

P 734/11  
8 June 2011

## THE MUNICIPAL COURT OF PRIZREN

EULEX Judge Witold Jakimko as Presiding Judge,

*assisted by:*

Sonila MacNeil, as court recorder

*in the criminal case againsts:*

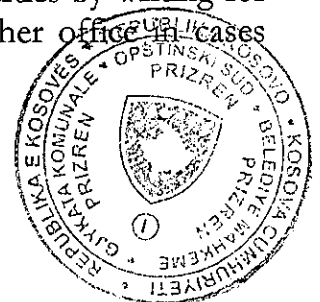
**Zahide Gjonaj**, father's name Nue Shabani, mother's name Palin Rama, born on 15 May 1959 in Stublla e Eperme in the municipality of Viti, currently residing in UCK street, block 1, entrance 1, no 1710 in Gjakove, Kosovo Albanian, married, mother of five children, lawyer, poor economic status, and

*charged as*

per in the Summary Indictment PPS. No. 33/2010 filed by the Special Prosecutor of the Special Prosecutor's Office of the Republic of Kosovo dated 24 March 2011, with which Zahide Gjonaj was charged with criminal offence of Abusing official position or authority under Article 339 (1) of the Criminal Code of Kosovo and of Unlawful provision of legal assistance under Article 336 (1) of the Criminal Code of Kosovo,

*as described below:*

**Zahide Gjonaj**, during her work as a judge in the District Court in Prishtina, in the period of time between 2005 and 2010, has used her official position and has acted in excess of her powers by decidind by a final judgment cases which she had not received in a proper manner for adjudication, and in excess of her powers by receiving and adjudicating cases that did not fall under the jurisdiction of the District Court in Prishtina. Furthermore she provided unlawful legal assistance to parties by writing for them applications for divorce by mutual agreement in her office in cases which she adjudicated later on.



Wherewith she committed a criminal offence of Abusing official position or authority under Article 339 (1) of the Criminal Code of Kosovo and of Unlawful provision of legal assistance under Article 336 (1) of the Criminal Code of Kosovo.

*having held the pretrial conference*

on 8<sup>th</sup> June 2011 in the presence of the defendant and her defence counsel and the Prosecutor,

*issues the following:*

## RULING

Pursuant to Article 468 (1) of the Kosovo Code of Criminal Procedure (KCCP) as read with Article 316 (1) subpara 4 of the KCCP the summary indictment with the charges against Zahide Gjonaj as described above are hereby DISMISSED.

## REASONING

On 18 April 2011, the Special Prosecutor's office of the Republic of Kosovo filed the summary indictment against Gjonaj for the crimes abovementioned.

Pursuant to the provisions quoted in the enacting clause the Presiding Judge determined that there was not sufficient evidence to support a well-grounded suspicion that Gjonaj had committed the criminal offences described as in the summary indictment.

In particular it has to be emphasized that the Prosecutor did not provide the Court with any evidence to prove:

- 1/ unlawful gain or personal benefit of the Defendant obtained when she allegedly abused her position or authority,
- 2/ damage to the parties of proceedings she acted as a presiding judge,
- 3/ specific intent as to both above-mentioned circumstances,
- 4/ providing with legal assistance for remuneration (particularly with the stress on the last element);

As to all four points enumerated above the Court was frustrated with a lack of a single, explicit prove to support a well-grounded suspicion that the defendant has



committed the criminal offences she was charged with. Moreover some evidence provided by the Prosecutor said the opposite.

During the pre-trial conference the Prosecutor was not able to supplement his indictment in a satisfactory way.


During the session held on 8 June 2011 and after having heard the parties the Presiding Judge ordered the severance of proceedings for another defendant Myrvete Berisha and decided to continue the proceedings against Gjonaj under the current reference number.


This ruling and its brief explanation fully meets the requirement provided by the Article 468 (2) of the KCCP.

The present ruling shall be served to the prosecutor, the defendant and her defence counsel.

**MUNICIPAL COURT OF PRIZREN**

**Nr. 734/11, dated: 08.06.2011**

  
\_\_\_\_\_  
Presiding Judge  
Witold Jakimko

  
\_\_\_\_\_  
Court recorder  
Sonila MacNeil



**LEGAL REMEDY:**

The ruling of the judge to dismiss the indictment can be appealed by the prosecutor to the three-judge panel of Municipal Court of Prizren within three days of the service of the ruling.