



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:	May 31, 2006
Venue of Proceedings:	Courtroom of Gjilan District Court
Presiding Judge:	Vinod Boolell, International Judge
Panel Members:	Leonard Assira, International Judge Nurul Islam Khan, International Judge
Public Prosecutor:	Paul Flynn, International Public Prosecutor
CD Legal Officer:	Andrey Antonov
Defence Counsel:	Mahmut Halimi, Rexhep Hasani, Fatmir Celina, Ethem Rogova, Mexhid Sylja and Fazli Balaj
Accused:	Selim Krasniqi, Bedri Zyberaj, Xhavit Elshani, Isuf (Sherifi) Gashi, Islam Gashi and Agron Krasniqi
Witness(es):	Witness "A"
Court Recorders:	Cecilia Takoff, Gwen Cheong
Interpreters:	Algent Mezini, Ervin Mazniku
IJSD Legal Officer:	Virginie Monchy
Humanitarian Law Centre Monitors:	Anka Kurteshi Hajdari and Luan Dushi
OSCE Monitor:	Lumnije Shkodra

The accused are charged with war crimes.

The session commences at 11:10 a.m.

The trial is public. The composition of the Panel is the same.

Present: Presiding Judge and Panel Members; Accused Selim Krasniqi, Bedri Zyberaj, Xhavit Elshani, Isuf (Sherifi) Gashi, Islam Gashi and Agron Krasniqi; Public Prosecutor Paul Flynn; Defence Counsel Mahmut Halimi, Rexhep Hasani, Fatmir Celina, Ethem Rogova, Mexhid Sylja and Fazli Balaj.

Also present is Humanitarian Law Center Monitor Anka Kurteshi Hajdari and OSCE Monitor Lumnije Shkodra.

Court Recorder: Cecilia Takoff

Presiding Judge: good morning. We resume the proceedings in the case against Selim Krasniqi and others. Witness "A" has been recalled for cross-examination. Is that correct, Mr. Flynn?

Public Prosecutor: yes

Presiding Judge: are you finished with the Witness?

Public Prosecutor: during the closing of my questioning last week I was anxious to put a number of items to him and perhaps before the cross examination we can. First, I want to put the shirts. I believe you have four shirts of the same color and I propose that each be given a number and the Witness be asked if he can identify any, in accordance with article 255 PCPCK.

Presiding Judge: Witness "A", good morning. I am addressing myself to you. You will recall that you testified on the last occasion and we could not finish with your interrogation and this is why you have been recalled. Now you will be shown some items of clothing which are numbered and you will be asked to pick out one of the items you referred to in your evidence bearing in mind you are not necessarily obliged to pick any particular item. Look at those four items of clothing (four shirts) and tell us which one is referred to in your evidence.

Warned pursuant to article 255 PCPCK.

Public Prosecutor: is it appropriate to remind him of the testimony he gave.

Presiding Judge: of course. Witness "A", I must also remind you that you are still under the obligation to speak the truth. The warnings I gave to you last time still stand. Do you understand?

Witness "A": yes

Legal officer takes shirts to show Witness "A".

Presiding Judge: the Witness was handed four shirts more or less of the same color, the shirts were numbered 1, 2, 3 and 4 and he picked out shirt number 3 which is the shirt that was recovered and handed to the police.

The shirts are shown to Defence Counsel and the Public Prosecutor.

Public Prosecutor: I think the record should show that this shirt has a maker label entitled "Norman Maker".

Presiding Judge: anything else?

Public Prosecutor: while on the issue of identification I would like at this stage again to attempt to show him the exhibits starting with Exhibit C. I should mention the only difference today is that we have a magnifying glass through which he can look at the photographs.

Mahmut Halimi, Defence Counsel: Your Honor, may I? Regarding the identification of the shirts I would like to make a remark. Shirt #3 is a short sleeved one, it is an old one that I would say is different from the other shirts, and the result of identification is the fact that I just mentioned.

Presiding Judge: in addition to the short-sleeved shirt that the Witness identified there is another short-sleeved shirt in the bag and two long sleeved ones.

Public Prosecutor: I would like to give the Witness Exhibit C to look at through the magnifying glass.

Presiding Judge: Witness "A", you will recall on the last occasion you were shown a set of photographs and you were asked to go through them and tell us if you could identify anyone bearing in mind you were under no obligation to identify anyone.

Warned pursuant to article 255 PCPCK.

Presiding Judge: on the last occasion you said that your eyesight has worsened and the Public Prosecutor has also handed you a magnifying lens to help you. Do the exercise and then tell us all about it.

Legal officer shows Exhibit C to the Witness.

Witness "A": the person in picture #32 I have seen him hanging around on the streets of Drenovc but I don't know his name.

The picture is shown to Defence Counsel and the Public Prosecutor.

Public Prosecutor: could we now present photograph lineup Exhibit B to the Witness?

Presiding Judge: you are going to be shown another photograph lineup and you go through them and tell us if you recognize anyone.

Warned pursuant to article 255 PCPCK.

Legal officer shows Exhibit B to the Witness.

Witness "A": perhaps the person shown in picture #3 could be Hidaj Popaj from Bellacerkve. The person shown in pictures #4 and #5 is Avdi Berisha from Brestove. The person in picture #9 is Bedri Berisha.

The pictures are shown to Defence Counsel and the Public Prosecutor.

Public Prosecutor: you identified photograph #3 as being Hidaj Popaj. You mentioned in your evidence there was a Hidaj Popaj in the room with you when taken back the second time. In the photograph shown today is this the same Hidaj Popaj or a different one?

Witness "A": to the best of my recollection it was the same person but I remember when I saw him at that time he was covered with blood.

Public Prosecutor: as far as I can recollect you didn't mention in your previous evidence the other day Avdi Berisha. The Avdi Berisha you identify in the photograph today when was the last time you saw him and where?

Witness "A": I saw him the first time before being jailed.

Public Prosecutor: did you see this Avdi Berisha at any stage while in detention either the first or second time?

Witness "A": I did not see him while in detention.

Public Prosecutor: on page 7 of the English minutes when giving testimony to the investigating judge, the judge asked you if you saw a person called Hazer Tarjani and you said, "No. He was detained after me." And then you continued, "Avdi Berisha was also detained after me." Do you know anything about the detention of Avdi Berisha?

Witness "A": Avdi Berisha was brought to the detention when I was released from detention where I stayed for 3 or 4 days.

Public Prosecutor: do you know why he was brought there and can you tell us how he was brought there?

Witness "A": I don't know why or how I only know that he was taken while he was at home.

Public Prosecutor: Your Honor, given that there was some objection to the investigative statement, you will remember at the start of the examination, I wonder if we should put the signature on the investigative statement to the Witness. I believe we should.

Legal officer shows the statement to the Witness.

Presiding Judge: Witness "A", you are being shown a document to determine if you can identify the signature there. I have seen the document and there is more than one signature.

Witness "A": the signature at the bottom of document is my own signature.

The statement is shown to Defence Counsel and the Public Prosecutor.

Public Prosecutor: this was the record of a statement you gave to the investigating judge during investigative proceedings. Can you remember if the statement which you gave to the judge was translated to you and if you understood it before signing it?

Witness "A": yes

Public Prosecutor: that is all for now.

Presiding Judge: cross-examination?

Rexhep Hasani, Defence Counsel: I have no questions. I would ask to be entered in the record that all the shirts shown to the Witness are not of the same color. Second, I would hereby propose to be entered in the record that the Witness did not identify any person from the pictures shown to him save for the one shown on picture #32 with regard to Exhibit C.

Mahmut Halimi, Defence Counsel: Witness "A", I am Mahmut Halimi and I represent Selim Krasniqi.

Mahmut Halimi, Defence Counsel: save for the names you mentioned during the last session when you were arrested two times in Drenovc would you remember if the name of Zaim Krasniqi was also mentioned?

Witness "A": I asked around and I was told that there were two policemen over there, Zaim Krasniqi that got killed and Isuf Berisha.

Mahmut Halimi, Defence Counsel: have you ever met or ever talked to Zaim Krasniqi while in there?

Witness "A": I have seen him as I was detained but I have never talked to him.

Mahmut Halimi, Defence Counsel: you said during the previous session that you were beaten up badly and sustained injuries. Did you ever go to see a doctor? You said that you had problems with your eyesight and that you have frequent nausea. Did you ever go to see a doctor, did you do a medical checkup because of the consequences that you have?

Witness "A": I didn't dare to because Serbs were all around.

Mahmut Halimi, Defence Counsel: at a later stage, after the war, at present, how about that?

Witness "A": no, I haven't gone to see a doctor.

Mahmut Halimi, Defence Counsel: you said that you learned the name of Selim Krasniqi in Drenovc as told by the people. Did this happen when you were arrested on those two occasions or at a later stage?

Witness "A": at a later stage, not when I was in detention.

Mahmut Halimi, Defence Counsel: when exactly did you learn his name?

Witness "A": two weeks after I was released from my second time in detention I asked around for his name.

Mahmut Halimi, Defence Counsel: did you go again to Drenovc two weeks after your release?

Witness "A": no

Mahmut Halimi, Defence Counsel: in the previous session before the Panel you stated you learned his name while in Drenovc. Which is the most accurate statement, what you stated in the previous session or today?

Witness "A": I learned his name while asking villagers, and to be more accurate I learned his name in Rahovec.

Mahmut Halimi, Defence Counsel: in your statement given to the investigators you mentioned Celik, the German and Islam. In the previous session you did not mention the person known as the German. You have mentioned a person named Rrezik from Dragobil. Why have you changed your statement regarding this issue?

Witness "A": that person was Rreziku.

Mahmut Halimi, Defence Counsel: I made reference to your statement given to the investigators when you have not mentioned a person named Rreziku but the Gjermani.

Presiding Judge: which statement are you referring to?

Mahmut Halimi, Defence Counsel: Investigating Judge statement of 26 February and 3 March 2004, page 2 to the end of statement. It only contains the German but not Rrezik. It only contains Gjermani or the German but not Rreziku.

Witness "A": I do not know the German or Gjermani, I only know Celiku, Rreziku and Islam.

Mahmut Halimi, Defence Counsel: Your Honor, I would ask for your assistance to once again pose my question to the Witness as to why during the investigation session he only mentioned the name of Gjermani and not Rreziku.

The question is repeated to the Witness.

Witness "A": I don't remember, I don't know.

Mahmut Halimi, Defence Counsel: why have you not mentioned the name of Selim Krasniqi? Before the investigating judge, Albanian version, February 26 and March 3, page 11 and page 12 at the top, to the question of the investigating judge, "Do you know Selim Krasniqi", you said, "No."

Witness "A": Celiku was Selim Krasniqi. Later on I learned that Celiku's name was Selim Krasniqi.

Mahmut Halimi, Defence Counsel: a while ago you stated you learned Selim Krasniqi's name two weeks after your release from your second detention, whereas in your statement to the investigating judge -- actually that statement you have given on March 12, 2004 -- you said you knew his name at that very period of time. Why did you not confirm the same to the investigating judge?

Witness "A": I know he was called Celiku but not Selim Krasniqi. I learned that Celiku's name was Selim Krasniqi one or two months later.

Mahmut Halimi, Defence Counsel: if I understood correctly you learned Selim Krasniqi's name one or two months ago. Would that be correct or is that a mistake by me?

Presiding Judge: he said later. Ask him "later than when".

Mahmut Halimi, Defence Counsel: you said one or two months later. When was that? Did it happen after your release from detention during 1998 or at present say one or two months ago this year?

Witness "A": after the war.

Mahmut Halimi, Defence Counsel: on page 6 of the investigating judge minutes you stated that Hysen said, "I do not want to wash myself." Whereas during the main trial, one week ago, you stated that the one from Prizren said, "I do not want to wash myself, whereas Shaban washed his face, hands and shirt." Why does your statement during the main trial differ from the one given to the investigating judge?

Witness "A": Bedri Berisha said, "I do not want to wash myself."

Mahmut Halimi, Defence Counsel: to the investigating judge, Albanian version, top of page 7, second line, you mentioned an individual Shaban Berisha.

Presiding Judge: the English version has "Shala".

Mahmut Halimi, Defence Counsel: the Albanian version has, "They entered the room and beat up Shaban Berisha badly."

Presiding Judge: the English version says, "Then those three that were beating people up entered and then they beat Shaban Shala severely." I don't recall the Witness ever mentioning the name Shaban Berisha.

Defence Counsel Mahmut Halimi approaches bench and checks Albanian version with the English version.

Presiding Judge: this is a mistake in translation. If you look at the whole paragraph reference is made to Shaban Shala and not Shaban Berisha.

Mahmut Halimi, Defence Counsel: did the Witness know a person named Shaban Berisha while there?

Witness "A": there was no Shaban Berisha.

Mahmut Halimi, Defence Counsel: in the last session you stated that you learned the name of Shaban Shala when you were arrested when you met with him. In the minutes of the investigating judge, Albanian version page 7, end of the statement to the question of the Public Prosecutor you answered, "I did not know Shaban Shala but his mother was looking for him and after two months approximately I went to see her and told her I have seen Shaban Shala." And to the following question of the Public Prosecutor you answered, "I learned that from his mother."

Presiding Judge: you must go on and also put to him the rest.

Mahmut Halimi, Defence Counsel: why during the main trial did you state you learned Shaban Shala's name while in detention whereas in your statement to the investigating judge you stated you learned his name two months after when you went to see his mother?

Witness "A": the mother told me the name of Shaban Shala approximately one month after the release.

Mahmut Halimi, Defence Counsel: also in your statement to the investigating judge the person named Celik (page 9, bottom of page, Albanian version), the person you said was Selim Krasniqi you describe him as being 183 centimeters tall and approximately 83 kilos whereas during the previous trial session you said he was 173/175 of height. Why have you changed your statement regarding this fact?

Witness "A": he was fatter than Islam and also taller than him.

Mahmut Halimi, Defence Counsel: after the war came to an end have you ever seen personally, directly or through the media, on TV or in newspapers, the picture or Selim Krasniqi in person?

Witness "A": I have not seen him save for when he beat up people.

Presiding Judge: we will break for lunch now.

Break at 12:40 and resume at 1:45 p.m.

Court Recorder: Gwen Cheong

Mahmut Halimi, Defence Counsel: Witness "A", is it true that you met Shaban Shala's mother after two months as you stated at the investigation stage?

Witness "A": Yes.

Mahmut Halimi, Defence Counsel: Did you only meet Shaban Shala's mother or some other members of his family too?

Witness "A": His mother and his father.

Mahmut Halimi, Defence Counsel: How many times?

Witness "A": We have met once or twice.

Mahmut Halimi, Defence Counsel: Have you ever met any members of Hidaj Popaj's family?

Witness "A": No.

Mahmut Halimi, Defence Counsel: Have you ever met any members of Hysen's family in Dejne?

Witness "A": No.

Mahmut Halimi, Defence Counsel: Do you know who in Bedri Berisha's family killed Caush Krasniqi from Hoxha village?

Public Prosecutor: I have to object to that question. Firstly, it assumes that the Witness knows who in Bedri Berisha's family killed Caush Krasniqi. Counsel should introduce it in a better way because we don't know who Caush Krasniqi is and how he is related to this case.

Presiding Judge: Mr. Halimi, you must first ask if he is aware who this person is.

Mahmut Halimi, Defence Counsel: Do you know that Caush Krasniqi from Hoxha e Vogel village was killed?

Witness "A": No.

Mahmut Halimi, Defence Counsel: Did you happen to know this person Caush Krasniqi?

Witness "A": No.

Mahmut Halimi, Defence Counsel: Do you know Hajrush Berisha from Brestovc?

Witness "A": Yes

Mahmut Halimi, Defence Counsel: Do you know where he is right now?

Witness "A": Yes, I know. Serbs killed him.

Mahmut Halimi, Defence Counsel: Do you know what year?

Witness "A": No, I don't.

Mahmut Halimi, Defence Counsel: Can you tell us if he was killed during or after the war?

Witness "A": Before the war was almost over.

Mahmut Halimi, Defence Counsel: No further questions, but I have a comment. Your Honor, I noticed that based on the testimonies the witnesses gave concerning Shaban Shala, none of the witnesses confirmed the fact that they had met with Shaban Shala during detention time. Second is the fact that I'm thinking of proposing witnesses from Caush Krasniqi's family. That particular witness will announce to the Court who in Bedri Berisha's family was the person who killed Caush Krasniqi in the beginning of 1998. Also, on the same circumstance, I will propose to the Panel to hear in the quality of witness, a close relative of the family of Hajrush Berisha from Brestovc. And to conclude, I noticed that the testimony as we have heard here, does not correspond with the truth at all. Such testimony represents an attempt by Bedri Berisha's family to escape customary obligations applied in accordance to the *Kanun*, towards the family of Caush Krasniqi. I don't have any other questions.

No questions or presentations from Defence Counsels Rexhep Hasani and Ethem Rogova.

Mexhid Sylja, Defence Counsel: Your Honor, as I stated earlier, I don't have questions for this Witness for two reasons. Firstly because in the first part of the session, my colleague, Mahmut brought to your attention almost all the questions that I had prepared for this Witness. The second reason is that after the responses we received from this Witness today - after the introduction of Exhibit C, I believe it's not necessary to pose any more questions to him in relation to my client. Nevertheless, with your permission, I believe it's to the benefit of this case to pose perhaps two to three questions to the Witness. My first question is, do you know if there are other missing persons from your village?

Witness "A": Missing - I don't know.

Mexhid Sylja, Defence Counsel: Murdered persons? I mean missing and murdered persons during the conflict or the war.

Witness "A": I don't know.

Mexhid Sylja, Defence Counsel: Do you have any suspicions that Bedri was perhaps murdered by Serbian forces?

Witness "A": No.

Mexhid Sylja, Defence Counsel: Considering the presence of KLA in those villages, have they ever helped the civilian population in that area?

Witness "A": Yes.

Mexhid Sylja, Defence Counsel: Can you tell us more concretely in what manner they did that? What sort of help did they provide to the locals?

Witness "A": They know how. I don't know.

Mexhid Sylja, Defence Counsel: Apart from the persons you mentioned here - Hidaj Popaj and others that you said you have met in Prizren, do you remember any other persons that you had met there?

Witness "A": No. I left and others were coming in.

Mexhid Sylja, Defence Counsel: During those three to six days that you had been there, did you ever see any females in the detention center?

Witness "A": Yes.

Mexhid Sylja, Defence Counsel: Where had you seen them?

Witness "A": When they beat Shaban Shala and Witness "A", there were two young girls there who were present who washed the blood from our head.

Mexhid Sylja, Defence Counsel: That means that you had seen two females. Were they women or young girls?

Witness "A": They were 12 to 13 year old young girls.

Mexhid Sylja, Defence Counsel: Can you tell us whose heads they washed?

Witness "A": Witness "A"'s and Shaban Shala's.

Mexhid Sylja, Defence Counsel: Where did this occur?

Witness "A": The prison in Drenovc.

Mexhid Sylja, Defence Counsel: Can you give us a more detailed description of that place?

Witness "A": At the place where they were beating people.

Mexhid Sylja, Defence Counsel: Did somebody there beat these females?

Witness "A": No.

Mexhid Sylja, Defence Counsel: Your Honor, I will read part of the Witness' testimony on Page 4, questions asked by the Investigating Judge:

Question: The first time when you saw someone being beaten in that room, who was it who was being beaten?

Answer: There were two girls and three women, but I did not know them.

Question: So five women were in your room being beaten.

Answer: It was not in my room.

My question is, were there only two females or five females? Two as you mentioned today or five during the investigation stage?

Witness "A": Five females.

Mexhid Sylja, Defence Counsel: Were these females in your room where you were kept or some other place as you mentioned during the investigation stage?

Witness "A": Those females were in the room where Rrezik, Celiku and Islam were.

Mexhid Sylja, Defence Counsel: Your Honor, I will not continue any further with questions. I think that comments at this stage are not necessary.

Presiding Judge: Mr. Balaj?

Fazli Balaj, Defence Counsel: I don't have any questions for the Witness, but according to Article 370 of the PCPCK, I want to note that Witness "A" after two statements given to the police on 20 March 2000 and 23 November 2001, neither of those two statements, nor when he was questioned in front of the Investigating Judge on 26 February and 3 March 2004, and also during the last hearing we had here or today, has the Accused Agron Krasniqi ever been mentioned. Thank you.

Mahmut Halimi, Defence Counsel: Your Honor, I have one more question for the Witness. Mr. Witness "A", are you aware or do you know whether any or some of Bedri Berisha's brothers were ever wounded by fire weapon in August 1999?

Witness "A": Yes.

Mahmut Halimi, Defence Counsel: Do you know the circumstances such as who wounded him or how he was wounded?

Witness "A": He was somewhere in Kukes when he was wounded.

Mahmut Halimi, Defence Counsel: Thank you.

Presiding Judge: Any questions from the Defendants?

Selim Krasniqi: I don't have any questions for this Witness. I just have a brief comment. This Witness is not saying the truth here today. This was obvious earlier and is evident again here today. Unfortunately, I must admit that I feel very sorry, not only because we are detained, but also for the state in which justice is in right now, which unfortunately is not working properly because of such witnesses. Of course, these witnesses have been preliminarily instructed to stain our activity during the war. You as a Court Panel, if you are really interested, will find it very easy to understand based on their testimonies, in particular the testimony of today's witness, that his testimony is faked and pre-arranged and also not true. I'm convinced that such witnesses are saying what is being required of them. In this manner, somebody here is trying to start this blood feud between Albanians. Witnesses unfortunately do not realize these things. I will not take more time but I want to categorically reject as untrue, the testimony given by this Witness.

No questions or presentations from other Defendants.

Presiding Judge: Any questions from the Public Prosecutor?

Public Prosecutor: Your Honor, arising from the question from Mr. Halimi in which he confronted the Witness with the difference in testimony as to whether he had said "Selim Krasniqi" or "Gjermani" or "Rrezik", I would like to present before the Witness, his statements allegedly given to the police and ask him if he can recognize his signature and whether his statements were given freely and voluntarily. This is also connected to the last comment of Mr. Balaj in which he himself referred to the police statements and mentioned that Agron Krasniqi's name was not referred to. My comment of course would be, how do we know that, unless we can have statements admitted as part of the evidence? In any event, I'd like to present three police statements to the Witness. The first - 20 March 2000, second - 27 June 2001 and the third - 23 November 2001 and let's see if he recognizes his handwriting first. On the first one, it would appear that the signature is on a handwritten statement in Albanian version. On the second statement dated 27 June 2001, there appears a signature in the French version in the handwritten statement accompanied by a printed Albanian version. And the third one, the signature is on the handwritten version.

The Legal Officer leaves the Courtroom to show Witness "A" the statements containing his signatures mentioned by the Public Prosecutor.

Presiding Judge: The Witness identified by means of magnifying glass, the statements dated 20 March 2000, 27 June 2001 and 23 November 2001.

Public Prosecutor: When you gave statements to the police, did you give them freely and voluntarily and did anybody tell you what to say in those statements?

Witness "A": I gave the statements only on the facts that occurred and nobody told me what to say.

Public Prosecutor: I have no further questions for the Witness. But I have one final application that does not require any input by the Witness.

Fatmir Celina, Defence Counsel: A little earlier, the Public Prosecutor asked the Witness if he had declared the truth in front of the police and the Witness said "Yes." There was no pressure but the Witness had declared in front of the police that he had seen Hazer Tarjani in Drenovc and later in front of Investigating Judge and today, he had said "No." So the Witness in his statement in front of the police did not tell the truth.

Presiding Judge: This is more a comment and observation that you can make in your closing speech.

Fazli Balaj, Defence Counsel: Perhaps we can ask the Witness if he had ever seen Hazer Tarjani in Drenovc.

Presiding Judge: You can ask the question.

Witness "A": No, I have not seen him in Drenovc.

No further questions by the international prosecutor or defence attorneys or defendants.

Presiding Judge: The Witness is free to leave.

Mexhid Sylja, Defence Counsel: I have a request on behalf of my client. You have my submission and you are aware of his physical condition since he was wounded. In prison, he has been receiving some treatment for his leg but it is not adequate. And because of the long hours in the trial, his condition has worsened. I have always wanted to raise this issue but he did not want me to. I am now forced to do so because the pain is becoming worse each day. We want to draw your attention to Article 288 (1), to ask you to take the necessary actions to enable him to undergo adequate medical check-up by a competent doctor.

Presiding Judge: Did you send me something on this?

Mexhid Sylja, Defence Counsel: No; only now.

Mexhid Sylja, Defence Counsel: The doctor at the prison knows better.

Presiding Judge: Just give me something and I will submit it to the prison authorities if you have the name of a doctor.

Mexhid Sylja, Defence Counsel: Also, Mr Halimi on behalf of all attorneys presented a motion according to Article 288 (2) on the legality of detention against our clients or the interruption of their detention. I believe this issue was not touched later because we went into another issue concerning interrogation of the Witness that took our time. I have a question now unless Mr. Halimi's submission is sufficient.

Presiding Judge: I understood Mr. Halimi's submission on behalf of all Defence Counsels the last time and what he says will apply unless you have anything new to add.

Mexhid Sylja, Defence Counsel: No, just a clarification. And to the Public Prosecutor, concerning the issue Mr. Halimi raised, considering the experience of Mr. Flynn, I believe he will review our request in connection with the evidence that had been administered here so far, especially because as Defence Counsels, we believe there are no legal grounds to keep our clients in detention or extend their detention. Therefore, we hope he will give his consent, since his consent is necessary and then we are ready to offer all we can to substitute the detention measures as seen by Article 268, for example bail offer, attendance at a police station or house arrest. We are always ready as in previous cases to provide guarantees and the conditions of the Public Prosecutor would be fully respected.

Your Honor and Members of the Panel, please consider that for more than two years now, five of these Accused have been kept in detention. Please consider the decision of the Supreme Court for a similar criminal offense applied to same persons who showed themselves at the photo line-ups such as in the Rrustem Mustafa case, the accused of which are Rrustem Mustafa, Latif Gashi, Nazif Mehmeti and Naim Kadriu. Thank you. I believe you will give full consideration to this proposal.

Presiding Judge: Anything to add, Mr. Flynn?

Public Prosecutor: Two issues, Your Honor. I will start with regard to Article 281. I don't propose to respond at length, except to say I will review all evidence that has been given to date and I will communicate the Prosecution's view to you as soon as possible. I know the issue of detention is due to be reviewed next week. The Prosecution has made it known that before any consideration is made, the matter of witnesses' safety is our formal concern and we must review matters. So I won't comment any further on the 281 issues.

With regard to Witness "A" on the evidence he has given, I'd like to make an application to you under Article 360 to have the shirt which the Witness identified admitted as an exhibit in this trial. The shirt has been clearly identified and reference has been made by other witnesses. Supplement to that, I would draw your attention to the case file. There is an Expertise Report No. 24/2003, which was drawn up by the Institute of Forensics of Bulgaria on 15 October 2003, which specifically refers to this shirt. This report deals with the question of whether or not the blood on the shirt could possibly match the samples taken from the family of the victim, Bedri Berisha. And Your Honor can see the conclusion was, it is possible that the person from whom the blood on the shirt comes was the biological father of one of the family members from whom the DNA samples were taken. An application is therefore not only to have the shirt admitted, but to admit this expertise in association with the shirt.

Mahmut Halimi, Defence Counsel: I object to the Public Prosecutor's proposal to accept the shirt as evidence in this case, because firstly, we have not been able to fully verify the fact as to where this shirt marked Exhibit 3 was collected. I consider that there is no need to go back to the statements of Witness "A" and Witness "B".

Therefore, I object to this proposal. As to the expertise report on the DNA analysis prepared by the Forensics Institute in Sofia, I have my great suspicion and reserve in that connection too, because we have experienced some failures before when this Institute undertook such examinations.

Presiding Judge: We will consider this. We have the views of the Prosecution and the Defense and will look into it. All the Defence Counsels have given the list of witnesses they want to call. Mr. Balaj, if you intend to call any witnesses, please let us have your list by Friday.

Presiding Judge: We stand adjourned until 10:30 a.m. tomorrow.

The Court adjourns at 3:25 p.m.

Presiding Judge, Vinod Boolell

Court Recorder, Cecilia Takoff

Court Recorder, Gwen Cheong