

IT-01-47-A
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14 November 2007

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UNITED
NATIONS



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-A
Date: 14 November 2007
Original: English

IN THE APPEALS CHAMBER

Before: Judge Fausto Pocar, Presiding
Judge Mohamed Shahabuddeen
Judge Mehmet Güney
Judge Liu Daqun
Judge Theodor Meron

Registrar: Mr. Hans Holthuis

Order of: 14 November 2007

PROSECUTOR

v.

**ENVER HADŽIHASANOVIĆ
AMIR KUBURA**

PUBLIC

**ORDER RECALLING ENVER HADŽIHASANOVIĆ FROM
PROVISIONAL RELEASE**

The Office of the Prosecutor:

Mr. Peter Kremer, QC
Ms. Shelagh McCall
Mr. Marwan Dalal
Mr. Xavier Tracol
Ms. Barbara Goy
Ms. Katharina Margetts
Mr. Matteo Costi

Counsel for the Appellants:

Ms. Edina Rešidović and Mr. Stéphane Bourgon for Mr. Hadžihasanović
Mr. Fahrudin Ibrišimović and Mr. Rodney Dixon for Mr. Kubura

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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 (“International Tribunal”);

RECALLING the “Decision on Motion on Behalf of Enver Hadžihasanović for Provisional Release” rendered 20 June 2007, which ordered that Enver Hadžihasanović be provisionally released pending the hearing of his appeal (“Provisional Release Decision”);

NOTING that the Provisional Release Decision required Enver Hadžihasanović to “comply with any order of the Appeals Chamber varying the terms of, or terminating, his provisional release” and to “return to the International Tribunal at such time and on such date as the Appeals Chamber may order”;¹

NOTING the “Scheduling Order for Preparation of Appeal Hearing” issued on 14 November 2007, which ordered that the appeal hearing shall take place on 4 and 5 December 2007;

NOTING the “Motion on Behalf of Enver Hadžihasanović Seeking Variance of the Terms of His Provisional Release” (“Hadžihasanović’s Motion”) filed 9 November 2007, whereby he requests the Appeals Chamber to vary the terms of his provisional release to attend the appeal hearing in his case;²

NOTING that the Federation of the Bosnia and Herzegovina (“BiH”) undertook to cover all transportation costs from the Airport Schiphol to the residence of Enver Hadžihasanović and back;³

PURSUANT to Rule 65 of the Rules of Procedure and Evidence;

ORDERS:

1. Enver Hadžihasanović to return to the United Nations Detention Unit in the Hague for the duration of the appeal hearing in his case;
2. the Government of BiH to designate an official who shall accompany Enver Hadžihasanović from his residence and shall deliver Enver Hadžihasanović into the custody of Dutch authorities at Schiphol airport;
3. the Government of BiH to ensure the personal security and safety of Enver Hadžihasanović until he is delivered into the custody of the Dutch authorities at Schiphol airport;

¹ Provisional Release Decision, paras 15(4)(g), 15(4)(i), respectively.

² Hadžihasanović’s Motion, paras 1-2, 10-11. *See also* para. 14. The Prosecution informed the Appeals Chamber that it will not respond to Hadžihasanović’s Motion (correspondence to a Legal Officer of the Appeals Chamber, 9 November 2007).

³ Motion on Behalf of Enver Hadžihasanović for Provisional Release, 20 April 2007, Confidential Enclosure 3 (Guarantees provided by the Federation of Bosnia and Herzegovina).

4. the Government of the Kingdom of the Netherlands to ensure that Enver Hadžihasanović is transported, under guard, from Schiphol airport to the United Nations Detention Unit;
5. that the Provisional Release Decision be stayed for the duration of the appeal hearing, and resume after the appeal hearing;
6. that after the appeal hearing, Enver Hadžihasanović be provisionally released into the custody of the designated official of the Government of BiH at Schiphol airport, who shall accompany Enver Hadžihasanović and ensure his personal security and safety for the remainder of his travel to BiH and to his residence.

INSTRUCTS:

1. The Registrar of the International Tribunal to consult with the Ministry of Justice of the Netherlands as to the practical arrangements for Enver Hadžihasanović's return to the United Nations Detention Unit and his provisional release after the appeal hearing;
2. the Government of BiH, the Government of the Kingdom of the Netherlands and the Registry of the International Tribunal to communicate with each other in order to facilitate the orderly return of Enver Hadžihasanović to the United Nations Detention Unit and his provisional release after the appeal hearing;

REQUESTS the authorities of all States through whose territory Enver Hadžihasanović may travel:

1. to hold Enver Hadžihasanović in custody for any time that he will spend in transit; and
2. to arrest and detain Enver Hadžihasanović pending his return to the United Nations Detention Unit in the Hague and pending his return to BiH and his residence after the appeal hearing, should he attempt to escape.

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



Fausto Pocar
Presiding Judge

Dated this 14th day of November 2007,
At The Hague,
The Netherlands.

[Seal of the International Tribunal]