



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-04-84bis-PT

Date: 3 November 2010

Original: English

IN TRIAL CHAMBER II

Before: Judge Bakone Justice Moloto, Presiding
Judge Burton Hall
Judge Guy Delvoie

Registrar: Mr. John Hocking

Order: 3 November 2010

PROSECUTOR

v.

**RAMUSH HARADINAJ
IDRIZ BALAJ
LAHI BRAHIMAJ**

PUBLIC

**ORDER REGARDING THE REVISED FOURTH AMENDED
INDICTMENT**

Office of the Prosecutor

Mr. Paul Rogers

Counsel for the Defence:

Mr. Ben Emmerson QC and Mr. Rodney Dixon for Ramush Haradinaj

Mr. Gregor Guy-Smith and Ms. Colleen Rohan for Idriz Balaj

Mr. Richard Harvey and Mr. Paul Troop for Lahi Brahimaj

THIS TRIAL 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 (“Tribunal”);

NOTING that in the Appeal Judgement issued on 19 July 2010 (“Appeal Judgement”), the Appeals Chamber:

- (1) quashed the Trial Chamber’s decisions to (a) acquit Ramush Haradinaj and Idriz Balaj of participation in a Joint Criminal Enterprise (“JCE”) to commit crimes at the Kosovo Liberation Army (“KLA”) headquarters and the prison in Jablanica/Jabllanicë under Counts 24, 26, 28, 30, 32, and 34 of the Fourth Amended Indictment, which was filed on 16 October 2007; (b) acquit Lahi Brahimaj of participation in a JCE to commit crimes at the KLA headquarters and the prison in Jablanica/Jabllanicë under Counts 24, 26, 30, and 34 of the Fourth Amended Indictment; (c) acquit Ramush Haradinaj, Idriz Balaj, and Lahi Brahimaj of individual criminal responsibility under Counts 24 and 34 of the Fourth Amended Indictment; and (d) acquit Lahi Brahimaj of individual criminal responsibility under Count 26 of the Fourth Amended Indictment; and
- (2) ordered that Ramush Haradinaj, Idriz Balaj, and Lahi Brahimaj be retried on these counts;¹

NOTING that on 15 September 2010 the Trial Chamber ordered that the Fourth Amended Indictment shall be the operative indictment in the partial retrial;²

NOTING that at the Status Conference held on 23 September 2010 the Pre-Trial Judge ordered the parties to jointly file by 28 October 2010 a shortened form of the operative indictment corresponding to what is at issue in the partial retrial;³

NOTING that at the Status Conference held on 26 October 2010 the Pre-Trial Judge modified the order issued on 23 September 2010 by requiring that the amended indictment be filed by the Prosecution alone;⁴

NOTING that the Prosecution filed the “Submission of Revised Fourth Amended Indictment” on 28 October 2010 (“Submission”), in which it submitted as Annex A a revised version of the Fourth Amended Indictment “to correspond to the Appeals Chamber’s order for a partial retrial”;

¹ Appeal Judgement, para. 377.

² Order regarding the Operative Indictment and Pleas, 15 September 2010.

³ T. 5 (23 September 2010).

⁴ T. 45–46 (26 October 2010).

NOTING that Annex A of the Submission is a version of the Fourth Amended Indictment in which revisions have been made using “tracking” and the paragraphs and counts are not numbered consecutively;

CONSIDERING that it will be of assistance for the Prosecution to file a version of the Fourth Amended Indictment corresponding to what is at issue in the partial retrial, in which the paragraphs and counts are numbered consecutively and from which tracking has been removed:

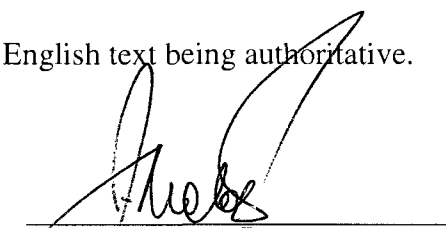
CONSIDERING that it is in the interests of justice and the expeditious conduct of the proceedings for there to be clarity as to the scope of the partial retrial ordered by the Appeals Chamber;

PURSUANT TO Article 20(1) and Rule 54 of the Rules of Procedure and Evidence,

HEREBY ORDERS that:

- (1) The Prosecution shall file on or by 9 November 2010 “tracked” and “clean” versions of the Fourth Amended Indictment corresponding to what is at issue in the partial retrial, with the paragraphs and counts numbered consecutively (“new version of the Indictment”);
- (2) The Defence teams shall file on or by 23 November 2010 submissions stating whether they consider that the new version of the Indictment corresponds to what is at issue in the partial retrial ordered by the Appeals Chamber and giving, where appropriate, reasons for their position.

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



Judge/Bakone Justice Moloto
Presiding Judge

Dated this third day of November 2010
At The Hague
The Netherlands

[Seal of the Tribunal]