



**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-R77.1
Date: 5 June 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: 5 June 2007

**IN THE CONTEMPT CASE OF
SHEFQET KABASHI**

PUBLIC

**ORDER IN LIEU OF INDICTMENT ON CONTEMPT CONCERNING
SHEFQET KABASHI**

Counsel for Shefqet Kabashi

Mr Michael Karnavas

TRIAL CHAMBER I (“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 Shefqet Kabashi appeared before the Trial Chamber today as a witness for the Prosecution in the case of *Prosecutor v. Haradinaj et al.*;

NOTING that Shefqet Kabashi made a solemn declaration as provided for by Rule 90 (A) of the Tribunal’s Rules of Procedure and Evidence (“Rules”);

NOTING that after confirming a few personal details, the witness did not answer any questions put to him by the Prosecution or the Trial Chamber on the substance of the aforementioned case;

NOTING that the Trial Chamber informed the witness that the reasons he gave for not answering questions did not convince the Trial Chamber that those reasons justified a refusal to answer questions;

NOTING that the witness nevertheless persisted in not answering questions put to him;

NOTING that, pursuant to Rule 77 of the Rules, “The Tribunal in the exercise of its inherent power may hold in contempt those who knowingly and wilfully interfere with its administration of justice, including any person who [...] being a witness before a Chamber, contumaciously refuses or fails to answer a question”;¹

NOTING that, pursuant to the same Rule, “When a Chamber has reason to believe that a person may be in contempt of the Tribunal, it may [...] initiate proceedings itself”,² and that “If the Chamber considers that there are sufficient grounds to proceed against a person for contempt, the Chamber may [...] in circumstances described in paragraph (C)(ii) or (iii)” of Rule 77 of the Rules, “issue an order in lieu of an indictment and either direct *amicus curiae* to prosecute the matter or prosecute the matter itself”,³

CONSIDERING that (i) the Trial Chamber has reason to believe that Shefqet Kabashi may be in contempt of the Tribunal and therefore that the Trial Chamber may initiate proceedings against him; and (ii) there are sufficient grounds to proceed against the witness for contempt;

¹ Rule 77 (A) (i).

² Rule 77 (C) (iii).

³ Rule 77 (D) (ii).

PURSUANT TO Rule 77 of the Rules and on the basis of the facts recited above,

HEREBY ORDERS the prosecution of **SHEFQET KABASHI** on the charge of:

CONTEMPT OF THE TRIBUNAL, punishable under Rule 77 (A) and (G) of the Rules, for knowingly and wilfully interfering with the administration of justice by contumaciously refusing or failing to answer questions while being a witness before the Trial Chamber;

DECIDES to prosecute the matter itself;

AND SUMMONS Shefqet Kabashi to appear before this Trial Chamber on Thursday 7 June 2007 at 9 a.m. in courtroom 1.

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

Dated this 5th day of June 2007
At The Hague
The Netherlands

Judge Alphons Orié
Presiding Judge

[Seal of the Tribunal]