

**INTERIM ADMINISTRATION OF KOSOVO
ADMINISTRATA E PËRKOHSHME E KOSOVES
PRIVREMENA ADMINSTRACIJA KOSOVA**




Office of the District Public Prosecutor
Prishtinë/Priština
PP – KT 546-1/07
CIR 2007/632/PRS/DW
14 November 2007

**TO THE DISTRICT COURT OF
PRISHTINË/PRIŠTINA**

1. Pursuant to the Provisional Criminal Procedure Code of Kosovo (PCPCK) Articles 304 and 305, Deborah Wilkinson, International Public Prosecutor, acting in her capacity as District Public Prosecutor, Prishtinë/Priština District, issues the following

INDICTMENT

AGAINST:

First name and surname:	Gani Gashi
Nickname:	n/a
First name and surname of father:	 Gashi
Mother's first name:	
Mother's maiden name:	
Nationality:	Kosovo Albanian
Citizenship:	
Occupation:	Farmer
Place of residence:	First part of Komoran/Komorane Village, Municipality of Glogovac/Glogovac
Place of birth:	Komoran/Komorane Village
Date of birth:	19 October 1949
Family status:	Married, 4 children
Education level:	8 th grade
Literate:	Yes
Personal income:	150 Euros monthly
Financial position:	Poor
Personal identification number:	1002141562
Other criminal proceedings in progress:	No criminal record
Custody status:	In detention on remand since 16 August 2007

DESCRIPTION AND LEGAL NAMES OF THE CRIMINAL OFFENCES
(pursuant to PCPCK Article 305, paragraph 1, sub-paragraph 3
and Article 305, paragraph 1, sub-paragraph 4)

Count 1

2. That on 12 July 1998, Gani Gashi, in violation of rules of international law effective at the time of war, armed conflict, or occupation, namely the Geneva Convention Relative to the Protection of Civilians in Time of War (hereafter Geneva Convention IV), Articles 3 and 147, and in violation of Protocol II to the Geneva Conventions, Article 4, committed:

A. the willful murder of I ■■■ O ■■■, a civilian person, by shooting him in the back with a firearm the description of which is not known, while I ■■■ O ■■■ was sitting in a Fiat vehicle, on the road between Komoran/e village and Kishnarekë/Kišna Reka village in Glllogovc/Glogovac municipality, Kosovo, and as a result of this shooting I ■■■ O ■■■ died;

B. the willful attempted murder of Sh ■■■ O ■■■, a civilian person, by shooting him in the head with a firearm the description of which is not known, while Sh ■■■ O ■■■ was sitting in a Fiat vehicle on the road between Komoran/e village and Kishnarekë/Kišna Reka village in Glllogovc/Glogovac municipality, Kosovo;

C. the violation of bodily integrity and health of H ■■■ O ■■■ and S ■■■ O ■■■, civilian persons, by shooting them with a firearm the description of which is not known, while H ■■■ O ■■■ and S ■■■ O ■■■ were sitting in a Fiat vehicle on the road between Komoran/e village and Kishnarekë/Kišna Reka village in Glllogovc/Glogovac municipality, Kosovo.

3. By these actions the defendant committed the criminal offence of *War Crimes Against the Civilian Population* (murder and attempted murder of civilians and violation of bodily integrity and health) in violation of the Socialist Federal Republic of Yugoslavia Criminal Code (SFRY CC) Article 142, punishable by imprisonment of not less than five (5) years and no more than forty (40) years.

EXPLANATION OF THE GROUNDS FOR FILING THE INDICTMENT
(pursuant to PCPCK Article 305, paragraph 1, sub-paragraph 5)

4. In July 1998 a state of internal armed conflict existed between the Kosovo Liberation Army (“KLA”) also known as the *Ushtria Çlirimtare e Kosovës* (“UÇK”), and the Federal Republic of Serbia and the Federal Republic of Yugoslavia, including the Yugoslav Army (VJ), the forces of the Federal Republic of Yugoslavia (FRY) Ministry of the Interior, forces of the Republic of Serbia’s Ministry of the Interior and Serbian paramilitary soldiers in the territory of Kosovo. Both armed forces were under responsible command and exercised control over part of the territory of Kosovo, enabling them to carry out sustained and concerted military operations.

5. The defendant at the time of the criminal offence was acting on behalf of the armed forces of the KLA and was a party to the conflict, he was therefore required to

obey rules of international regarding protection of civilian population during both international and internal armed conflicts.

6. The victims of the war crimes referred to in this Indictment were members of the civilian population and were not taking any direct part in the hostilities. Thus they were protected persons as defined by Geneva Convention IV and Protocol II to the Geneva Conventions.

7. There is a *nexus* between the defendant's acts constituting war crimes, as charged in this Indictment, and the internal armed conflict that was on-going in Kosovo in July 1998. The existence of the armed conflict played a substantial part in the ability of the accused to carry out the offences, and the actions of the accused were directly linked to the armed conflict.

8. On 12 July 1998, in the evening, eight members of the O█ family were travelling in a Fiat Croma car from Komoran/e village to Kishnarekë/Kišna Reka village (both villages located within Glogovac/Glogovac municipality). O█ family members in the Fiat at that time were: A█ O█ (adult), the driver; I█ O█ (adult) and Sh█ O█ (child) in the front passenger seat; and H█ O█ (adult), Sh█ O█ (child), F█ O█ (adult), B█ O█ (adult), and S█ O█ (adult) in the rear seats. Sh█ O█ was sitting in the lap of I█ O█

9. All eight individuals in the Fiat were civilians, and none of them had participated or were participating in any hostilities on either side of the armed conflict between the KLA and the FRY and Republic of Serbia armed forces. No member of the O█ family had ever worked for the Republic of Serbia police or the FRY State Security Service. The reason the O█ family was travelling on the evening of 12 July 1998 was because Serbian forces were conducting a military operation in the area of Komoran/e village, where they lived, and Kishnarekë/Kišna Reka village was a safer place to be at that time.

10. A KLA patrol stopped the Fiat on the road to Kishnarekë/Kišna Reka. This patrol consisted of two men, Gani Gashi and Xh█ N█ who were dressed in camouflage uniforms and were armed with AK-47 rifles. After a short conversation with the O█, and after having checked their documents, Xh█ N█ left the scene to call a senior KLA officer, M█ V█. At that time Gani Gashi opened fire with his rifle, making at least one shot at the members of the O█ family sitting in the car.

11. As the result of the shooting four members of the O█ family sustained injuries. I█ O█ died shortly after the incident as a result of gunshot wounds. Sh█ O█ received a bullet wound to his head, but the bullet did not cause any apparent damage to his brain. Sh█ O█ was taken by his family to the Prishtinë/Priština hospital, where doctors removed the bullet from his head. S█ O█ received a bullet wound in his right shoulder. H█ O█ received a wound on her upper lip, and she also suffered severe hearing loss in her left ear.

A█ O█, the son of the deceased I█ O█, first reported this incident to the War Crimes Investigation Unit of the UNMIK Police in November 2006. A█ O█ told the police that he had not reported his father's killing sooner because he

feared that Gani Gashi's brother, Xh[REDACTED] G[REDACTED] aka "P[REDACTED]"¹ or "Commander P[REDACTED]", would retaliate against his family if he notified the police. Xh[REDACTED] G[REDACTED] was a senior KLA commander during the 1998 – 1999 Kosovo conflict, and afterwards he served as an officer with the *Trupat e Mbrojtjes së Kosovës* (TMK). Xh[REDACTED] G[REDACTED] died on 21 March 2005.

Summary of Evidence Collected During the Investigation

Defendant's statement to the UNMIK Police on 17 August 2007

13. When he was interviewed by the police on 16 August 2007, Gani Gashi admitted shooting and killing I[REDACTED] O[REDACTED]. However, he gave conflicting explanations of how that incident occurred. He stated that he had joined the KLA fifteen days before 12 July 1998, and that on 12 July 2007 he was serving as a KLA soldier. He was assigned to a checkpoint; the duty was to protect the population of Kosovo. On 12 July 1998 he started his shift at about 2200 hrs together with Xh[REDACTED] N[REDACTED]. At approximately 2230 hours a car passed by his checkpoint with the lights switched off. It stopped some 10 meters after. Three men stepped out of the car. A[REDACTED] O[REDACTED] shot in his direction minimum three (3) times from some kind of revolver. He returned fire with a single shot. After that two of A[REDACTED] brothers (those who now live in Italy) approached the defendant and grabbed his rifle. He reiterated that he had never had any disagreements with the O[REDACTED] family prior to the incident.

14. During the same interview he changed his statement, saying that it was he, Gashi, who shot first, and that he shot only once in the air in order to stop the car. According to this second version of events, no one else besides him fired any shots. When confronted with parts of the A[REDACTED] O[REDACTED] statement, the defendant denied that he had ever approached the car, talked to members of the O[REDACTED] family, verbally threatened the O[REDACTED] family, or shot at the car from close range.

15. The defendant stated that after the incident he still had twenty nine live rounds in his weapon to give back to his unit, out of thirty rounds that were given to him before the shift, and that the issuance and return of ammunition was recorded in some book by someone in the unit. He also said that immediately after the incident he was dismissed from KLA. M[REDACTED] V[REDACTED] was the commander of his unit.

Defendant's statement to the Pre-Trial Judge during the detention hearing on 17 August 2007

16. While being interviewed by the Pre-trial judge during the detention hearing on 17 August 2007, the defendant again admitted shooting and killing the victim, but stressed that was an accident. The defendant told the Pre-Trial Judge that on 12 July 1998 he was providing security to some thirty KLA soldiers and civilians who were digging trenches in the vicinity. He said that the Obrija family's car drove past him and stopped approximately ten meters away from him and Xh[REDACTED] N[REDACTED]. According to the defendant, he told Xh[REDACTED] N[REDACTED] to go and check the car, and when N[REDACTED] approached the vehicle the driver stepped on the gas, and he (the defendant) fired shots because he thought that the occupants of the car were the

¹ "P[REDACTED]" is an Albanian word meaning "old man"

enemy. Immediately after that he heard screaming, the O█'s got out of the car, and A█ O█ fired twice with a pistol.

Statement of A█ O█ to the UNMIK Police on 13 February 2007

17. Injured party A█ O█ told the police that in July 1998 he and his family had been forced, along with other villagers, to leave their home in Komoran/Komorane because of the fighting with Serbian forces. According to A█, the family went to stay in the village of Kishnarekë/Kišna Reka, and that every few days they would return to their home in Komoran/Komorane to get food. On 12 July 1998, A█ recalled that when he and his family were in their house in Komoran/Komorane, the head of the village, I█ B█, had come by and told him that two men in their family had to dig trenches for the KLA. I█ O█ agreed to send two of his sons to do so after sunset.

18. A█ further related that the family, including his father I█, his mother H█, his brothers S█ and F█, his son Sh█, and his nephew Sh█ left their house in Komoran/Komorane in their Fiat Croma vehicle after dark. Approximately 200 – 300 meters from their home, he said that they were stopped by two KLA soldiers, identified by A█ as Gani Gashi and Xh█ N█ who jumped in front of their car. Gani Gashi stood by the driver's side window with a gun, described by A█ as a Chinese made AK- 47, pointed at him. A█ rolled down his car window and said hello to the defendant, who demanded to know who was in the car. A█ told him that the passengers in the vehicle were his mother, father, brothers, and two children, explained that they had been collecting food from their home, and that they had to go because two of the brothers had to dig trenches. Gashi told A█ that they could not go.

19. According to A█, Gashi then told Xh█ N█ to call the M█ V█, the commander of the unit. N█ walked away to call the commander. Gashi then said "It has been a long time I have been looking for you," walked behind the O█ car, and started shooting at them. His father was shot twice, once in the back of the head and once in the throat, his brother S█ was hit in between the shoulders, his mother was hit in the lip, and his nephew Sh█ was hit in the back of the head. A█ recounted that Xh█ N█ stopped Gashi from shooting by grabbing him while Gashi was saying "Let me kill them all, I don't want any of them to live."

20. After the incident M█ V█ accompanied them in their car in order to help find a doctor. H█ O█ and Sh█ O█ stayed at the spot. Doctor I█ B█ provided initial medical help to Sh█ and S█, and recommended that they take Sh█ to the KLA hospital in Likovac village. They did so, but the doctors there could not extract the bullet. Therefore a few days later A█ took Shp█ to the Prishtinë/Priština hospital where Dr. T█ Gj█ operated on him and extracted the removed the bullet from his skull.

Statement of H█ O█ to the UNMIK Police on 20 March 2007

21. H█ O█ description of the events of 12 July 2007 was consistent with that given by A█ O█ B█ O█ and F█ O█. She also stated that she remembered the defendant saying, when he was standing beside the driver's door of

the car, "This is what I hoped for, to find you all together". She also recalled that when he went behind the car, she could hear the sound of a gun being loaded. She told the police that she knew that he was going to shoot at them, but she didn't want to frighten her grandsons so she did not say anything, but that she looked around and saw the defendant behind the car.

22. H [REDACTED] reported that in addition to receiving an injury from being shot in the lip, she also lost 90% of her hearing ability in her left ear as a result of the shooting.

Statement of F [REDACTED] O [REDACTED] to the UNMIK Police on 10 August 2007

23. F [REDACTED] O [REDACTED] description of the events of 12 July 2007 was consistent with that given by A [REDACTED] O [REDACTED], H [REDACTED] O [REDACTED] and B [REDACTED] O [REDACTED]. F [REDACTED] specified that that the defendant was 5 - 6 meters behind the car when he started shooting, and he said that he heard at least 2 shots. According to F [REDACTED], the defendant was standing behind the vehicle on the left side, explaining why the bullets penetrated the car from rear left side towards right front side.

Statement of B [REDACTED] O [REDACTED] to the UNMIK Police on 10 August 2007

24. B [REDACTED] O [REDACTED] description of the events of 12 July 2007 was consistent with that given by A [REDACTED] O [REDACTED], H [REDACTED] O [REDACTED], and F [REDACTED] O [REDACTED].

Statement of Xh [REDACTED] N [REDACTED] to the UNMIK Police on 22 August 2007

25. Xh [REDACTED] N [REDACTED] told the police that he was serving with the KLA in July 1998, and that on 12 July 1998 he was on duty with Gani Gashi's cousin, J [REDACTED] G [REDACTED]. At approximately 21:00 hours Gani Gashi took over from J [REDACTED]. Their assignment was to guard the workers who were digging trenches for KLA in the area. There were about thirty people digging trenches. Commander M [REDACTED] V [REDACTED] showed N [REDACTED] and the defendant where to set up the check point.

26. After some time in the position they heard vehicle approaching. They decided to stop it and check. When the car approached, Gani stepped out on the road and signalled the vehicle to stop. It stopped immediately in front of them. It did not move any more. They both were at the driver's door. At that moment the witness recognised the driver, A [REDACTED] O [REDACTED], who rolled down the window and asked what was going on. Gani told the witness to go and call the commander M [REDACTED] V [REDACTED] and he got walking to call him. M [REDACTED] was to be at the pace where the trenches were being prepared.

27. He made just 20 or 30 steps when he heard a single shot. He shouted asking Gani why did he shot but got no answer. He turned back and saw the same car coming towards him. It approached him and stopped. A [REDACTED] opened the door shouting "Gani killed us!" The witness again started walking to call M [REDACTED] V [REDACTED]. Then he heard another shot, which sounded like one from a revolver. When he reached the place with the trenches M [REDACTED] had already left. When the witness returned to the car, M [REDACTED] was pushing A [REDACTED] back to the car. M [REDACTED] entered the car as well and they left the scene.

28. About one hour after the shooting he was approached by Gani Gashi and M■■ V■■ in the B■■ neighbourhood. V■■ told N■■ that he (N■■) should say that the vehicle did not stop. N■■, which the witness refused. Two days later he was interviewed about this shooting by the KLA unit commander, F■■ Sh■■. In that statement he said the truth as described here. After his interview with F■■ Sh■■ N■■ saw M■■ V■■, who asked him what he had said to Sh■■. When N■■ told him, V■■ responded, “You should not have said that.”

29. On 18 August 2007 after 2100 hours A■■ G■■ and Z■■ G■■ came to his house. They informed him that Gani Gashi was arrested by UMMIK Police. A■■ told him to change his story to the police and to say that the car did not stop. A■■ said that if a KLA soldier is accused of murder it would “pollute” the reputation of the KLA. N■■ said he replied that the KLA did not murder the I■■ O■■, but rather a single soldier, and that he would only say the truth. Before leaving A■■ told N■■ not to tell anyone that he was at his place.

30. At approximately 2000 hours on 20 August 2007 J■■ N■■ and his son A■■ came to his house. They said that A■■ testified in front of the police that Gani tried to kill all of them and that the witness stopped him from doing so, to what the witness replied it was not like that. J■■ asked him to corroborate A■■ statement, but the witness refused.

31. N■■ told the police that the KLA soldiers in his unit carried their personal weapon (rifles) and that they did not have to deposit them back with the unit after their shifts.

Statement of I■■ B■■ to the UNMIK Police on 6 June 2007

32. Dr. B■■ was the first health care professional who saw the O■■ after the incident. He stated that first the victims came to the house of his assistant, I■■ G■■, who referred them to him because the injuries were too serious for Mr. Garaj to treat. According to Dr. B■■, I■■ O■■ was brought to his (Dr. B■■) house. The body was still warm, but without any vital signs. There was bleeding on the back of the neck. On the insistence of the O■■ family members, he tried giving to I■■ manual cardio stimulation, but it did not help.

33. According to Dr. B■■, he observed a wound in I■■ O■■ throat., and he (Dr. B■■) thought that the shot had come from behind. He believed that I■■ O■■ died instantly from the gunshot wound. Dr. B■■ reported that he did not issue a death certificate for I■■ O■■ and that he has no records of his own about his involvement in the treatment of members of the O■■ family on 12 July 1998.

Statement of I■■ G■■ to the UNMIK Police on 6 November 2007

34. I■■ G■■ who described his profession as an “assistant to pathologist performing autopsy” told the police that I■■ O■■ was already dead when he saw him on the day of the event. Mr. G■■ stated that he did not even look at I■■ O■■ wounds, as he was too busy taking care about the other injured family members.

Statement of H■■ H■■ to the UNMIK Police on 6 July 2007

35. The witness, together with R■■ Th■■ (the uncle of Sh■■ and the brother of Sh■■ mother), visited the victim's family on the next day after the murder occurred. On that occasion A■■ said to him: "I never had thought that G■■ B■■ would kill my father". He saw I■■ body. There was a big hole in his throat. A local Imam³ washed the victim's body. When H■■ saw the victim's Fiat Croma car after the incident, the rear window was completely smashed, but he did not observe any bullet holes in the metal car body.

36. Two to three years before, according to Mr. H■■ Gani Gashi, together with his brothers Xh■■ "P■■" Gashi and R■■ G■■ approached him and his father H■■ H■■. They asked for help in order to reconcile with O■■ family because of that murder. H■■ H■■ said that was too late, as seven years had passed, but promised to arrange a meeting between the families in the presence of the Imam. However, none of G■■ did show up again. Mr. H■■ stated that Gani Gashi, Xh■■ G■■, and R■■ G■■ did not threaten him or the O■■ family.

Statement of F■■ Sh■■ to the UNMIK Police on 12 September 2007

37. F■■ Sh■■ was the commander of the "P■■" Unit of the KLA that was operating in the area where the crime occurred. Sh■■ told the police that he was not present when the defendant shot at the O■■ family, but that he was informed of the incident by a messenger. Sh■■ claimed that he had several conversations with the defendant after the shooting, and that the defendant told him that the O■■ vehicle had not stopped at the checkpoint and that he had shot because he thought it was a Serbian police vehicle. According to Sh■■, he believed that "it was a tragic incident but without any intention." He claims that he prepared something in written about his interview with the defendant, but that it no longer exists as it was lost or burned, and that it was "no real document, it was just a piece of paper".

38. Sh■■ also told the police that at the time of the incident the "P■■" unit did have a registry book for ammunition and rifles, but that that book did not document how many bullets a soldier received before he started his shift and how many he returned after his shift was completed. According to Sh■■ there was no need to count bullets.

Statement of M■■ V■■ to the UNMIK Police on 31 October 2007

39. M■■ V■■ described himself as the "supervisor" of the KLA point in the village of Komoran/Komorane on 12 July 1998. He told the police that on the night in question, around 2130 to 2200 hours, he heard a shot and headed in the direction of that sound. He claims to have seen, from a distance of twenty meters, the door of the O■■ car open, and A■■ O■■ get out with a revolver that he began to shoot in the direction of "our soldier." V■■ said to the police that the defendant told him he shot because the O■■ vehicle didn't stop.

² This witness explained that B■■ and Gashi are the most common last names in that area, and that therefore a person might equally use the name "G■■ B■■" when in fact speaking about "Gani Gashi."

³ Imam - Religious leader.

Exhumation

40. Pursuant to an Order for Exhumation, Post-mortem Inspection and Autopsy and Expert Analysis dated 29 June 2007, and an Amended Order dated 22 August 2007, on 30 August 2007 the Office of Missing Persons and Forensics (OMPF) of the Department of Justice (DOJ), UNMIK, together with UNMIK Police War Crimes Unit conducted the exhumation of the mortal remains of Idriz Obrija.

Post-Mortem Examination of I █████ O █████ remains

41. OMPF conducted a post-mortem examination and autopsy of I █████ O █████ remains on 31 August 2007. The forensic pathologist was Senarath Columbage, MD (Forensic Medicine), MBBS, DLM, DMJ Clin et Path (London), and the forensic anthropologist was A █████ R █████. In an autopsy report dated 19 September 2007 Dr. C █████ identified and described the following injuries:

- A. fracture of both root bones and both nasal bones
- B. fracture of the 1st thoracic vertebra
- C. fracture of the 2nd thoracic vertebra
- D. fracture of the left first rib of the spinal end
- E. loss of both spinal and sternal ends of left second rib

42. The autopsy report stated that “[t]rauma to the skeleton was evident. There were damages to bones of the cranium, mandible, first two thoracic vertebrae and 1st and 2nd ribs on the left side.” Because of the absence of the soft tissues and vital reactions, and because of or evidence of healing process, the forensic experts were not able to determine “with scientific accuracy” whether the fractures of the bones were ante-mortem or post-mortem.

43. Dr. C █████ concluded that the deceased received a minimum of one firearm shot directed at the upper chest region, and that all the damage and fractures to the skeletal parts that were found in relation to injury numbers 2, 3, 4, and 5 were consistent with perimortem injuries (injuries occurring at or around the time of death). He stated in his report that the injury to the deceased’s chest was “presumably sustained during life and would have killed him within a short period of time.” The cause of death of I █████ O █████ was determined by Dr. C █████ to be firearm injuries to the chest.

Medical verification of injuries to Sh █████ O █████ and S █████ O █████

44. The registry book of the Prishtinë/Priština hospital reflects that Sh █████ O █████ was admitted on 15 July 1998 with the following diagnosis:

Fractura cranii reg. fronto-parietalis sin (fracture of the skull forehead on the left side);

Corpus alientum metallicum epiduralis reg frontalis sin (foreign metal object in the area between the skull and the brain in the area of left forehead)

The Prishtinë/Priština hospital records also indicate that Sh [REDACTED] underwent surgery of *Craniotomia osteoplasticareg frontalis sin. Extirpatio corpus alienti* (Removal of a piece of skull, removal of a foreign object, placing the skull piece back), and was discharged from the clinic on 20 July 1998.

45. A [REDACTED] O [REDACTED] reported to police that his brother S [REDACTED] O [REDACTED] had been injured on 12 July 1998 by a bullet that lodged in his right shoulder. Police investigators obtained the medical report from a physician in Treviso, Italy, who had removed that bullet from S [REDACTED] shoulder on 12 August 2000. That medical report states that the clinical diagnosis given to S [REDACTED] upon admission was “Granuloma of a foreign body in the right shoulder region”. The surgical report states that the treatment procedure for removing the bullet involved “[I]ozenge incision and exportation of under cutaneous tissue including granuloma from foreign object (metallic) in right shoulder region.”

Identification by DNA

46. During the investigation no individuals or investigators expressed any doubts that the mortal remains exhumed and autopsied were in fact those of I [REDACTED] O [REDACTED]. However, in order to ensure a comprehensive investigation and to eliminate any possible uncertainty concerning the identification of the victim, the International Public Prosecutor has requested that a DNA expert analysis be carried out on a bone sample taken during the autopsy of the remains. The results of the DNA analysis will be provided to the Court and to defendant as soon as they are available.

Search of the defendant’s house

47. On 16 August 2007 the police arrested the defendant and, pursuant to an order issued by the Pre-Trial Judge, searched his residence. During the search the police found and seized one pistol (“VIS” make, Polish origin, 9mm caliber, semi-automatic, single action) with 5 rounds, which appear to be live, in the magazine. There was no bullet in the pistol’s chamber. In addition the police found a new camouflage uniform and a photograph. The photograph showed the defendant dressed in a camouflage uniform and holding a firearm, surrounded by other individuals also dressed in camouflage uniforms and holding weapons.

48. The defendant, during his examination by the police and before the Pre-Trial Judge, stated that the pistol was in his son’s room, and that it belongs to his son. The UNMIK police and the international public prosecutor have referred the criminal report concerning the “VIS” pistol found at the Gashi home to the Kosovo Police Service and the District Public Prosecutor of Prishtinë/Priština for further investigation concerning the charge of *Unauthorized Ownership, Control, Possession or Use of Weapons*, PCCK Article 328.

Physical Evidence*Victims' front passenger seat of victim's vehicle*

49. On 30 August 2007 the WCU investigators contacted Mr. M■■■■ Q■■■, who bought the victims' Fiat Croma some time in 1998 or 1999. According to Mr. Q■■■, the Croma had remained parked in his yard in Kishnarekë/Kišna Reka village, for a long time. Mr. Q■■■ told the police investigators that when he purchased the vehicle from the O■■■■ it was in good condition and clean, and that no blood stains were visible inside it. According to Mr. Q■■■ he had used the Croma for four to six months until the engine broke, and after that time left the car parked in his yard. He stated that three to four months ago he sold parts of the Croma to a scrap metal dealer named Safet Shala.

50. On 30 August 2007 Mr. Q■■■ was still in possession of the hood, roof and two front seats of the Croma. Police investigators inspected those items and observed that there were no holes in the roof and the hood of the car, but that there was a hole approximately ten millimetres in diameter on the rear of the right passenger seat back. They observed the same type of hole in the front side of that same seat back. A forensic investigator verified that the holes in the back and the front of the seat back were connected, indicating that they had been punctured by the same object. With the agreement of Mr. Q■■■ that car seat was taken as evidence.

51. The hole on the passenger seat matches the position of the injuries on the skeletal remains of the victim I■■■ G■■■ established during post-mortem examination.

Victim's clothing

52. On 11 April 2007, A■■■ O■■■ handed over to UNMIK Police Officers H■■■ W■■■ and W■■■ B■■■ the clothing, including the shirt, vest, and jacket, worn by I■■■ O■■■ at the time of his death. I■■■ O■■■ shirt, vest, and jacket all contained a hole in the upper chest region of the back.

PROPOSAL FOR TRIAL

(pursuant to PCPCK Article 305, paragraph 1, sub-paragraph 6)

53. The Public Prosecutor proposes that the main trial of this case be scheduled and held in the District Court of Prishtinë/Priština.

RECOMMENDATION AS TO EVIDENCE AND WITNESSES

(pursuant to PCPCK Article 305 paragraph 1, sub-paragraph 7)

54. The International District Public Prosecutor requests that a trial before the District Court of Prishtinë/Priština be held and that the following persons be summoned to attend:

International District Public Prosecutor Deborah Wilkinson

Defendant Gani Gashi

Defense attorney for Gani Gashi, Mr. F [REDACTED] B [REDACTED]

55. The International District Public Prosecutor recommends that the following witnesses be summoned to testify at the main trial:

Injured party A [REDACTED] O [REDACTED]

Injured party H [REDACTED] O [REDACTED]

Injured party B [REDACTED] O [REDACTED]

Injured party F [REDACTED] O [REDACTED]

Injured party S [REDACTED] O [REDACTED]

Injured party Sh [REDACTED] O [REDACTED]

Xh [REDACTED] N [REDACTED]

I [REDACTED] B [REDACTED]

M [REDACTED] Q [REDACTED]

H [REDACTED] H [REDACTED]

Dr. I [REDACTED] B [REDACTED]

Dr. T [REDACTED] Gj [REDACTED]

Dr. S [REDACTED] C [REDACTED] OMPF, UNMIK

A [REDACTED] R [REDACTED], OMPF, UNMIK

Cpt. I [REDACTED] K [REDACTED], KPS Forensic Laboratory, Pristina

Off. F [REDACTED] D [REDACTED] CP 05730, UNMIK Police

Off. H [REDACTED] W [REDACTED], CP 03479, UNMIK Police

56. The International District Public Prosecutor recommends that the court read and consider the following documents at the main trial:

Autopsy report prepared by OMPF, dated 19 September 2007, with attached skeletal inventory, sketches and photos

Prishtinë/Priština Hospital Registration Book record no. 4110, entry for treatment of Shpetim Obrija

Surgery report dated 12 August 2000 for S [REDACTED] O [REDACTED] prepared by Dr. G. Bonotto, Unita Opertiva di Chirurgia Generale, Treviso, Italy

57. The International District Public Prosecutor recommends that that the court review and consider the following physical exhibits:

Car seat with entry and exit hole, recovered from the yard of M [REDACTED] Q [REDACTED] and photographs of that car seat

Clothing worn by the victim at the time of his death, and photographs of that clothing

Aerial photographs of the crime scene

Photograph of the defendant in military uniform

**MOTION FOR CONTINUATION OF DETENTION
(pursuant to PCPCK Article 305, paragraph 2)**

58. The District Public Prosecutor moves that the Panel of Judges extends the detention on remand against the defendant, for the reason that grounds for detention continue to exist, and no alternative measures are sufficient to ensure the presence of the defendant and the successful conduct of the criminal proceedings. The basis for continuing detention on remand is as follows:

A grounded suspicion exists that Gani Gashi has committed the criminal offences set forth in the Indictment (PCPCK Article 281, paragraph 1, sub-paragraph 1)

59. The District Public Prosecutor directs the Court's attention to the facts set forth in paragraphs 4 - 51 above, *Explanation of the Grounds for Filing the Indictment*, as support for the finding that there is a grounded suspicion.

There are grounds to believe that Gani Gashi will obstruct the progress of the criminal proceedings by influencing witnesses or accomplices (PCPCK Article 281, paragraph 1, sub-paragraph 2, point "ii")

60. That the injured parties waited almost eight years before coming forward and reporting this crime to the police indicates that they fear the defendant because his brother was a general with the KLA, and that they believe that the defendant or his associates might try to take revenge on them for asking the authorities to investigate and prosecute the case.

61. There are a number of specific reported incidents concerning the defendant, or people acting on his behalf, trying to persuade witnesses not to testify falsely or to not talk to the police. H [REDACTED] O [REDACTED] stated to UNMIK Police Officer H [REDACTED] W [REDACTED] on 10 April 2007 that three years earlier H [REDACTED] H [REDACTED] told her that he had been approached by R [REDACTED] G [REDACTED], Xh [REDACTED] G [REDACTED] and Gani Gashi, and that those three had told him (H [REDACTED] H [REDACTED]) to tell the Obrija family that they would burn down the O [REDACTED] house if the O [REDACTED] reported the murder of I [REDACTED] G [REDACTED] to the police. Officer W [REDACTED] documented this statement of H [REDACTED] O [REDACTED] in his report dated 10 April 2007.

62. On 22 August 2007 witness Xh [REDACTED] N [REDACTED] stated to the police that he was approached by the defendant and M [REDACTED] V [REDACTED] on 12 July 1998 about one hour after the crime was committed. According to N [REDACTED], M [REDACTED] V [REDACTED] told him that he (N [REDACTED]) should give a statement saying that the victims' vehicle did not stop. N [REDACTED] replied to V [REDACTED] that the vehicle had stopped, but V [REDACTED] again told N [REDACTED] that "we have to say that the vehicle did not stop."

63. N [REDACTED] further told the police that he was interviewed concerning the murder of I [REDACTED] O [REDACTED] by F [REDACTED] Sh [REDACTED], an UÇK commander, two days after the event, and that he gave both an oral and a written statement concerning what occurred. N [REDACTED] told the UNMIK police that after he gave his statement to F [REDACTED] Sh [REDACTED], he had another conversation with M [REDACTED] V [REDACTED], and that V [REDACTED] asked him what kind of information he had given to UÇK authorities. When N [REDACTED] replied that he had told the truth, V [REDACTED] replied, "You should not have done that."

64. N [REDACTED] has also reported to the UNMIK police that on 18 August 2007 a person named A [REDACTED] G [REDACTED] came to his residence. At the time N [REDACTED] was at home with his brother. According to N [REDACTED] A [REDACTED] G [REDACTED] asked N [REDACTED] brother to leave, and after he had left A [REDACTED] G [REDACTED] asked N [REDACTED] to tell him about the case. N [REDACTED] then began to describe what he had seen on 12 July 1998, but when he came to the point about the O [REDACTED] family's car stopping, A [REDACTED] G [REDACTED] told him to change the story and to tell the police that the car did not stop, and that if an UÇK soldier was accused of murder it would pollute UÇK. N [REDACTED] responded that he would always tell the truth. A [REDACTED] G [REDACTED] then asked him not to tell anybody that he was at his residence, and he left.

The seriousness of the criminal offence, the manner or circumstances in which it was committed and the personal characteristics, past conduct, the environment and conditions in which the defendant lives or other personal circumstances indicate a risk that the defendant will commit a criminal offence which he has threatened to commit (PCPCK Article 281, paragraph 1, sub-paragraph 2, point (iii))

65. As described in paragraph 58 above, the defendant has already threatened to commit the crime of *Causing General Danger*, Provisional Criminal Code of Kosovo (PCCK) Article 291, by burning down the O [REDACTED] family house if the O [REDACTED] reported the murder of I [REDACTED] O [REDACTED] to the police. The defendant is supported by a number of individuals, such as A [REDACTED] G [REDACTED], who have been willing to act on his behalf to try attempt to have witnesses make false statements about the criminal incident, or by individuals, such as M [REDACTED] V [REDACTED], who have made implied threats against witnesses who tell the truth. These personal characteristics of the defendant, together with his network of supporters who are willing to make or convey threats against persons who tell the truth, indicate that the defendant would, if released, have the ability and the support to carry out his threat to harm to injured parties or witnesses who testify truthfully.

The other measures set forth in PCPCK Article 268, paragraph 1, are insufficient to ensure the presence of the defendant, to prevent re-offending, and to ensure the successful conduct of the criminal proceedings.

66. The previous reported incidents of the defendant and his associates asking people to lie about what they saw when the crime occurred, and threatening

individuals who reported the facts truthfully, demonstrates that promises on the defendant's part to remain in Kosovo, prohibitions on his approaching people, attendance at police stations, bail, and house detention would be inadequate in preventing him from tampering with witnesses and evidence and colluding with accomplices.

Respectfully Submitted

Deborah Wilkinson
International District Public Prosecutor