

**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-04-75-T
Date: 19 January 2016
Original: English

IN THE TRIAL CHAMBER

Before: Judge Guy Delvoie, Presiding
Judge Burton Hall
Judge Antoine Kesia-Mbe Mindua

Registrar: Mr. John Hocking

Decision of: 19 January 2016

PROSECUTOR

v.

GORAN HADŽIĆ

PUBLIC

**DECISION ON REQUEST FOR LEAVE TO APPEAL DECISION ON MOTION
TO MODIFY TERMS OF PROVISIONAL RELEASE**

The Office of the Prosecutor:

Mr. Douglas Stringer

Counsel for Goran Hadžić:

Mr. Zoran Živanović

Mr. Christopher Gosnell

TRIAL CHAMBER II 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 (“Chamber” and “Tribunal”, respectively);

NOTING that, on 15 December 2015, the Chamber issued its “Decision on Motion to Modify Terms of Provisional Release” (“Decision”), denying Hadžić’s request to modify the conditions of his provisional release so as to allow him social contact with Defence witnesses DGH-009, DGH-010, DGH-011, DGH-016, DGH-045, or DGH-099;¹

BEING SEISED OF the “Request for Leave to Appeal Decision on Motion to Modify Terms of Provisional Release” filed by the Defence on 22 December 2015 (“Motion”),² in which the Defence requests certification to appeal the Decision pursuant to Rule 73(B) of the Tribunal’s Rules of Procedure and Evidence (“Rules”);³

NOTING the “Prosecution Response to Defence Request for Leave to Appeal Decision on Motion to Modify Terms of Provisional Release” filed on 6 January 2016, in which the Prosecution opposes the Motion;

NOTING that Rule 73(B) of the Rules provides that:

Decisions on all motions are without interlocutory appeal save with certification by the Trial Chamber, which may grant such certification if the decision involves an issue that would significantly affect the fair and expeditious conduct of the proceedings or the outcome of the trial, and for which, in the opinion of the Trial Chamber, an immediate resolution by the Appeals Chamber may materially advance the proceedings;

NOTING further, however, that Rule 65(D) of the Rules provides that any decision rendered under Rule 65 shall be subject to appeal, which, subject to Rule 65(F), shall be filed within seven days of filing of the impugned decision;

CONSIDERING that, the Decision was issued, amongst other, pursuant to Rule 65 of the Rules;⁴

¹ Decision, p. 5. Hadžić was granted provisional release pursuant to the Trial Chamber’s Decision on Urgent Motion for Provisional Release Filed on 28 April 2015, 21 May 2015. The Trial Chamber notes that it had already denied a similar request to modify the terms of Hadžić’s provisional release; *see* Decision on Motion to Modify Terms of Provisional Release (confidential), 16 July 2015. However, in its Decision ordering a stay of proceedings in this case for an initial period of three months, the Trial Chamber noted that “[s]hould the Defence seek amendments to the conditions of Hadžić’s provisional release, such as allowing contact with witnesses, the Defence may file a motion requesting that Hadžić be allowed to have contact with certain enumerated witnesses or request any other amendment it deems appropriate”; *see* Consolidated Decision on the Continuation of Proceedings, 26 October 2015, para. 67.

² *See also* Corrigendum to Request for Leave to Appeal Decision on Motion to Modify Terms of Provisional Release, filed with a public annex on 23 December 2015.

³ Motion, paras 1, 2, 9.

⁴ Decision, p. 5.


FINDING therefore that certification to appeal the Decision, pursuant to Rule 73(B) of the Rules, is not required;

PURSUANT to Rules 54 and 65(D), hereby:

DISMISSES the Motion.

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

Done this nineteenth day of January 2016,
At The Hague,
The Netherlands.



Judge Guy Delvoic
Presiding

[Seal of the Tribunal]