



International Tribunal for the Prosecution of
Persons Responsible for Serious Violations of
International Humanitarian Law Committed in
the Territory of Former Yugoslavia since 1991

Case No. IT-04-84-R77.4

Date: 7 October 2008

Original: English

IN TRIAL CHAMBER I

Before: Judge Alphons Orie, Presiding
Judge Christine Van den Wyngaert
Judge Bakone Justice Moloto

Registrar: Mr. Hans Holthuis

Decision of: 7 October 2008

PROSECUTOR

v.

ASTRIT HARAQIJA

and

BAJRUSH MORINA

PUBLIC

**DECISION ON ASTRIT HARAQIJA'S REQUEST TO VARY
CONDITION OF PROVISIONAL RELEASE**

The Office of the Prosecutor:

Mr. Dan Saxon

Counsel for the Accused:

Mr. Karim A. A. Khan for Astrit Haraqija
Mr. Jens Dieckmann for Bajrush Morina

**United Nations Interim
Administration Mission in Kosovo**

TRIAL CHAMBER I (“Trial Chamber”) of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of Former Yugoslavia since 1991 (“Tribunal”);

BEING SEISED of the “Astrit Haraqija’s Request to Vary Condition of Provisional Release with Confidential Annex”, filed publicly on 6 October 2008 (“Motion”)¹ in which the Defence for Astrit Haraqija (“Accused”) seeks the variation of a condition of the provisional release in order to allow the Accused to visit his parents in Gjakova, Kosovo, once per week;

NOTING that the Indictment in the present case was confirmed on 12 February 2008² and on 28 April 2008, the Accused was transferred to the seat of the Tribunal;

NOTING that on 13 May 2008, the Accused was granted provisional release pending the start of the trial (“Pre-trial provisional release”);³

NOTING that on 3 September 2008, the Accused was recalled from provisional release⁴ and on 15 September 2008 was granted further provisional release pending the finalisation of the judgement;⁵

NOTING that one of the conditions of the present provisional release is that the Accused shall remain within the confines of the municipality of his residence;⁶

NOTING that in its response filed on 6 October 2008, the Prosecution did not oppose the Motion;⁷

CONSIDERING that the Accused up to now has abided to all conditions of both the Pre-trial and present provisional release;

CONSIDERING that UNMIK did not submit any objections as to the modifications of the terms of the provisional release sought by the Defence;⁸

¹ On 1 October 2008, the Defence confidentially filed “Astrit Haraqija’s Request to Vary Condition of Provisional Release” that was subsequently replaced by the public version with confidential annex. The Trial Chamber notes that both submissions are materially identical and that the only difference is that the public version contains the references to the place of residence of Astrit Haraqija’s family in the confidential annex.

² Decision on Review of Indictment, 12 February 2008 (confidential).

³ Decision on Application for Provisional Release of Astrit Haraqija, 13 May 2008.

⁴ Order Recalling Astrit Haraqija and Bajrush Morina from Provisional Release, 15 August 2008.

⁵ Decision on Defence Application for Provisional Release of the Accused Astrit Haraqija, 15 September 2008.

⁶ Decision on Defence Application for Provisional Release of the Accused Astrit Haraqija, 15 September 2008, para. 13(1)(e)(i).

⁷ Prosecution Response to Confidential Astrit Haraqija’s Request to Vary Condition of Provisional Release, 6 October 2008. *See supra*, fn. 1.

⁸ On 6 October 2008, the Senior Legal Officer of the Chamber forwarded the public part of the Motion to the UNMIK authorities. On the same day, the UNMIK official confirmed that UNMIK does not have any objection to the Defence request.

FINDING that allowing the Accused to visit his parents at their family home in Gjakovo once per week will not create a risk of flight;


GRANTS the Motion and **MODIFIES** the conditions set in its Decision on Provisional Release as follows:

The Accused is allowed to leave his place of residence in consultation with UNMIK every Saturday between 10.00 and 18.00 in order to visit his parents in Gjakovo.

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

Dated this seventh day of October 2008

At The Hague
The Netherlands



Alphons Orić
Presiding Judge

[Seal of the Tribunal]