

Special Prosecution Office of the Republic of Kosovo  
Prokuroria Speciale e Republikës së Kosovës  
Kancelarija Specijalnoq Tužilaštva Republike Kosovo

Republika e Kosovës



Republika Kosovo

GJYKATA E QARKUT - OKRUŽNI SUD  
MITROVICË - MITROVICA

Pristina, 29 December 2010

PPS 117/2010

Pranuar-Primijsno: 29.12.2010			
Nipon. Gratid.	Nr. B:	Shtetes Prilog	Vlera Vendoset
	KA	208/10	

**To the District Court of Mitrovicë/Mitrovica**

Pursuant to Articles 304 (1), 305 and 306 of the Kosovo Code of Criminal Procedure (KCCP) the undersigned Prosecutor, files this:

**Indictment**

Against:

**Name and surname:** Haki Hajdari  
**Nickname:** "Haki Drenica"  
**Date of birth:** 19 May 1963  
**Name of father:** [REDACTED]  
**Name and maiden name of mother:** [REDACTED]  
**Profession:** Machine Technician  
**Place of residence:** Nak Berisha str., Skenderaj/Srbica  
**Place of birth:** Skenderaj/Srbica  
**ID number:** 1004789934

And against:

**Name and surname:** Sali Rexhepi  
**Nickname:** "Sali Berisha"  
**Date of birth:** 12 July 1956  
**Name of father:** [REDACTED]  
**Name and maiden name of mother:** [REDACTED]  
**Profession:** Teacher  
**Place of residence:** Gjakovë/Djakovica  
**Place of birth:** Rashkoc Village, Gjakovë/Djakovica  
**ID Number:** 1009230218

For the following crimes:

**1. Haki Hajdari**

- 1) **War crime against the civilian population**, provided for and punished by **Articles 22 and 142 of the Criminal Code of the Socialist Federal Republic of Yugoslavia (CCSFRY)**, currently criminalized under Articles 23 and 120 of the Criminal Code of Kosovo (CCK), because, in violation of **Article 3 common** to the four Geneva Conventions of 12 August 1949, and of **Articles 4 and 5(1) of**

**Protocol II** of 8 June 1977, Additional to the 1949 Geneva Conventions (AP II), all rules of international law effective at the time of the internal armed conflict in Kosovo and at all times relevant to the present Ruling, **the defendant**, in his capacity of member of the Kosovo Liberation Army (KLA) holding a command position in the Cahan camp, in co-perpetration with Riza Alija, Sali Rexhepi and other so far unidentified KLA members, treated inhumanely (e.g. filthy living conditions, lack of adequate sanitation, food and water) an undefined number, but in any case higher than five, of civilian prisoners detained in improvised detention facilities within the Cahan camp; in Cahan (Albania), from April until mid-June 1999.

- 2) **War crime against the civilian population**, provided for and punished by **Articles 22 and 142 of the CCSFRY**, currently criminalized under Articles 23 and 120 of the CCK, because, in violation of **Common Article 3 and Articles 4 and 5(1) of AP II**, all rules of international law effective at the time of the internal armed conflict in Kosovo and at all times relevant to the present Ruling, **the defendant**, in his capacity as member of the KLA, in co-perpetration with Sali Rexhepi and three other so far unidentified KLA members tortured Witness N, a Kosovo Albanian civilian detained in the Cahan camp, by attempting to obtain information and confessions from him while repeatedly beating him with wooden sticks; in Cahan (Albania), on or about 3 May 1999.

## **2. Sali Rexhepi**

- 1) **War crime against the civilian population**, provided for and punished by **Articles 22 and 142 of the CCSFRY**, currently criminalized under Articles 23 and 120 of the CCK, because, in violation of **Common Article 3 and Articles 4 and 5(1) of AP II**, all rules of international law effective at the time of the internal armed conflict in Kosovo and at all times relevant to the present Ruling, **the defendant**, in his capacity of member of the Kosovo Liberation Army (KLA) holding a command position in the Cahan camp, in co-perpetration with Riza Alija, Haki Hajdari and other so far unidentified KLA members, treated inhumanely (e.g. filthy living conditions, lack of adequate sanitation, food and water) an undefined number, but in any case higher than five, of civilian prisoners detained in improvised detention facilities within the Cahan camp; in Cahan (Albania), from April until mid-June 1999.
- 2) **War crime against the civilian population**, provided for and punished by **Articles 22 and 142 of the CCSFRY**, currently criminalized under Articles 23 and 120 of the CCK, because, in violation of **Common Article 3 and Articles 4 and 5(1) of AP II**, all rules of international law effective at the time of the internal armed conflict in Kosovo and at all times relevant to the present Ruling, **the defendant**, in his capacity as member of the KLA, in co-perpetration with Haki Hajdari and three other so far unidentified KLA members tortured Witness N, a Kosovo Albanian civilian detained in the Cahan camp, by attempting to obtain information and confessions from him while repeatedly beating him with wooden sticks; in Cahan (Albania), on or about 3 May 1999.
- 3) **War crime against the civilian population**, provided for and punished by

**Articles 22 and 142 of the CCSFRY**, currently criminalized under Articles 23 and 120 of the CCK, because, in violation of **Common Article 3** and **Articles 4 and 5(1) of AP II**, all rules of international law effective at the time of the internal armed conflict in Kosovo and at all times relevant to the present Ruling, **the defendant**, in his capacity as member of the KLA, in co-perpetration with two other so far unidentified KLA members, tortured Witness N, a Kosovo Albanian civilian detained in the Cahan camp; more precisely, the defendant participated in the crime by attempting to obtain information and confessions from Witness N while a so far unidentified KLA soldier beat him with a wooden stick on his hands and legs; in Cahan (Albania), on or about 9 May 1999.

### **GROUND FOR THE INDICTMENT AND EVIDENCE OVERVIEW**

1. The investigation in the present case originated from the statements collected from several witnesses (Witness L, Witness N, Witness K, Witness M) during the investigation PPS 08/09 against Sabit Geci et al. Of particular relevance to the present investigation are the statements given by Witness N on 10 and 16 March 2010, and the statements given by Haki Hajdari and Sali Rexhepi in their capacity as witnesses on 15 June 2010 and 13 July 2010 respectively.
2. Witness N was additionally heard as a witness by the undersigned Prosecutor on 2 December 2010. Based on his additional statement, a new investigation was opened against Haki Hajdari and Sali Rexhepi. The two defendants were interrogated as defendants on 15 December 2010.
3. The evidence collected, and in particular the statements given by Witness L, Witness N, Witness K, Witness M during the investigation no. 08/09, enables the Prosecutor to conclude that in 1999 the KLA ran a military camp consisting of a few barracks located Cahan (Krume municipality, Albania).
4. The KLA used some facilities within the camp to detain people including civilians such as Witness N, Witness L, Witness M and Witness K. Prisoners held in Cahan were subjected to various forms of physical and mental abuse. Prisoners were subjected to severe beating, torture, isolation, and were confined in crowded, unhealthy, and filthy conditions.
5. Witness L and Witness N testified that Haki "Drenica" was the overall commander of the camp. It was also the evidence of Witness M that "Commander Drenica" introduced himself as the commander of the area around Krume. The inmates saw Haki "Drenica" in Cahan on a regular basis.
6. Witness L testified that Sali Rexhepi was a commander within the Cahan camp, assigned in particular to the facilities where the detainees were kept. It was the evidence of Witness N that Sali "Berisha" was one of the KLA personnel running the Cahan camp, along with Haki "Drenica" and Commander Hoxha. The inmates saw Sali "Berisha" in Cahan on a regular basis.
7. Witness L and Witness N testified that around 20 May 1999 Haki "Drenica" and Sali "Berisha" took them to Kukes to stand trial. Although the judge's decision was to release both Witness L and Witness N because they were not found guilty of anything, Haki "Drenica" decided not to do so, and together with Sali "Berisha" took them back to the detention facilities in Cahan.

8. It is therefore evident from the above that both Haki Hajdari and Sali Rexhepi had a position of responsibility within the Cahan camp. They willingly contributed with their actions to the detention of the persons detained in Cahan, and to the inhumane conditions to which the detainees were subjected.

\* \* \* \* \*

9. Witness N also testified that upon his arrival in Cahan, on or about 3 May 1999, he was beaten by Haki "Drenica", Sali "Berisha", and three so far unidentified KLA soldiers.

10. These five persons first tied Witness N's hands behind his back and removed his shoes and socks. Then four of them, including Haki "Drenica" and Sali "Berisha", everyone, with except of the fifth unknown person, beat him up on his legs and feet with wooden sticks. Witness N fell to the ground and could no longer move. The beatings were accompanied by questioning about the witness' alleged membership to the Serbian Socialist party and his wife's alleged membership to LDK.

11. Because of the severe pain on his feet and legs, for the following five days Witness N could only crawl, as he was not able to walk.

12. In addition, Witness N also testified that five or six days after the first beating, i.e. on 8 or 9 May 1999, he was beaten by an unknown person. Sali "Berisha" and another so far unidentified KLA soldier were present and, while the unknown person was beating Witness N with a wooden stick on his legs and hands, they were asking him questions. The unknown person would also ask questions while beating at the same time.

13. In the course of the witness interview on 2 December 2010, Witness N identified Haki Hajdari and Sali Rexhepi in photo line-ups that were shown to him as Haki "Drenica" and Sali "Berisha".

14. During his interrogation as a suspect by the undersigned prosecutor on 15 December 2010, Haki Hajdari confirmed his previous statement given in his capacity as witness on 15 June 2010. He thus confirmed that in 1999 he was a KLA member assigned to the logistics department in the Cahan camp. He stated that his role was to gather weapons from various locations in Albania, collect them in Cahan and then send them into Kosovo. He stated that, among other KLA soldiers, he observed Sali Rexhepi and Riza Alija on a regular basis in Cahan.

15. During his interrogation as a defendant by the undersigned prosecutor on 15 December 2010, and in the presence of defence counsel of his choice, Sali Rexhepi also confirmed the statement he had given in his capacity as witness on 13 July 2010. He thus confirmed that in 1999 he was a KLA soldier stationed in Cahan, attending ordinary soldier duties. He further stated that Haki "Drenica" was in charge of the camp, while Riza Alija was a KLA soldier stationed there. Lastly, he stated that he observed and met civilians in Cahan, among whom he remembers Witness L.

\* \* \* \* \*

16. There is a well established internal and international case-law stating that in March 1999 both an internal armed conflict between Serbian forces and KLA was ongoing on the territory of Kosovo.

17. The fact that the actions took place outside of the territory of Kosovo, as the

Confirmation Judge already ruled in the parallel case PPS 08/09 against Sabit Geci et al., do not exclude the applicability of Common Article 3 and international humanitarian law in general.

18. The defendants' actions therefore amount to the offence of War crime against the civilian population, given that they clearly infringe the provisions of Articles 22 and 142 of the CCSFRY (the same conduct is currently criminalized under Articles 23 and 121, par. 2 of the CCK) and violate Article 3 common to the four Geneva Conventions of 12 August 1949 and Article 5 of Protocol II of 8 June 1977 Additional to the 1949 Geneva Conventions, all rules of international law effective at the time of the internal armed conflict in Kosovo.

19. Finally, there can be little doubt that the victims of Haki Hajdari and Sali Rexhepi's actions were civilians, taking no part whatsoever in the hostilities, who were targeted because of their real, perceived or alleged disloyalty to KLA.

### **PROPOSAL FOR TRIAL**

The Prosecutor proposes that the main trial of this case be scheduled and held in the District Court of Mitrovicë/Mitrovica.

The Prosecutor requests that the following persons be summoned to attend:

- The undersigned Prosecutor;
- The defendants Haki Hajdari and Sali Rexhepi, and their defence counsel;
- The injured parties Witness N, Witness L, Witness K and Witness M.

The Prosecutor proposes that at the main trial the following witnesses are heard:

- Witness N
- Witness L
- Witness K
- Witness M

The Prosecutor finally proposes that the statements of the accused are admitted as evidence.

  
Maurizio Salustro  
SPRK Prosecutor