



District Court of Prizren
Sitting at the premises of The District Court of Gjilan/Gnjilane
P. No. 85/2005

MINUTES OF THE MAIN TRIAL

Date of Proceedings:	11 May 2006
Venue of Proceedings:	Courtroom of Gjilan District Court
Presiding Judge:	Vinod Boolell, International Judge
Panel Members:	Leonard Assira, International Judge Nurul Islam Khan, International Judge
Public Prosecutor:	Paul Flynn, International Public Prosecutor
CD Legal Officer	Andrey Antonov
Defence Counsel:	Mahmut Halimi, Rexhep Hasani, Fatmir Celina, Ethem Rogova, Mexhid Sylva and Fazli Balai
Accused:	Selim Krasniqi, Bedri Zyberaj, Xhavit Elshani, Isuf (Sherifi) Gashi, Islam Gashi and Agron Krasniqi
Witness:	Rexhep Shala, Mirsada Shala and Sadbere Shala
Court Recorders:	Gwen Cheong and Marilyn Micallef
Interpreters:	Ervin Mazniku and Endrit Reka
IJSD Legal Officer:	Virginie Monchy
Humanitarian Law Centre Monitor :	Luan Dushi
OSCE Monitor :	Florim Latifaj

The accused are charged with war crimes.

The trial commences at 10:55 a.m.

The trial is public.

The Panel is composed of International Judge Vinod Boolell as Presiding Judge and Leonard Assira and Nurul Islam Khan, International Judges as Panel Members, which has been constituted in accordance with the law.

Present: Accused Selim Krasniqi, Bedri Zyberaj, Xhavit Elshani, Isuf (Sherifi) Gashi Islam Gashi and Agron Krasniqi; Paul Flynn, International Public Prosecutor; Defence Counsel Mahmut Halimi, Rexhep Hasani, Fatmir Celina, Ethem Rogova, Mexhid Sylja and Fazil Balij; Luan Dushi, Humanitarian Law Center Monitor; Florim Latifaj, OSCE Monitor.

Court Recorder: Gwen Cheong
Interpreter: Ervin Mazniku

Mr. Prosecutor, I understand you have some more witnesses today.

Public Prosecutor: Yes, Your Honor. We had actually hoped to have five witnesses today. Unfortunately, we only have three. The three we are going to have, have already been heard. Basically, they are the Shala family; Rexhep Shala, Sadbere Shala and Mirsada Shala.

Presiding Judge: I would like to inform the Defence Counsels that I have marked May 23 as an additional day to hear the case because my colleagues are available and the courtroom here is available and it would be good to have one additional day.

All Defence Counsels have been informed that there is a hearing on May 23 and with the exception of Mr. Fazli Balaj, everyone is available to come on that day. Mr. Balaj will make arrangements to be either present or replaced.

Fazli Balaj, Defence Counsel: Mr. Prosecutor, please let us know the date of the statement of Rexhep Shala.

Public Prosecutor: Rexhep Shala testified on 10th November. Sadbere Shala testified on 16 November and Mirsada Shala on 9 November.

Presiding Judge: The only Defence Counsel who has communicated a list witnesses to my legal officer is Mr. Mexhid Sylja. Do the other Defence attorneys propose to call witnesses?

Fazli Balaj, Defence Counsel: In order to avoid delays in the main trial, I shall bring my own witnesses without any additional assistance. I would kindly ask the Court to indicate to me the date they think they will examine my witnesses.

Presiding Judge: Can you give us an indication on how many witnesses you intend to present and who they are?

Fazli Balaj, Defence Counsel: I have three witnesses but for now, I have two names for you.

Ethem Rogova, Defence Counsel: I have one witness.

Rexhep Hasani, Defence Counsel: I have two witnesses and I will provide the Court with my proposal as well.

Fatmir Celina, Defence Counsel: I have two witnesses.

Mahmut Halimi, Defence Counsel: I would propose only two witnesses out of the six that were examined during the investigative period and the rest to have their statements given at investigative proceedings, read out.

Public Prosecutor: I would be willing to have the statements read but I would like to know who the witnesses are.

Presiding Judge: Please put everything in writing, Mr. Halimi.

Presiding Judge: Please call the witness, Rexhep Shala.

The witness enters the courtroom.

Presiding Judge: Mr. Shala, we are sorry to have to recall you to testify but the circumstances are such and we hope we will not take too long. I have to give you the warnings as a witness. You must speak the truth. False testimony is a criminal offence. You are not obliged not to answer any questions that would expose yourself or your close relatives to serious disgrace, considerable material damage or to criminal prosecution.

As an injured party you are entitled to file a claim according to the Procedure Code and you have the right to call attention to all facts and to propose evidence which has a bearing on establishing the criminal offence, on finding the perpetrators of the offence or on establishing your claims. You have the right to propose evidence, to put questions to the defendants, witnesses and expert witnesses, to make remarks and present clarifications concerning their testimony and to give other statements and to file motions. You have the right to inspect the record and documents and objects that serve as evidence.

Personal Data:

Name and surname of witness:	Rexhep Shala
Name of his father:	Shaban Shala
Name and maiden of mother:	Fatime
Personal ID No.	1016452102
Occupation	Driver
Date of birth:	21 November 1933
Place of current residence:	Prizren
Economic status:	Average
Civil status:	Married
Nationality:	Kosovar Albanian
Relation to any of the accused:	None

Public Prosecutor: Did you give a statement in front of the Investigating Judge on 10 March 2004?

Rexhep Shala: I think yes.

Public Prosecutor: Did you again appear in front of this Trial Panel on 10 November 2005?

Rexhep Shala: Yes.

Public Prosecutor: On both occasions, you gave a statement to the Court. Was the statement that you gave correct and accurate on both occasions?

Rexhep Shala: Since it is a long time, I don't remember what I have stated. But one thing is for sure, and that is I have told the truth.

Public Prosecutor: Do you have any changes you want to make?

Rexhep Shala: I have nothing else to add or change.

Public Prosecutor: On the last occasion on November 2005, to summarize, you told the Court, what you knew about the disappearance of your son, Shaban Shala.

Rexhep Shala: Yes.

Public Prosecutor: This was based on a conversation you had with one Haki Morina and also based on your visit to the KLA headquarters in Drenovc on the day following Shaban's disappearance and upon another occasion. Is that correct?

Rexhep Shala: Yes. This is how it is. I could still state the same things even today.

Public Prosecutor: During that occasion, you told us that Haki had mentioned a few names of people who had received Shaban in Drenovc and this was mentioned on Page 8 of the English minutes.

Rexhep Shala: Yes. Shaban went to Drenovc together with Haki Morina.

Public Prosecutor: You told us that Haki Morina had told you that Shaban Shala had been received by persons called German, "Celiku" and Xhemajl Gashi?

Rexhep Shala: Yes.

Public Prosecutor: When you went to Drenovc, did you see anyone there that you recognized?

Rexhep Shala: I have gone there once and eight years have passed since then. You have to take into consideration that I am 75 years old.

Public Prosecutor: At the time you went to Drenovc, did you happen to know anyone by the name of Krasniqi?

Rexhep Shala: No.

Public Prosecutor: Have you ever heard any mention of the name Agron Krasniqi?

Rexhep Shala: No.

Public Prosecutor: Have you ever met a person that you know that looked like Agron Krasniqi?

Rexhep Shala: No.

Public Prosecutor: I have no further questions.

No questions, comments or presentations for the witness by all Defence Counsels, Defendants and the Trial Panel.

Presiding Judge: Thank you for coming, Mr. Shala.

The witness is excused.

Presiding Judge: The next witness is Mirsada Shala.

The witness enters the courtroom.

Presiding Judge: Thank you for coming. We apologise for having recalled you in this case. I have to give you the warnings as a witness. You must speak the truth. False testimony is a criminal offence. You are not obliged not to answer any questions that would expose yourself or your close relatives to serious disgrace, considerable material damage or to criminal prosecution.

You testified before on 9 November 2005. Since you are an injured party in that case, you are entitled to file a claim according to the Procedure Code and you have the right to call attention to all facts and to propose evidence which has a bearing on establishing the criminal offence, on finding the perpetrators of the offence or on establishing your claims. You have the right to propose evidence, to put questions to the defendants, witnesses and expert witnesses, to make remarks and present clarifications concerning their testimony and to give other statements and to file motions. You have the right to inspect the record and documents and objects that serve as evidence.

Personal Data:

Name and surname of witness:	Mirsada Shala
Name of his father:	Islam Elezaj
Name and maiden of mother:	Denore Krasniqi
Personal ID No.	Not available
Occupation	Head Worker, Bakery
Date of birth:	13 December 1964
Place of birth:	Montenegro
Place of current residence:	Prizren
Civil status:	Widow, mother of four children

Nationality:	Kosovar Albanian
Relation to any of the accused:	None
Relation to injured party:	I am an injured party

Public Prosecutor: Do you remember you gave evidence to the Trial Panel on 9 November 2005?

Mirsada Shala: Yes.

Public Prosecutor: Was the statement that you gave to the Panel correct and accurate?

Mirsada Shala: Yes.

Public Prosecutor: Do you have any changes you need to make in it?

Mirsada Shala: I have nothing else to tell but only feel sorry that the gentleman that went with him did not give a statement telling that he went with him.

Public Prosecutor: In summary, what you told the Trial Panel was what you remembered about the disappearance of your husband, Shaban Shala. Is that correct?

Mirsada Shala: Yes.

Public Prosecutor: That was partly based on what Haki Morina had told you?

Mirsada Shala: Yes.

Public Prosecutor: And according to the record of your statement on Page 6 of the English version, Haki Morina had gone to Drenovc and Haki gave you some names or persons who would be able to assist you in locating Shaban Shala.

Mirsada Shala: Yes.

Public Prosecutor: Those names were the following: Mahir Hasani, Xhemajl Gashi, Bedri Zyberaj, Selim Krasniqi and Islam Gashi.

Mirsada Shala: Yes.

Public Prosecutor: Did he mention any other names?

Mirsada Shala: No.

Public Prosecutor: At this time, were you familiar or know of anyone by the name Krasniqi?

Mirsada Shala: I have never known any such person. This might be Haki's words.

Public Prosecutor: At that time did you know or were you ever introduced to a person named Agron Krasniqi?

Mirsada Shala: No.

Public Prosecutor: Did anyone ever mention to you that Agron Krasniqi was involved in the disappearance of your husband?

Mirsada Shala: To the best of my knowledge, no.

Public Prosecutor: No further questions.

No questions, comments or presentations for the witness by all Defence Counsels, Defendants and the Trial Panel.

Fatmir Celina, Defence Counsel: I would like to mention something that I came across on Page 14 of the Albanian version of the minutes of 9 November 2005. It might be a typographical error. It is written in the Albanian version as “Bylyrdaku.” It should be written as “Bejleri.”

Presiding Judge: Thank you, Mr. Celina. Mrs. Shala, you said that you felt sorry that the person who was with him did not give a statement. Who were you referring to?

Mirsada Shala: Haki Morina.

Presiding Judge: We did call him as a witness and he gave a statement.

Mirsada Shala: I think it was a wrongful statement.

Presiding Judge: We will evaluate that. Thank you for coming. You may leave now.

Marilyn Micallef takes over as court recorder.

Presiding Judge: Mrs Shala, thank you for coming again.

Name and surname of witness:	Sadbere Shala
Name of his father:	Manush
Name and maiden of mother:	Hidajet
Personal ID No.	2106452117
Occupation	Housewife
Date of birth:	25 November 1936
Place of birth:	Prizren
Place of current residence:	Prizren
Economic status:	
Civil status:	Married
Education:	
Nationality:	Kosovar Albanian
Relation to any of the accused:	None
Relation to injured party:	I am an injured party

Presiding Judge: I have to give you the warnings as a witness. You must speak the truth. False testimony is an offence. You are not obliged not to answer any questions that would expose you or your close relatives to serious disgrace, considerable material damage or to criminal prosecution.

We have your data already. Since you are an injured party in that case, you have a right to file a compensation claim either in the proceedings or in a civil case and as an injured party you have a right to present facts and confront witnesses and at the end of these proceedings seek compensation before a civil court of law.

Public Prosecutor: I don't need you to testify in any length. I have just a few questions.

Do you remember you gave testimony before this court on a previous occasions?

Sadbere Shala: Yes

Public Prosecutor: You gave 2 statements – are they correct?

Sadbere Shala: My statements are correct. I am looking for my son. You summoned me here as a mother. I am here to know the truth, I am here to know where my son is – whether alive or not. I have been in tears for 8 years.

Public Prosecutor: Did you tell the panel on the last occasion when you were here about the disappearance of your son when talking to Haki Morina? Did he mention any names of people?

Sadbere Shala: Yes.

Public Prosecutor: On page 6 on the English minutes of 16 November 2005 you said the names mentioned were Mahir Hasani, Bedri Zyberaj and Xhamajl Gashi and "Celiku" – is that correct?

Sadbere Shala: Yes that is correct. This is how it is. He said '*You should go and check with those people*'.

Public Prosecutor: Did he mention other names to you?

Sadbere Shala: No, I do not remember.

Public Prosecutor: At the time did you know anybody by the name of Krasniqi?

Sadbere Shala: To tell the truth I did not go there, and I know no one.

Public Prosecutor: Did you know anybody by the surname of Krasniqi at the time?

Sadbere Shala: No.

Public Prosecutor: Did you hear from anybody concerning the disappearance of your son? Did you ever hear the name of Agron Krasniqi?

Sadbere Shala: I have read that on a newspaper only.

Public Prosecutor: You read it on a newspaper – you never heard it before?

Sadbere Shala: Yes.

Public Prosecutor: No further questions.

Fazli Balaj, Defence Counsel: Do you read newspapers Ma'am?

Sadbere Shala: Yes I do.

Fazli Balaj, Defence Counsel: When did you read on that newspaper the name of Agron Krasniqi?

Sadbere Shala: I have read that one year ago.

Fazli Balaj, Defence Counsel: No further questions at this time to this lady.

No questions, comments or presentations from Agron Krasniqi. No further questions for this witness.

Presiding Judge: Anything else?

No questions, comments or presentations from Defence Attorneys and Accused.

Public Prosecutor: That concludes the witnesses for today.

Presiding Judge: We had three witnesses today and three yesterday. Hopefully we shall be getting more witnesses on Wednesday 17th May and as usual you will get the name of the witnesses from the legal officer. That concludes today's proceedings.

Islam Gashi makes a proposal to the Presiding Judge for release from detention. *'We hereby like to promise to the panel and court that if the detention against us is terminated, we shall attend every single trial session whenever duly summoned. That is all Sir.'*

Presiding Judge: I take it all defense lawyers subscribe to this motion. What is the stand of the Public Prosecutor?

Mexhid Sylja, Defence Counsel: We, defense lawyers, subscribe to the proposal of Mr. Gashi regarding ending detention and wish that the trial ends with the least possible delay.

Fazli Balaj, Defence Counsel: I will file a written proposal regarding the detention of Agron Krasniqi.

Presiding Judge: Thank you.

Court adjourns at 12.30 hrs.

Presiding Judge, Vinod Boolell

Court Recorder, Gwen Cheong

Court Recorder, Marilyn Micallef