



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-PT

Date: 18 October 2006

Original: English

IN TRIAL CHAMBER II

Before: Judge Carmel Agius, Presiding
Judge O-Gon Kwon
Judge Kimberly Prost

Registrar: Mr. Hans Holthuis

Order of: 18 October 2006

PROSECUTOR

v.

**RAMUSH HARADINAJ
IDRIZ BALAJ
LAHI BRAHIMAJ**

ORDER SUSPENDING UNMIK DECISION

Office of the Prosecutor

Mr. Gilles Dutertre
Ms. Patricia Sellers
Mr. Gramsci di Fazio
Mr. Anees Ahmed

Counsel for Ramush Haradinaj

Mr. Ben Emmerson
Mr. Rodney Dixon
Mr. Michael O'Reilly

Counsel for Idriz Balaj

Mr. Gregor Guy-Smith

Counsel for Lahi Brahimaj

Mr. Richard Harvey
Mr. Paul Troop

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 (“Tribunal”);

NOTING the “Decision on Defence Motion on behalf of Ramush Haradinaj to Request Re-Assessment of Conditions of Provisional Release Granted 6 June 2005”, issued on 12 October 2005 (“Re-Assessment Decision”), in which the Trial Chamber modified the conditions of Ramush Haradinaj’s provisional release to allow him to “appear in public and engage in public political activities to the extent which UNMIK finds would be important for a positive development of the political and security situation in Kosovo, subject to the prior approval by UNMIK of a request by the Accused regarding each individual activity concerned”,¹

NOTING the “Decision on Ramush Haradinaj’s Modified Provisional Release” of 10 March 2006 (“Appeal Decision”), in which the Appeals Chamber upheld the Re-Assessment Decision and added to it a number of conditions that must be fulfilled for the proper exercise of UNMIK’s delegated authority;

NOTING the “Decision on the Request of Mr. Ramush Haradinaj”, taken by the United Nations Interim Administration Mission in Kosovo (“UNMIK”) on 17 October 2006 (“UNMIK Decision”), in which UNMIK, in the exercise of the authority delegated to it in the Re-Assessment Decision, authorises Haradinaj to give a televised interview to Company 21–Radio Television 21, to be broadcast in Kosovo at 10:30 p.m. local time on 18 October 2006; and lists the subjects about which Haradinaj may make statements during the interview;

BEING SEISED OF the “Prosecution’s Urgent Motion Seeking Annulment of UNMIK’s Decision of 17 October 2006 Permitting Accused Haradinaj to Appear on 18 October 2006 in a Television Interview on Political Issues”, filed on 18 October 2006 with confidential Annexes A through F (“Motion”), in which the Prosecution requests the Trial Chamber to suspend the UNMIK Decision on a provisional basis, and annul it after having heard the parties;

CONSIDERING that, although UNMIK enjoys delegated authority to authorise or deny public appearances and political activities by Haradinaj, the Trial Chamber bears the ultimate responsibility for ensuring that those activities do not “endanger either [Haradinaj’s] appearance for trial, or [endanger] any person, or in any way compromise the judicial authority of the Tribunal”,²

¹ Re-Assessment Decision, p. 6.

² *Ibid.*

CONSIDERING paragraph 99 of the Appeal Decision, which holds in pertinent part as follows:

The Appeals Chamber notes ... that the Prosecution may indeed make submissions to the Trial Chamber at any time. If the Trial Chamber considers that the submission warrants a temporary or permanent change to the conditions, it can so order it. The Trial Chamber could for example require UNMIK to suspend its permission or explain why it had granted permission.³

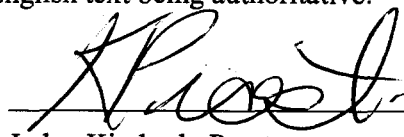
CONSIDERING that the Trial Chamber is unable to assess, on the basis of the UNMIK Decision and the Motion alone, whether UNMIK properly exercised its delegated authority in allowing Haradinaj to make the interview, and that the Chamber would benefit from a more complete explanation on the part of UNMIK as to why it granted this permission;

CONSIDERING FURTHER that the Trial Chamber would also benefit from additional submissions by the Prosecution, as well as submissions by Haradinaj;

Hereby **GRANTS** the Motion in part and **ORDERS** as follows:

1. The UNMIK Decision is suspended until further notice.
2. UNMIK shall file a written submission by Friday, 20 October 2006, providing a more complete and reasoned explanation as to why it granted Haradinaj permission to give a televised interview to Company 21–Radio Television 21.
3. The Prosecution shall file, no later than Monday, 23 October 2006, any further written submissions it deems necessary on this matter. The length of this filing shall not exceed 3,000 words.
4. Haradinaj shall file, no later than Wednesday, 25 October 2006, any written submissions he deems necessary on this matter. The length of this filing shall not exceed 3,000 words.
5. The Registry shall transmit this Order immediately to UNMIK.

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



Judge Kimberly Prost

Dated this eighteenth day of October 2006
At The Hague
The Netherlands

[Seal of the Tribunal]

³ Appeal Decision, para. 99 (footnote and emphasis removed).