

UNITED  
NATIONS

IT-01-47-T  
D7705 - D7702  
18 JANUARY 2004

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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-01-47-T

Date: 18 January 2004

Original: English

**BEFORE THE DUTY JUDGE**

**Before:** Judge Carmel A. Agius

**Registrar:** Mr. Hans Holthuis

**Decision of:** 18 January 2004

**THE PROSECUTOR**

v.

**ENVER HADŽIHASANOVIĆ  
AMIR KUBURA**

**DECISION GRANTING PROVISIONAL RELEASE  
TO ENVER HADŽIHASANOVIĆ FROM 18-20 JANUARY 2004**

**Counsel for the Prosecutor:**

Mr. Ekkehard Withopf

Mr. David Re

Mr. Daryl Mundis

Mr. Chester Stamp

**Counsel for the Defence:**

Ms. Edina Rešidović and Stephane Bourgon for Enver Hadžihasanović

**Embassy of Bosnia and Herzegovina**

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I, Carmel A. Agius, Judge 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 ("the Tribunal"),

**BEING SEIZED** of the Defence Motion for Provisional Release to Attend Funeral ("Motion"), filed on 17 January 2004 by the counsel for the accused Enver Hadžihanović,

**NOTING** that the Motion requests that the accused be allowed to attend the funeral of his brother, Mr. Jusuf Duškunović, which is scheduled for noon on 19 January 2004, and that the Motion stipulates that the accused will return no later than 20 January 2004,

**CONSIDERING** that the accused shared a close relationship with his brother and it is on compassionate grounds that this request be granted, pursuant to certain conditions and guarantees,

**CONSIDERING** that the accused waives his right to be present during the trial proceedings on 19 and 20 January 2004, and shall be represented by his counsel in such proceedings,

**CONSIDERING** that the Prosecutor has been consulted, who agrees to temporary provisional release based on the conditions hereunder,

**CONSIDERING** that a representative of the Government of Bosnia and Herzegovina (hereinafter "BiH") will travel with the accused and shall be with him at all times, until his return to The Hague,

**CONSIDERING** the guarantees provided by the BiH Government, that the accused shall return to The Hague and not abscond,

**CONSIDERING** that, having also consulted with Judge Jean-Claude Antonetti, who is Presiding over the trial of the accused, and who also is in agreement with what follows in this Order,

**CONSIDERING** the restrictions, as applicable, in the "Order Granting Provisional Release of 19 December 2001",

**PURSUANT** to Rule 65 of the Rules of Procedure and Evidence of the Tribunal ("Rules")

**I, JUDGE CARMEL A. AGIUS HEREBY GRANT** the Motion **AND ORDER** the provisional release of Enver Hadžihasanović on the following terms and conditions:

1. The accused waives his right to be present at the trial proceedings over a period of 2 days (19 and 20 January 2004), in written form;
2. The accused consents to be represented at the trial proceedings by his Counsel, in writing;
3. The trial proceedings shall continue as per schedule, for the period of the absence of the accused (i.e. 19 and 20 January 2004);
4. The accused shall be transported to Schiphol airport in the Netherlands by the Dutch authorities;
5. At Schiphol airport, the accused shall be provisionally released into the custody of the designated officials of the BiH Government (whose names shall be provided in advance) and who shall accompany the accused for the remainder of travel to BiH and during the course of his stay in BiH;
6. On his return flight, the accused shall be accompanied by such designated official of BiH, who shall deliver the accused into the custody of the Dutch authorities at Schiphol airport at a pre-determined date and time and the Dutch authorities shall then transport the accused back to the UNDU;
7. The accused shall comply strictly with any order of the Trial Chamber varying the terms of, or terminating, the provisional release of the accused;
8. The accused shall comply with such other restrictions as are applicable, in the "Order Granting Provisional Release of 19 December 2001";

**INSTRUCTS** the Registrar of the Tribunal to consult with the Ministry of Justice of the Netherlands and the authorities of BiH as to the practical arrangements for the release of the accused,

**REQUESTS** the authorities of all States through which the accused will travel:

- a) to hold the accused in custody for any time he will spend in transit at the airport;
- b) to detain and arrest the accused pending his return to the United Nations Detention Unit, should he attempt to escape.

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

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Carmel A. Agius  
Duty Judge

Done this eighteenth day of January 2004  
At The Hague,  
The Netherlands.

[Seal of the Tribunal]