

## - Kurti's Forbidden Statement

Contributed by News Desk  
 Saturday, 22 September 2007  
 Last Updated Saturday, 22 September 2007

Prishtinë, 19 September 2007 – The court hearing against Albin Kurti has been interrupted by the International Judge Maurizio Salustro when Mr. Kurti was prepared to give his statement. The statement was supposed to be read by Mr. Kurti in Albanian language, while the court interpreter has been provided with a copy in English language.

The judge abruptly interrupted the session and grabbed the text from interpreter's hands. The session then restarted only to announce that that day's session has ended.

Below, you will find a copy of this "forbidden statement".

I do not accept this panel of judges because:

- You are not impartial – as I will explain, the case proceedings show that you are favoring the prosecution and already presuming that I am guilty.

- You are endorsing the discrimination and procedural irregularities in this case violating my fundamental rights and freedoms.

- You are not independent – you are appointed by and have sworn your oaths before the SRSG and UNMIK, both of whom are listed as offended and prosecuting parties in this case. More concretely, my rejection is based on the following: First of all, I object to this panel evoking the principle of impartiality enshrined in the European Convention on Human Rights (EDHR), Art 6.1; the right to a fair trial, Art 6 of the same declaration, and Art 10 of the Universal Declaration of Human Rights (UDHR); as well as the principle of presuming innocence until proven guilty enshrined in Art 11 of the same declaration. As the International Helsinki Federation (IHF) has pointed out, the legal proceedings in this case seem to favor the prosecution. The partiality of the court became evident already during the case's initial phase when the judge approached the prosecutor without my presence and asked: "WHAT DO YOU WANT ME TO DO NEXT". Amnesty International (AI) has reaffirmed that international judges in Kosova tend to favor the prosecution and that impartiality is not even attempted. By being here, each of you judges show consent to the indictment and approval of a number of false and biased premises and allegations, indicating that you already have made up your minds about me. It appears that the trial already happened and you already have reached your verdict – guilty: For example, while the indictment states that "Mr Kurti is not criminally responsible for those deaths caused by the actions of the police" on February 10th, both the prosecution and judges in this case have consistently and from the beginning implied that I am responsible. Special Prosecutor Robert Dean's interim report of April 17 clarified that Romanian policemen were responsible for the deaths on the 10th, and his final report of July 2 identifies a breakdown in the chain of police command and unclear operational responsibilities as additional causes. Despite this, on 13th of February the prosecution refers to the danger of me "organizing another violent protest leading to loss of lives". Incredibly, four months later, on 13th June – notably two months after the interim Dean report and nine days after the indictment says I am not responsible for the deaths – Judge Peralta continues to link my alleged crimes to the deaths. On February 13 the prosecution alleges, and the judge accepts that I represent "a pattern of activities" that is to "cause danger and damage to property and lives", and that this pattern "is getting worse and worse". This offensive claim is made without explaining what my alleged "pattern" consists of – I have never hurt or been accused of hurting anyone ever before in my life. Nor have I ever caused general danger or damaged property on a large scale. By making this misleading allegation, the prosecution is falsely portraying my previous activities, and using this false image to prejudice my character and predict my future actions. An utterly false premise for the indictment is to draw conclusions about my actions, even guilt, based on my presumed guilt in the demonstration on November 28 2006. This link is sometimes made directly by the prosecution, sometimes indirectly. I have not been tried, certainly not sentenced or proven guilty for anything related to the November demonstration. Even according to the standards of your system, this event cannot be used as "proof" in this case. My second reason for rejecting this panel of judges is that by being here, you approve of the discrimination and numerous irregularities in the case proceedings against me. The proceedings have violated the right to equality before law, enshrined in Art 7 of the UDHR; freedom from arbitrary arrest and detention, Art 9 of the same declaration; the principle of presumption of innocence until proven guilty, Art 11; and the right to just detention and a fair trial, Art 9 and 14 of the ICCPR. I am not represented here by anyone but myself. My so-called defence council Ahmet Hasolli is appointed by you, and I do not recognise him. The case material suggests that this non-recognition is mutual, and that Hasolli's commitment to me and my case is weak: he was absent from the examination of several key witnesses, in other examinations he leaves half-way through, and the few times he is present he poses very few, and feeble, questions. Additionally, this violates the equality of arms principle. AI has repeatedly, since February 15 expressed concern that the hearings in my case have been closed to the public, that they initially took place without charges being declared, and that I was not allowed to attend them. While I was in detention, IHF was denied access to visit me, while another human rights organisation (CDHRF) was allowed to visit, however only once monthly. Other people, like William Walker, were immediately allowed to visit me to put pressure on me to not organise more

demonstrations. The IHF has been concerned about the legal basis for my pretrial detention. Significantly, there appears to be no justification for the severe restrictions of my house arrest. I am the first person in eight years who is detained in house arrest with two 24-hour police guards outside the door. In the first house arrest, I was not only denied movement outside my home, but also contact with media, VETËVENDOSJE! activists and all other people except three of my four family members. These restrictions violated my right to a just detention (Art 9.3, ICCPR), as well as my freedom of speech and association. As AI has pointed out, detention under such strict conditions, especially before I was charged, was tantamount to deprivation of liberty. As pointed out by the IHF, it is unclear why I have been categorised as an "A" prisoner. Even more serious is the fact that I (nor my so-called lawyer) was informed about this categorisation and its implications. This violates the equality of arms principle. I am not allowed to appeal the decision, as I am not allowed to appeal the final verdict in this case, not even to the European Court. Most important, I should have been judged by my own peers. You international judges have little or no knowledge of Kosova's politics and culture, the history of demonstrations here and their political effects, or our post-war society. Nor are you familiar with my own decade-long non-violent struggle for freedom from Serbia and my coherent political platform. You are foreigners also to my history, and the history of my people — your power enables you to suspend that history. My third and most important reason for rejecting you, this panel of judges, is that you are not independent. This case is tainted by a serious conflict of interest and violates several of my fundamental rights: the right to equality before law, Art 7 of the UDHR; the right to a fair trial, and the principle of presuming innocence until proven guilty, Art's 10 and 11 respectively of the same declaration; and Art's 9 and 14 of the ICCPR, freedom from arbitrary arrest and detention and the right to a fair trial. The court has complained of my disdainful attitude towards UNMIK and the courts. But actually, it is the "justice" officials in this case who have shown contempt toward me by violating my fundamental rights.

Each of you has sworn your oaths as international judges before the SRSG, who is also listed as an offended part in this case. The SRSG is the one who appointed you, as he appoints all international judges in Kosova. This case is thus tainted by a severe bias and conflict of interest, as UNMIK is represented as an offended, prosecuting and judging part. The judicial system in Kosova is part of UNMIK's First Pillar and thus intertwined with the executive. There is no separation of powers, one of the basic democratic principles. As pointed out by the IHF and Human Rights Watch, Kosova's judiciary is not sufficiently independent, accountable or transparent. None of you judges (nor the Prosecutors) are accountable to people of Kosova. All of you are immune from the laws you apply to me. There is no independent accountability mechanism overseeing your actions. Such an arbitrary power cannot be legitimate. The very focus of my work is to object to UNMIK and the SRSG as the highest expression of an anti-democratic order. I see it as my responsibility to challenge the imposed UNMIK system, to show dissent, to non-violently oppose and confront its repressive organs and non-representative authorities. This makes it impossible for me to get a fair trial within this system.

Since the February 10 demonstration, numerous local and international authority representatives have made defamatory public remarks about me and VETËVENDOSJE! and portrayed our actions as damaging the process for status of Kosova. Already the first Unity Team declaration after February 10 said "the violent protests enticed by Albin Kurti and Lëvizja VETËVENDOSJE! where two persons lost their lives (...) create special tensions against stability and general interests of Kosova." The head of the British office in Prishtina David Blunt stated to the media that the Contact Group was concerned that the VETËVENDOSJE! protest had endangered the personal security of police and the Assembly building, while Naim Maloku from the Assembly Committee for Security lied on TV and said that the demonstrators had used Molotov cocktails. As late as in August KPS spokesperson Veton Elshani stated that I had "led a violent protest" and implied that I was responsible for the two deaths. What these officials actually mean is that my non-violent democratic opposition is damaging them, the authorities issuing these statements. During this period of status negotiations, to which I strongly oppose, it is in the interest of the authorities, including UNMIK to silence my voice and isolate me from people who potentially could join me in opposing them. As the German Institute for European Politics has pointed out, UNMIK has created a "culture of systematic repression" of criticism in order to portray Kosovo as a success story. You, the judges and prosecution are part of UNMIK. You have not only accepted the false allegations made in the press, you have even incorporated them into your own approach to this case. For example, on May 7 the prosecution explicitly used my political engagement to argue for continued detention. During five months in prison the prosecutor interrogated me only once (on 1 March) for half an hour, which shows that isolation has been a greater priority than investigation. The Dean report on the February 10th event, determining the police reaction as disproportionate, avoidable and unnecessary, i.e. illegal, has not been considered in my case. Despite the Dean report's conclusions about the uncontrolled police reaction and police violence, it is me, and not the police who are accused of creating general danger and calling for violence. All this illuminates the judiciary's bias and lack of independence. The lack of independence on the part of the judges and prosecutors is also evident in this case's portrayal of VETËVENDOSJE!. Systematically and from the start VETËVENDOSJE! has been presented as criminal, vandalistic and dangerous, aiming for nothing but destruction and instability. This misrepresentation is intended to criminalise me and marginalise the movement by portraying it as extreme. In reality, VETËVENDOSJE! is a non-violent, voluntary political movement. No one is paid or forced to be in VETËVENDOSJE!. Our main concrete goal is to arrange a referendum for the people of Kosova, making Kosova's status the people's decision, and not a decision of unaccountable bureaucrats. Our focus is to problematise the political system by opposing the neo-colonial UNMIK administration and not other ethnicities. Especially during this politically sensitive time we believe people's social and political dissatisfaction must be democratically directed towards the regime and not other ethnic groups. The aim of our protest on February 10 was to show political dissatisfaction with the status negotiations with Serbia and its result, the Ahtisaari package, which we believe will bring Kosovo nothing but renewed conflicts and large-scale crimes. Until February 10 no one has ever been injured in VETËVENDOSJE! demonstrations, and that day it was the police who caused general danger, damage, injuries and deaths, not us. The participants in our actions have always respected the

principles of our movement, including calls for nonviolent conduct. These principles are included in the prosecutor's case material. Freedom of assembly, freedom of speech and freedom of movement are accorded to us by the UDHR, Art 20 and the ICCPR, Art 21. Suppressing these rights, as well as the other universal standards I have evoked here, for the sake of political interest or political convenience is unacceptable. In the demonstration on February 10 these rights were denied us collectively. In this case, universal human rights have been denied to me individually. I do not accept you, the judges in this panel. I do not accept the prosecution or the lawyer appointed to me. I do not accept this court. You are not impartial, nor independent. By accepting this case you are complicit in the discriminatory process against me, violating my fundamental rights and freedoms. I call for this case to be dismissed.

Prishtinë, 19 September 2007

Albin Kurti