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Criminal Tribunal
for the former
Yugoslavia

Tribunal Pénal
International pour
l'ex-Yougoslavie

JUDGEMENT SUMMARY

(Exclusively for the use of the media. Not an official document.)

CHAMBERS

The Hague, 16 September 2011

Judgement Summary for Shefqet Kabashi

Please find below the summary of the Judgement read out today by Judge Orić:

This Trial Chamber is sitting today to deliver its Sentencing Judgement in the case of the Prosecutor versus Shefqet Kabashi.

For the purposes of this hearing, the Trial Chamber will briefly summarize its findings. I stress that this is a summary only. The authoritative account of the Trial Chamber's findings can be found in the written Sentencing Judgement, which will be made available at the end of this session.

This case concerns Mr Kabashi's contumacious refusal or failure to answer questions as a witness in the Haradinaj *et al.* trial, thereby committing contempt of the Tribunal pursuant to Rule 77 (A) (i) of the Rules of Procedure and Evidence. On 26 August 2011, Mr Kabashi pleaded guilty to two counts of contempt of the Tribunal, and the Trial Chamber accepted his plea on 31 August 2011, entering a finding of guilt.

The Trial Chamber will now give a summary of its sentencing findings. It recalled that the two primary purposes of sentencing in the Tribunal are retribution and deterrence, both special and general.

The Trial Chamber considered the gravity of the offences and the totality of the culpable conduct. By contumaciously refusing or failing to answer questions as a witness, Mr Kabashi deprived the Haradinaj *et al.* Trial Chamber of evidence relevant for an effective ascertainment of truth in the adjudication of that case. The Defence submitted that Mr Kabashi's frustrations, his war experience, and witness intimidation may have contributed to the refusal or failure to answer questions. Despite these submissions, the Trial Chamber found that any additional motives Mr Kabashi may have had remained vague and could not be considered in determining the appropriate sentence.

In mitigation, the Trial Chamber considered that according to medical documentation Mr Kabashi suffers from Post-Traumatic Stress Disorder and that his medical condition worsens in a prison environment. The Trial Chamber further considered Mr Kabashi's family situation in mitigation. Moreover, Mr Kabashi apologised for his crime on 31 August 2011. While the Trial Chamber considered this apology genuine, it considered that the remorse expressed in this way was reduced in its mitigating weight by the fact that Mr Kabashi had failed to come to The Hague to face the charges against him for more than four years.

Having summarised its findings, the Trial Chamber will now give its verdict.

Mr Kabashi, will you please stand.

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For the reasons summarised above, this Trial Chamber, having found you guilty on 31 August 2011, of the following charges:

Count 1, Contempt of the Tribunal by knowingly and wilfully interfering with the Tribunal's administration of justice on 5 June 2007; and

Count 2, Contempt of the Tribunal by knowingly and wilfully interfering with the Tribunal's administration of justice on 20 November 2007;

hereby sentences you, Mr Kabashi, to a single sentence of 2 months of imprisonment.

You are entitled to credit for the period of time you have been in custody, which amounts to 31 days.

You may be seated.

This concludes the delivery of the Sentencing Judgement, which will now be made publicly available. The Trial Chamber stands adjourned.