

United Nations  
Nations UniesInternational Criminal Tribunal  
for the former Yugoslavia  
Tribunal Pénal International  
pour l'ex-Yougoslavie

(IT-04-84-R77.1)

# SHEFQET KABASHI

**SHEFQET KABASHI***Convicted of contempt of the Tribunal*

Former member of the Kosovo Liberation Army (KLA)

- Sentenced to two months' imprisonment

*Crimes convicted of:***Two counts of contempt of the Tribunal (Rule 77(A) of the Rules of Procedure and Evidence)**

- Kabashi knowingly and wilfully interfered with the administration of justice by contumaciously refusing or failing to answer a question as a witness before a Chamber on two occasions in the case of Haradinaj et al.

<b>Indictment</b>	5 June 2007, Order in lieu of indictment on contempt 18 February 2008, amended indictment
<b>Initial and further appearances</b>	19 August 2011, postponed his plea; 26 August 2011, pleaded guilty to all counts
<b>Trial Chamber Sentencing Judgement</b>	16 September 2011, sentenced to two months' imprisonment

## STATISTICS

*As the accused pleaded guilty, no trial was necessary*

TRIAL CHAMBER SENTENCING JUDGEMENT	
<b>Trial Chamber I</b>	Judge Alphons Orie (presiding), Judge O-Gon Kwon and Judge Howard Morrison
<b>Counsel for the Prosecution</b>	Joanna Korner
<b>Counsel for the Defence</b>	Michael Karnavas
<b>Judgement</b>	16 September 2011

RELATED CASES <i>by geographical area</i>
HARADINAJ ET AL. (IT-04-84)

## INDICTMENT AND CHARGES

In accordance with Rule 77 of its Rules of Procedure and Evidence, the Tribunal can conduct proceedings for contempt of court. The ICTY's jurisdiction in respect of contempt is not expressly outlined in the Statute. However, it is firmly established that the Tribunal possesses an inherent jurisdiction, deriving from its judicial function, to ensure that its exercise of the jurisdiction expressly given to it by the Statute is not frustrated and that its basic judicial functions are safeguarded. As an international criminal court, the Tribunal possesses this inherent power to deal with conduct interfering with its administration of justice. Such interference may be by way of conduct which obstructs, prejudices or abuses the Tribunal's administration of justice. Those who knowingly and wilfully interfere with the Tribunal's administration of justice in such a way may, therefore, be held in contempt of the Tribunal.

On 5 June 2007 the Trial Chamber issued an order in lieu of indictment against Kabashi for refusal to answer questions as a witness in the case of *Prosecutor v. Ramush Haradinaj, Idriz Balaj and Lahi Brahimaj*. The Trial Chamber decided to prosecute the matter itself and summoned the witness to appear on 7 June 2007. The witness failed to appear for trial on 7 June 2007 and subsequently travelled to the United States.

On 1 November 2007, the Trial Chamber ordered Kabashi to appear on 20 November 2007 to testify by video-conference link from the United States. The witness appeared by video-conference link and refused to testify.

On 11 December 2007, The Chamber referred the case to the Prosecutor to further investigate and prosecute the matter and directed the Prosecution to investigate Kabashi's behaviour since it had reason to believe that the witness had committed contempt on 20 November 2007.

On 18 February 2008 the Trial Chamber granted the Prosecution leave to amend the indictment.

Kabashi was charged with:

- Two counts of Contempt of the Tribunal (Rule 77(A)(i) and Rule 77 (G) of the Rules of Procedure and Evidence)

On 26 August 2011, Kabashi pleaded guilty to both counts. Subsequently, on 31 August 2011, the Chamber accepted the guilty plea and heard the parties' submissions on sentencing.

## TRIAL CHAMBER SENTENCING JUDGEMENT

On 16 September 2011, Trial Chamber rendered its judgement, convicting Kabashi of:

- Two counts of contempt of the Tribunal (Rule 77(A) of the Rules of Procedure and Evidence of the ICTY)

Sentence: two months' imprisonment (credit was given for time spent in detention)