

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:	18 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 Sylja and Fazli Balaj
Accused:	Selim Krasniqi, Bedri Zyberaj, Xhavit Elshani, Isuf (Sherifi) Gashi, Islam Gashi and Agron Krasniqi
Witness:	Anonymous Witnesses "W" and "D"
Court Recorders:	Robina Struthers and Marilyn Micallef
Interpreters:	Endrit Reka and Orjeta Gjini
IJSD Legal Officer:	Virginie Monchy
Humanitarian Law Centre Monitor :	Anka Kurteshi Hajdari
OSCE Monitor :	Lumnije Shkodra

The accused are charged with war crimes.

The trial commences at 2: 45 p.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 Counsels Mahmut Halimi, Rexhep Hasani, Fatmir Celina, Ethem Rogova, Mexhid Sylja and Fazli Balaj.

Presiding Judge: good afternoon. We are resuming proceedings in the case of the Public Prosecutor against Selim Krasniqi and others. I understand Mr. Prosecutor that you have witnesses today?

International Prosecutor: yes, we will start with witness "W" and conclude with Witness "D". However, before we start, I will propose that the panel visit the crime scene, the village of Drenovc and I feel the sooner we do it the better. I anticipate it should take not more than half a day. I propose that we would examine the two principal buildings that have repeatedly been mentioned, that is the headquarters and the detention center. I would like to also take the opportunity of viewing the memorial that Mexhid Sylja, Defence Counsel mentioned if it is close by. Unfortunately given the status of the defendants at present I do not anticipate that it would be likely that they could attend but I would deem it sufficient that Defence Counsel would be present. I would suggest sometime within the first two weeks of June. I propose the 10th of June as being appropriate given that the other days will be taken up in interviewing defence witnesses. Thank you.

Presiding Judge: defence attorneys, in addition to the locations Mr. Flynn, has mentioned do you have any other suggestions relevant for the purposes of this case?

Mexhid Sylja, Defence Counsel: yes we have suggestions. It is not clear to me regarding the memorial. As for the other two proposals of the Public Prosecutor I am in a dilemma, as it does not sound that the Prosecutor expects a witness to come to the crime scene to testify. And further, the fact in relation to the album of the photographs used here it is obvious that these buildings of the cooperative are new buildings. However, I would like to add that I do not oppose the proposal.

Fazli Balaj, Defence Counsel: I would like to know if we agree or not with the Public Prosecutor's proposal. The accused here agree to go to the crime scene and we want to be with our clients there. Let's see the place where is it exactly in Drenovc?

Presiding Judge: I understand you to mean that you also want the accused to be present at the site inspection?

Fazli Balaj, Defence Counsel: yes. And secondly I propose that apart from the place where a part of KLA was let's go to the village of Bella Cerke. And let us see what was that street we are mentioning and I would like as well to ask the court in reference to these proposals to provide the maps of the region of Prizren where Rahovec is also included. For the purpose of verifying where Drenovc is located and where the other villages where some witnesses come from are located and in what

part of Rahovec these villages are located. Where is the village Muhadar on the border with Albania, where is the prison?

Presiding Judge: with regard to all these places you are mentioning? You are not suggesting we go to these places? You just want a map?

Fazli Balaj, Defence Counsel: yes, just a map of the region of Prizren.

Presiding Judge: if I understand you correctly you want a military expert to come and give evidence on the armed conflict in Kosovo at the time mentioned in the indictment?

Fazli Balaj, Defence Counsel: yes

Presiding Judge: so you want a map of Prizren region, a military expert and the defendants to be present?

Fazli Balaj, Defence Counsel: yes

The first witness, Witness "W" is ready to testify.

Presiding Judge: Mr. "W" I am now addressing myself to you. Thank you for consenting to come to court. We will address you as Witness "W". In this special circumstance your voice will not be transmitted. Please do not reveal any details that would lead to your identification. Since you are a witness in the case, I must warn you that it is your duty to speak the truth and that you should not withhold anything. You are warned that false testimony constitutes a criminal offence. You may not answer individual questions by which you would be likely to expose yourself or a close relative to serious disgrace, considerable material damage or criminal prosecution. Your personal data has been taken, sealed and placed in the record.

Presiding Judge: Do you understand?

Witness: yes

International Prosecutor: I am going to ask you some questions. Please be as clear as possible. Did you appear before the Investigating Judge on 11 March 2004 to give a statement concerning what had happened to members of your family and to you during the period of the war?

Witness: yes I gave my statement.

International Prosecutor: can you tell me if the statement you gave the Investigating Judge was correct and true? Do you stand by the facts and the contents of that statement?

Witness: yes

International Prosecutor: did you also give a statement to the police before you gave a statement to the Investigating Judge? And if so do you stand by the facts and contents of that statement to the police?

Witness: yes what I provided to them was taken into the record truly.

International Prosecutor: now I want you to cast your mind back to these incidents you told the Investigating Judge about and to tell your story again to the trial panel as simply as possible?

Witness: yes

International Prosecutor: can you tell us what month and year these incidents occurred?

Witness: I was referring to the 6th or 7th month of the year in 1998.

International Prosecutor: can you tell us what it was that happened to you or members of your family in this period?

Witness: at first my family members were at Bella Cerke and the Serbian police caught them and beat them up, they beat up two members of the family.

International Prosecutor: please continue.

Witness: after two or three days the KLA came and took a member of my family and they beat a member of my family in Drenovc. Then that member of the family told me that I had to go at 9:00 o'clock on the following day.

International Prosecutor: can you repeat that please?

Witness: the member of the family told me that I had to go at 9:00 o'clock in Drenovc. When I went there at 9:00 o'clock they said to me "come in you traitor". I started to discuss with them and they said to me that I was connected with Serbs. I told them "no". I told them "you have the wrong information and that I am not". He left his chair and at that moment I was sitting at a chair. He struck me on my nose and I fell from the chair. He said: "I got angry with the words of them who told me you gave to the Serbs both dead and alive meat, and this means that you served your wife to them and give them to eat something." When he struck me the other officer told him not to touch me and the other officer said that I was not the person he was thinking of. Then he told me "neither I know nor I know things about you but what happened to you came from your own people". Then he released me and we exited, we went outside then I washed my face. He told me let's go out and you can wash your face. And I told him "no because I don't want to wash my face". I don't have anything else to add. But I would like to say that I had no further trouble from then.

International Prosecutor: a few questions. You said that a member of your family was beaten up by the Serbian police, can you tell us how long did the police hold him and what injuries did he sustain?

Witness: about three to four hours then they took him to Rahovec.

Mahmut Halimi, Defence Counsel: objection, because the Public Prosecutor is putting the question for the family member and what injuries the family member went through. I would like to ask to the Public Prosecutor to review his questions because we did not hear that the Witness say that he had injuries. Referring to the family member.

International Prosecutor: I will rephrase.

Presiding Judge: Mr. Halimi, in the very first question the Witness said "the Serb police caught two members of my family and beat them up". Now the question is a follow up of this. The Public Prosecutor is getting further details on this.

Mahmut Halimi, Defence Counsel: I withdraw the objection because I only heard that the member of the family was kept for three to four hours. So I present my apology for this.

Presiding Judge: the objection is withdrawn. Please repeat the question.

International Prosecutor: you said that the Serb police had beaten up a member of your family; I would like to know for how long the Serb police kept this family member and if he received any injuries?

Witness: the family member was only beaten and stayed at the police for three to four hours. The family member had some bruises.

International Prosecutor: was this the first time that a member of your family had been detained and beaten by the police?

Witness: no, it happened before.

International Prosecutor: were the Serb police, at the time, targeting your family?

Witness: no

International Prosecutor: how many times before did it happen, if you can remember?

Witness: a member of my family was a guard of the vineyard.

International Prosecutor: but simply how many times before had the Serbian police....

Witness: then things were missing and they took the member of my family and they beat the member of my family.

International Prosecutor: how many times before had the Serb police beaten or interfered with a member of your family?

Witness: three times before and two times during the war.

International Prosecutor: just now you said that two to three days after this incident involving your family and the Serb police the KLA came and took a member of your family to Drenovc? Was this the same family member that the Serb police had interfered with?

Witness: yes the same one.

International Prosecutor: were you present when this happened?

Witness: I was not. It was only the member of the family.

International Prosecutor: tell us how did you know that the KLA came and took him specifically to Drenovc?

Witness: I know because one of them was from the same village I am from.

International Prosecutor: I will ask you, did someone tell you, did your family member tell you that he had been taken to Drenovc and that he had been taken by the KLA?

Witness: yes

International Prosecutor: did he tell you where he was taken in Drenovc?

Witness: to the school of Drenovc. They kept my family member for a couple of hours there.

International Prosecutor: did he mention the names of anyone he met there, in Drenovc?

Witness: Selim Krasniqi.

International Prosecutor: he gave you instructions that you were to go to Drenovc at 9:00 o'clock; did he tell you where you were to go?

Witness: yes right there in Drenovc at the same place.

International Prosecutor: who was it that you were to go to see? Did he mention a name to you?

Witness: I was told that I had to go to see Selim Krasniqi, the commander.

International Prosecutor: did you know Mr. Krasniqi at this time? Did you know what he looked like?

Witness: I never knew that person.

International Prosecutor: can you tell us when you went to Drenovc, was it the same day, the next day or when?

Witness: the next day.

International Prosecutor: and tell us exactly where you went. The building and so on.

Witness: not at the big school but on the side of the health center by the road.

International Prosecutor: when you got there who did you see? Who was at that particular premise?

Witness: only those two, the commander and the officer.

International Prosecutor: what was this person a commander of or in? What group was he a part of?

Witness: the KLA.

International Prosecutor: apart from these two persons did you see other KLA soldiers at this premise?

Witness: there were many in the yard.

International Prosecutor: how were they dressed at the time?

Witness: in KLA uniforms.

International Prosecutor: you said that when you arrived there and your words were that they told you "come in you traitor". When you say "they" whom are you referring to?

Witness: that commander.

International Prosecutor: can you give us his name?

Witness: he was called Selim Krasniqi.

International Prosecutor: do you know if he had a nickname to go with that full name?

Witness: I don't know

International Prosecutor: I am looking at the minutes of the investigation. At page 4 (in the English version) you told the Investigating Judge "when I went there the door was open and Celiku was there with a policeman". Who is this Celiku person?

Witness: this was Selim.

International Prosecutor: when you say Selim you mean Selim Krasniqi?

Witness: yes.

International Prosecutor: how did you learn that this person was called Selim Krasniqi and that he was also called Celiku?

The Presiding Judge admonishes the Defence Counsel for talking between themselves.

Witness: the KLA named him Celiku and then I was told that his name is Selim Krasniqi.

International Prosecutor: when you arrived were you taken anywhere specific?

Witness: no, not me. The member of my family, yes. It was taken to the basement.

International Prosecutor: when you arrived where did you have this conversation with Celiku?

Witness: in that room which I mentioned previously.

International Prosecutor: can you tell us if this was on the ground floor, an upper floor, in the basement?

Witness: it was the ground floor.

International Prosecutor: how many people were in the room with you and Celiku as he was putting the accusations to you?

Witness: Celiku and the officer, only those two.

International Prosecutor: do you happen to know the officer's name or could you describe him to us?

Witness: referring to what I was told it is Isuf.

International Prosecutor: when you saw this officer did you recognize him at the time?

Witness: no

International Prosecutor: could you describe him.

Witness: only what I was told either for Celiku or Isuf.

International Prosecutor: can you describe Isuf can you tell us what he was wearing, how old he was, was he tall or small?

Witness: he was tall, dark skinned, he was wearing black clothes

International Prosecutor: you said that Celiku said certain allegations to you and that he slapped you on the nose, can you tell us how many times he slapped you?

Witness: only one time.

International Prosecutor: as a result of this slap, what happened to you?

The Presiding Judge interrupts and tells the International Prosecutor that the Witness said he fell down, after being struck on his nose, he was bloody, he had to wash, all this is there in the minutes.

International Prosecutor: thank you your Honour. Why was it that you were asked to wash your face?

Witness: I don't know, only Isuf, the officer, told him that this is not the person you are thinking of.

International Prosecutor: as a result of the slap you received, did it cause you any injury or mark?

Witness: I was only bleeding.

International Prosecutor: how long were you bleeding for?

Witness: it was not serious I just took a handkerchief and with that I wiped the blood.

International Prosecutor: apart from making accusations to you did Celiku say anything else to you while he was interviewing you?

Witness: no, from that time, nobody called me. I went home and I did not have any further problems from then.

International Prosecutor: did he ask you about any other Albanians that he may have been suspicious of?

Witness: I asked him but he did not tell me. I told Selim Krasniqi you have to tell me who was the persons who did this to me. I said I am not angry with you Selim Krasniqi.

International Prosecutor: I see that when the Investigating Judge interviewed you, when you told your story to the Judge, (top of page 5 of the English minutes) the minutes record that Selim Krasniqi asked you how you are related to Hysen Krasniqi and Osman Patoki. Can you remember saying this to the judge, and did this happen?

Witness: Selim Krasniqi asked me how are you related to Hysen Krasniqi and I told him that he is a friend. Selim Krasniqi asked me again how was I related to Osman Patoki and I told him he is the Baxhanak of my son, meaning the husband of my sister in law of my son.

International Prosecutor: apart from asking if you were related to these two persons, did he say anything else? Did he say what was interesting about them?

Witness: no. Osman never came at my place.

International Prosecutor: today I asked you at the start if you could give us the date on which the incident involving yourself and your family took place and you said July do you remember

Witness: yes 28th of July.

International Prosecutor: do you remember if there was a Serb attack on the area of Drenovc during the summer of 1998?

Witness: I don't know

International Prosecutor: Your Honor, at this stage I would like to put documents to the witness. First the police statement date 23 April 2002. I would like to put both the English and Albanian version. If I may, I would like to put this to the witness.

Fazli Balaj, Defence Counsel: Your Honor, the prosecutor provided us with some documents of the police of UNMIK and KPS and the Public Prosecutor has proposed to present two police documents to the witness. I don't know the content of this statement and we need to know if it's a police document. Will we be using it as evidence? We have to know it beforehand. If it would be possible to wait a few seconds for us so we can check the papers we have and find them.

International Prosecutor: I have not made any proposal other than to put a statement to the witness to see whether or not he recognizes it and perhaps if he recognizes a signature on it. I have not yet proposed to enter it as an exhibit.

Ethem Rogova, Defence Counsel: before you decide if you will accept the proposal of the Public Prosecutor or not please refer to the article 156 (2) of PCPCK. This for us is not acceptable. The document in question cannot be presented to the witness.

Fazli Balaj, Defence Counsel: Your Honor, I finally found this document and as far as I understand it the Public Prosecutor maybe has questions on this document. We don't accept that the document in question be used as evidence.

Presiding Judge: okay. Have you finished?

Fazli Balaj, Defence Counsel: yes.

Rexhep Hasani, Defence Counsel: I would state to my colleagues that as a matter of fact this statement has nothing to do with the others only with Selim Krasniqi. Thank you.

Presiding Judge: Mr. Hasani, yes, I was going to mention that. Thank you. As far as I understand the Public Prosecutor and what I think he is going to do, he just says he is going to present the statement. I don't know what exercise he wants to indulge in. Let us wait to see what the prosecutor wants to do exactly. And to the observations of Mr. Ethem Rogova, I say that all that article 156 says is that the statement cannot be admissible in evidence if the defence does not question the Witness but no one has said as yet that you will not have a chance to cross examine the witness. We are not

at the stage where the Public Prosecutor says “put it in”. All he says is he wants to present it to the witness.

International Prosecutor: my purpose is exactly as you have described your Honour. I want the Witness to identify the statement since it bears his name; I want to see if he recognizes the signature. And further if he can tell us whether this document is his and if he made it voluntarily. After that I will address you at another date regarding any other applications.

Presiding Judge: the purpose of the exercise is to ask the Witness if he can identify the document.

Public Prosecutor: yes

The court adjourns for 10 minutes at 4:15 p.m. The court resumes at 4:38 p.m.

The court Recorder is now Marilyn Micallef

Panel Decision: The Public Prosecutor has proposed that the police statement of 23 April 2002 be shown to the witness with a view to asking the witness whether it is his signature that appears in the statement or not. Mr. Balaj insisted on a panel decision on that issue and the panel has deliberated and decides that the document in question shall be presented to the witness for the sole purpose for which the Public Prosecutor has made the proposal.

The Legal Officer takes the statement in question to the Anonymous Witness.

Public Prosecutor: Mr. Witness can you hear me? The Legal Officer will show you a hand written document and I want you to look at the signature in the top right hand corner and tell me if you recognize that signature.

Witness: Yes.

Public Prosecutor: Can you tell us whose signature that is?

Witness: Yes, it is my signature. At the beginning of the statement, and also at the end of it.

Public Prosecutor: Mr. Witness, can you just confirm to us when you signed your name to that statement, did you read it or was it read to you before you signed your name?

Witness: They read it to me.

Public Prosecutor: Did you consider it to be accurate and correct? Is that why you signed your name to it?

Witness: It is correct.

Public Prosecutor: When you gave that statement, did you give it voluntarily without coercion?

Mahmut Halimi, Defence Counsel: I object to the way the questions are put on this statement, because you, as panel decided that the purpose of the statement is only to verify if the signature is the signature of the witness.

Public Prosecutor: Implicit to that are the circumstances under which the witness signed the statement.

Presiding Judge: This question was highly leading.

Fazli Balaj, Defence Counsel: No your honor the decision of the panel was only to recognize the signature and as I see the Public Prosecutor: is presenting a document where it is not decided as yet whether it is admissible or not.

Mahmut Halimi, Defence Counsel: I object to every eventual effort of the Public Prosecutor to present it before this panel and I assume that this is only to verify the signature and not something else.

Public Prosecutor: It is only for the purposes of verifying the signature and the circumstances under which the signature was appended at this moment in time.

Mahmut Halimi, Defence Counsel: (agreement with Balaj)

Presiding Judge: Mr. Public Prosecutor, please rephrase your question.

Public Prosecutor: Mr. Witness, the signature attached to the statement which you confirmed that you signed this – did anybody force you to say what is contained in the statement or forced you to sign the statement?

Witness: No – it was with my free will.

Public Prosecutor: No further questions on this issue. The second document, which I would like to put to the witness, is Exhibit C. I suggest we use the same procedure that we used yesterday.

Presiding Judge: Exhibit C which is to be shown to the witness is the photograph line up. The Legal Officer will show it to the witness and I will give the witness the warning.

Presiding Judge (to the witness): You are going to be shown a series of 33 photographs. Please go through these photographs and select those that show the persons that you recognize. *The judge continues by giving the witness the warning in accordance with Article 255.*

Witness: I do not remember the name of the person in picture No. 3. I also don't remember the name of the person in picture No. 7. The person in picture No. 8 should be Selim Krasniqi. Also, the name of the person in picture No. 31 – I do not remember it either. The name of the person in picture No. 32 is Isuf from Drenovc.

Public Prosecutor: Mr. Witness, you mentioned in photograph no. 8 you recognized the person as Selim Krasniqi?

Mahmut Halimi, Defence Counsel: The translation was heard that I think that it was Selim Krasniqi.

Presiding Judge: What I heard was that it 'should' be Selim Krasniqi.

Public Prosecutor: I was asking, in photograph No. 8 you said that this person should be Selim Krasniqi. Are you willing to give us this person's full name and where you saw him before?

Witness: Selim Krasniqi. I have seen him only in Drenovc.

Public Prosecutor: Is this the same Selim Krasniqi that you told us slapped you?

Witness: I know that it is him.

Public Prosecutor: No further questions.

Mahmut Halimi, Defence Counsel: Mr. Witness, I am the defence lawyer Mahmut Halimi. I am the defence of Selim Krasniqi. My first question is: If from the booth you are now, could you see my lifted hand?

Witness: No.

Mahmut Halimi, Defence Counsel: I refer to the answer you gave to the Public Prosecutor (to his question) - Did someone force you to give the statement and if you gave it of your own free will?

Witness: No – nobody offered me anything.

Mahmut Halimi, Defence Counsel: How long have you been with Selim Krasniqi? Could you tell us approximately?

Witness: I was with Selim Krasniqi for about an hour, and the other one for about three hours.

Mahmut Halimi, Defence Counsel: So far could you tell us how many times the pictures were shown to you? I am referring to the pictures of Selim Krasniqi. Could you tell us the Public Prosecutor police or investigative judge showed you these pictures?

Witness: Two times.

Mahmut Halimi, Defence Counsel: When?

Witness: I don't know when.

Mahmut Halimi, Defence Counsel: Is it correct that after all that happened to you, (he?) was asking forgiveness from you?

Witness: Yes.

Mahmut Halimi, Defence Counsel: And your answer was that you forgave him and you were not angry at him?

Witness: Yes, right.

Mahmut Halimi, Defence Counsel: What was the incentive that you were presented with, when you already forgave him in 2002?

Witness: Police came to see me. Also today they came and took me.

Mahmut Halimi, Defence Counsel: Did the police inform you?

Witness: Yes.

Mahmut Halimi, Defence Counsel: From the year 1998 to the time of the events that happened to you are you aware that at your region there was a confrontation between the KLA and the Serbian forces?

Witness: I don't know.

Mahmut Halimi, Defence Counsel: Now something in relation to the statement you gave before the investigating judge (Page 3 of the investigative statement in Albanian dated 11th March 2004).

Presiding Judge: Which passage are you referring to?

Mahmut Halimi, Defence Counsel: The third line from the bottom of the page.

Presiding Judge (reading from page 3 of the English version of the statement): "Did he tell you who beat him?"

Mahmut Halimi, Defence Counsel: More precisely – the witness at the investigation stated that a member of the family (his member of the family) was beaten by the commander Celiku. It was stated by you at the investigation. But today you have not stated it. Explain?

Witness: Three days before he was beaten by the Serbs. Celiku thought that the member of the family gave a statement to the Serbs so this is the reason they asked him to come and then Celiku beat him.

Mahmut Halimi, Defence Counsel: Mr. Witness you stated today that the member of your family told you that you had to go and see Selim Krasniqi and as you stated, the commander. While at page number 7 (of the Albanian version) to the question of the former defence lawyer: "Do you recall who told you that the person you call Celiku is Selim Krasniqi". You answered that you don't know.

Witness: No I don't know and I don't want to say that a certain person said it when I don't know who said it (page 7 of the English version of the minutes).

Mahmut Halimi, Defence Counsel: Is it true that a member of the family told you the name? Or is the statement of today the correct one?

Witness: I am telling you the way I gave the statement – the way it was.

Fazli Balaj, Defence Counsel: Mr. Witness, according to your statement, did you say before – I am not sure whether it is in the record that - I don't want that Selim Krasniqi be punished.

Witness: Yes that is true.

Fazli Balaj, Defence Counsel: Did your village get burned from the Serbian forces in 1998 or later? Could you tell us approximately when?

Witness: In September 1998.

Fazli Balaj, Defence Counsel: Could you tell us where did you go, you, women, elder people and children – I refer to the time after the village got burned....

Witness: We exited the village during the night and we headed in the region of Kosniq up in the woods, and again during the night we returned to the village.

Fazli Balaj, Defence Counsel: To your knowledge, did other villages get burned?

Witness: Yes.

Fazli Balaj, Defence Counsel: You do not need to tell me the names of the village. If you remember, I am referring to the region of Rahovec, Big Krushe or Small Krushe. Could you tell us approximately the number?

Witness: Around ten villages.

Fazli Balaj, Defence Counsel: I am aware that you are an old man but can you tell us where the KLA take their weapons? Was it in Albania?

Presiding Judge: Please do not refer to the witness as young or old because that is in breach of the anonymity order.

Fazli Balaj, Defence Counsel: Thank you. I want to apologize.

Presiding Judge: This is an order of the court.

Fazli Balaj, Defence Counsel: I apologize to both you and the witness. But I assume that the young people of the village would take the weapons from somewhere else. Can you tell us from where they would carry the weapons?

Witness: I don't know.

Fazli Balaj, Defence Counsel: Did you ever hear during the war or after the war that a commander or anybody else from KLA ordered an attack the civilian Albanian or Serbian population? Did you ever hear this?

Witness: No.

Fazli Balaj, Defence Counsel: No further questions.

No questions by the other defence counsel.

Public Prosecutor: Mr. Witness, following on what Mr. Fazli Balaj, Defence Counsel asked, can you tell us whether you served with the KLA or Serb forces during the war at any stage?

Witness: We served with the KLA.

Public Prosecutor: Can you tell us what your occupation was at that time?

Witness: I was a farmer.

Public Prosecutor: No further questions.

Selim Krasniqi: I would like to introduce myself to the Witness. I am Selim Krasniqi. Why does he (the witness) not testify openly – from whom is he hiding?

Witness: Because many things are happening, so I am afraid to go in the open.

Selim Krasniqi: From whom is the witness afraid?

Witness: From nobody – but I just not want to.

Selim Krasniqi: Does witness think that the KLA had bad relations with the civilian population?

Witness: I don't know this.

Selim Krasniqi: The witness previously testified that I was wearing civilian clothes, is this correct?

Witness: Correct.

Selim Krasniqi: Would the witness be able to tell us, here in court, who pushed you to give the statement in court?

Public Prosecutor: Objection. This question was already asked and answered.

Presiding Judge reads out the pertinent paragraph from the day's minutes.

Selim Krasniqi: In fact I was interested to know the answer of the witness, but anyway it is not important.

Presiding Judge: He explained it is because the police came for him and he gave the statement.

Selim Krasniqi: Who told the witness that at the time my nickname was Celiku?

Witness: People on the street told me that I had to go to see Celiku, people in the street.

Selim Krasniqi: Where did you learn the name of Selim Krasniqi and from whom?

Presiding Judge reads from the minutes of today's hearing – showing that these questions had already been asked and answered.

Selim Krasniqi: It is not clear to me the answer of the Witness.

Witness: At the moment you entered into the room your friends mentioned your name.

Selim Krasniqi: As you are referring to them as my friends, could you tell me their names?

Witness: I don't know

Selim Krasniqi: In the previous statements you said that I have beaten you, and then I asked from you that you should not tell anyone about this?

Witness: Yes.

Selim Krasniqi: Do you think I was presuming that you don't tell the Serbian police or somebody else?

Witness: According to me, after you said that 'maybe I am wrong', and then you told me 'let's go out and you can wash your face', 'you had better not tell anybody about this.'

Selim Krasniqi: Witness, you said that you have forgiven Selim Krasniqi: - so why are you now accusing him?

Presiding Judge: Answered already – *the presiding judge makes reference to the minutes once again.*

Selim Krasniqi: After the war, it was a campaign against KLA from different circles. Did you think to stain the KLA with this statement?

Witness: No.

Selim Krasniqi: Who is the Isuf you mentioned today?

Witness: I heard the name Isuf Gashi. I don't know whether it is Isuf Gashi or Isuf Berisha. I just heard the name.

Selim Krasniqi: Where is this Isuf now? I refer to the Isuf you mentioned and allegedly met at my office.

Witness: I refer to the son of Reshit Isufi – Isuf Gashi or Berisha were not there.

Selim Krasniqi: Do you know where Isuf is now?

Presiding Judge: We have three Isuf now ...Gashi, Berisha and Reshit.

Selim Krasniqi: I am referring to the Isuf that was mentioned today by the witness.

Witness: Isuf Gashi or Berisha were not there present. The one present was the son of Reshit Isufi. In this case this time it is a surname.

Selim Krasniqi: Where is Isuf? I am referring to the Isuf he mentioned today.

Witness: He was killed.

Selim Krasniqi: Apart from the Isuf, who was killed, is there anybody else who can verify this case in question?

Witness: Nobody would come forward.

Selim Krasniqi: As a matter of fact you are lying to the court. I would like to ask you where you reported the incident which happened with Serbian police.

Witness: I did not report it. Then I was at the headquarters I was slapped and then I returned home. Then the police came at my place.

Selim Krasniqi: Did somebody ask from you to give a statement for the incident which occurred with the Serbian forces?

Witness: Nobody did. Who would ask this?

Selim Krasniqi: I have no further questions for the witness, but honorable members of the panel I would like to state that the statement of this witness is set up and I am very sure that if this court would proceed honestly; such a thing would be confirmed by the testimonies and the facts. Thank you.

Isuf Gashi (comes forward to put questions)

Isuf Gashi: My name is Isuf Sheriff Gashi from the village Drenovc. We are not a big family and there is no other Gashi in that area. What I am trying to say that there is no other family with this surname. Mr. Krasniqi was right because only the name of Isuf was mentioned several times and the Public Prosecutor had to explain that the name was Isuf and the family name Gashi or Berisha – he had to clarify better.

I have only two questions for the witness: You did identify my picture. Did you know me before or during or after the war?

Witness: I knew you before the war.

Isuf Gashi: Could you tell us that the Isuf you saw there – what age was he?

Witness: In his 30s

Isuf Gashi: Could you guess my age?

Witness: No - I think you are old.

Isuf Gashi: Could you tell me how you knew me before the war?

Witness: In the vineyard I would see you with the sheep – you were a shepherd.....

Isuf Gashi: I am referring to the Public Prosecutor. Next time he has to elaborate things better in order not to make me come here again.

Presiding Judge: Thank you Mr. Gashi.

The Presiding Judge questions the witness: When you were given the album of photographs with regard to picture No. 3, picture No. 7 and picture No. 31 – the answer you gave is 'I don't remember the name'. Are we to understand that you could identify these persons and you could not give the name or you could not identify the persons at all?

Witness: I would recognize them as persons but I am not able to provide their names.

The witness is thanked and he leaves the courtroom.

*A short break is taken at 6.20 p.m. and the court resumes at 6.45 p.m.
Robina Struthers is now the court recorder*

Presiding Judge: you have another witness Mr. Prosecutor? Witness "D"?

Public Prosecutor: yes Your Honor, I confirm that.

Witness "D" is now the witness.

Presiding Judge: Mr. "D" I am now addressing myself to you. Thank you for coming to court. We will address you as Witness "D". In this special circumstance your voice will not be transmitted. You will be testifying under an Order of Anonymity. Please do not reveal any details that would lead to your identification. Since you are a witness in the case, I must warn you that it is your duty to speak the truth and that you should not withhold anything. You are warned that false testimony constitutes a criminal offence. You may not answer individual questions by which you would be likely to expose yourself or a close relative to serious disgrace, considerable material

damage or criminal prosecution. Your personal data has been taken, sealed and placed in the record. Do you understand me?

Witness: yes

Presiding Judge: since you will be testifying and if you are an injured party in this case you have the right to enter a claim in the present case in civil court. If you do enter a complaint, you have the right to present evidence and question witnesses, is this clear to you?

Witness: yes

Presiding Judge: Mr. Prosecutor?

International Prosecutor: Mr. Witness "D", this is the prosecutor. Did you give a statement before the Investigating Judge on the 20th of September 2004 concerning certain incidents which had occurred during the war in which you witnessed or participated?

Witness: yes I did.

International Prosecutor: can you tell us if the statement you gave the Investigating Judge on that occasion was accurate, true and correct?

Witness: what I saw and what I know, it is true.

International Prosecutor: in that statement you gave a summary of what you knew about the detention of certain individuals, can you tell us in your own words again about these incidents?

Witness: I went to the village of Ratkovc and I met Selim Krasniqi where the person was detained at the village Ratkovc.

International Prosecutor: you can mention the person's name as there is no difficulty about that.

Witness: Hidaj Popaj. They detained him and they took him to a building like headquarters and they questioned him. And I don't know if this building was the headquarters. They kept him there for about 30 minutes and I don't know what they were talking about to each other. The later we went to the village Radoste. Then we returned and went back home. He went back to his home and I went to mine. After a few days they took Hidaj, I don't know the exact date, but they took him and they detained him, I think it was in the month of June. I went there several times to find out what happened as to his fate. They forbid me to go into that area again. Then I went after Drenovc was occupied after Serbia bombed it then I went there and I met Selim Krasniqi at the school and I asked him and he told me that he did not know anything about his fate. I told him that I would be looking for him through the Red Cross; then he told me off and I had to leave. I never saw him again. That's all, briefly.

Public Prosecutor: when you went to village of Ratkove where you met Selim Krasniqi, where the person Hidaj Popaj was detained, were you with Hidaj Popaj at that time?

Witness: yes

International Prosecutor: this person, Selim Krasniqi, that you met can you describe him for us?

Witness: he was not tall, his hair was up and his complexion was white. His hair was reddish.

International Prosecutor: what age of a guy was he?

Witness: his age would have been above 24 or 25 years, but I cannot be precise on that.

International Prosecutor: can you tell us how he was dressed at that time and whether he was armed?

Witness: yes. He was wearing a uniform. He was carrying a Kalashnikov or an AK47.

International Prosecutor: did you recognize the uniform and can you tell us if you did what the uniform represented?

Witness: he had the emblem of the KLA on his arm and on his cap.

International Prosecutor: were there any other uniformed men with him at the time?

Witness: yes there were. I did not know the others. As far as I recall there were two other people with him.

International Prosecutor: did Selim Krasniqi explain why he was detaining Hidaj Popaj?

Witness: Selim Krasniqi said, "I have to ask him something".

International Prosecutor: how did he treat you when Hidaj Popaj was stopped? Was he courteous?

Witness: they treated me correctly.

International Prosecutor: when Hidaj Popaj came back after being in the headquarters did he tell you what had gone on in there and who he had met?

Witness: he told me that he could not know their names.

International Prosecutor: did he mention the nickname of anybody?

Witness: he would not be able to because it happened for the first time and it was very brief.

International Prosecutor: did he tell you what was discussed in there?

Witness: they asked him about Hasan Rrustemi.

International Prosecutor: do you know what they asked him about this Hasan Rrustemi, what the conversation was about or what he might have told them?

Witness: I don't know because it was very brief and I did not stay with him.

International Prosecutor: did you know at that time a person called Hasan Rrustemi?

Witness: I knew Hasan Rrustemi.

International Prosecutor: can you tell us who he was and what he did?

Witness: he worked at SUP in Rahovec – the state police.

International Prosecutor: do you know where this Hasan Rrustemi is now, or do you know anything about him?

Witness: I don't know

International Prosecutor: you said he did not mention any names or nicknames to you and I know it's a long time since this occurred, almost 8 years, but do you remember telling the Investigating Judge (page 3 of the English version of the investigation minutes) that when Hidaj Popaj came out you asked him "what did they ask you" and he said "there was a Gjerman inside". Do you remember that?

Witness: yes

International Prosecutor: did you know this Gjerman? And if so what can you tell us about him?

Witness: I have not seen him personally.

International Prosecutor: did you recognize the name Gjerman, and if so can you give us a full name for this person?

Witness: I have not seen him personally and I did not know him, but as far as I recall, it was Xhem.

International Prosecutor: going back to Hasan Rrustemi, can you tell us if Hidaj Popaj elaborated on the conversation which he had in the headquarters concerning Hasan Rrustemi. Why was this name brought up?

Witness: maybe, but it was a long time ago. I may have forgotten. It was 8 years ago.

International Prosecutor: you told us that you went home and so did Hidaj Popaj and that they took him after that. Can you tell us who “they” were?

Witness: they took him at the vineyards of Ratkovc; I don't know who they were.

International Prosecutor: can you tell us what you were doing in the village of Ratkovc and what Hidaj Popaj was doing in the village of Ratkovc on that occasion?

Witness: he had a company and he was selling wheat, sugar.

International Prosecutor: let's go back to the time when you went home. You left for your house and Hidaj Popaj left for his house after that incident when you first met Selim Krasniqi. Did anything happen to the Popaj family after that?

Witness: after this his son Muharrem went in to Drenovc to ask about his father. Then they detained him.

International Prosecutor: when Muharrem was detained, what was Hidaj Popaj's reaction, if you know, and what did he do?

Witness: when they detained Muharrem they told him make your father come here and then we can release you.

International Prosecutor: you are using that word “they” again, who do you mean by “they”?

Witness: Gani Paqarizi told him “make your father come here and then we will release you”.

International Prosecutor: do you know if Hidaj Popaj complied with this request?

Witness: yes he did he went there and then Muharrem was released.

International Prosecutor: did Hidaj Popaj manage to get where he was going without any difficulty or interruption?

Witness: he went to the vineyards of Ratkovc. There was a place where they came with a car and took him. They took him to the headquarters.

International Prosecutor: did you travel with Hidaj Popaj on that occasion?

Witness: I was going with a tractor to Radoste so he could come with me to that place. I could take him with a tractor.

International Prosecutor: according to the account you gave to the Investigating Judge (on page 6 of the English version of the investigation minutes) you said that “we went through the village of Sopniq we were driven uphill followed the canal and were stopped there by KLA soldiers who asked that we present them with identification

cards, I had one, but Hidaj Popaj did not have one and so they took Hidaj Popaj to Drenovc". Is that correct?

Witness: it is true because we had no other way to take.

International Prosecutor: did you recognize any of these soldiers?

Witness: no I did not.

International Prosecutor: did any of them indicate to you or to Hidaj Popaj in your presence as to where they were taking Hidaj Popaj? What location?

Witness: yes they told us that they would take him to the general headquarters.

International Prosecutor: in your testimony today you said "I went there several times to know what happened about him", when you say "there" do you mean the general headquarters or where do you mean?

Witness: I mean the general headquarters

International Prosecutor: can your recall the first time you went there, the date?

Witness: I don't know the date because a lot of time has elapsed.

International Prosecutor: how many days after Hidaj Popaj's detention did you first go there?

Witness: I went there twice and then for the first time they did not allow me to go to the free zone and the second time the father of Hidaj Popaj went there.

International Prosecutor: can you describe this location you say as "there" that Hidaj Popaj was taken to? Where in the village of Drenovc was it and can you describe the premises?

Witness: I have never been to the place where Hidaj Popaj was. After Rahovec was bombed at the school, I mean Selim Krasniqi.

International Prosecutor: in your earlier testimony, you said that the school was in Drenovc, is this correct?

Witness: yes.

International Prosecutor: would you have a date for this meeting? Approximately?

Witness: no

International Prosecutor: did you meet Selim Krasniqi again after this?

Witness: the first time it was before the bombardment of Rahovec. At that time I was forbidden to enter Drenovc at the free zone and Drenovc was bombed in September and I met him again two weeks or 15 days later.

International Prosecutor: are you sure about Drenovc being bombed in September? If I told you it was attacked and bombed in July would that cause you to correct your statement?

Witness: on the 17th to 18th of July Bella Cerke and Rahovec were burned.

International Prosecutor: did you meet Selim Krasniqi at any time around the time when Bella Cerke was bombed?

Witness: no

Fazli Balaj, Defence Counsel: he did not say that Bella Cerke was bombed, he said it was burned.

International Prosecutor: sorry. Just looking at the English version of the investigating minutes on page 14 and 15, you were being asked by Defence Counsel when you met Selim Krasniqi for the second time and you said "this was a period between June and September" and he asked if you could be more precise as to the month and your reply was "on July 17 at Bella Cerke village in Rahovec – these villages were burned by Serb forces, it was either 17 or 18 of July". You offered that information to Defence Counsel when he asked you to be precise about the second time you saw Selim Krasniqi were you telling him on that occasion by relating it to the events that took place at Bella Cerke that you had met him between July 17 or July 18.

Witness: I did not see him on July 17 and 18 July. I have not seen him on 17 and 18 of July.

International Prosecutor: If we go back to your earlier evidence today, the only times you saw Selim Krasniqi was the first time you were stopped in Ratkove, for a second time after the bombing of Drenovc and for a third time some weeks later after the bombing of Drenas? Is this correct?

Witness: it is wrong. The first time I saw Selim Krasniqi it was the month of June. For the second time it was also in the month of June and I have not seen him again until the month of September.

International Prosecutor: on the second and third time that you saw him was he able to help you in any way as to how Hidaj Popaj was? What Hidaj Popaj's condition was? Or when he would be released?

Witness: for the third time I met him at the school of Drenovc – it was September but I don't know the exact date.

International Prosecutor: on the second occasion, which you said is June, when you met Selim Krasniqi, did he tell you anything about Hidaj Popaj, how he was, his condition, or when he would be released?

Witness: on the second time when I met Selim Krasniqi he told me that he is safe and sound.

International Prosecutor: in addition to giving a statement to the Investigating Judge, did you give a statement to the police in relation to this matter?

Witness: yes I gave a statement.

International Prosecutor: were you shown a number of photographs at any stage by the police?

Witness: yes

International Prosecutor: were you able to identify any of the people in those photographs and you need not name anybody at the moment.

Witness: they showed me pictures of the school, of Selim Krasniqi and other people. I don't know if they were accurate or not.

International Prosecutor: so, as I understand it from your evidence, which you have given today, you never got to see Hidaj Popaj after he was taken to Drenovc? Is that correct?

Witness: yes, I never saw him again.

International Prosecutor: did an incident occur where you thought you had found Hidaj Popaj?

Witness: yes

International Prosecutor: can you tell us briefly about that please?

Witness: at the flat stones of Rahovec a corpse was found and it was said that it was the corpse of Hidaj Popaj. His son called me to go with them to take the corpse with a truck. We carried the corpse to the truck and they took him home. When the corpse was taken home people from the village went to their place and told Hidaj Popaj's son that Hidaj Popaj is alive. Then his son and daughter, along with the father, went to Drenovc and saw Hidaj Popaj who was alive. The corpse was taken by them to the mortuary of Prizren.

International Prosecutor: do you know if anybody from the KLA in Drenovc gave any instructions with reference to where this corpse should be taken, or its transportation?

Witness: yes.

International Prosecutor: can you tell us who in the KLA gave any orders regarding this matter?

Witness: I was not there so I do not know who gave the order and then we took the corpse to Drenovc and there the order was given to take the corpse to the Rahovec police. Rahovec police then gave the order to take it to the hospital in Prizren.

International Prosecutor: do you know who issued the order to take it to the Rahovec police?

Witness: I don't know I may have forgotten.

International Prosecutor: let me read you what you told the Investigating Judge and you can tell me if it's correct. At page 3 of the English version, bottom, last paragraph: "they were then asked to take the body to Drenovc village. The body was taken to Drenovc then Bedri Zyberaj issued an order that the body should be taken to Drenovc and then to the police station in Rahovec". Did you tell that to the Investigating Judge?

Witness: yes

International Prosecutor: can you tell us who this Bedri Zyberaj was and where he worked and what his position was?

Witness: Bedri Zyberaj was at the building at the outskirts of Drenovc at the road towards Senoq. We took the corpse there. Then he gave the order to take the corpse to the Rahovec police.

International Prosecutor: can you describe Mr. Bedri Zyberaj and tell us how he was dressed?

Witness: he was wearing a black uniform without a hood. He was at the office.

International Prosecutor: what group was this uniform of?

Witness: I don't know the groups.

International Prosecutor: did you know Bedri Zyberaj at this time?

Witness: it was the first and the last time I saw him. Since that moment I never saw him again.

International Prosecutor: was he introduced to you by reference to some post he held, or some authority he had because he is the one that gave the order?

Witness: I am not able to recall that now. I am sure that he did not tell me something about the position he held at that time.

International Prosecutor: I am almost done but I would like to present the Witness with exhibit "C" and go through the same procedures as heretofore.

The witness is shown the exhibit "C" photographs.

The Presiding Judge gives the warning according to article 255. The Presiding Judge instructs the Witness to go through the photographs.

Witness: The witness looks through the exhibit of photographs and identifies photograph number 16 as Bedri Zyberaj and photograph number 8 as Selim Krasniqi.

The court takes a brief recess at 8:15 p.m. and returns at 8:30.

International Prosecutor: you said that when you were trying to get to see Hidaj Popaj you were not permitted to enter the free zone and I wonder if you could explain to us what you mean by the "free zone".

Witness: the free zone was the part controlled by the KLA.

International Prosecutor: can you tell us what towns and villages comprised the free zone.

Witness: all the villages like Upper Potoqani, Lower Potoqani, Sukaniq, Drenovc, Ratkovc and all the other villages up to Malishevo. The free zone was up to the bridge of Krmavik.

International Prosecutor: if you were to draw a line between one side of the free zone and the other what distance is there between one side and the other?

Witness: I don't know how many kilometers.

International Prosecutor: can you tell us exactly what you mean by "free"? What was it free of?

Witness: it was controlled by KLA, logically, it was free from Serbs.

International Prosecutor: were there ever any battles during the months of May, June July or August between the KLA and the Serbs to take back this zone?

Witness: the battle that took place in July at village Bella Cerke and Rahovec.

International Prosecutor: were there Serbs and Albanians killed during those battles?

Witness: I don't know for the Serbs but yes Albanians were killed. One from the village Bella Cerke, one from village Drenovc and four old people who were killed at the village Bella Cerke.

International Prosecutor: when you met with Selim Krasniqi after the bombing of Drenovc and later again, had you gone specifically looking for him or did you just meet him by chance?

Witness: I went there to ask about the fate of Hidaj Popaj and I met him at the school.

International Prosecutor: so was it by chance you met him or did you intend to go there and meet this man purposely?

Witness: I went on purpose to meet him.

International Prosecutor: why Selim Krasniqi, what did you think he could do for you?

Witness: he was the main person of the area there. This is the reason why I asked to see him.

International Prosecutor: how did you know he was the main person of the area?

Witness: after Drenovc was burned I learned this from the people who were displaced.

International Prosecutor: when I asked you earlier having met Bedri Zyberaj how he was dressed you told me he was in a dark uniform, a black uniform, but you couldn't tell us what group the uniform represented. Could you see any badges or insignia on the uniform?

Witness: he had the insignia.

Rexhep Hasani, Defence Counsel: the witness already stated that he was not aware of what group he belonged to.

Public Prosecutor: I know that Mr. Rexhep Hasani, but I did not ask him before if there were any badges or insignia on the uniform. Mr. Witness can you tell us if there were any badges or insignia on the uniform.

Witness: as I already said, the insignia on his arm was the one of the KLA. As at the office there he was not wearing a cap.

International Prosecutor: thank you.

The court recorder is now Marilyn Micallef.

Mahmut Halimi, Defence Counsel: Could you tell us, referring to what Hidaj Popaj said to you, who was the person questioning him?

Public Prosecutor: I believe it has been answered.

Witness: I told you, it was not Selim Krasniqi that interrogated him but the Gjerman.

Mahmut Halimi, Defence Counsel: Also, in the minutes of your statement at investigation you stated you were 10 times in Drenovc and out of these 10 times you met Selim Krasniqi only three times.

Witness: Correct.

Mahmut Halimi, Defence Counsel: Apart from these three times you saw Selim Krasniqi; did you meet somebody else to whom you could have asked about the fate of Hidaj Popaj?

Witness: No.

Mahmut Halimi, Defence Counsel: With reference to what you said, that you found the corpse and then took it to Rahovec mortuary – is this true that you took the corpse at the flat stones of Rahovec? Could you tell us if you reported this to the Serbian police or did you go there without reporting beforehand to the Serbian police?

Witness: Travelling from Bella Cerke to

Presiding Judge: This has been answered. *The Presiding Judge quotes from his notes on the hearing.*

Mahmut Halimi, Defence Counsel: Yes, this is the portion of the statement, but my point is different. Could you tell us: Was it at the flat stones? Could you tell us if this area was within the free zone?

Witness: When we went at the mill of Ali Aga, at the entrance of Rahovec, we came across a Serb patrol and they asked us: Where are you going? We told them that we are headed to the flat stones of Rahovec and we were told that the corpse of Hidaj Popaj is there. Then they took us to the police station in Rahovec. They interrogated us for the case in question. They told us to take it to the health center of Rahovec. We did so.

Mahmut Halimi, Defence Counsel: My last question now: In any of the statements that you gave at the investigations, you never mentioned the name of Gani Paqarizi. Why did you say it for the first time here in this session?

Witness: I did not mention his name because I was not asked.

Mahmut Halimi, Defence Counsel: In the frame of this question, I would like to ask you, if you knew Gani Paqarizi, how did you know him? Where was he at the time and where is he now?

Witness: I don't know him, I have not seen him so I have nothing to say about him.

Mahmut Halimi, Defence Counsel: Thank you – no further questions.

Rexhep Hasani, Defence Counsel: The corpse itself maybe it is not relevant – but it is if we refer to the opinion of the legal pathologist Jose Baraybar who stated that we took all the corpses to Pristina.

Presiding Judge: Is that the question?

Rexhep Hasani, Defence Counsel: This is the question: You said you took the corpse of Hidaj Popaj with your tractor and you fetched him to the health center and then to

the house. How is it that neither you nor the sons of Hidaj Popaj could identify the corpse as Hidaj Popaj?

Witness: We did not know him. We would be able to recognize him but after his children saw him and realized that it was not Hidaj then it was confirmed that it was not Hidaj. If his children were at first not able to recognize him – how could I recognize him?

Rexhep Hasani, Defence Counsel: Could you tell us the date and month you were banned from the freedom of movement in the free zone?

Witness: I don't know the exact date but I think it was at the beginning of July.

Rexhep Hasani, Defence Counsel: As a matter of fact, that you were forbidden to go to the free zone – how could you go and take the corpse?

Witness: I was along with representatives of the village and we all together went there.

Rexhep Hasani, Defence Counsel: But you were forbidden to go there and the others were not.

Witness: As I told you I was with the representatives of the village so nobody was interested in me that day.

Rexhep Hasani, Defence Counsel: Thank you Your Honor.

Fatmir Celina, Defence Counsel: I have a brief question: During the investigation the witness stated that Hidaj Popaj gave 1,000 DM to Rustem so that he could give them to a Serbian policeman. (Reference is made to page 5 of the investigative minutes of 20 September 2004 – third question). Why was that money given?

Witness: Hidaj Popaj gave to Hasan Rustemi 1,000DM because at the time the Serb police was looking for weapons and just to avoid being beaten Hidaj Popaj gave to Hasan Rustemi 1,000DM to save himself from being beaten – and this is how Hidaj Popaj is related to Hasan Rustemi in this case.

Mexhid Sylja, Defence Counsel: Have you ever heard the names Perparam Thaci, Sakip Ballaca and Fehim Gashi?

Witness: I have never known such persons – never heard their names.

Mexhid Sylja, Defence Counsel: I did not say that you mentioned them – but under the circumstances, I make another question. Did you hear about the event at the month of May between the village of Bella Cerke and Xerxe where three people got killed?

Witness: I heard but I don't know about it.

Mexhid Sylja, Defence Counsel: Could you tell us exactly what you heard?

Witness: I heard what you did repeat just now – but I don't know who the people were who were killed.

Mexhid Sylja, Defence Counsel: Is there any memorial established between these two villages now?

Witness: There is one.

Mexhid Sylja, Defence Counsel: Have you every approached that memorial – had you ever read the names on the memorial?

Witness: How relevant is this to me? I approached the monument and I have seen it and I do not understand the relationship between what you are saying and me.

Mexhid Sylja, Defence Counsel: I have never had the intention to provoke or insult you. And for the relevance of this question, I can assure you that we are not putting questions out of the blue.

Witness: I think I gave a clear answer to you.

Mexhid Sylja, Defence Counsel: Since you have approached that monument, have you ever read the names of the martyrs in that monument?

Witness: Yes, and I bend with respect in front of the memorials of martyrs.

Mexhid Sylja, Defence Counsel: Thank you I appreciate that you bend with honor in front of the monument. Can you tell us the names you read on the monument?

Witness: I bend with honor not only before this monument but also in front of the others.

Mexhid Sylja, Defence Counsel: I am just asking if you can just tell us the names.

Witness: I speak Albanian – I do not know the name of these martyrs.

Fazli Balaj, Defence Counsel: My name is Fazli Balaj, Defence Counsel and I am the defence of Agron Krasniqi - the last accused. I come from close from where you come and I understand that Hidaj Popaj is not alive. I express my condolences sincerely what happened to you. If you can answer, I am glad. If you don't, again it does not matter. I heard from you the names of the villages comprising the free zone. Did I understand rightly that these villages are within the free zone?

Witness: You are wrong.

Fazli Balaj, Defence Counsel: Can you tell us the correct names of the villages included in the free zone.

Presiding Judge: This has been answered before. The list of names is there.

Fazli Balaj, Defence Counsel: I know the list is there, but I want to ask whether these four villages are included in the free zone.

Presiding Judge: What is your question?

Fazli Balaj, Defence Counsel: Are these four villages included in the list of the free zone. My question is from the village of Bella Cerke to Rahovec - he said that they came across a Serbian patrol – was there a check point or a 24 hour patrol?

Witness: I don't know but that day we came across a Serbian patrol. But usually we would not visit that area.

The court recorder is now Robina Struthers

Fazli Balaj, Defence Counsel: it is a matter of fact that you have been living in that region in April, May or June of 1998. Did the school function at that time? Did the pupils go to school?

Witness: I don't know if the pupils were going to school at that time.

Fazli Balaj, Defence Counsel: could you tell us if at this time the transport by bus from Rahovec to Pristina or Prizren was working?

Witness: I don't know about Rahovec to Pristina and I was not traveling at that time. Regarding Prizren I don't know also, because if we went shopping we would go at Krushe e Madhe. We would take a short cut to go to Krushe e Madhe.

Fazli Balaj, Defence Counsel: did someone from Rahovec go to Krushe e Madhe? I am referring to the months of April, May or June of 1998. Could they go to Krushe e Madhe through Brestovc?

Witness: yes but I would not be so sure that the people who would go through Krushe e Madhe would go through Brestovc as they might have taken other roads as well.

Fazli Balaj, Defence Counsel: does the witness know how many inhabitants the municipality of Rahovec has and how many the city of Rahovec has?

Witness: I do not know for the municipality of Rahovec nor for the city of Rahovec.

Fazli Balaj, Defence Counsel: do you know how the people in Rahovec would furnish themselves with sugar, oil, and food?

Witness: how would I know how they were furnished with sugar or food? Or salt? How would I know this?

Fazli Balaj, Defence Counsel: you mention the word battle could you tell us what you exactly understand by this word "battle"?

Witness: a battle is a war between two parties.

Fazli Balaj, Defence Counsel: could you tell us exactly the parties which were in a battle?

Witness: between the KLA army and the Serbian army.

Fazli Balaj, Defence Counsel: could you tell us the date, place, and the time when a battle took place between these two parties, in April, May or June 1998 at the territory of Rahovec municipality?

Witness: at the villages of Bella Cerka, Rahovec, and Drenovc.

Fazli Balaj, Defence Counsel: do you consider a battle the burning of the village Bella Cerka?

International Prosecutor: he has answered the question, he said in July, in Bella Cerka and in Rahovec there were battles against the Serbs to take back the villages. Then he mentioned a number of villages that suffered casualties.

The Presiding Judge intervenes at this point and reads back the previous answer.

Fazli Balaj, Defence Counsel: I understand he said Bella Cerka. I would like you to not misunderstand me. What I am trying to make clear here is that what is a battle as it might be that only a person was fighting and they write songs about him but it is not an armed conflict and we do not face the situation like in accordance with international law what would be an armed conflict.

International Prosecutor: with respect, this witness is not learned on the issues of war and armed conflict. He has told us what a battle is.

Fazli Balaj, Defence Counsel: does the Witness know approximately how many people; police forces took part in that war? How many Serbs and Albanians took part in the armed forces? How many participants each party had?

Witness: the Serb forces had tanks and armored vehicles and they burned down the entire village starting with Rahovec, Drenovc and the rest and I have no idea about the KLA participants.

Fazli Balaj, Defence Counsel: regarding the first five or six months of the year, were the Serbian forces, police and army, able to attack and take any village they wanted to? Did they have such a capacity?

Witness: yes, they had that capacity.

Fazli Balaj, Defence Counsel: thank you. I am from that part. In 1999 we as Kosovars, we know but I emphasize this for the sake of the International Judges and International Prosecutor as our municipality had the biggest number of the victims.

Interrupted by the Presiding Judge, go to the question.

Fazli Balaj, Defence Counsel: do you know how many civilians were killed starting from Rahovec to the lower villages? Can you give us an approximate number?

Witness: in Bella Cerke there were 70. 80 in Celin. 150 in Krushe e Madhe. In Krushe e Vogel 100. In Nagaviciki 50 to 60. The same in Hoco e Vogel.

Fazli Balaj, Defence Counsel: thank you. Since he is from that part, can the witness tell us within how many days were these victims killed? And if the Witness can tell us, who killed them, and I believe that he experienced such a thing himself?

Witness: the Serb police killed them. They were all killed within two or three days.

Fazli Balaj, Defence Counsel: have you ever seen or heard from someone that any KLA commander, be it military police commander or the soldiers, without a commander killed any Serb or Albanians be it in 1998 or 1999?

Witness: I don't know

Fazli Balaj, Defence Counsel: thank you. Those are all my questions.

Marilyn Micallef is now the court recorder.

Selim Krasniqi: I introduce myself to the witness. I am Selim Krasniqi. Do you know that for the time that we are speaking about it was the time when KLA just started to organize itself and had only one unit in Drenovc?

Witness: I know only that the army was formed. I don't know anything else.

Selim Krasniqi: On 16 May 1998, I went in Drenovc from the other units in order to help the unit in Drenovc. Do you think it would be necessary to go there for help if there were sufficient soldiers relocated?

Public Prosecutor: I am not sure whether the witness is in a position to answer such a question.

Witness: I don't know if a sufficient number of soldiers were there or not.

Selim Krasniqi: I understand that you, as witness, were interested to know - to find out - about your friend - but what I would like to ask is do you accuse KLA for his murder?

Witness: I don't accuse the KLA and I have respect for it - but it is against the individuals.

Selim Krasniqi: Could you tell us who these individuals are?

Witness: I don't know who they are - the person who is guilty about the case.

Selim Krasniqi: Who is the person guilty for the case?

Witness: I don't know who the person guilty for this case is.

Selim Krasniqi: It was not clear to me before but I would like to ask you now to tell me where was it found, the corpse of Hidaj Popaj?

Witness: I don't know where the corpse was found. I only know that he was buried.

Selim Krasniqi: Don't you have the information from the competent authorities where the corpse was recovered?

Witness: His sons may know about this.

Selim Krasniqi: Have you ever thought that Hidaj Popaj was killed by Serbian forces?

Witness: That is possible – but I do not blame anybody that killed him.

Selim Krasniqi: How did you know that the person in Rahovec was Selim Krasniqi? How did you learn that?

Witness: Later on, I became aware of the fact that you are Selim Krasniqi.

Selim Krasniqi: When?

Witness: I don't know the date.

Selim Krasniqi: Who told you the name of Selim Krasniqi?

Witness: I heard it from the people.

Selim Krasniqi: You said that you met Selim Krasniqi before the bombing of Drenovc, when exactly?

Witness: For the first time I met him in Radoste in June.

Selim Krasniqi: What about the second time?

Witness: The second time in Drenovc.

Selim Krasniqi: When?

Witness: Either at the end of June or the beginning of July.

Selim Krasniqi: It is quite important to me and the court to know whether it was end June or beginning of July.

Witness: I don't know.

Selim Krasniqi: What about the 3rd time – where and when did we meet?

Witness: At the school in Drenovc. It was at the end of September – again I cannot give the exact date.

Presiding Judge: These questions have already been asked by the Public Prosecutor and your defence lawyer.

Selim Krasniqi: Can you tell the court what you were promised in exchange to give this statement against me?

Witness: Nothing was promised.

Selim Krasniqi: I would like you to tell the court (whether) the police officers you gave the statement for the first time for the case in question – were they Serbian police, UNMIK police or what?

Witness: Were there any Serb police officers after the war?

Selim Krasniqi: I asked you - who did you give the statement to? UNMIK police? Other police?

Witness: Of course to UNMIK police.

Selim Krasniqi: I want to suggest, if the panel allows me, that in case you were forced to say such lies, take this chance to tell the court the truth.

Witness: I already told you the truth and I wish you get released as innocent and as soon as possible. I also wish that you get out of this trial as an innocent man.

Selim Krasniqi: No further questions. Your Honor, I don't know whom the witness met and where – but with full responsibility I state that I have never discussed about Hidaj Popaj with any member of his family. I have never interrogated him and I have never contacted him.

I personally for the time I stayed in Drenovc for short periods, such a thing never happened – but it is just the contrary to what the witnesses are trying to say in this court case.

Finally I object completely to the statement of this witness.

None of the other defendants or the Prosecution had any questions to this witness.

Presiding Judge: Mr. Witness D – you have been asked many questions today. Do you consider yourself expert in wars, battles or war crimes?

Witness: No – I have no idea.

Presiding Judge: Would you be able to tell us what are the elements that need to be proved to establish a war crime?

Witness: War crimes are when women and children are killed.

Presiding Judge: Anything else about war crimes?

Witness: And old people.

Presiding Judge: When Mr. Halimi asked you a question about that man called Gani Paqarizi, you said 'I don't know him I have nothing about him'....Where did you get his name when you mentioned it in court – where did you get it?

Witness: When Muhurrem was detained, they told him 'You have to call your father here and then we can release you.' I have nothing more to add.

Presiding Judge: How did you get the name of Gani Paqarizi?

Witness: From the son of Hidaj.

Presiding Judge: And when you say son of Hidaj Popaj are you referring to Muhurrem?

Witness: Yes.

Presiding Judge: Do you know where that person is now?

Witness: I don't know exactly.

Presiding Judge: Is he still alive?

Witness: He is alive, but I do not know his whereabouts.

Presiding Judge: In the statement you gave to the police on 29 November 2001 you mentioned something about Selim Krasniqi being a replacement of a dead Gani Paqarizi – did you say that to the police? Do you remember?

Witness: After Gani Paqarizi was dead then his deputy took his place.

Presiding Judge: So you know Gani Paqarizi is dead?

Witness: Yes.

Presiding Judge: Mr. Halimi put a question to you about your visit – about 10 times you went to enquire about Hidaj Popaj and then he asked how many times you met Selim Krasniqi and you said three times.

Witness: Yes.

Presiding Judge: On the other occasions when you did not meet Selim Krasniqi – did you meet anybody with whom you could enquire about Popaj? (Page 15 of the Investigative Hearing minutes)

Witness: Excluding those 3 times, I went there for other business. His father and his son went to look for him.

International Judge, Nurul Khan: You said a couple of times you could know the name of Selim Krasniqi from the people? Correct?

Witness: Yes.

International Judge, Nurul Khan: Can you give the panel two names from whom you heard this name?

Witness: I cannot give names – because this happened a long time ago.

International Judge, Nurul Khan: No further questions.

Bedri Zyberaj: I ask the Presiding Judge, having passed 6 months in this trial I ask for your permission to allow us to have telephonic conversations with our families. I know our lawyers made such a request already but I want to submit a request also.

Presiding Judge: You are getting regular visits?

Bedri Zyberaj: Yes.

Presiding Judge: Is that a request on behalf of everybody? Then I will look into it.

The Court adjourns at 11:10 p.m.

Presiding Judge, Vinod Boolell

Court Recorder, Robina Struthers

Court Recorder, Marilyn Micallef