

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-04-84-R77.5

Date: 19 June 2008

Original: English

IN TRIAL CHAMBER I

Before: Judge Alphons Orie, Presiding
Judge Christine van den Wyngaert
Judge Ole Bjørn Støle

Registrar: Mr Hans Holthuis

Decision of: 19 June 2008

PROSECUTOR

v.

BATON HAXHIU

PUBLIC

DECISION ON THE PROSECUTION MOTION ON BATON HAXHIU'S
COMPLIANCE WITH PROVISIONAL RELEASE AND DECISION MODIFYING
CONDITIONS OF PROVISIONAL RELEASE

Office of the Prosecutor

Mr Dan Saxon
Mr Vincent Lunny

Counsel for the Accused

Mr Christian Kemperdick

TRIAL CHAMBER I (“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”);

BEING SEISED of the Prosecution Motion on Baton Haxhiu’s Compliance with Provisional Release filed on 9 June 2008 in which the Prosecution requests the Chamber to consider whether Baton Haxhiu (“Accused”) has breached the terms of his provisional release by giving a television interview, and if so whether the provisional release should be revoked, and in which it also requests that a confidential filing of 5 June 2008 be made public; and the Defence response to this motion;¹

BEING FURTHER SEISED of the Motion to Amend the Conditions of Provisional Release with Confidential Annexes filed by the Defence on 16 June 2008 and in which it submits that the Accused is “willing, prepared and determined to appear at The Hague for the trial”, that he “has the financial means to pay for his travel from Pristina to The Hague” and that he is “in possession of a valid visa for ... the Kingdom of the Netherlands”;² and the Prosecution response to this motion;³

NOTING that the Indictment for contempt against the Accused was confirmed on 10 April 2008;⁴

NOTING that the Accused was transferred to the seat of the Tribunal on 20 May 2008 and that his initial appearance was held on the following day, during which the Accused pleaded not guilty;⁵

NOTING that the Accused was provisionally released on 23 May 2008;⁶

NOTING that the trial in this case is scheduled to take place on 24 and 26 June 2008;⁷

CONSIDERING that, on the basis of the transcript of the television interview given by the Accused,⁸ and in light of the nature of this case and the impending start of the trial, the Chamber finds that there is no need to determine whether the Accused was in breach of the

¹ Motion on Baton Haxhiu’s Compliance with Provisional Release, 9 June 2008; Defence Counsel Response to the Prosecutor’s Motion on Baton Haxhiu’s Compliance with Provisional Release, 10 June 2008.

² Motion to Amend the Conditions of Provisional Release with Confidential Annexes, 16 June 2008, pp. 3-4.

³ Prosecution’s Response to Defence “Motion to Amend the Conditions of Provisional Release with Confidential Annexes”, 18 June 2008.

⁴ Decision on Review of Indictment, 10 April 2008.

⁵ Transcript in *Prosecutor v. Haxhiu*, pp. 1-13.

⁶ Decision on Provisional Release of Baton Haxhiu, 23 May 2008 (“Decision on Provisional Release”).

⁷ Order Scheduling Start of Trial, 3 June 2008.

⁸ Annex A to Prosecution’s Response to Defence “Motion to Amend the Conditions of Provisional Release with Confidential Annexes”, 18 June 2008.

terms of his provisional release because even if he was, the breach would not have been of such seriousness that, under the present circumstances, it would have resulted in the revocation of the provisional release;

CONSIDERING that the Accused is willing and able to come to The Hague to attend his trial and that there is no reason to detain him during his journey to and his stay in The Hague;

CONSIDERING that the filing of 5 June 2008, which the Prosecution requests to be made public, is a report by UNMIK⁹ on the Accused's provisional release, and that such reports have been continuously filed confidentially, the Prosecution has not shown good cause why that filing should be made public;

REMINDS the Accused that he is not to discuss his case with anyone, including the media, other than with his counsel;


MODIFIES the conditions set in its Decision on Provisional Release as follows:

1. The Accused is allowed to leave his place of residence for the purposes of attending his trial and for the pronouncement of the judgement in this case at a later date; for these occasions, the UNMIK authorities shall return to the Accused his passport and re-take it on his return to Priština/Prishtinë;¹⁰
2. Conditions 12 (2) and (4), the Instruction to the Registrar and the Request to all States through whose territory the Accused will travel, on page 6 of the Decision on Provisional Release, are suspended in relation to the Accused's movement referred to in the previous paragraph;
3. Conditions 12 (iii) and (iv) are suspended for the duration of the Accused's presence in The Hague;
4. Upon his arrival to the Tribunal, the Accused will follow the instructions of the Tribunal's security officers.

⁹ UNMIK stands for United Nations Interim Administration Mission in Kosovo.

¹⁰ Condition 12 (ii) on page 5 of the Decision on Provisional Release of Baton Haxhiu, 23 May 2008.

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



Judge Alphons Orie
Presiding Judge

Dated this 19th day of June 2008
At The Hague
The Netherlands

[Seal of the Tribunal]