

IT-04-84-T
D22872-D22869
03 OCTOBER 2007

22872 AP



**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-T
Date: 3 October 2007
Original: English

IN TRIAL CHAMBER I

Before: Judge Alphons Orie, Presiding
Judge Frank Höpfel
Judge Ole Bjørn Støle

Registrar: Mr Hans Holthuis

Decision of: 3 October 2007

PROSECUTOR

v.

**RAMUSH HARADINAJ
IDRIZ BALAJ
LAHI BRAHIMAJ**

CONFIDENTIAL

**DECISION ON DEFENCE MOTION ON BEHALF OF RAMUSH HARADINAJ FOR
URGENT PROVISIONAL RELEASE**

Office of the Prosecutor

Mr David Re
Mr Gramsci di Fazio
Mr Gilles Dutertre
Mr Philip Kearney

Counsel for Ramush Haradinaj

Mr Ben Emmerson, QC
Mr Rodney Dixon
Ms Susan L. Park

Counsel for Idriz Balaj

Mr Gregor Guy-Smith
Ms Colleen Rohan

**UNITED NATIONS INTERIM
ADMINISTRATION IN KOSOVO**

Counsel for Lahi Brahimaj

Mr Richard Harvey
Mr Paul Troop

THE TRIAL CHAMBER

BEING SEISED of the Motion on Behalf of Ramush Haradinaj for Urgent Provisional Release filed on 3 October 2007 (“Motion”), whereby the Defence for Ramush Haradinaj (“Accused”) seek his provisional release on compassionate grounds for a period starting on 3 October 2007 and ending on 7 October 2007;

NOTING that the Accused requests in the Motion to be provisionally released to attend the funeral and post-funeral ceremonies of his late nephew, Shqipton Haradinaj, who died in a road traffic accident on 2 October 2007;

NOTING the Response to Ramush Haradinaj’s Motion for Provisional Release filed on 3 October 2007 (“Response”), in which the Prosecution submits that it does not oppose the application but requests that the Trial Chamber impose strict conditions similar to those set out in the Decision on Urgent Defence Motion on Behalf of Ramush Haradinaj for Provisional Release of 16 April 2005 and, in addition, that the Trial Chamber order the Accused not to engage in any political activity for the duration of the provisional release and not make any public statement with the exception of addressing those attending the funeral;

NOTING the letter of 2 October 2005 from the Special Representative of the United Nations Secretary-General, Mr. Joachim Rucker, in which UNMIK undertakes that, if the Accused is provisionally released, (i) UNMIK officials will collect the Accused from the Tribunal’s security officers on his arrival in Kosovo, (ii) UNMIK will be responsible for him while in Kosovo, including for maintaining order and security at the funeral ceremony, and (iii) on the date ordered for his return to the Tribunal, UNMIK officials will escort the Accused and hand him over to the Tribunal’s security officers in Kosovo for his return to The Hague;

RECALLING that Rule 65 (B) of the Rules of Procedure and Evidence (“Rules”) requires an applicant for provisional release to satisfy the Trial Chamber of two matters: (1) that he will appear for trial, and (2) that, if provisionally released, he will not pose a danger to any victim or other person;

RECALLING that Rule 65 (C) of the Rules provides that “[t]he Trial Chamber may impose such conditions upon the release of the accused as it may determine appropriate...”,

CONSIDERING that the Accused voluntarily surrendered to the Tribunal on 9 March 2005, a day after being informed of his indictment on 8 March 2005, and further returned voluntarily for the start of his trial on 27 February 2007;

CONSIDERING the limited period for which the application is made in circumstances where, throughout the period of his provisional release, the Accused will be in the custody of the Tribunal's staff or under the responsibility of UNMIK;

CONSIDERING that the Trial Chamber is satisfied that, if provisionally released, the Accused will return at the end of the limited period of his release and will not pose a danger to anyone;

CONSIDERING that the Accused has submitted compelling humanitarian reasons of such an acute nature that immediate provisional release is warranted;

PURSUANT to Rule 65 of the Rules, the Trial Chamber,

HEREBY GRANTS the Motion and **ORDERS** the provisional release of Ramush Haradinaj on the following terms and conditions:

1. the Accused shall travel from The Hague to Pristina/Prishtinë on 3 October 2007 and return from Pristina/Prishtinë to The Hague no later than 7 October 2007;
2. during his travel from The Hague to Pristina/Prishtinë, and on his return trip, the Accused shall be escorted by security officers of the Tribunal;
3. at Pristina/Prishtinë airport the Accused shall be delivered into the custody of UNMIK officials;
4. once in Kosovo the Accused shall travel directly to Glodane/Gllogjan where he will remain at his home, with the exception of the funeral, until 7 October 2007, when he will return to Pristina/Prishtinë;
5. the Accused shall be accompanied to the airport by UNMIK officials, who shall deliver the Accused to the custody of security officers of the Tribunal at Pristina/Prishtinë airport;
6. the Accused shall not have or attempt to have contacts with potential Prosecution witnesses in the case against him, or attempt in any way to interfere with the administration of justice;
7. the Accused shall not have or attempt to have contacts with a representative of any media organisation, he shall not engage in any political activity, and he shall not make any public comment during his provisional release, with the exception of addressing those attending the funeral with a short speech of purely private and personal nature;

8. the Accused shall refrain from any activity that is not in accordance with the private nature of his provisional release, which includes any contact with domestic or international officials not necessitated for security reasons;
9. the Accused shall comply with any instructions given to him by anyone acting under the authority of the Special Representative of the United Nations Secretary-General;

REQUIRE the authorities of UNMIK to assume responsibility as follows:

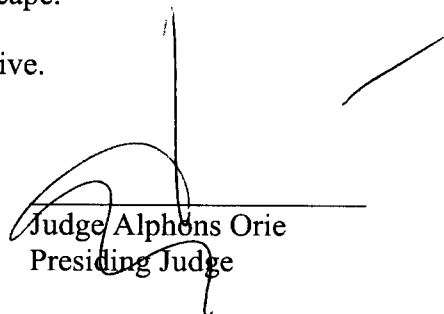
- (i) designate the UNMIK officials who shall take custody of the Accused at Pristina/Prishtinë airport, and notify the Registrar, prior to his departure from The Hague, of the names of the officials, who shall at all times include at least one non-Albanian UNMIK representative who understands and speaks Albanian;
- (ii) ensure the 24-hour supervision and protection of the Accused while he is in Kosovo;
- (iii) ensure compliance with the conditions of his provisional release as set out in this Order, and arrest and detain the Accused immediately and report immediately to the Registrar any breach of the conditions set out herein;

INSTRUCT the Registrar to ensure that the Accused is safely escorted from The Hague to Pristina/Prishtinë and on his return, and to consult with the appropriate authorities as to the arrangements for his provisional release and transport;

REQUEST the authorities of all States through whose territory the Accused will travel,

- (i) to hold the Accused in custody for any time that he will spend in transit at the airport;
- (ii) to arrest and detain the Accused pending his return to the United Nations Detention Unit in The Hague, should he attempt to escape.

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


Judge Alphons Orié
Presiding Judge

Dated this 3rd day of October 2007
At The Hague
The Netherlands