] (d) the right to be tried within a reasonable time by an impartial court or tribunal. [...]

[19] Resolution 43/173 of 9. December 1998: (*Principle 37)* A person detained on a criminal charge shall be brought before a judicial or other authority provided by law promptly after his arrest. Such authority shall decide without delay upon the lawfulness and necessity of detention. No person may be kept under detention pending investigation or trial except upon the written order of such an authority. A detained person shall, when brought before such an authority, have the right to make a statement on the treatment he received by him while in custody. (*Principle 38)* A person detained on a criminal charge shall be entitled to trial within a reasonable time or to release pending trial. (*Principle 39)* Except in special cases provided for by law, a person detained on a criminal charge shall be entitled, unless a judicial or other authority decides otherwise in the interest of the administration of justice, to release pending trial subject to the conditions that may be imposed in accordance with the law. Such authority shall keep the necessity of detention under review.

"exceptional circumstances".[20] That requirement was removed on 17th November 1999. Although it is obvious that the reason for the elimination of that requirement *{ratio legis)* was because of the abolishment of the earlier situation where detention was a rule, in the Tribunal's practice the prevalent standpoint is that the amendment to Rule 65 has not made provisional release the norm but rather that the particular circumstances of each case must be considered in the light of the provisions of Rule 65 as it now stands.[21] It is important to note that, even after the amendment of the Rule of 17th November 2003, the presumption of the existence of the "special circumstances" is still found in applications for provisional release for which the Appeals Chamber would have jurisdiction.[22] The Defence holds that such a nomotechnical solution was used to emphasise the difference and the elimination of the "exceptional circumstances" in the procedure before the Trial Chamber. However, the jurisprudence of the Tribunal indicates that it can be considered indisputable that "provisional release is no longer considered exceptional".[23] The amendment to Rule 65(B), removing the requirement of exceptional circumstances (...) is wholly consistent with the internationally recognised standards regarding the rights of the accused which the International Tribunal is obliged to respect".[24]

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[20] Rule 65(B) originally read: "Release may be ordered by a Trial Chamber only in exceptional circumstances, after hearing the host country 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."

[21] IT-98-30/1, *The Prosecutor* v. *Miroslav Kvočka et al.,* Decision on Motion for Provisional Release of Miroslav Kvočka, of 2. February 2000, p. 3.; IT-99-36/1, *The Prosecutor v. Radoslav Brdjanin and Momir Talić,* Decision on Motion by Radoslav Brdjanin for Provisional Release, of 25. July 2000., para. 12.; Decision on Motion by Momir Talic for Provisional Release, of 28. March 2001., para. 17.; IT-01-47-PT, *The Prosecutor v. Hadžihasanović et al.,* Decision Granting Provisional Release to Amit Kubura, of 19. December 2001, para. 7.; IT-99-36/1, *The Prosecutor v. Radoslav Brdjanin and Momir Talić,* Decision on the Motion for Provisional Release of the Accused Momir Talić, of 20. September 2002, p. 4.; IT-95-11-PT, *The Prosecutor v. Milan Martić,* Decision on Motion for Provisional Release, of 10. October 2002; IT-03-66-PT, *The Prosecutor* v. *Fatmir Limaj et al.,* Decision on Provisional Release of Fatmir Limaj, of 12. September 2003, p. 8. Such is the standpoint of the Appeal Chamber *(See also* IT-99-37-AR65, *The Prosecutor v. Nikola Šainović and Dragoljub Ojdanić,* Decision on Provisional Release, of 30. October 2002, para. 7.)

[22] *See* Rule 65(I)(iii).

[23] IT-95-9, *The Prosecutor v. Blagoje Simić et al.,* Decision on Miroslav Tadić's Application for Provisional Release, of 4. April 2000, p. 5.

[24] Report of the Secretary-General introducing the articles on the rights of the accused in the Statute, U.N. Doc. S/25704, of 3. May 1993, para 106: "It is axiomatic that the International Tribunal must fully respect internationally recognized standards regarding the rights of the accused at all stages of its proceedings".; IT-95-9, *The Prosecutor v. Blagoje Simić et al.,* Decision on Miroslav Tadic's Application for Provisional Release, of 4. April 2000, p. 7.; IT-95-5-AR65, *Prosecutor v. Blagoje Simić et al,* Decision on Application

7. According to the present redaction of Rule 65, the Trial Chamber has to accept an application for provisional release on the assumption that the Trial Chamber has obtained the opinion of a host country and that it is satisfied that: (a) the accused will appear for trial and, (b) if released, will not pose a danger to any victim, witness or other person." The word "may" in Rule 65(B) needs to be interpreted within the context of the previously cited international legal documents,[25] which have been universally accepted throughout the world. The jurisprudence of the Tribunal shows that the burden of proof is on the Applicant to satisfy that the two pre-requisites set forth in Rule 65(B) are met,[26] although different conceptions exist.[27] Nevertheless, if the Applicant proves that he has fulfilled the two pre-requisites, the Defence holds that according to the existing stylization of Rule 65, the Trial Chamber does not have the discretion to decline his application for provisional release.

The Applicant will appear for the trial.

8. The jurisprudence of the Tribunal shows that it seeks of the Applicant to appear for trial, above all, because

> the Tribunal lacks its own means to execute a warrant of arrest, or to re-arrest an accused who has been provisionally released. It must also rely on the co-operation of States for the surveillance of accused who have been released. This calls for a more cautious approach in assessing the risk that an accused may abscond . It depends on the circumstances whether this lack of enforcement mechanism creates such a barrier

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for Leave to Appeal, of 19. April 2000; IT-95-9, *The Prosecutor* v. *Blagoje Simić et al.,* Decision on Milan Simić's Application for Provisional Release, of 29. May 2000, p. 5.

[25] Paras. 2-5.

[26] IT-03-68-PT, *The Prosecutor* v. *Naser Oric,* Decision on Application on Provisional Release, of 25. July 2003, p. 2.

[27] Accepting Momir Talić's Application for Provisional Release, the Trial Chamber asserts "that no evidence or material has been adduced tending to prove that any clear and/or present danger of such risk exists and further notes that there is no suggestion that Talic has interfered with administration of justice in any way whatsoever since March 14, 1999, the date when the indictment was confirmed against him" (IT-99-36/1, *The Prosecutor v. Radoslav Brdjanin and Momir Talić,* Decision on the Motion for Provisional Release of the Accused Momir Talić, of 20. September 2002.). For the principle discussion on the burden of proof in the analogous situation, *see* also IT-99-37-AR65, *The Prosecutor v. Nikola Šainović and Dragoljub Ojdanić,* Dissenting Opinion of Judge David Hunt on Provisional Release, paras. 26-31

[28] The Defence respectfully admits that it is aware of the standpoint of this Trial Chamber, expressed in the Ademi case: "However, even if these requirements are met, this Trial Chamber does not believe that it is obliged to release the accused. In this regard, it agrees with the interpretation that a Trial Chamber will still retain a discretion not to grant provisional release even if it is satisfied that the accused will appear for trial and will not pose a danger to any victim, witness or other person. This applies even if the Prosecution does not object to the application for release." (IT-01-46-PT, *The Prosecutor* v. *Rahim Ademi,* Order on Motion for Provisional Release, of 20. February 2002, para. 22, footnotes omitted.)

> that provisional release should be refused. It could alternatively call for the imposition of strict conditions on the accused or a request for detailed guarantees by the government in question. In this regard, it goes without saying that prior voluntary surrender of an accused is not without significance in the assessment of the risk that an accused may not appear for trial.[29]

9. The Applicant surrendered voluntarily. On 31st March 2004 he contacted (by phone) the Head of OTP Field Office in Zagreb, through his attorney, and informed him that he had received no information about charges brought against him.[30] He also told him that if the medias' speculations turn out to be true, he was staying in Zagreb and that he was ready to be handed the Indictment at any moment and voluntarily depart for Hague. At the request of the Defence, the Head of the OTP Field Office in Zagreb confirmed the above in writing.[31]
10. Since he received no answer from the Head of the OTP Field Office,[32] on 1st April 2004 the Applicant contacted the Ministry of Justice of the Republic of Croatia on his own initiative. He was told to come to the Ministry that same day in the afternoon, which he did, and thereupon was handed his Indictment. These actions show the Applicant's indisputable will to appear before the Tribunal free of any political motives, consultations or suggestions of any political state authorities. In accordance with this decision, on 5th April 2004, the Applicant arrived at the Amsterdam airport, from whereon he was escorted to the UN Detention Unit.
11. The Applicant received the Indictment on 1st April and arrived in Amsterdam on 5th April 2004. During this time he familiarized himself with the Indictment and became aware of the fact that if he was proven guilty, he would face a serious sentence.[33] In

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[29] IT-01-46-PT, *The Prosecutor v. Rahim Ademi,* Order on Provisional Release, of 20. February 2002, para. 24.; IT-02-59-PT, *The Prosecutor* v. *Darko Mrdja,* Decision on Darko Mrdja's Request for Provisional Release, of 15. April 2002, paras. 29, 33.; IT-99-36-T, *The Prosecutor* v. *Radoslav Brdjanin and Momir Talić,* Decision on the Motion for Provisional Release of the Accused Momir Talić, of 20. September 2002.

[30] The Government of the Republic of Croatia, as well as no other body, did not previously inform him about this, but the media made speculations about his name appearing in the Indictments.

[31] Annex I - The letter of Mr. Thomas Osorio, Head of the OTP Field Office in Zagreb to the Defence Counsel, of 29. April 2004.

[32] Most probably because the Indictment was still sealed.

[33] Referring to the persistent argumentation of the Prosecution that the severity of the crime the accused is faced with is a reason to deny the applications for provisional release, the Trial Chamber III reminded that "irrespective of their characterisation, all crimes charged before the Tribunal (...) are serious by virtue of the Tribunal's jurisdiction as set forth in Article 1 of the Statute of the Tribunal" (IT-03-68-PT, *The Prosecutor* v. *Naser Orić,* Decision on Application on Provisional Release, of 25. July 2003.; *See also* IT-94-1-A and IT-94-l-Abis, *The Prosecutor v. Duško Tadić,* Judgement in Sentencing Appeals, of 26th January 2000, para 69.)

spite of this, the Applicant did not try to escape, which was possible even though his passport was taken away from him by the Croatian Police Authorities. Croatian citizens, as is the Applicant, can travel to most neighbouring states without passports, using only ID cards.[34] Viewing the Applicants behaviour, it is clear that no matter how heavy the allegations may be, the Applicant will not step away from his primary decision.

12. The Applicant did not in the past, nor does he in the present contemplate on escaping. He had and still has a positive attitude towards the orderly administration of justice. In this respect, after the war, he operated as a police official of the Federation of Bosnia and Herzegovina and acting in accordance with this principle he would always, without exception, respond to a courts' first summon as a witness. As a witness, the Applicant testified before court, on first summon, in procedures against persons responsible for grave breaches of international humanitarian law.[35] In his public appearances, the Applicant never questioned the legitimacy of the Tribunal and the need for the conduction of justice.[36]
13. With this Application, the Applicant submits his Solemn Declaration by which he promises to respond to the Court's first summon.[37] He is willing to fortify this statement by placing all his possessions and property as a guarantee.[38] His father Andrija is also willing to guarantee, in the same manner, that the Applicant will appear for trial.[39]
14. The Applicant's statement is supported by the fact that the Government of the Republic of Croatia gave a written guarantee that, if the Applicant were to be ordered by the Trial Chamber to remain within the Republic of Croatia, he would carry out all duties laid upon him.[40] Analogous guarantees were given by the authorities of the

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[34] The Republic of Croatia borders with Hungary, Serbia and Monte Negro, Bosnia and Herzegovina, Italy and Slovenia. In all of these states, with Serbia and Monte Negro as an exception, Croatian citizens can travel without a passport.
[35] In this respect, as an example, the Applicant testified on first summon in the procedure before the County Court of Mostar against Ž. Džidić et al., on 12* January 2004.
[36] *See* Annex II - The Applicant's statement in Sarajevo weekly *Slobodna Bosna* of 27th September 2001.
[37] Annex III - Solemn Declaration of the accused Valentin Ćorić of 11th May 2004.
[38] Annex III - Solemn Declaration of the accused Valentin Ćorić of 11th May 2004, para. 6.
[39] Annex IV - Solemn Declaration of Andrija Ćorić of 19th May 2004.
[40] Annex V - Guarantee of the Government of the Republic of Croatia of 5. April 2004.

Hezegovina-Neretva county[41] and the Government of the Federation of Bosnia and Herzegovina[42] if the Trial Chamber were to decide that the Applicant should remain within the territory of Bosnia and Herzegovina.

15. The Governments are willing to confirm the gravity and validity of their written guarantees by personal hearings of their representatives if necessary. The Deputy Prime Minister of the Federation of Bosnia and Herzegovina, Dragan Vrankić, by a personal letter guarantees that the Applicant will fulfil all the Trial Chamber's requests.[43] We have to bear in mind that, as this Chamber has already concluded, "the guarantees are not a requirement for the grant of provisional release, (but) they do provide further assurance to the Chamber".[44]

16. The Defence specially wishes to specify that Government guarantees have proven to be effective in all cases where the accused have been temporarily released, for instance, the Republic of Croatia (Ademi), the Federation of Bosnia and Herzegovina (Hadžihasanović, Kubura, Halilović). There has never been a need to revoke a decision brought by the Trial Chamber, which means that the Governments have proven to be credible and therefore deserve to be trusted. The existing legal instruments also make it possible for the Governments to cooperate in the implementation of the Trial Chamber's decision.[45]

17. The Applicant wishes to demonstrate his unconditional determination to appear before the Court by willing to, should the Trial Chamber decide so, remain under

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[41] Annex VI - The letter from the Ministry of Internal Affairs of the Herzegovina-Neretva County, Str. Conf. No. 02-01-18/04 of 8* April 2004.

[42] Annex VII - Conclusion of the Government of the Federation of Bosnia and Herzegovina of 19th April 2004.

[43] Annex VIII - The letter from the Deputy Prime Minister Vrankić, Sarajevo, April 2004.

[44] IT-03-66-PT, *The Prosecutor v. Fatmir Limaj et al.,* Decision on Provisional Release of Haradin Bala, of 16th December 2003. The Trial Chamber found similar guarantees which the Government of the Federation of Bosnia and Herzegovina submitted in Case No. IT-01-48-PT to be satisfactory, *The Prosecutor v. Sefer Halilović,* Decision on Request for Pre-Trial Provisional Release, of 13th December 2001, p. 2. The Trial Chamber acted in the same way in Case No. IT-01-47-PT, *The Prosecutor* v. *Enver Hadžihasanović, Mehmed Alagić and Amir Kubura,* of 19th December 2001. Refering to the guarantees of the Republic of Croatia, the Trial Chamber also expressed its' satisfaction in Case No. IT-01-46-PT, *The Prosecutor v. Rahim Ademi,* Order on Provisional Release, of 20* February 2002, para. 38.

[45] On the 26th of February 1996, the governments of the Republic of Croatia, Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina signed the Agreement on Legal Assistance in Civil and Criminal Matters. (See *Narodne novine.* The Official Gazette of the Republic of Croatia, International Agreements, no. 12/1996 of 18* October 1996)

house arrest until the beginning of the trial.[46] The institution of house arrest exists in the criminal-law of the Republic of Croatia,[47] and the Government of the Republic of Croatia committed and commits itself to carry out all the Trial Chamber's orders, which means that it will carry out such an order as well.[48] The Applicant's determination to consent "to the imposition of any condition necessary to his provisional release", even then when those conditions are very rigorous, is an important fact that the Trial Chamber cannot neglect.[49]

The Applicant will not interfere with witnesses.

18. As mentioned above, Trial Chamber II concluded "that Article 20.1 of the Tribunal's Statute makes the rights of the accused the first consideration, and the need to protect victims and witnesses the secondary one".[50] Nevertheless, the Applicant does not in any way underestimate the importance of witness protection, without which the execution and achievement of justice would not be possible. The burden of proof that he will not pose a danger to witnesses and victims also lies upon the Applicant. We need to bear in mind the ancient principle *lex neminem cogit ad impossibilia.*[51] Trial Chamber II stressed that the possibility that an accused should be provisionally released does not necessarily mean that witnesses are posed with a danger.[52] Whether or not the Applicant will interfere with witnesses can be primarily concluded from his behaviour so far. During the years after the war, after the events described in the

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[46] Annex III - Solemn Declaration of the accused Valentin Ćorić of 11th May 2004.
[47] Annex IX - Extract from the Criminal Procedure Law of the Republic of Croatia.
[48] Annex V - Guarantee of the Government of the Republic of Croatia, of 5* April 2004.
[49] IT-99-36/1, *The Prosecutor v. Radoslav Brdjanin and Momir Talić,* Decision on the Motion for Provisional Release of the Accused Momir Talić, of 20th September 2002.
[50] *See* para. 3.
[51] "There will never be a total guarantee that an accused will appear for the trial and, if released, will not pose a danger to sources of evidence" (IT-01-47-PT, *The Prosecutor* v. *Enver Hadžihasanović et al.,* Decision granting Provisional Release to Enver Hadžihasanović, Mehmed Alagić and Amir Kubura, of 19th December 2001).
[52] IT-99-36/1, *The Prosecutor v. Radoslav Brdjanin and Momir Talić,* Decision on Motion by Radoslav Brdjanin for Provisional Release, of 25th July 2000, para. 19: "The Trial Chamber does not accept that this heightened *ability* to interfere with victims and witnesses, by itself, suggests that he *will* pose a danger to them. It cannot just be assumed that everyone charged with a crime under the Tribunal's Statute will, if released , pose a danger to victims or witnesses or others."

Indictment, the Applicant filled a post as an officer in Internal Affairs and thus could have abuse his position to influence witnesses. He never did any such thing.

19. The Applicant never in any way took part in defence preparation of any accused person before Tribunal, as before no other court as well.
20. The Applicant explicitly agreed with the Prosecution's Motion concerning the introduction of protection measures for witnesses.[53] He solemnly guarantees not to interfere with witnesses or victims,[54] pointing out that the Prosecution has not revealed a single witness's name and thus theoretically minimized the possibility that the Applicant could interfere with them in any manner.[55] Neither the disclosure of supporting material or the possible disclosure of witness names will not have any effect on the Applicant's determination to respect all the Trial Chamber's decisions..
21. If the Trial Chamber decides to place him under house arrest, as the Applicant himself had suggested,[56] the possibility that he should in any way interfere with witnesses or victims is theoretically excluded as well.

Relief sought.

22. Accordingly, the Applicant respectfully requests of the Trial Chamber to grant this Motion and to order the provisional release of the Applicant, with any conditions that the Trial Chamber finds appropriate and necessary.

Respectfully submitted
Valentin Ćorić,

by Tomislav Jonjić, Defence Counsel

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[53] *See* The accused Valentin Ćorić's Response to the Prosecution's Motion for Protective Measures, of 13th April 2004.
[54] Annex III - Solemn Declaration of the accused Valentin Ćorić of 11* May 2004.
[55] In a number of cases before this Tribunal, the Prosecution's resistance to applications for provisional release of the accused was motivated, among other reasons, by the assertion that the accused is familiarized with the names of witnesses. (*See* IT-95-9, *The Prosecutor* v. *Blagoje Simić et al.,* Prosecutor's Response to the Defence Request for Provisional Release of Miroslav Tadić, of 28th January 1999 and Prosecution's Brief in Opposition to Provisional Release of Miroslav Tadić, of 30th November 1999; IT-98-30/1, *The Prosecutor v. Miroslav Kvočka et al.,* Decision on Motion for Provisional Release of Miroslav Kvočka, of 2nd February 2000, p. 3;)
[56] See para. 17.