



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-03-66-A
Date: 20 April 2006
Original: English

BEFORE THE APPEALS CHAMBER

Before: Judge Fausto Pocar, Presiding
Judge Mohamed Shahabuddeen
Judge Andréia Vaz
Judge Theodor Meron
Judge Wolfgang Schomburg

Registrar: Mr. Hans Holthuis

Decision: 20 April 2006

PROSECUTOR

v.

**Fatmir LIMAJ
Haradin BALAJ
Isak MUSLIU**

**DECISION GRANTING PROVISIONAL RELEASE TO
HARADIN BALAJ TO ATTEND HIS DAUGHTER'S
MEMORIAL SERVICE**

The Office of the Prosecutor:

Ms. Helen Brady

Counsel for the Appellant:

Mr. Gregor Guy-Smith and Mr. Richard Harvey for Haradin Bala

THE APPEALS 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”),

BEING SEIZED OF the “Extremely Urgent Motion on Behalf of Haradin Bala for Provisional Release” (“Motion”), filed on 20 April 2006 by Counsel for Haradin Bala (“Appellant”);

NOTING that the Motion requests that the Appellant be allowed to attend a memorial service in Kosovo on 26 April 2006 in honour of his daughter, who died on 18 April 2006, and to spend the period of 21 April to 27 April in Kosovo with his family and members of his community during the traditional period of mourning that precedes the memorial service;

CONSIDERING that the Motion is to be granted on compassionate grounds, subject to certain conditions and guarantees;

CONSIDERING that the Office of the Prosecutor has been consulted;

CONSIDERING the Letters of 19 April and 20 April 2006 from the Special Representative of the Secretary-General, Mr. Søren Jessen-Petersen, in which the United Nations Mission in Kosovo (“UNMIK”), the United Nations organ with responsibility for the interim administration of Kosovo, undertakes that, if the Appellant is released, (i) UNMIK officials will collect the Appellant from the Tribunal’s security officers on his arrival in Kosovo; (ii) UNMIK will ensure the 24-hour protection and supervision of the Appellant while he is in Kosovo; and (iii) on the date ordered for his return to the Tribunal, UNMIK officials will escort the Appellant and hand him over to the Tribunal’s security officers in Kosovo for his return to The Hague;

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

PURSUANT to Rules 65 and 107 of the Rules of Procedure and Evidence (“Rules”);

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

1. The Appellant shall travel from The Hague to Pristina on 23 April 2006 and return from Pristina to The Hague on 27 April 2006;

2. During his travel from The Hague to Pristina, and on his return trip, the Appellant shall be escorted by security officers of the Tribunal;
3. At Pristina airport, the Appellant shall be delivered into the custody of UNMIK officials;
4. On the day of 27 April 2006, the Appellant shall be accompanied to Pristina airport by UNMIK officials, who shall deliver him to the custody of security officers of the Tribunal;
5. During the period of his provisional release, the Appellant shall abide by the following conditions, and UNMIK officials shall ensure compliance with such conditions:
 - a. Not to have any contact whatsoever nor in any way interfere with victims or witnesses or otherwise interfere in any way with the proceedings or the administration of justice;
 - b. Not to discuss his case with anyone, other than Counsel, including not to have any contact with the media;
 - c. Not to seek access to documents and archives;
 - d. To comply strictly with any instructions given to him by anyone acting under the authority of the Special Representative of the Secretary-General (UNMIK);
 - e. To comply strictly with any order of the Appeals Chamber varying the terms of, or terminating, his provisional release;

REQUIRES the authorities of UNMIK to assume responsibility as follows:

1. To designate the UNMIK officials who shall take custody of the Appellant at Pristina airport, and notify the Registrar of the Tribunal, prior to the Appellant's 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;
2. To ensure the 24-hour protection and supervision of the Appellant while he is in Kosovo;
3. To ensure the Appellant's compliance with the conditions of his provisional release as set out in this Decision, and arrest and detain the Appellant immediately and report immediately to the Registrar any breach of the conditions set out herein;

INSTRUCTS the Registrar to ensure that the Appellant is safely escorted from The Hague to

Pristina and back, and to consult with the appropriate authorities as to the practical arrangements for his release and transport;

REQUESTS the authorities of all States through which the Accused will travel

1. To hold the Accused in custody for any time he spends in transit;
2. To arrest and detain the Accused pending his return to the United Nations Detention Unit should he attempt to escape.

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

Dated this 20th day of April 2006,
At The Hague,
The Netherlands.



Judge Fausto Pocar
Presiding