



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-04-82-A  
Date: 19 January 2010  
Original: English

**BEFORE THE APPEALS CHAMBER**

**Before:** Judge Patrick Robinson, Presiding  
Judge Mehmet Güney  
Judge Liu Daqun  
Judge Andréia Vaz  
Judge Theodor Meron

**Registrar:** Mr. John Hocking

**Decision of:** 19 January 2010

**PROSECUTOR**  
v.  
**LJUBE BOŠKOSKI**  
**JOHAN TARČULOVSKI**  
*PUBLIC*

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**DECISION ON TARČULOVSKI'S MOTION FOR  
PROVISIONAL RELEASE**

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**The Office of the Prosecutor:**

Mr. Paul Rogers

**Counsel for Ljube Boškosi:**

Ms. Edina Rešidović  
Mr. Guénaél Mettraux

**Counsel for Johan Tarčulovski:**

Mr. Alan M. Dershowitz  
Mr. Nathan Z. Dershowitz  
Mr. Antonio Apostolski  
Mr. Jordan Apostolski

**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 (“Appeals Chamber” and “Tribunal”, respectively);

**BEING SEIZED OF** the “Tarčulovski Motion for Provisional Release to Meet his Legal Obligations with Annexes 1 and 2”, filed on 17 December 2009 (“Motion”) by Johan Tarčulovski (“Tarčulovski”), in which Tarčulovski requests the Appeals Chamber to grant him provisional release to the Former Yugoslav Republic of Macedonia (“FYROM”) for the period from 25 December 2009 to 2 January 2010,<sup>1</sup> to enable him to meet his legal obligations to obtain his new FYROM ID card and passport;<sup>2</sup>

**NOTING** the “Prosecution Response Opposing Tarčulovski’s Motion for Provisional Release with Annex”, filed on 21 December 2009 (“Response”), in which the Office of the Prosecutor (“Prosecution”) requests the Appeals Chamber to dismiss the Motion because it fails to meet the conditions set out in Rule 65(I) of the Rules of Procedure and Evidence;<sup>3</sup>

**NOTING** the “Decision on Tarčulovski’s Motion for Provisional Release of 17 December 2009” by the Duty Judge, in which the Duty Judge considered *inter alia* “that Tarčulovski has not shown any circumstance which would create a degree of urgency that would require the exercise of my power as a Duty Judge to decide upon the merits of the Motion” and, as a result, declined to deal with the Motion;<sup>4</sup>

**NOTING** that the Motion has become moot as the requested time period for the provisional release has expired;

**NOTING FURTHER** that Tarčulovski neither produces any evidence for the need for nine days on provisional release, nor any evidence to substantiate his request for provisional release for the specific period from 25 December 2009 to 2 January 2010, and that by his own admission his ID card will be in force until 27 February 2010;

**NOTING** that while the Letter from the Ministry of Interior reads that requests for new ID cards have to be submitted in person in the administrative offices in the Ministry of Interior, it does

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<sup>1</sup> Motion, para. 16.

<sup>2</sup> Motion, para. 6.

<sup>3</sup> Response, paras 1-6. On 24 December 2009, the Prosecution filed the “Supplement to Prosecution Response Opposing Tarčulovski’s Motion for Provisional Release with Annex”.

<sup>4</sup> Decision on Tarčulovski’s Motion for Provisional Release of 17 December 2009, 23 December 2009, p. 3.


not indicate whether any exceptions to this procedure exist, for instance with regard to FYROM citizens whose physical health does not allow them to request their new ID in person or who may be prevented from coming to the FYROM for other reasons;

**FOR THE FOREGOING REASONS**

**DENIES** the Motion.

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

Dated this nineteenth day of January 2010  
At The Hague,  
The Netherlands



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Judge Patrick Robinson  
Presiding

**[Seal of the Tribunal]**