



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: 10 January 2007

Original: English

IN TRIAL CHAMBER II

Before: Judge O-Gon Kwon, Pre-Trial Judge

Registrar: Mr. Hans Holthuis

Order of: 10 January 2007

PROSECUTOR

v.

RAMUSH HARADINAJ

IDRIZ BALAJ

LAHI BRAHIMAJ

**ORDER REQUIRING PROSECUTION TO IDENTIFY OR FILE
SUPPORTING MATERIAL FOR PROPOSED AMENDMENTS**

Office of the Prosecutor

Mr. David Re
Mr. Gilles Dutertre
Ms. Patricia Sellers
Mr. Gramsci di Fazio
Mr. Anees Ahmed
Ms. Katrina Gustafson

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

I, O-GON KWON, Judge of 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”);

HAVING BEEN APPOINTED, pursuant to Rule 65 *ter* of the Rules of Procedure and Evidence of the Tribunal (“Rules”), as Pre-Trial Judge in this case by the Presiding Judge of Trial Chamber II on 14 July 2006;¹

BEING SEISED OF the Prosecution’s “Motion Seeking Leave to Amend the Indictment by Substituting a Revised Second Amended Indictment” of 10 November 2006;

NOTING that, under Article 19 of the Statute and Rule 50, as interpreted in the jurisprudence of the Tribunal, the Prosecution must provide supporting documentation for every “material proposed amendment” to an indictment, or it must identify such documentation from the items already in the Trial Chamber’s possession,² so that the Chamber may determine whether the Prosecution has established a *prima facie* case with respect to those amendments;

CONSIDERING that, in relation to the proposed amendments relating to Counts 21 and 22 of the Amended Indictment in which the Prosecution proposes to add the names of new victims, the Prosecution has not yet provided the Trial Chamber with the corresponding supporting documentation or, if the documentation is already in the material submitted with an earlier version of the Indictment, the Prosecution has not adequately identified precisely where in that material the supporting documentation for each proposed amendment can be found;

¹ *Prosecutor v. Haradinaj, Balaj, and Brahimaj*, Case No. IT-04-84-PT, Order Regarding Composition of Trial Chamber and Designating Pre-Trial Judge, 14 July 2006, p. 2.

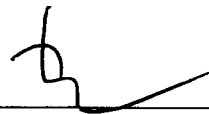
² See *Prosecutor v. Popović, Beara, Nikolić, Borovčanin, Tolimir, Miletić, Gvero, and Pandurević*, Case No. IT-05-88-PT, Decision on Further Amendments and Challenges to the Indictment, 13 July 2006, para. 8; *Prosecutor v. Milutinović, Šainović, Ojdanić, Pavković, Lazarević, Đorđević, and Lukić*, Case No. IT-05-87-PT, Decision on Defence Motions Alleging Defects in the Form of the Proposed Amended Joinder Indictment, 22 March 2006, para. 31. See also *Prosecutor v. Mrkšić et al.*, Case No. IT-05-13/1-PT, Decision on Form of Second Modified Consolidated Amended Indictment, 29 October 2004, para. 25; *Prosecutor v. Lukić and Lukić*, Case No. IT-98-32/1-PT, Decision Granting Prosecution’s Motion to Amend Indictment with Regard to Milan Lukić, 22 March 2006, p. 2; *Prosecutor v. Beara*, Case No. IT-02-58-PT, Request to Prosecution in Relation to its Motion to Amend the Indictment, 10 February 2005, p. 1; *Prosecutor v. Gotovina*, Case No. IT-01-45-I, Ex Parte/Under Seal Decision on Leave to Amend Indictment and on Confirmation of Amended Indictment and Order for Non Disclosure, 24 February 2004, pp. 2–3; *Prosecutor v. Župljanin*, Case No. IT-99-36-I, Order Granting Leave to Amend the Amended Indictment Pursuant to Article 19 of the Statute and Rule 50(A)(i)(b) of the Rules of Procedure and Evidence, 5 October 2004, p. 3.

PURSUANT TO Rule 54 of the Rules,

HEREBY ORDER the Prosecution to file, no later than Thursday, 11 January 2007 at 4 p.m., the supporting documentation, or to identify clearly on which pages of the supporting material for a previous version of the Indictment such documentation can be found, for the material proposed amendments in the Revised Second Amended Indictment relating to the following paragraphs and alleged victims:

1. Paragraph 78, concerning Afrim Sylejmani;
2. Paragraph 79, concerning Rade Popadić;
3. Paragraph 81, concerning Idris Hoti;
4. Paragraph 82, concerning Kujtim Imeraj;
5. Paragraph 86, concerning Malush Shefki Meha;
6. Paragraph 87, concerning Xhevat Berisha; and
7. Paragraph 88, concerning Kemajl Gashi.

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



O-Gon Kwon
Pre-Trial Judge

Dated this tenth day of January 2007
At The Hague
The Netherlands

[Seal of the Tribunal]