



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:	15 December 2005
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:	Jude Romano, International Public Prosecutor
CID Legal Officer	Andrey Antonov
Defence Counsel:	Mahmut Halimi, Haxhi Millaku, Fatmir Celina, Ethem Rogova and Mexhid Sylja
Accused:	Selim Krasniqi, Bedri Zyberaj, Xhavit Elshani, Isuf (Sherifi) Gashi and Islam Gashi
Witnesses:	Nezim Rustemi, Eqrem Rustemi and Haser Rustemi
Court Recorders:	Nina Maric and Ursula Oteng
Interpreters:	Ervin Mazniku and Altina Ruli-Williams
IJSD Legal Officer:	Virginie Monchy
Humanitarian Law Centre Monitor :	Luan Dushi
OSCE Monitor :	Lumnije Shkodra

Accused and Charges:

COUNT 1

On days between 2 June 1998 and 13 July 1998, Selim Krasniqi, Bedri Zyberaj, Xhemajl Gashi, Isuf Gashi, Islam Gashi and Xhavit Elshani, acting in concert with

other individuals, and pursuant to a joint criminal enterprise, ordered and participated, directly or indirectly, in the illegal arrests and detention of Kosovo Albanian civilians in the Detention Center in Drenovc/Drenovac village. Among those illegally arrested civilians were: Shaban Shala, Bedri Berisha, Hysen Krasniqi, Hidaj Popaj, Murat Rrustemi, Hazer Tarjani, Avdi Berisha. To this day, they have never been seen again.

By participating in the illegal arrest and detention of Kosovo Albanian civilians, as mentioned in paragraphs 61(i) to 61(vii) above, Selim Krasniqi, Bedri Zyberaj, Isuf Gashi, Islam Gashi and Xhavit Elshani incurred personal responsibility for the war crimes of illegal arrests and detention in violation of Article 142 of the CCY as read with Articles 22, 24, 26 and 30 of the CCY.

COUNT 2

On days between 2 June 1998 and 13 July 1998, Selim Krasniqi, Bedri Zyberaj, Isuf Gashi, Islam Gashi and Xhavit Elshani acting in concert with other individuals and pursuant to a joint criminal enterprise to unlawfully detain Kosovo Albanian civilians, ordered and participated, in the establishment and perpetuation of inhumane treatment of the Kosovo Albanian civilians illegally detained in the Detention Center located in Drenovc/Drenovac village, by housing those civilian detainees in inhumane conditions, depriving them of adequate sanitation, food and water, and needed medical treatment. The inhumane treatment of the civilian detainees caused immense suffering or was a violation of the bodily integrity and health of those detainees and constituted an application of measures of intimidation and terror. Among those civilians subjected to inhumane treatment were the seven (7) victims mentioned in paragraphs 61(i) to 61(vii) above.

By participating in the establishment and perpetuation of **inhumane treatment** of Kosovo Albanian civilians as mentioned in paragraphs 61(i) to 61(vii) above, Selim Krasniqi, Bedri Zyberaj, Isuf Gashi, Islam Gashi and Xhavit Elshani incurred personal responsibility for the war crimes of inhumane treatment and immense suffering or violation of bodily health of the civilian detainees and constituted an application of measures of intimidation and terror in violation of Article 142 of the CCY as read with Articles 22, 24, 26 and 30 of the CCY.

COUNT 3

On days between 2 June 1998 and 13 July 1998, Selim Krasniqi, Bedri Zyberaj, Isuf Gashi, Islam Gashi and Xhavit Elshani while being members of KLA, acting in concert with other individuals, and pursuant to a joint criminal enterprise, ordered and participated, directly or indirectly, in the beating and torture of civilians illegally detained in the Detention Center in Drenovc/Drenovac village. Among those civilians subjected to beatings and torture were the seven (7) victims mentioned in paragraph 61(i) to 61(vii) above.

By participating in the beating and torture of Kosovo Albanian civilians as mentioned in paragraphs 61(i) to 61(vii), Selim Krasniqi, Bedri Zyberaj, Isuf Gashi, Islam Gashi and Xhavit Elshani incurred personal responsibility for the war crimes of beating and torture in violation of Article 142 of the CCY as read with Articles 22, 24, 26 and 30 of the CCY.

COUNT 4

On days between 2 June 1998 and 13 July 1998, Selim Krasniqi, Bedri Zyberaj, Isuf Sherifi Gashi, Islam Gashi and Xhavit Elshani while being members of KLA, acting in concert with other individuals, and pursuant to a joint criminal enterprise, ordered and participated, directly or indirectly, in the killings of Kosovo Albanian civilians illegally arrested and detained in the Detention Center in Drenovc/Drenovac village. Among those civilians were the seven (7) victims mentioned in paragraph 61(i) to 61(vii) above.

By participating in the killings of Kosovo Albanian civilians as mentioned in paragraphs 61(i) to 61 (vii), Selim Krasniqi, Bedri Zyberaj, Isuf Sherifi Gashi, Islam Gashi and Xhavit Elshani incurred personal responsibility for the war crimes of killings and in violation of Article 142 of the CCY as read with Articles 22, 24, 26 and 30 of the CCY.

The trial commences at 10:45 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 and Islam Gashi; Jude Romano, Public Prosecutor; Defence Counsel Mahmut Halimi, Haxhi Millaku, Fatmir Celina, Ethem Rogova and Mexhid Sylja; Luan Dushi, Humanitarian Law Center Monitor; Lumnije Shkodra, OSCE Monitor.

Court Recorder: Nina Maric

Interpreter: Ervin Mazniku

Presiding Judge: good morning. We are resuming proceedings in the case. Today we will have Mr. Eqrem Rrustemi he will come in the afternoon for Mr. Sylja to cross-examine him and any of the defendants who might wish to put him questions without forgetting the panel of course. You have a witness Mr. Public Prosecutor?

Public Prosecutor: yes, Your Honor, we are calling Mr. Nezim Rrustemi.

The witness is brought into the courtroom.

Presiding Judge: Mr. Rrustemi, good morning and thank you for having attended the court today. When you testified in front of the Investigating Judge you did so under the cover of anonymity and you decided to testify today in the open court. I have to be sure that you decided to testify openly by waiving that anonymity willingly and in informed manner?

Witness: yes

Presiding Judge: before we proceed I must tell you that as a witness you are obliged to tell the truth and may not withhold anything. I remind you that the giving of false testimony is a criminal act. If the correct answer to a question would expose you or a close relative to disgrace, substantial financial loss or criminal prosecution, you are not required to answer the question.

The witness is advised of his rights as an injured party under articles 63 and 355 of the PCPCK.

Presiding Judge: have you understand what I said?

Witness: yes.

I will now confirm your personal data.

Name:	Nezim Rrustemi
Name of Father:	Alush
Mother's Name:	Mihrie Bytyqi
Occupation:	Unemployed
Residence:	Drenovc Village
Date of Birth:	15 June 1963
Place of Birth:	Drenovc Village
Nationality:	Kosovo Albanian
Civil Status:	Married, five children
Relationship to any accused:	Not related
Relationship to injured party:	Brother of Murat Rrustemi

Presiding Judge: now the Public Prosecutor will ask you questions.

Public Prosecutor: Mr. Rrustemi, you just stated that you are brother of Murat Rrustemi, can you tell us where Murat Rrustemi is right now?

Witness: I do not know.

Public Prosecutor: can you tell what happened to him?

Witness: I do not know what happened to him. The persons that abducted him should know better where he is.

Public Prosecutor: can you tell us when he was abducted?

Witness: 10 June at 9:20 a.m.

Public Prosecutor: can you tell us the year?

Witness: 1998

Public Prosecutor: do you know where he was abducted?

Witness: in the yard of his own house.

Public Prosecutor: were you present when you brother Murat Rrustemi was abducted?

Witness: actually I was not present there but I was three houses away and I saw the scene when he was abducted.

Public Prosecutor: can you tell us how he was abducted since you saw the scene?

Witness: a car arrived, it was Opel Ascona it was kind of brown color it had no license plates, there were three people in the car, I recognized two of them but not the third one.

Public Prosecutor: can you tell us the names of these two persons whom you said you recognized?

Witness: yes, first name is Zaim Shyqyri Bajraktari from the village of Polluzhe.

Public Prosecutor: what about the other one, what is his name?

Witness: Agron Shaban Krasniqi from village of Dejne.

Public Prosecutor: how did you come to know the names of Zaim and Agron?

Witness: I happen to know Zaim Bajraktari because I knew his brother and I know Agron Krasniqi because he is a cousin of mine.

Public Prosecutor: do you remember what clothes these three people were wearing when they kidnapped Murat Rrustemi?

Witness: they wore black uniforms and on the arm they had a sign that read PU.

Public Prosecutor: do you recall if they had any weapons?

Witness: yes

Public Prosecutor: can you tell us what weapons they carried?

Witness: a pistol and Kalashnikov.

Public Prosecutor: can you tell us what happened after Murat Rrustemi was abducted?

Witness: they took Murat Rrustemi and left by car. After a while I had a talk with the members of my family and headed for the office in that area.

Public Prosecutor: what office are you referring to?

Witness: the office of the area where Murat Rrustemi was taken.

Public Prosecutor: were you accompanied by anybody when you went to that office?

Witness: I went there accompanied by the son of Murat Rrustemi.

Public Prosecutor: can you give us his name?

Witness: Haser

Public Prosecutor: when did you go to this office to look for Murat Rrustemi?

Witness: same day when Murat Rrustemi was abducted.

Public Prosecutor: can you tell us what happened when you went to that office?

Witness: when I went to the said office I met with Zaim who was standing guard in front of the door.

Public Prosecutor: please continue.

Witness: and then I asked, "I am looking for my brother Murat Rrustemi",

Public Prosecutor: what was the response of Zaim?

Witness: Zaim responded me, "Murat Rrustemi is here, and the military police is interrogating him, you can leave now".

Public Prosecutor: did you find out why he was being interrogated by the military police?

Witness: no. Actually, he addressed me at the gunpoint and told me, "You can go home now".

Public Prosecutor: so what did you do after Zaim told you to leave at the gunpoint?

Witness: I went home.

Public Prosecutor: and then what happened next?

Witness: then we went again the following day to look for him. I along with Haser again we went to a location that was referred as the headquarters, the agricultural cooperative. When we arrived at that location we requested for an appointment with Bedri Zyberaj.

Public Prosecutor: you mentioned headquarters can you tell us whose headquarters was it?

Witness: the KLA headquarters.

Public Prosecutor: why of all people did you ask the appointment with Mr. Bedri Zyberaj?

Witness: because Bedri Zyberaj was the main guy.

Public Prosecutor: what happened after you asked for an appointment with Mr. Bedri Zyberaj?

Witness: we met with Bedri Zyberaj uncle's son at the stairs. He was there as a courier and he told us, "You can wait here, I am going to ask your questions to Bedri".

Public Prosecutor: what happened next?

Witness: after that he went to Bedri Zyberaj's office and asked him.

Presiding Judge: what was the name of the Bedri Zyberaj uncle's son?

Witness: Ilir

Witness: he went there to ask Bedri Zyberaj whether he would accept to receive us and then after he came out he told us, "You may come inside", after we got in we met with Bedri Zyberaj, and both I and my brother's son asked him, "We are here to ask for Murat Rrustemi, we need to know where he is". Then Bedri Zyberaj answered to us, "Murat Rrustemi is here, and the police are dealing with him, now you may go out. I have no competences, I am here as a warehouse keeper, the police are dealing with him."

Public Prosecutor: is that all?

Witness: no. The following day again we went to meet with Bedri Zyberaj.

Public Prosecutor: with whom?

Witness: with Haser again.

Public Prosecutor: and where did you go that day?

Witness: on Thursday it was when we went there and Zaim told us to leave, that was about Thursday, then again we went to the cooperative to meet with Bedri Zyberaj and Ilir came out and told us, "I'll ask your questions to Bedri Zyberaj".

Presiding Judge: are you telling us about what happened when you went the first or second time?

Witness: the second time was on Friday. As I said we went to look for Murat Rustemi at cooperative and again we went into Ilir and again we requested an appointment with Bedri Zyberaj, he accepted to receive us and we asked him, "we are here to learn as to what happened to our brother, whether he is dead or alive and where are you keeping him". And he said to Haser, "During 1992 you did not allow me to use the tractor in your piece of land, and your brother and your uncle's son you have harassed my kids as they were in the yard. Therefore I was obliged to return from that piece of land therefore I ran into a meadow, I got stuck in there and I was looking forward to this day, I was expecting this day, for this reason I have taken away your father, so you do what you have to do." I told Bedri Zyberaj, "Look, my son is of the same generation with your son and I told him if both of us die our children are going to live together but we are here to learn something about Murat Rustemi and why are you keeping him. And he answered, "Yes, I have told your brother because he was here to see me because your brother works in the Secretariat" and I told him, "Look, the people you think they like you they are your current adversaries". So we went out and back home.

Public Prosecutor: after this event did you have any other chance to look for Murat Rustemi again?

Witness: yes, I myself went out to look for him.

Public Prosecutor: and where did you go to look for him?

Witness: again I went again to the cooperative to the offices of the area and also to the school.

Public Prosecutor: where is this school located, can you tell us?

Witness: sure. It is located in the village.

Public Prosecutor: what village?

Witness: Drenovc, there are two schools, the old and the new one.

Public Prosecutor: can you tell us what happened when you went to the school in Drenovc village?

Presiding Judge: which school, he mentioned two?

Witness: I went to the old school.

Public Prosecutor: can you tell us what happened when you went to the old school?

Witness: I met with Zaim.

Presiding Judge: one clarification here. Each time you mentioned Zaim is that Zaim Shyqyri Bajraktari?

Witness: yes. We met Zaim because the military police were located there and I asked him, "Where is that I can meet with Bedri Zyberaj?" Zaim answered, "Bedri told me he won't be here and I don't know where he is now" and so I went back home. As I was conversing with Zaim I heard that the detention was there at the school that the detainees were being held at the school.

Public Prosecutor: from did you hear that the detention center was in the school?

Witness: from all people because everyone knew that the detention was there and that the detainees are being held at the school. And so I went back home and I did not see those persons till the shelling started. Actually to be more precise I saw them but had no contact with them before shelling started.

Mexhid Sylva, Defence Counsel: can we have a clarification Your Honor?

Presiding Judge: he said that he did not see them before shelling started but then he clarified that he saw them but had no contact with them before shelling started.

Interpreter is now Altina Ruli-Williams

Public Prosecutor: may I know who are these people are that you are referring to?

Witness: Bedri Zyberaj, Isuf Gashi, Agron Krasniqi, Zaim Bajraktari, the policeman called Islam Gashi, Zaim also was policeman. Isuf Gashi and Zyberaj come from the same place like I do. Also Islam Gashi comes from the same place. Agron Krasniqi is a cousin of mine, we have close family ties.

Public Prosecutor: when you were narrating what happened you never mentioned Islam Gashi?

Witness: once I asked about Islam Gashi. I asked who was the commander and the answer I got is that the commander was leaving. Islam Gashi was a policeman and the important person there was Bedri Zyberaj.

Presiding Judge: when you mentioned commander do you have specific name in mind?

Witness: commander or you call it whatever you wish, Bedri Zyberaj was the one to decide there.

Presiding Judge: to come back to Islam Gashi, in all these going and coming backs, when was the first time you met, saw or talk to Islam Gashi and where was it?

Witness: I met Islam Gashi at the office of the Place or area and he was coming from downtown and I was coming from the cooperative.

Public Prosecutor: was this the first, second or third day that you were looking for Murat Rustemi?

Witness: I don't remember it, could have been the third day. I don't remember, as I was very sad and concerned.

Public Prosecutor: do you recall Mr. Rustemi how many times you went to the school building to look for Murat Rustemi?

Witness: I went to the school, I went to the cooperative, I went up and down to look for him.

Public Prosecutor: my question is do you recall how many times or days you went to the school building?

Witness: I don't know exactly how many times I went, I can tell approximately it was 3 to 4 times.

Public Prosecutor: Mr. Rustemi, you mentioned several names, you mentioned Mr. Bedri Zyberaj, Islam Gashi, Agron Krasniqi, Zaim Bajraktari and Ilir, and can you please describe to us Mr. Bedri Zyberaj?

Witness: Bedri Zyberaj comes from where I do, from the same place, he is slightly bold in front, and I haven't seen him since then.

Public Prosecutor: how long have you known Mr. Bedri Zyberaj?

Witness: we are of the same age, I know him from elementary school until the end of the war.

Public Prosecutor: what about Mr. Islam Gashi, can you describe him?

Witness: I know him well too. He has dark features, slightly rounded, like round face.

Public Prosecutor: what about his height can you give us approximate?

Witness: 1.75 or 1.80 meters.

Public Prosecutor: what about Mr. Agron Krasniqi can you please describe him?

Witness: Agron Krasniqi is a cousin of mine. I haven't seen him since my brother was kidnapped. I haven't seen Agron Krasniqi or Zaim for that matter.

Public Prosecutor: I am asking you to describe him.

Witness: when I saw him he had black hair. He is 1.65 meters tall.

Public Prosecutor: what about his build?

Witness: average build.

Public Prosecutor: can you describe to us Mr. Zaim Bajraktari?

Witness: I haven't seen him since then and when I last saw him he was in uniform and he looks he is 1.65 to 1.75 meters tall. I haven't seen him often. I saw his brother more frequently than him.

Public Prosecutor: Your Honor, may I borrow Exhibit C. Mr. Rrustemi, I am going to show you some photographs, marked as Exhibit C, and you have to go over these photographs and if you recognize any of these photographs as one of the persons you just described, you are under no obligation to identify any photo if you cannot recognize them. Go over it one by one. The index has been removed.

Presiding Judge: you mentioned also Isuf Gashi, can you describe him to us and then you can look at the photographs?

Witness: he is an old man, he is fat, he used to wear white cap, a traditional one.

Presiding Judge: go ahead now and look at the photographs.

Witness: picture number 16, Bedri Zyberaj. Picture number 27, Islam Gashi. Picture number 32, Isuf Gashi. Picture number 2, Agron Krasniqi, I am not certain 100% because I did not see him in a while but I think it is him.

Presiding Judge: from the index it is confirmed that the 2 is Agron Krasniqi, number 16 is Bedri Zyberaj, number 27 is Islam Gashi and number 32 is Isuf Gashi.

Public Prosecutor: you mentioned several times about this old school, could you please describe to us this old school?

Witness: on the right side is the new school, behind the school were the water tap and the toilets, and above the location of the school is the sport's field.

Public Prosecutor: did you have any opportunity to go to the basement of the old school?

Witness: no, the military police was there, I only had the chance to go there ones to take some clothes.

Public Prosecutor: can you explain that, as you haven't mentioned it?

Witness: I went there, gave the clothes to Zaim and Zaim took them and gave the clothes to them.

Presiding Judge: for whom you took the clothes?

Witness: for Murat, Zaim took the clothes.

Public Prosecutor: how many times you took the clothes.

Witness: only one

Public Prosecutor: did someone accompany you?

Witness: I was alone.

Public Prosecutor: Mr. Rrustemi, I am showing you a photo album, which has been previously marked as Exhibit D, I want you to go over these photos and tell us whether you recognize any photo as old school building you went to look for Murat?

Witness: picture number 22 is a picture that shows a school.

Presiding Judge: which school?

Witness: the old one. Number 19 also shows the side part of the old school. There is the window here. Number 18 is the main entrance to the detention (the witness points to the door on the photo). Number 16 is another view of the old school that was not shown in the previous pictures. Number 15 is a view of the main entrance to the detention (the witness points to the door which is more on the right on the picture). Number 14 shows the back part of the old school one could see the toilets (the witness points to the toilets, which is building near a cow). Number 13 shows also part of the back part of the old school. Number 6 shows front part of the old school (the witness points to the door at the left hand side of the building indicating that that was the location of the military police and he also points to a small window in the basement, which is shown at the left on the picture indicating the location where the detainees were being held).

Public Prosecutor: how did you know that this window that you pointed to on picture number 6 is where the prisoners were detained?

Witness: I know that because when I came to this spot to bring the clothes as I said I met with Zaim to hand him over the clothes, I went up the stairs, I overheard that the prisoners were there, they were held there, I overheard that through the window. I turned around but there were guards standing at the door, so I kind of knew that they were held there. The windows points to the concrete wall on the picture and which also shows the door which is on the left of the picture.

Public Prosecutor: can you tell us, you said you overheard something, can you tell us what you heard?

Witness: I overheard a voice, like someone was screaming, but Zaim told me, "Leave now, go home".

Public Prosecutor: from the voice you heard could you tell how many people were screaming?

Witness: I don't know that.

Public Prosecutor: Mr. Rrustemi, can you tell us what was Murat Rrustemi's occupation before he was abducted?

Witness: bus conductor

Public Prosecutor: did he ever work for the Serbian police?

Witness: not that I know.

Public Prosecutor: before Murat Rrustemi was abducted how often did you see him?

Witness: he is my brother; our houses are within one courtyard.

Public Prosecutor: how often?

Witness: every day. During that period of time he did not work as a bus conductor.

Public Prosecutor: after his abduction, have you ever seen him again?

Witness: no, we weren't allowed.

Public Prosecutor: Mr. Rrustemi, before Murat Rrustemi was abducted was there any incident where Murat Rrustemi left his house for a long time and never contacted any of his family?

Witness: no there was no case when he left home but once in the village the Serbian military police was there which caused for the villagers to leave so we left too.

Public Prosecutor: can you tell us what happened to you on 10 October 2005?

Witness: on 10 October around 4:20 p.m. in the village of Xerxe, my brother and I were attacked by firearms and the brother is dead whereas I was left wounded, seriously wounded. Bedri Zyberaj's cousin he was the one that attacked us, he killed my brother and injured me seriously. And it is well known now that all these things that have come from Zyberaj's family remain unexplained to me because Bedri Zyberaj's father and my brother deceased Hasan were brothers-in-law or cousins. We have never had any problems with the family, never had any aggravations. I have known Bedri Zyberaj personally since long time ago but I don't accuse him, I just ask him to tell me where my brother is. One brother is kidnapped, one brother is beaten up, another one was killed, I was injured, and all such things arrived from Zyberaj's family. I seriously do not intent to accuse anyone here. I simply want to know where my brother is. I just want them to tell me where my brother is, or his remains are because they know where he or his remains are.

Public Prosecutor: Mr. Rustemi, you mentioned that the person who shot you is Mr. Bedri Zyberaj's cousin, do you know his name?

Witness: yes, we are of the same generation. His name is Osman Zyberaj.

Public Prosecutor: one clarification, this cooperative building that you went into when you were looking for Murat Rustemi, how far is this from old school building?

Witness: I don't know exactly the distance; I just know it is on outskirts of the village. It is as you go out to Sanofc it is on the right side.

Public Prosecutor: those are all my questions Your Honor.

Presiding Judge: we will break for lunch now and come back at 1:30 p.m.

Break at 12:25 and resume at 1:40 p.m.

Court Recorder: Ursula Oteng

Interpreter: Ervine Mazniku

Presiding Judge: Mr. Millaku, do you wish to say something?

Haxhi Millaku, Defence Counsel: I would like to ask the witness Mr. Rustemi, regarding Exhibits C and D proposed by the Public Prosecutor. On the photo line up of individuals and different buildings, could you indicate to the court how far is the building of the agricultural cooperative from the old school, if you know of course?

Witness: Approximately 500-700 meters.

Haxhi Millaku, Defence Counsel: you told the court that you went to see Bedri Zyberaj for the second time while you were looking for your brother, I thought you answered that you met Bedri Zyberaj while you were at the agricultural cooperative. Is that right?

Witness: I met him in his office at the cooperative.

Haxhi Millaku, Defence Counsel: you stated today that Bedri Zyberaj told you, "I am not competent to answer to your questions in what you asked me. That is a police job and not mine."

Presiding Judge: He didn't say that. This is what he said; "Murat Rustemi is here. The police are dealing with him now. You may go. I have no competence. I am here as a warehouse keeper." This is what he told him. Why don't you take this quote and put to him? You take bits and pieces the witness says in order to mislead him and I will not accept that from either the Defence Counsel or Public Prosecutor. He is a witness and you treat him with dignity. Formulate your question again.

Haxhi Millaku, Defence Counsel: Yes Your Honor. You received an answer from Bedri Zyberaj namely that he was a warehouse keeper so my question follows. In that building, did you note any foodstuff, any clothes, any underwear or anything of the like?

Presiding Judge: do you want to list any other items?

Haxhi Millaku, Defence Counsel: Yes.

Witness: the purpose of my going there was not to check whether there was a warehouse in that building or not, but I went there to look for my brother. At Bedri Zyberaj's office I noted a computer.

Haxhi Millaku, Defence Counsel: Your Honor, would you please ask the witness my to answer the question? My question is very clear. Did you note in the building of cooperative any warehouses containing the above-mentioned items as listed by me?

Presiding Judge: he has answered that he did not go there to check the warehouse. And he said that he saw a computer in Bedri Zyberaj's office. What is your next question?

Haxhi Millaku, Defence Counsel: could the witness indicate to the court as to what age is the eldest son of Bedri Zyberaj?

Witness: Bedri Zyberaj's son was born in 1988 and in 1992 my son was 4 years old.

Haxhi Millaku, Defence Counsel: did it ever happen that your family had disagreements or brawls with other families? Did your kids as well as adults have fights with other kids or adults in the village of Drenovc?

Witness: I am not taking it this way. If someone may do you harm, then you have to fight.

Haxhi Millaku, Defence Counsel: What about Bedri Zyberaj's family?

Witness: I have not had any problems with Bedri Zybera's family.

Presiding Judge: he answered that concerning Bedri Zyberaj my brother and cousins have never had problems with his family. I have known him for long personally. I'm just asking him where my brother is. He never had anything bad with Bedri Zyberaj's family. It is in the record.

Haxhi Millaku, Defence Counsel: That was for you sir. Thank you Your Honor. Today you stated that you sustained an injury in October 2005 and that you suffered the loss of one of your family members. I regret to have to ask you this, but was the person who lost his life a witness in this criminal judicial case in the pretrial proceedings? We have the names and also the anonymous witnesses.

Witness: of course I was a witness and I sustained the wound.

Presiding Judge: was the person who lost his life a witness in this criminal judicial case in the pretrial proceedings?

Witness: I don't know anything in relation to that issue.

Haxhi Millaku, Defence Counsel: could the witness indicate to the court whether he knows that witness and if he was a witness in this present trial?

Witness: I don't know whether he was or not.

Haxhi Millaku, Defence Counsel: I would like to remind the witness that in his statement given to the investigating judge on 4 June 2004, he was a witness and his name was Witness P. So he had stated on several occasions that along with witness I they went to the village of Drenovc, to the old school. This is on page 8, line 4 of the Albanian version. I quote, "Witness P says, then I and Witness I packed clothes, matches and cigarettes and sent them to the place near the place where the near the old school." My question is, do you understand now that witness I has already given a statement to the investigating judge and that Witness I's real name is Hazer Rrustemi?

Presiding Judge: do you know that you have just made a breach of the order for anonymity just now?

Mr. Millaku approaches the bench and confers with the Presiding Judge.

Haxhi Millaku, Defence Counsel: I will withdraw the question.

Presiding Judge: but you cannot say the name. The anonymity has not been lifted yet.

The Panel confers.

Presiding Judge: the only thing is that Witness I is still under anonymity and he is a potential witness in this case. That name will be deleted from the records if the witness testifies under anonymity. What is your next question?

Haxhi Millaku, Defence Counsel: is it true that you said to the investigation judge that you, along with Witness I, went to the old school?

The text is on page 9, English version of the minutes of 4 June 2004.

Witness: I have stated even before that I went to the school to look for my brother.

Haxhi Millaku, Defence Counsel: did you have any discussions with Witness I regarding the fact that Murat Rrustemi was missing?

Witness: yes, that is true.

Haxhi Millaku, Defence Counsel: could you indicate to the court here if it ever happened or whether you ever learned that Bedri Zyberaj did arrest or detain someone, wounded or even killed someone?

Witness: I was not present when he killed anyone or injured someone but I have heard that he was the main guy and everyone acted upon his orders.

Haxhi Millaku, Defence Counsel: my question was plainly clear. I just need the witness to answer to my question.

Presiding Judge: he has answered. He said, "I was not present when he killed anyone or injured someone." He also said that he heard that Bedri Zyberaj was the main guy and everyone acted upon his orders.

Haxhi Millaku, Defence Counsel: could you indicate to the court, at least two or three names of people you heard from about the said matter that Bedri Zyberaj gave orders?

Witness: I cannot provide you with names. I cannot put the blame on someone else by saying that person told me, but I was there all the time. Whenever I got out of my house I would hear people saying that Bedri Zyberaj was the main guy.

Haxhi Millaku, Defence Counsel: I did not hear the last line being interpreted.

Witness: I not saying that I know some one else or not saying that I know Isuf Gashi but only making reference to Bedri Zyberaj?

Haxhi Millaku, Defence Counsel: was the late Hasan Rrustemi served with any summons by the Public Prosecutor or the investigative judge in order to give an account on this matter?

Public Prosecutor: I object to the question. The witness would not know if summons were sent to Hasan Rrustemi.

Haxhi Millaku, Defence Counsel: but this court has approved the extension of detention as being based on pure speculation that Hasan Rrustemi was a potential witness in this criminal case and the answer to the question has to be yes. This is why I posed the question because I need to clear out things.

Presiding Judge: he cannot answer that question. We have referred to this incident in the detention decision and the Supreme Court has confirmed the decision because we got information that he could have been summoned and could have been a potential witness. Okay

Haxhi Millaku, Defence Counsel: are you aware whether the late Hasan Rrustemi was served with summons by the investigative judge or the Public Prosecutor to appear as a witness?

Witness: to tell you the truth, I wanted to provide an answer but I have not lived with Hasan in the same residence. He lived in Rahovec and I lived in Drenovc.

Haxhi Millaku, Defence Counsel: Your Honor, could the witness indicate to the court as to how many members is the family of Bedri Zyberaj comprised of?

Witness: we live in different residences and I don't know what kind of question is that. I don't live with him.

Haxhi Millaku, Defence Counsel: Were you both of the same generation?

Witness: Yes.

Haxhi Millaku, Defence Counsel: How distant are your houses from each other?

Witness: about 300 and something meters.

Haxhi Millaku, Defence Counsel: would the witness know that Bedri Zyberaj is the only male person in the family?

Witness: Yes I know that he is the only male.

Haxhi Millaku, Defence Counsel: On the critical day that you got wounded in Xerxe, did you have any weapons on you?

Witness: I had no weapons on me. But he was stabbed in the back.

Presiding Judge: who?

Witness: My brother Hasan Rrustemi.

Haxhi Millaku, Defence Counsel: how close were you to your brother?

Witness: not more than 2 meters. The person that shot him was standing right in front of me.

Interpreter now is Altina Ruli-Williams

Haxhi Millaku, Defence Counsel: can you tell the court when the bombardment started for the offensive?

Witness: when the first attack began I was at home. It started on 19 July 1998.

Haxhi Millaku, Defence Counsel: I have no further questions. Thank you.

Presiding Judge: Mr. Halimi?

Mahmut Halimi, Defence Counsel: Thank you Your Honor. The witness said that the attack began during 1998. This was once mentioned during the investigation and again today but the date is not important actually. What is significant is whether the entire village left Drenovc and how long after did they return to the village again?

Witness: we all returned at the same time as a family with the other villagers as well.

Presiding Judge: the question was after bombardment.

Witness: Some villagers returned earlier and others later. It depended.

Mahmut Halimi, Defence Counsel: I am asking about your family. When did they return to Drenovc? How long did they stay away?

Witness: I returned a bit earlier and the others came a few days later after me. Some people returned sooner and others later.

Mahmut Halimi, Defence Counsel: do you remember whether by the end of November 1998, any other attack happened which would cause the villagers to leave again?

Witness: Yes, the offensive on the second day as well. There were shelling then after awhile my family and I left.

Mahmut Halimi, Defence Counsel: When you left the village, where did you stay?

Witness: after a short while I left the village and stayed in Prizren.

Mahmut Halimi, Defence Counsel: In which month did you leave Drenovc?

Witness: I don't know what month. I know that it was a while after the bombardment began. I had not taken a note so I have no clue.

Mahmut Halimi, Defence Counsel: I need an approximate answer.

Witness: I don't know.

Mahmut Halimi, Defence Counsel: I have no further questions

Presiding Judge: Mr. Celina?

Fatmir Celina, Defence Counsel: regarding the incident of May 19 1998, did you report that to the police?

Witness: me?

Fatmir Celina, Defence Counsel: Either you or Eqrem Rrustemi?

Witness: there were no police in the village. It was only KLA.

Fatmir Celina, Defence Counsel: did you ask for medical assistance?

Witness: No.

Fatmir Celina, Defence Counsel: from 19 May to say 22-23 May, was the witness in the village with his brother Eqrem Rustemi or not?

Witness: living in the village?

Fatmir Celina, Defence Counsel: yesterday Eqrem Rustemi stated, "We reported the case to the police and the police came to our house to ask what happened"

Presiding Judge: was there any report made to the police? When you say police, given the history of Kosovo from that date onwards, do you mean KFOR, Serb police or do you mean UNMIK police?

Fatmir Celina, Defence Counsel: This is exactly what I wanted to ask. Eqrem Rustemi stated, "Yes. I reported the incident to the police." This is on page 9 of the Albanian version of the minutes given by him on 14 June 2004 as Witness S.

Presiding Judge: counsel refers to minutes of the proceedings of 14 June 2004, page 9, of the English version. Here Witness S gave the following answer to the question put by the Defence Counsel Celina, "Did you report your injury to the police?" and the answer is, "Yes. I reported the case to the police and they came to my house and asked me what had happened to me." The simple issue of this witness is, did you make any report to the police and under which circumstances; and to which police?

Witness: I have reported no case to the police. There were no police in the village. Only KLA police were in the village.

Fatmir Celina, Defence Counsel: I have no further questions.

Presiding Judge: Mr. Rogova?

Ethem Rogova, Defence Counsel: I have no questions.

Mexhid Sylja, Defence Counsel: I am Mexhid Sylja and I represent Islam Gashi. I will have some questions for you and will attempt to be as clear and brief as possible so please answer in the same manner if possible. In today's morning session you stated that you know Islam Gashi very well and that he is a co villager. How do you know Islam Gashi as a co villager? Is he a good person or has he got issues?

Witness: I know Islam Gashi very well. We were teenagers since the beginning of the war. I think he has behaved quite correctly. At the beginning of the war he became a KLA policeman. He was at the school and I know for sure that he knows about my

brother and I am convinced that he knows that my brother was there... (The attorney interrupts)

Mexhid Sylja, Defence Counsel: my question was about his behavior before the war? You have not answered my question because that was not my question.

Presiding Judge: but Mr. Sylja, your question was - In today's morning session you stated that you know Islam Gashi very well and that he is a co villager. How do you know Islam Gashi as a co villager? Is he a good person or has he got issues? You lumped up four questions in one question and when he answers you want to stop him.

Mexhid Sylja, Defence Counsel: my question was a bit more coherent and specific. To proceed, in the morning session to one of the questions you answered, "I met Islam Gashi at the office of the area. He was coming from downtime whereas I was going to the cooperative. Could you indicate to the court as to how far is the office you previously made reference to from the school?"

Witness: 100 meters.

Mexhid Sylja, Defence Counsel: to the question that I posed in relation to Islam Gashi as to whether he had any health problems during the war, your answer was yes.

Presiding Judge: when was that?

Mexhid Sylja, Defence Counsel: I refers to investigation minutes of 4 June 2004 and to page 25 where the investigating judge put the following question to the witness: "Did Islam Gashi have any health problems during the war?" The answer of the witness who testified as P was, "Yes, he was wounded." Let me remind the witness of something else. On the same page the witness answered by saying that it must have been the beginning of June. So my question goes like this. Could the witness be more precise in relation to the date Islam Gashi got wounded? If the answer is yes then it is okay and if not, then there is no problem.

Witness: I don't know the date when Islam Gashi got wounded, but I know that during the funeral of the son of his uncle, I was there and heard that he got wounded. It is on that very day that I heard that he got wounded, but I cannot provide the court with the date.

Mexhid Sylja, Defence Counsel: could you tell the panel the name of the son of Islam Gashi's uncle? That is, the name of the person who was buried on that day?

Witness: His name is Fehim.

Mexhid Sylja, Defence Counsel: could I talk to the witness in private and then proceed with the questions because I think he is misunderstanding the defense? I know that you know the name of Fehim, but I cannot ask you directly. You stated that Fehim got killed on that day and you attended his funeral. Did you happen to know whether someone else was killed on that very day or not?

Witness: yes.

Mexhid Sylja, Defence Counsel: could you indicate to the trial panel their name if you happen to know it?

Witness: the name is Sakip Bellaqa. I heard that the said person was killed and also another one from Landovac whose name I don't know.

Mexhid Sylja, Defence Counsel: If I am permitted by the court to remind you of the name, for example Perparim Thaqi.

Presiding Judge: I did not get your question. Is that the name of the person from the place called Landovac?

Mexhid Sylja, Defence Counsel: Yes Sir.

Presiding Judge: so that is the name of the person from Landovica?

Witness: Yes.

Mexhid Sylja, Defence Counsel: you stated that you attended the funeral of Perparim Thaqi. Would you recollect the place where he was buried?

Public Prosecutor: may I make a comment Your Honor? If I am not mistaken he said he attended the burial of Fehim.

Witness: Both Fehim and Perparim.

Presiding Judge: where was he buried?

Witness: In the village of Drenovc as well as Fehim.

Mexhid Sylja, Defence Counsel: you stated that you heard Islam Gashi got wounded as well. Did you personally see him wounded?

Witness: No, I have not. I only heard about it.

Mexhid Sylja, Defence Counsel: did Islam Gashi attend the funeral on that night?

Witness: I have not seen him. It was a large crowd of people.

Mexhid Sylja, Defence Counsel: did you happen to hear about the seriousness of Islam Gashi's wounds?

Witness: I only heard that he was wounded.

Mexhid Sylja, Defence Counsel: do you know as to how many times you and your family brought clothes to Murat Rrustemi?

Witness: I don't know that. I was not the one. His sons did that. I brought clothes only once.

Presiding Judge: that was on record already.

Mexhid Sylja, Defence Counsel: Thank you witness and thank you Your Honor. I have no more questions.

There were no questions to the witness from the accused persons.

Public Prosecutor: Your Honor, may I clarify something. When Mr. Sylja, asked the witness as to where he saw Islam Gashi, he answered that he, the witness, was coming from the cooperative and Islam Gashi was coming from down town. I just want to clarify this because in the statement he gave on 4 June 2004, on page 8, English version when the investigating judge asked him, "When you went to the school the next day, who did you see? The witness answered, "I saw Zaim and Islam Gashi there." And on the lower portion of his statement he said, "They were seated on chairs on the stairs." I would like to confront the witness to state which one is true.

Presiding Judge: what is the nature of your confrontation?

Public Prosecutor: the location where he said he met Islam Gashi.

Presiding Judge: in chief, he said, "The first time I saw Islam Gashi at the office of the area. He was coming downtown and I was coming from cooperative." That was the answer to your question. And again it was when Mr. Sylja drew his attention to this only to find out the distance between the two buildings and he gave the distance as 100 meters. This is one piece of evidence in which I don't see any contradiction. But if you want to clarify, you can do so.

Public Prosecutor: from his answer, it would appear that he met Islam Gashi on the road, while in his statement before the investigating judge; Islam Gashi was sitting on a chair on the stairs with Zaim Bajraktari.

Presiding Judge: we shall clarify this. Let me ask him. Mr. Rrustemi, I will go back to Mr. Sylja and the Public Prosecutor's questions when they asked, "Where did you see Islam Gashi the first time?" I am putting the question to you because you said Islam Gashi was going downtown and you were going to the cooperative. Can you elaborate on this?

Witness: I had seen Islam Gashi even before my brother was abducted.

Presiding Judge: was this before the event?

Witness: I have seen him everyday for several days after my brother was abducted.

Presiding Judge: when you said you saw Islam Gashi going downtown and you to the cooperative, can you elaborate on this?

Witness: I met Islam Gashi when he was at the office of the area. I asked him how I could meet with the commander and he answered, "The commander is leaving. He cannot come."

Presiding Judge: was it the first time you had seen him after the abduction of your brother?

Witness: Yes, it was the first time. I am not sure whether it was the first or second but I went there to look for my brother.

Presiding Judge: when you mention about downtown and you going to cooperative, what exactly do you mean by this?

Witness: as I said, I met Islam Gashi at the office of the area.

Presiding Judge: but why did you use the word downtown?

Witness: He was walking. It is the position of the place. It is a bit hilly.

Presiding Judge: do I understand you mean that you met Islam Gashi for the first time at the office of the area?

Witness: I am not sure whether it was the first or the second time, but I have met him everyday and I have seen him for the questions about my brother.

Presiding Judge: have you seen him at the school?

Witness: Yes, at the school as well, but did not talk to him. I have seen him several times. He was on the stairs, sitting on a chair.

Presiding Judge: did you speak with Islam Gashi at the school?

Witness: No. It was with Zaim I spoke with.

Interpreter, Altina Ruli-Williams

Presiding Judge: before the investigating Judge on June 2004, referring to page 9 of the English minutes, you were asked:

Investigating Judge, "When you went to the school the next day, whom did you see? You answered, "I saw Zaim and Islam Gashi there."

Investigating Judge, "Did you know Islam's last name?"

You answered, "Yes. Gashi."

Investigating Judge. "Could you tell me what you saw them doing?"

You answered, "They were seated on chairs on the stairs."

Investigating Judge, “Was this at the school?”

You answered, “Yes, on the stairs of the old school.”

Investigating Judge, “Did you speak with them?”

You answered, “Yes.”

Investigating Judge, “Tell me about the conversation?”

You answered, “I only asked if I could handover the clothing to them or not.”

Investigating Judge, “What did they say?”

You answered, “They told me to wait and they would give me the answer soon.”

From that it seems that you had conversation with Islam Gashi and today you say you did not talk to him but only to Zaim. Can you explain that?

Witness: they may have been misunderstanding when the investigating judge asked me. He asked me the question in general whether I spoke to them. Maybe I did not understand him correctly.

Presiding Judge: you only spoke to Zaim?

Witness: Yes. I spoke to Zaim.

Presiding Judge: did Islam Gashi talk to you on that day at the school?

Witness: he was standing at the bottom of the stairs.

Panel confers.

Presiding Judge: we are done with this witness. He may be excused.

Presiding Judge: Mr. Rrustemi, thank you for coming to court and we appreciate this. You are excused now.

Witness: I have a question Your Honor.

Presiding Judge: yes?

Witness: I would like to repeat again that I am not accusing anyone here. I am only asking to know where my brother is.

Presiding Judge: we understand this.

Witness: some strange person did not know my brother, but the local guys knew him. So I am asking from them to find my brother whether dead or alive. Since from 23 July I have absolutely no idea about his whereabouts. I am not diminishing here the value of KLA and I am not addressing this to KLA in general. I am still a supporter of KLA, but I reserve the right to know where my brother is. Therefore, I am asking why my brother was kidnapped and where he is. So as a brother, I would like to know. Thank you.

Presiding Judge: thank you Mr. Rrustemi.

Break at 3.40 p.m. and resume at 4.05 p.m.

Court Recorder: Nina Maric

Interpreter: Ervin Mazniku

Presiding Judge: Mr. Syla you will be cross-examining Mr. Eqrem Rrustemi?

Mexhid Syla, Defence Counsel: yes

Presiding Judge: can we call him please?

The witness is brought into the courtroom.

Presiding Judge: Mr. Rrustemi, good afternoon and thank you for being in attendance today. Today you will be cross-examined by one Defence Counsel who could not do so yesterday. I will remind you that you are still under the obligation to tell the truth.

Mexhid Syla, Defence Counsel: my name is Mexhid Syla, Defence Counsel and I represent Islam Gashi. In 1998 have you been in village of Drenovc during the month of May?

Witness: I have been in the village of Drenovc during the month of May.

Mexhid Syla, Defence Counsel: did you happen to hear that by the end of the May 1998 some KLA members were killed?

Witness: I heard that some KLA members were wounded.

Mexhid Syla, Defence Counsel: could you tell the court their names if you happen to know them?

Witness: I have no recollection as to that.

Mexhid Syla, Defence Counsel: did you happen to know the person with the name Fehim Gashi?

Witness: yes, he was a co-villager of mine. We were from the same village.

Mexhid Syla, Defence Counsel: but would that mean since you said I knew him would that mean that he has passed away?

Witness: yes, he is passed away.

Mexhid Syla, Defence Counsel: could you indicate to the trial panel as to when did he die and the circumstances under which he died?

Witness: I don't know the precise date when he died and how he died.

Mexhid Sylja, Defence Counsel: was before mentioned person among the ones that you said were wounded by the end of the May 1998?

Witness: but that was a quite a number, I am not quite sure how many people were killed. I wasn't there.

Mexhid Sylja, Defence Counsel: did you attend his funeral?

Witness: yes

Mexhid Sylja, Defence Counsel: was to your knowledge someone else buried on the same date and place?

Witness: yes, the name of that person is Prparim Thaqi.

Mexhid Sylja, Defence Counsel: do you happen to know as to who was wounded and who was killed on that night in that place?

Witness: I do not know.

Mexhid Sylja, Defence Counsel: that very night when those two persons were killed. There was the third person whose name the witness does not know. Did you happen to hear that Islam Gashi was wounded?

Witness: I did not.

Mexhid Sylja, Defence Counsel: did you happen to learn that Islam Gashi was wounded on the same night these persons were killed?

Witness: I have not heard.

Mexhid Sylja, Defence Counsel: Your Honor, I would have some few questions before posing my questions I would like to remind the witness on yesterdays session the witness stated that he has given three statements so far that being one to KFOR, one to the police and the last one to the Investigating Judge. Is that true?

Witness: I have given two statements whereas the third one is in course of these proceedings.

Mexhid Sylja, Defence Counsel: my question is, would the witness recollect whether he has ever mentioned the name of Islam Gashi in the course of his accounts to the police and the Investigating Judge?

Witness: yes, I do remember till last night I have not mention the name of Islam Gashi because I was never asked about my father.

Mexhid Sylja, Defence Counsel: would the witness recollect as to when did he go to bring clothes to his father?

Witness: I don't remember the precise date but I would say that I went there to bring clothes to my father 10 to 15 days after.

Mexhid Sylja, Defence Counsel: was there someone else with you?

Witness: I was alone.

Mexhid Sylja, Defence Counsel: Mr. witness, I would like to refresh your memory about yesterday's session where you stated that due to the injuries that you sustain for one year and a half you could not leave your house, your going to bring clothes to your father is this included within the time period of one year and a half?

Witness: it is quite normal that I could not work, but I could move and work in a courtyard.

Mexhid Sylja, Defence Counsel: no further questions Your Honor, at this time, thank you very much.

No questions by the accused Selim Krasniqi Bedri Zyberaj and Xhavit Elshani.

Isuf Gashi: good evening, I have some questions for the witness because I only learn today that he is a co-villager of mine since he stated so, I really don't know where he is from.

Presiding Judge: what is your question?

Isuf Gashi: I would like to ask him whether he remembers approximately the month when the KLA appeared in Drenovc?

Witness: yes, because I remember you called us we were there, digging trenches, we were at the same position just like you.

Isuf Gashi: approximately what month?

Witness: I remember that it was around March or April.

Isuf Gashi: did you see the soldiers around April and March as you said, but I would like to refresh your memory, as it was the end of April? And you actually mentioned yourself that you took part in digging trenches at that time, were those soldiers masked or unmasked when the Albanian army was in Drenovc?

Witness: I did not see them wearing masks at the first day at the moment we were working there.

Isuf Gashi: since he is a co-villager, does he remember whether the army was composed of young or old soldiers?

Witness: there were all sorts, young and old members.

Isuf Gashi: do you know most of the youngsters of our village, since it is not a big area?

Witness: I know some but I could not know all of them, the village has about 300 houses.

Isuf Gashi: this growth must have happened since I was imprisoned; there were only 200 houses before. You stated that on the critical day three young men came to the house and spoke to mother, were those three young men from Drenovc?

Witness: it was 9 o'clock in the evening. Two persons stood in my courtyard whereas the other one was in the car at the gate of Kadri Isufi.

Isuf Gashi: could you recognize them by their manners, clothes, or voices?

Witness: they called me by my name and I went out.

Isuf Gashi: I don't know whether you understood my question.

Presiding Judge: let him answer.

Witness: when I went out they asked me whether this is the house of Eqrem I answered yes, this is Eqrem's house and I am Eqrem. Those two persons attempted to grab me and I screamed. My father came out as well as the other family members. My father asked them, "What you want" they said, "We have some business to the headquarters and we will return him back".

Isuf Gashi: did you know them at all? Did you recognize them at all?

Witness: no, I didn't. So I went towards the car. They opened the door of the vehicle.

Isuf Gashi: the witness has actually given his statement and I only intended to ask him brief questions and expected from him brief answers, but if you allow him. The witness stated that he has not recognized these persons; do you want me to continue with brief questions? When they started their journey, which road did they take the one towards Berisha area or the one towards Kamlloqt?

Witness: it was the road towards Bellaqeshme.

Isuf Gashi: did they leave you at the mosque or did they take the road, which goes, toward Sefer Jemini's house?

Witness: they left me in front of the gates of mosque at the house of Baca Shaq.

Isuf Gashi: you told us earlier that they took you to Emakshanave cemetery?

Witness: I stayed at the gates of the mosque near Baca Shaq's house ten minutes with one person in the car. One person stayed with me in the car as the other one went to the headquarters. The other two returned from the headquarters came inside the car and we went towards direction of Emakshanave cemetery.

Isuf Gashi: I would like to sum it up, when you went to the cemetery of Emakshanave, yesterday the witness stated that they beat him up at that place, I ask the question whether he knew persons, he said no, now my question is when they beat him up where did they leave him?

Witness: first of all when they took me towards the cemetery they did not beat me up, they first took the sack and then the knife, and they told me, "We will now cut your hands, and your legs", and then they started to beat me up and I lost consciousness. And then an hour later I found myself in my home, I don't know where they took me but I know I ended up there, in my home.

Isuf Gashi: I think the witness said that they took him home and spoke to his mother. I have couple of brief questions. Do you know my house approximately?

Witness: yes

Isuf Gashi: what does it look like, what kind of house it is?

Witness: the house is 15 by 5 meters; on the left side there is a garage.

Presiding Judge: what else?

Witness: Those persons that took me to my house told to my family on the following they I should report to the headquarters. I went to the headquarters and Isuf Gashi came out.

Isuf Gashi: does he know whether I have a family, wife and children, for instance before the war, during the war?

Witness: yes, you have children, a wife and your brothers, three sons and the daughter.

Isuf Gashi: I would like to ask you in regards to myself, did I personally beat you up or offended you somehow?

Witness: you didn't beat me or offended me and I have never had any sorts of conflict with you what so ever.

Isuf Gashi: do you remember Florim, my oldest son; I assume you had no problems with him either.

Witness: that it true, I did not have any disputes with you or Florim for that matter.

Isuf Gashi: how about with Islam Gashi?

Witness: no, never

Isuf Gashi: thank you, I hope I did not bother you too much. I know you came here to clarify. During the war you were in Drenovc as we see each other there, do you know whether I was there with my family?

Witness: I don't know really. I saw you and your sons; I did not see either your wife or your daughters.

Isuf Gashi: I have no further questions. If you allow me Your Honor, I have some questions for you.

Presiding Judge: only comment.

Isuf Gashi: I don't know whether the witness was forced by somebody or whether he is not being that clear minded, I read it last night in the minutes in Albanian that he said, "They took me to Isuf Gashi's house and they beat me up".

Presiding Judge: I was there when they beat Murat's son I was in Isuf Gashi's house, this is what you said on 14 June 2004. Yes, Mr. Rrustemi, what exactly did you mean by that?

Witness: I wasn't inside Isuf's house.

Presiding Judge: you are clear you were not in Isuf Gashi's house when you were beaten?

Witness: no, I was not. I was beaten at Emakshanave cemetery.

Presiding Judge: in fairness to the witness it was the duty of those involved in the investigation to clarify this. Now he is saying he was not in your house Mr. Gashi.

Witness: I do not want Mr. Isuf to misunderstand me for my being here as a witness. I am here in court to testify on how I was beaten, and I would like to thank Mr. Isuf that I was released the following day when I went to report and as of that day no one has ever laid the finger on me. I am here because I want to testify that I was beaten. I am not accusing, neither Mr. Isuf nor anyone else. Because Mr. Isuf did not beat me up therefore I cannot say so.

Presiding Judge: Mr. Islam Gashi?

Islam Gashi: I have no questions but only a comment.

Islam Gashi: as testified by previous witness that happens to be Eqrem's uncle, I was wounded on May 27, 1998. I am quite sure that Eqrem is well aware of that fact and I also wanted to add that regarding the time that Eqrem claims that he met with me and talked to me I was recovering from the wounds I sustained. Therefore to it, I have never talked to Eqrem during the period of war. Of course I have seen him because we are from the same village so, what Eqrem claims, that "I talked to Islam Gashi" is not true.

Presiding Judge: thank you very much for having attended court to give evidence.

The witness is excused at 5:10 p.m.

Presiding Judge: Mr. Public Prosecutor, you can bring in your next witness.

The witness is brought into the courtroom.

Presiding Judge: Mr. Haser Rrustemi, good afternoon and thank you for having attended the court today. When you testified in front of the Investigating Judge on 7 June 2004 you did so under the cover of anonymity and you were known as a witness "I". Today you have decided to waived that anonymity and testify openly, and you have done this in voluntary and informed manner?

Witness: yes

Presiding Judge: Before we proceed I must tell you that as a witness you are obliged to tell the truth and may not withhold anything. I remind you that the giving of false testimony is a criminal act. If the correct answer to a question would expose you or a close relative to disgrace, substantial financial loss or criminal prosecution, you are not required to answer the question. Have you understand what I said?

Witness: yes.

I will now confirm your personal data.

Name:	Haser Rrustemi
Name of Father:	Murat Rrustemi
Mother's Name:	Feride Morina
Occupation:	Farmer, currently unemployed
Residence:	Drenovc
Date of Birth:	14 October 1963
Place of Birth:	Drenovc
Nationality:	Kosovo Albanian
Civil Status:	Married
Relationship to any accused:	None
Relationship to injured party:	Son of Murat Rrustemi

The witness is advised of his rights as an injured party under articles 63 and 355 of the PCPCK.

Presiding Judge: now the Public Prosecutor will ask you questions.

Public Prosecutor: Mr. Rrustemi, good afternoon. You said that you father is Murat Rrustemi can you tell he where is he now?

Witness: I don't know.

Public Prosecutor: can you tell us what happened to your father?

Witness: as of 10 June 1998 I do not know what happened to my father.

Public Prosecutor: tell us what happened on June 10, 1998?

Witness: on the said date three persons came by car, it was an Opel Ascona car.

Presiding Judge: can I just clarify something? The Investigating Judge put the following question to the witness, "Can you tell me what happened on 10 July 1998?" The witness is now referring to 10 June 1998. It is clear that this was a mistake by the Investigating Judge and no one clarified this during the investigation.

Witness: I recognized two of them but not the third one.

Public Prosecutor: can you name us the two persons that you recognized?

Witness: Zaim Bajraktari and Agron Krasniqi.

Public Prosecutor: how did you come to know the names of Zaim and Agron?

Witness: as we went out to look out for our father we run into Zaim that was in the location named as the office of area.

Public Prosecutor: please continue.

Witness: as for Agron I did not recognize him right away for I did not know him but when the bombing started and we were obliged to leave our village so when we left and made it to Dejne I learned who Agron was.

Public Prosecutor: please continue.

Witness: on 10 June 1998 when our father was taken away by 4 p.m. we went out to ask about him. We went to the office of the area.

Public Prosecutor: when you say we, whom you are referring to?

Witness: I along with Nezim, my uncle.

Public Prosecutor: please continue.

Witness: we went there and asked Zaim Bajraktari, after we asked him he replied, "He is doing fine the investigations are in process". And then we headed for home. On 11th we went out to look for him again. From there we went to the cooperative there was Bedri Zyberaj he was political commissar over there, his uncle's son Ilir Zyberaj was standing at the door, I asked him, "would it be possible to get in and meet Bedri Zyberaj to ask him", he said, "Wait right here at the door", Bedri Zyberaj came out at the balcony and told us "Come in".

Public Prosecutor: what happened next when Bedri Zyberaj asked you to come in?

Witness: we got in and I asked him about my father. Bedri Zyberaj told me, "Every single person fifty years and above, is to be held responsible". Nezim the uncle, told him, and I was there present, "What did that person do, why have you taken him" Bedri Zyberaj addressed to me with the following words, "During 1992 you told me 'don't you dare driving the tractor in my piece of land'" and my uncle's son had a fight with children of Bedri Zyberaj.

Public Prosecutor: is that all that Bedri Zyberaj told you?

Witness: yes, these were the words that Bedri Zyberaj told me and at the end he said, "I am the one who took your father away, you do what you have to do, now leave".

Public Prosecutor: what did you do after you were told to leave?

Witness: we got up and Nezim told to Bedri Zyberaj, "Listen up, we have lived our lives as a fathers and grandfathers, may be we will survive the war, and if we don't our children will leave together." We went out and headed for home.

Public Prosecutor: after this meeting with Bedri Zyberaj, did you look for your father again?

Witness: I went to look for my father on 10, 11, 12 June.

Public Prosecutor: and on these dates 10, 11, and 12 June, were you accompanied by anybody?

Witness: I was three times with Nezim.

Public Prosecutor: let's go now on 12 June 1998, where did you go?

Witness: again to the office of the area along with Nezim to bring some cigarettes and clothes to our father.

Public Prosecutor: were you able to give cigarettes and clothes to your father?

Witness: we gave the stuff to Islam and to Zaim Bajraktari. Zaim, Nezim's uncle was carrying them.

Public Prosecutor: where did you see Zaim and Islam on 12 June?

Witness: I saw them in the yard of the school.

Public Prosecutor: and what happened next after you gave clothes and cigarettes to Zaim?

Witness: nothing we just gave them to him and went back home.

Public Prosecutor: on 12 June 1998 when you gave cigarettes and clothes to Zaim how long did you stay in the school?

Witness: 10 minutes then we left. Nezim used to go there on a daily basis whereas I only three times. I had to provide for my family comprising of 19 members.

Public Prosecutor: Mr. Rrustemi, can you please explain to me, on 10 and 11 June you went to the local offices to look for your father, but on 12 June 1998 you went to the school?

Witness: yes

Public Prosecutor: what made you go to the school or who told you to go to the school?

Witness: we went there on 12 June to bring tobacco and the stuff as we had previous agreement while we were at the cooperative we heard that the detention was located at the school. I don't know anything else in relation to that matter.

Public Prosecutor: where did you hear that the detention center was located at the school?

Witness: Nezim used to go out, he heard that and he told me, "Why don't we just go to the school and bring the clothes".

Public Prosecutor: Mr. Rrustemi, where is this school that you are referring to?

Witness: I am referring to the old school that is located above the office of the area.

Public Prosecutor: can you tell us the place or village?

Witness: Drenovc village.

Public Prosecutor: while you were there in the old school in Drenovc aside of Zaim Bajraktari and Islam Gashi did you see anybody else?

Witness: no, not me. I did not see anyone else.

Public Prosecutor: can you describe to us Mr. Bedri Zyberaj?

Witness: yes, I can. Because we are of the same generation he is a bit fat, he is bold a bit in the forehead area, fatter then I.

Public Prosecutor: how long have you known Bedri Zyberaj?

Witness: since we were kids, we go way back together.

Public Prosecutor: what about Islam Gashi, can you describe him?

Witness: yes, he had black hair, taller then I.

Public Prosecutor: how long have you known Islam Gashi?

Witness: but his father Isuf Gashi he is a relative of ours. I know him since we were kids of course.

Public Prosecutor: can you describe Agron Krasniqi?

Witness: no, I cant seven years after is a bit difficult because I have not seen him as of that time.

Public Prosecutor: what about Zaim Bajraktari, can you describe him?

Witness: he had gray hair, white colored face, and still the same holds true for him I have not seen him as of that time.

Public Prosecutor: Mr. Rrustemi, I am showing you colored photographs which has been marked as Exhibit C, and please go over it and tell me if you can recognize any of these people?

Presiding Judge: the index has been removed.

Witness: I am not quite sure about the person shown on picture number 3, whether is Agron or not. I know the persons shown on pages 16, 32 and 27. Page number 16 is Bedri Zyberaj. Page number 32 is Uncle Isuf Gashi because this is how I always refer to his as. Page number 27 is his son Islam Gashi.

Public Prosecutor: thank you.

Presiding Judge: the person in number 3 is somebody else and is not referred in the index as Agron. The others are the same as in the index.

Witness: I myself said I am not quite sure about him.

Public Prosecutor: Mr. Rrustemi, when your father was abducted by Zaim and Agron do you recall the clothes that they were wearing?

Witness: yes I do. He had a white colored jacket with stripes he had a pair of conductor's trousers on.

Public Prosecutor: I am asking you about the clothes of Zaim?

Witness: dark clothes, as he entered the courtyard he had a Kalashnikov on him and there was something written kind of insignia but I could only spot the P letter.

Public Prosecutor: and Agron?

Witness: the same clothes.

Public Prosecutor: when you saw Zaim at the old school house on 12 June 1998, what was he wearing?

Witness: the same clothes, dark clothes, he was a policeman, he had weapon on him.

Public Prosecutor: what about Islam Gashi when you saw him on 12 June 1998 what was he wearing?

Witness: the same clothes, but he did not say any bad words, Nezim only talked to Zaim.

Public Prosecutor: when you met Mr. Bedri Zyberaj what clothes was he wearing?

Haxhi Millaku, Defence Counsel: would it be possible for the Public Prosecutor to be more precise what day is he referring to?

Public Prosecutor: on 11 June 1998 when you met Bedri Zyberaj in cooperative building what was he wearing?

Witness: he was in plain clothes, that day I saw him he was in plain clothes, he was in the office.

Public Prosecutor: you stated that Mr. Bedri Zyberaj was a political commissar?

Witness: yes

Public Prosecutor: how did you learn that he was a political commissar?

Witness: because he could do whatever pleased him. He was the one who eliminated my father.

Public Prosecutor: why do you say that Mr. Bedri Zyberaj eliminated your father?

Witness: because he took him. My father was in his hands, he did what he wanted to him and he knows where the remains of my father are.

Interpreter: Altina Ruli-Williams

Public Prosecutor: Mr. Rrustemi, before your father was abducted what was his occupation?

Witness: bus conductor

Public Prosecutor: did your father ever worked for Serbian police or paramilitary?

Witness: no, he never worked for the Serbs. I have all his stuff, his work stuff, his bag and his note pad as he left it that day.

Public Prosecutor: before your father was abducted how often did you see him?

Witness: every night. We were both more or less at the same time at work, I would leave in the morning at 7 and come back at 3 and he would come around 4 o'clock.

Public Prosecutor: before your father was abducted was there any incident when your father left your house for a long period of time without informing any members of your family?

Witness: no, when the shelling started he went and stayed in Dejne with some friends and I was there as well.

Public Prosecutor: you did not answer my question.

Witness: no. Only when the shelling happened, the entire village left and he left too.

Public Prosecutor: can you describe to us the old school where you went on 12 June 1998?

Witness: as you go upwards on the right side is the new school and on the other side is the old school.

Public Prosecutor: can you describe the old school?

Witness: it had two basements or cells downstairs and it was a prison or detention center. And there was the entrance with some stairs the staircase has some sort of side entrance.

Public Prosecutor: I am showing you a photo album, previously marked as Exhibit D, I want you to look at them and please tell us if you recognize any of the pictures of the old school that you went on 12 June 1998?

Witness: picture on page 5 shows the old school on the right hand side of the paper. Page 6 shows again the picture of the old school. Page 10 shows a part of the old school on the left hand side. One can also see the toilets on the right hand side, and

somewhere more to the left there is a small cement block which is a tap. Page 12 as well shows a picture of the old school and on the right hand side of it part of the new school (the building closer to you is the old school). Page 13 is shown a picture of the old school as well as part of the main entrance to the detention one could also see a cement foundation (old school on the left, and shows the main entrance to the detention which is to the right of the cow, and there is the cement structure and it is the tap on the right of the picture). Page 14 shows the yard of the old school that is the part of the old school at the right hand side of the picture, one can see the part of the main entrance at the extreme right of the picture. Page 15 is picture of the old school a closer view; this is the entrance to the detention (the entrance closer to the photographer is indicated by the witness). Page 18 shows the entrance to the detention. Page 19 shows the window of the detention. Page 20 shows the new school. Page 21 shows what used to be the cultural room. Page 22 shows the old school and also the basement. Page 23 shows the cultural room. Page 24 shows as well, the cultural room. Page 27 shows the old cultural room and the basements as well. I don't know any other pictures.

Public Prosecutor: from the pictures you have identified do you remember if there is part of place is shown where you saw Zaim Bajraktari and Islam Gashi on 12 June 1998?

Witness: this is page number 19. These are the staircases and they were standing in front of the staircase, which is on the right of the picture. There is the car on the picture 13, that was the entrance and this is where they came in.

Public Prosecutor: thank you. I have no further questions.

Presiding Judge: do the lawyers want to go through the pictures he has identified?

Defence Counsel: no

Presiding Judge: we will have a short break and then we will start a cross-examination by the defence.

Break at 6:35 and resume at 6:55p p.m.

Court Recorder: Ursula Oteng
Interpreter: Altina Ruli-Williams

Presiding Judge: Mr. Prosecutor, are you done with Witness Nezim Rrustemi?

Public Prosecutor: Yes Your Honor.

Presiding Judge: Mr. Rrustemi you are still under obligation to speak the truth and the defence will now examine you. Who will start? Mr. Halimi?

Mahmut Halimi, Defence Counsel: Thank you Your Honor. At the time when the bombardment started, is it true that all the villagers left Drenovc?

Witness: the neighborhoods of the area where I live, yes. I believe everybody left.

Mahmut Halimi, Defence Counsel: was it together with your family, extended family and your uncle?

Witness: no.

Presiding Judge: when did you come back to Drenovc?

Witness: The children and myself together with my brother Eqrem Rrustemi went to a small village called Dejne, which had 3 houses. Then from there we went to Babobc which is somewhere in the mountains. We stayed there for 2-3 nights together with the other people who were there. Everybody was gathered in Dejne village.

Presiding Judge: when did you go back to Drenovc?

Witness: Depending on free time, I went on a daily basis.

Mahmut Halimi, Defence Counsel: after the bombardment, were there any Serbian forces in Drenovc?

Witness: I don't know because I stayed in Dejne and Babobc for another month. I have no idea.

Mahmut Halimi, Defence Counsel: did you return from Babobc together with your family again?

Witness: I returned from Dejne with my wife and children.

Mahmut Halimi, Defence Counsel: when you returned to Drenovc were the houses burned?

Witness: my house was not burned.

Mahmut Halimi, Defence Counsel: Thank you Your Honor. I have no further questions.

Witness: I would like to add something that from Drenovc I went through Sopniq to Xerxe and stayed there for a month.

Haxhi Millaku, Defence Counsel: My name is Haxhi Millaku and I am the attorney of Bedri Zyberaj. My question is, since you are from Drenovc, how far is the cooperative from the old school, approximately?

Witness: I did not work in agriculture so I did not measure the distance. I am not familiar with the distance.

Presiding Judge: what is the distance, approximately?

Witness: 500 meters. I don't know.

Haxhi Millaku, Defence Counsel: you said that you are a co villager of the same generation as Bedri Zyberaj, how many classes of school have you completed?

Witness: 8 years of education.

Haxhi Millaku, Defence Counsel: when you were a kid, did you attend the old or the new school in the village?

Witness: The old school obviously.

Haxhi Millaku, Defence Counsel: would I be mistaken if I say that the distance between the old school and cooperative is 1000 meters, more than 500 meters although I am not from there? Would I be wrong?

Witness: that is why I stated that I am not familiar with the technicality of measuring.

Haxhi Millaku, Defence Counsel: Could it be more than 500 meters?

Presiding Judge: he has already said that he did not measure the distance.

Haxhi Millaku, Defence Counsel: did I understand you correctly when you said you went there three consecutive days, one after the other on 10, 11, 12 to look for your parent?

Witness: yes.

Haxhi Millaku, Defence Counsel: is this true?

Witness: yes. Nobody could look after my kid, so I only went 3 times.

Haxhi Millaku, Defence Counsel: you did not go personally after the 12, is that correct?

Witness: yes, that is true. I did not go again. It was only Nezim and Eqrem who went there.

Haxhi Millaku, Defence Counsel: Your Honor, just for confirmation, if you could refer to the minutes of 7 June, page 9, line 3 of the English version.

Presiding Judge: which passage are you referring to Mr. Millaku?

Haxhi Millaku, Defence Counsel: Line 3 and 4, the question of the investigating judge and the answer of the witness.

Presiding Judge: Mr. Millaku referred to the following passage. The question was, “Which date was that when you met Bedri Zyberaj?” and the answer was, “13 which was the last one.”

Haxhi Millaku, Defence Counsel: does the witness know the competencies of the political commissar?

Witness: No. I have not worked together with them.

Haxhi Millaku, Defence Counsel: so when did he hear this phrase for the first time?

Witness: everybody heard it. All the villagers heard it and all the people.

Haxhi Millaku, Defence Counsel: I repeat my question. When did you personally hear about this phrase?

Witness: I heard it there when they took my father. Before I was not aware of that.

Haxhi Millaku, Defence Counsel: From whom did you hear it if you can remember?

Witness: I don't remember.

Haxhi Millaku, Defence Counsel: you told us today that Bedri Zyberaj liquidated your father; you said that he took him?

Witness: No.

Haxhi Millaku, Defence Counsel: Your Honor, the witness said and I am referring to my notes, “He took him and it was his order and he did what he wanted. He knows where his remains are.” I am interested to know whether he has ever said before today that Bedri Zyberaj liquidated his father or is it just today that he stated so?

Witness: My father was in his hands. If Bedri Zyberaj does not know, then the gentleman here knows where the remains of my father are.

Presiding Judge: you said this, “Do you recall having said these words before or is it today that you are saying these words?”

Witness: yes I have said it so regarding Bedri Zyberaj and I can repeat that. My father is somewhere, meaning his remains and I would like to know where he is or his remains are. It is common sense. Just like any human would like to know where the remains of a loved one or parents are. It is the same for me so that's what I want.

Haxhi Millaku, Defence Counsel: in relation to these circumstances mentioned by the witness, is there actually any particular statement to support those facts regarding Bedri Zyberaj?

Witness: I did talk about that fact today.

Presiding Judge: apart from today, have you ever mentioned this fact before? Do you recall?

Witness: I may have said so. I am not in a clear position. We have been bothered with issues or frustrations such as my father being murdered in 1998 and my brother being beaten up at the same time. And on 10 October in Xerxe my uncle was killed and it was all over the media. The other uncle was wounded and this is all because of his Bedri Zyberaj and his uncle.

Haxhi Millaku, Defence Counsel: I did not get an answer whether he mentioned the liquidation issue before?

Presiding Judge: He explained the answer.

Haxhi Millaku, Defence Counsel: have you ever seen Bedri Zyberaj in Drenovc after NATO arrived?

Witness: I have not seen him. I did not have time. I was busy working on the land.

Haxhi Millaku, Defence Counsel: if I say that you have not seen Bedri Zyberaj after 12 June and during the war, would I be right?

Witness: after the war, I have not seen him.

Presiding Judge: did you see Bedri Zyberaj after 12 June 1998?

Witness: no. I have not seen him again, only on TV.

Haxhi Millaku, Defence Counsel: Thank you. I have no further questions. Your Honor, I wish to remind you that the gentleman is also in the quality of an injured party and in that aspect I have no questions.

Defence Counsels Celina and Rogova had no questions for the witness.

Mexhid Sylja, Defence Counsel: My name is Mexhid Sylja and I am the attorney of Islam Gashi. Did you happen to hear that something happened to Islam Gashi during the months of May and June 1998?

Witness: during May 1998, we were at home and I think that something happened to him. At least I heard so in Bellacerkve. He got wounded over there. This is what I heard because we were isolated.

Mexhid Sylja, Defence Counsel: what did you hear about the things that happened in Bellacerka?

Witness: I heard that he got wounded and that some got killed.

Mexhid Sylja, Defence Counsel: do you happen to know the names of those 2 persons that you said were killed?

Witness: one of them was Sakip Bellaqa. We used to be friends and worked together.

Mexhid Sylja, Defence Counsel: what about Fehim Gashi? Have you heard of him?

Witness: yes, I have heard.

Mexhid Sylja, Defence Counsel: Did you hear of another person named Perparim Thaqi?

Witness: that person I did not know. Those 2 previous guys were from the same village.

Mexhid Sylja, Defence Counsel: Could you indicate the date as to when this event happened?

Witness: I don't know.

Mexhid Sylja, Defence Counsel: Were there any talks about the nature of the wounds, whether they were serious ones?

Witness: I don't know. I could not; I was totally isolated.

Mexhid Sylja, Defence Counsel: Thank you Your Honor. I have no further questions.

Presiding Judge: Any questions from the accused?

Selim Krasniqi: I would only like to ask the witness whether he knows against whom KLA fought and the reason why?

Witness: KLA fought against the Serbs and I myself was not against the KLA. I myself was born and have lived in Kosovo. I am from here and so are my kids and I am not from Serbia. And since I was the elder brother I convinced my other brothers to go out and dig trenches.

Selim Krasniqi: would the witness know as to how many civilians had the Serbian army and police and paramilitary killed?

Witness: I don't know that one. To tell the truth I have never seen Selim Krasniqi before in my life. I have nothing against them. To wit I don't know him. I have never been against the KLA. I am only seeking to know where my father is.

Selim Krasniqi: would the witness know that amongst the victims that were massacred by the Serbian forces, there were many senior citizens; children and women?

Witness: I don't know as to how many of them were killed because I myself wished to join the KLA.

Selim Krasniqi: would the witness know as to how many persons have been pronounced as missing ones?

Witness: I don't know that. I don't know where my father is. I really want to know about my father and not how many others are missing.

Selim Krasniqi: there are thousands.

Presiding Judge: do you want this comment to go on record?

Selim Krasniqi: yes.

Comments by Selim Krasniqi: there were thousands that were massacred and missing.

Selim Krasniqi: the number of the people that were massacred and killed by the Serbian forces, criminal Serbian forces is approximately 15,000 and many children and elderly were amongst them.

Presiding Judge: Bedri Zyberaj?

Bedri Zyberaj: my question was in the course of 1998, did your family receive any assistance from the KLA?

Witness: Nazim received, but I did not.

Bedri Zyberaj: had I wanted, with that order giving qualities that you are crediting on me on the said period of time, could I ever stop or prevent such a thing in the KLA? So if I wanted not to give you any assistance, given my position at that time, would I be capable of doing that?

Witness: I cannot answer.

Bedri Zyberaj: Honorable Presiding Judge, I would only like to make a short comment. With the witnesses that we examined today Nezim and Haser it is true that they came only once to see me on the premises of the cooperative during the summer of 1998. That is best established by witness Nezim through his account and not twice as so stated by Nezim in the morning session. And on that occasion they requested to that their families be provided with assistance, which the KLA offered to them at that time. I cannot be sure however, we provided assistance to them by giving them flour for bread. I am not quite sure, but the amount was approximately 100-200 kilograms. What I can tell for sure is that it was not more than 200 kilograms of flour and no less than 100 kilograms. I have no further questions.

Presiding Judge: Thank you Mr. Zyberaj.

Witness: I have a question. Not only for 200 kilograms of flour, but I would give him tonnes to find my father.

Presiding Judge: Mr. Isuf Gashi?

Isuf Gashi: I don't have a question for the witness, but I have one for you Your Honor. Since the very first time you were in charge of the case, you have deprived us of many things.

Presiding Judge: Mr. Gashi, I am not going to allow you to make attacks on the court.

Isuf Gashi: I could provide you with evidence. This is not a democratic court. I have to express my opinion and you have to hear me.

Presiding Judge: Yes, concerning the comments of the witness. First of all we are dealing with the witness.

Isuf Gashi: you have done with the witness.

Presiding Judge: I warn you, if you make any attack on me in this court, there will be consequences.

Islam Gashi had no questions or comments for the witness.

Both Panel members had no questions for the witness.

Presiding Judge: I want to come back to that statement you made, where you said Bedri Zyberaj liquidated your father. I have gone through your previous statements and I have never seen that before in any of your statements or those given to the investigating judge on 7 and 14 June 2004. What prompted you to say that today? Where did you get that information?

Witness: what information?

Presiding Judge: That Bedri Zyberaj liquidated your father.

Witness: But he was in his hands!

Presiding Judge: being in the hands of somebody is one thing, liquidating or eliminating is something else. Is that a conclusion you drew by yourself? Do you have any evidence to support this?

Witness: No. This is more than accurate because when I went there he (Bedri Zyberaj) said my time has come. I can do whatever I want. And I don't know where my father is as of that day.

Presiding Judge: when Bedri Zyberaj told you “My time has come”, what did you understand by that?

Witness: That means I could kill you; beat you up, etc.

Presiding Judge: it is obvious he did not kill you for you are here. Did he beat you?

Witness: No, but my brother yes. He knows who beat my brother.

Presiding Judge: apart from the statement you made that he liquidated your father, do you have any information apart from the fact that you said he was a political commissar; or he was the guy; or he said, “my time has come?” Apart from bits and pieces of evidence you have given today, do you have any concrete evidence that Bedri Zyberaj liquidated your father?

Witness: he knows where my father is. I don't know anything else to say. He knows that.

Presiding Judge: Mr. Millaku?

Haxhi Millaku, Defence Counsel: Thank you Your Honor. I have nothing to say now. I would only I like, on behalf of my client, to state on record that I object to the statement of this witness in the sense of defence.

Presiding Judge: Thank you very much Mr. Rrustemi for having attended court to give evidence.

The witness is excused at 8.05 p.m.

Presiding Judge: Isuf Gashi, what did you want to say?

Isuf Gashi: I have some questions but no attacks as you mentioned Sir. We are being held in detention as of 19 months. The other inmates are in detention as of 22 months from now. All of us are being held at Dubrava detention facility. We don't have the slightest remark or objection regarding the way the directorate of the detention facility and the other internationals have against us. I am a kind of high tempered person because I cannot fit very well in the international mechanical of justice because I am hasty and you are slowing me down. The investigating judge does not know that I wrote down the name. He did not deprive us of anything. Regular visits were paid to us. We could use the phone 4 times in a month but on special occasions we have been paid special visits and also special phone calls. My name is Isuf Gashi and I am 60 years old. I have been seriously wounded. The length of the incision and the wound is 82 centimeters. My wife since one year suffers from leukemia. She is as old as I am and cannot pay visits to me and I have no right to make phone calls. I don't know the way as to how the honorable trial panel views us because all of us are fighters and liberators of the country. We are not criminals because this is established by the UDB, the Serbian secret forces. I would kindly inform the Honorable Presiding Judge that we are very grateful for the presence of internationals here, but we also provided them

with our assistance, otherwise Milosevic would never have done so. Many times I filed a request through my attorney, but phone calls were never allowed to me. I would only like to ask the trial panel as to why we were deprived of the said freedoms since the very moment the gentleman over here (pointing to prison escort personnel) became in charge of the case file? I would like to know the reasons why, because I am still locked in a cell and because our hands and feet are tied in the same manner. I am not here to attack anyone or insult anyone. I am not begging anyone or asking for assistance. I would kindly ask the Honorable Presiding Judge if there is justice outside and that's it. My wife is ill Sir.

Presiding Judge: can I tell you something? All these complaints you mention there is a proper way of dealing with them. You must tell your lawyer to come and see me. Secondly, when Xhevit Elshani had to go and see his father who is sick, I readily made an order and he spent 3 hours with him. So if you make a request through the proper channel like Mr. Elshani did through Mr. Celina, I will consider and let you go and visit your wife until we determine detention. But then you must understand that we have rules and procedure to follow since you want to go and visit your wife. I fully understand and if I have a request, I would consider it.

Isuf Gashi: Your Honor let me finish first. I am filing a verbal request now and you may approve or disapprove because we have no attorneys who represent us.

Presiding Judge: Thank you.

Haxhi Millaku, Defence Counsel: On 6 or 7 December, I filed a proposal to terminate the detention of Bedri Zyberaj. The document was received on December 7.

Presiding Judge: we are adjourned now.

The court adjourns at 8.25 p.m.

Presiding Judge, Vinod Boolell

Court Recorder, Nina Maric

Court Recorder, Ursula Oteng