

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

**OFFICE OF THE PUBLIC PROSECUTOR
PRIZREN**

HEP No. 26/2004
11 February 2005

TO THE DISTRICT COURT OF PRIZREN

Pursuant to the Articles 45 and 261 of the Law on Criminal Procedure of FRY (LCP), Deborah Wilkinson, International Public Prosecutor in Prizren District, submits the following

INDICTMENT

against

1 First name and surname:	Selim KRASNIQI
Nickname:	“Celiku” or “Celik”
First name and surname of father	████████ Krasniqi
Mother’s first name	████████
Mother’s maiden name	████████
Ethnicity	Kosovo Albanian
Citizenship	Yugoslavian
Date of birth:	01 April 1970
Place of birth:	Vllashkidrenovc / Vlački Drenovac, Malishevë / Mališevo Municipality
Place of residence:	Ortokol, Prizren
Family status:	Married, two children
Occupation	Commander of RTG2 – TMK, Prizren, Brigadier General
Education level:	Secondary school, undergraduate in economics
Financial status:	Average
Personal identification	KPC ID # 00624

number:
 Other criminal proceedings in progress
 Previous Convictions: **No**
 Custody status: **In custody since 16 February 2004**

2 First name and surname: **Bedri ZYBERAJ**
 Nickname:
 First name and surname of father: **████████ Zyberaj**
 Mother's first name: **████████**
 Mother's maiden name: **████████**
 Ethnicity: **Kosovo Albanian**
 Citizenship: **Yugoslavian**
 Date of birth: **06 May 1963**
 Place of birth: **Gjakova/Djakovica**
 Place of residence: **Pristina, Lagja Lakrishte street, No. 24, entrance no. 3, 6th floor**
 Family status: **Married, 4 children**
 Occupation: **Protocol Officer, Central TMK HQ in Pristina, Lieutenant Colonel**
 Education level: **Masters in linguistics**
 Financial status: **Low**
 Personal identification number: **KPC ID # 00010**
 Other criminal proceedings in progress
 Previous Convictions: **No**
 Custody status: **In custody since 16 February 2004**

3 First name and surname: **Xhavit ELSHANI**

Nickname:
 First name and surname of father: ██████ **Elshani**
 Mother's first name: ██████
 Mother's maiden name: ██████
 Ethnicity: **Kosovo Albanian**
 Citizenship: **Yugoslavian**
 Date of birth: **08 July 1968**

 Place of birth: **Piran/Pirane, Prizren municipality**
 Place of residence: **Same**
 Family status: **Married, two children**
 Occupation: **Fire Chief of the TMK 1st Rapid Reaction Detachment of Protection Zone 2, Shiroke, Prizren, Captain**
 Education level: **Elementary school**
 Financial status: **Average**
 Personal identification number: **KPC ID 00566**
 Other criminal proceedings in progress:
 Previous Convictions: **No**
 Custody status: **In custody since 16 February 2004**

4 First name and surname: **Xhemajl GASHI**
 Nickname: **“German”**
 First name and surname of father:
 Mother's first name:
 Mother's maiden name:
 Ethnicity: **Kosovo Albanian**
 Citizenship: **Yugoslavian**
 Date of birth: **08 August 1967**

Place of birth:
 Place of residence:
 Family status:
 Occupation **Team Leader of the Protection Team, TMK Protection Brigade 2, Prizren HQ, Staff Sergeant**
 Education level:
 Financial status:
 Personal identification number: **KPC ID # 00172**
 Other criminal proceedings in progress
 Previous Convictions:
 Custody status: **Currently at large**

5 First name and surname: **Isuf GASHI**
 Nickname:
 First name and surname of father: **██████ Gashi**
 Mother's first name
 Mother's maiden name: **██████**
 Ethnicity: **Kosovo Albanian**
 Citizenship: **Yugoslavian**
 Date of birth: **20 April 1946**
 Place of birth: **Drenovc/Drenovac village, municipality of Rahovec/Orahovac**
 Place of residence: **Same**
 Family status: **Married, five (5) children**
 Occupation: **Clerk for the war veterans' association in the Municipality of Rahovec/Orahovac and a lay judge in the Municipal Court of Rahovec/Orahovac**
 Education level: **Elementary school**
 Financial status: **Poor**

Personal identification number: **N/a**
 Other criminal proceedings in progress
 Previous Convictions: **No**
 Custody status: **In custody since 24 May 2004**

6 First name and surname: **Islam GASHI**
 Nickname:
 First name and surname of father: **█████ Gashi**
 Mother's first name
 Mother's maiden name: **██████████**
 Ethnicity: **Kosovo Albanian**
 Citizenship: **Yugoslavian**
 Date of birth: **22 January 1974**
 Place of birth: **Drenovc/Drenovac village, Rahovec/Orahovac municipality**
 Place of residence: **Same**
 Family status: **Not married**
 Occupation: **Major in TMK/KPC**
 Education level: **High education in mathematics**
 Financial status: **Poor**
 Personal identification number:
 Other criminal proceedings in progress
 Previous Convictions: **No**
 Custody status: **In custody since 24 May 2004**

BECAUSE

LEGAL ALLEGATIONS

1. The International Prosecutor files this Indictment against **Selim KRASNIQI** (nickname “**Celiku**” or **Celik**”), **Bedri ZYBERAJ**, **Xhavit ELSHANI**, **Xhemajl GASHI** (nickname “**German**” or “**Gjermani**”) **Isuf GASHI**, and **Islam GASHI** (“co-accused”) who are charged with committing War Crimes pursuant to Article 142 of the Criminal Code of Yugoslavia (CCY), as read with Articles 24, 30, 22 and 26 of the CCY, committing, ordering, aiding, committing by omission, acting in complicity with others, and participating in a joint criminal design, for the purpose of committing war crimes. It is alleged that the co-accused are personally responsible for the illegal abduction, unlawful detention, beating, torture and death of Kosovo Albanian victims in this case.
2. At all times relevant to this Indictment, a state of internal armed conflict existed between the Kosovo Liberation Army (“KLA”) 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, exercising control over part of the territory of Kosovo, to enable them to carry out sustained and concerted military operations.
3. Conduct set forth in Article 142 of the CCY, and as listed in this Indictment, constitutes war crimes, as each of the key identified acts constitute a violation of applicable international law, including Common Article 3 to the four Geneva Conventions of 1949, customary international law, as applicable in internal armed conflict; the Hague Conventions of 1899 and 1907, the four Geneva Conventions of 1949, and Protocol 1 of 1977 to the Geneva Conventions of 1949, as applicable in international armed conflict; and Additional Protocol II of 1977 to the Geneva Conventions of 1949, as applicable in internal armed conflict.
4. Article 142 of the CCY is the law applicable to Kosovo in accordance with UNMIK Regulation 1999/24, which states that the law applicable to Kosovo is that law which was in force in Kosovo on 22 March 1989. In conformity with the requirements of the Socialist Federal Republic of Yugoslavia Constitution 1974, Article 181, part of the applicable law in Kosovo, (that criminal offences and criminal sanctions can only be based on a legal provision that defines the offence and threatens a punishment), Article 142 of the CCY defines the offences of war crimes against the civilian population and threatens a punishment thereto.
5. All victims of war crimes referred to in the charges of this Indictment are expressly protected members of the civilian population, as prescribed in Article 142 of the CCY, and pursuant to the above-mentioned international law.

6. There is a nexus between the war crimes committed, as charged in this Indictment and the internal armed conflict. The existence of the armed conflict played a substantial part in the ability of the co-accused to carry out the offences and the actions of the co-accused were directly linked to the armed conflict.
7. The acts of the co-accused took place during a period when an internal armed conflict existed within Kosovo.¹
8. The co-accused, as perpetrators of war crimes, acted on behalf of and were closely linked to the armed forces of the KLA rendering them parties to the conflict. The KLA declared itself a legal army on 15 or 16 May 1998.
9. In the event that there is any doubt about the proven acts of the co-accused legally constituting war crimes, the Prosecution will invite the Trial Panel to find the co-accused guilty of individual substantive offences, and reserve the right to amend the Indictment accordingly.

FACTUAL BACKGROUND

10. At all times relevant to this indictment, a state of armed conflict existed in Kosovo. All acts and omissions charged were part of a widespread and systematic attack directed against the Serbian civilian population and perceived Albanian collaborators of Serbian police, military forces or civil administration.
11. At all times relevant to this indictment, **Selim KRASNIQI, Bedri ZYBERAJ, Xhavit ELSHANI, Xhemajl GASHI, Isuf GASHI, and Islam GASHI** were required to abide by the laws and customs of war, including Common Article 3 to the four Geneva Conventions of 1949, customary international law, as applicable in internal armed conflict; the Hague Conventions of 1899 and 1907, the four Geneva Conventions of 1949, and Protocol 1 of 1977 to the Geneva Conventions of 1949, as applicable in international armed conflict; and Additional Protocol II of 1977 to the Geneva Conventions of 1949, as applicable in internal armed conflict.
12. All co-accused knowingly and willfully participated in the joint criminal enterprise, sharing the intent of other participants in the joint criminal enterprise or being aware of the foreseeable consequences of the execution of the objective of the joint criminal enterprise. On this basis, they bear individual criminal responsibility for these crimes, in addition to their responsibility for having planned, instigated, ordered, committed, or otherwise aided and abetted in the planning, preparation, execution, and commission of these crimes.

¹ See Paragraph 69 of ICTY Indictment on Case No. IT-99-37-PT (against Milosevic et. al.); Indictment on Case No. IT-03-66-PT (against Limaj et. al.).

13. All victims relevant to this particular indictment were selected on suspicion of collaboration with Serbian police, military forces or civil administration. Suspects knew that at the time of the offence, the victims were civilians, as defined by Article 3 (1) of *Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (12 August 1949) as “persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause”.
14. During the period June – October 1998, members of the KLA organized and ran a detention center (“Detention Center”) in Drenovc/Drenovac Village in Zatriq/c, Rahovec/Orahovac. A KLA policy was in existence which resulted in the unlawful arresting, interrogating, detaining, beating, torturing and, in some instances, murdering of non-combatant Kosovo Serbian and Kosovo Albanian citizens who were suspected of collaborating with the Serbian authorities. In general, they were detained in inhumane conditions, denied adequate sanitation, food, water and medical treatment. They were subjected to beatings, and tortures.
15. The co-accused, in concert with other guards and soldiers of the KLA and pursuant to a joint criminal enterprise, unlawfully arrested Kosovo Albanian civilians and transported them to the Detention Center where they were unlawfully detained, beaten, tortured and murdered. One of the purposes of this detention center was to detain Kosovo Albanian civilians suspected of collaborating with the Serbian authorities and to punish them for their alleged disloyalty to the KLA. A number of victims were taken against their will from their families and brought to the Detention Center or were detained after they appeared in the Detention Center on different occasions.
16. There are seven (7) principal victims in this case. Their unlawful arrests occurred on the following dates:
 - i. Sh[REDACTED] SH[REDACTED] was unlawfully arrested on 2 June 1998. He, together with with H[REDACTED], M[REDACTED] and F[REDACTED] H[REDACTED] went to the KLA Drenovc/Drenovac Headquarters on 2 June 1998. Morina and Hoti were allowed to go home by the KLA soldiers and guards while Shaban Shala was unlawfully arrested and detained.
 - ii. B[REDACTED] B[REDACTED] was unlawfully arrested on 3 June 1998 by M[REDACTED] I[REDACTED], R[REDACTED] Q[REDACTED] K[REDACTED] and N[REDACTED] K[REDACTED] upon the orders of G[REDACTED] P[REDACTED] (nicknamed “Rrezik”, now deceased) who was then the Commander of the Military Police of Drenovc/Drenovac. The unlawful arrest was witnessed by I[REDACTED] H[REDACTED] and Witness B. B[REDACTED] B[REDACTED] was seen at the Detention Center with swollen cheeks by Witness A on 5 or 6 of June 1998. Witness A likewise saw B[REDACTED] Be[REDACTED] at the Detention Center sometime in July 1998 looking very pale with his clothes full of dried blood.

iii. H█████ K█████ was unlawfully arrested on 4 June 1998 by KLA soldiers one of whom was Islam Gashi. Witness TT, N and T saw Hysen Krasniqi at the Detention Center.

iv. H█████ P█████ was unlawfully arrested on 7 June 1998. M█████ P█████ saw H█████ P█████ at the Detention Center. Witness A, who was likewise illegally detained and shared the same cell with H█████ P█████ at the Detention Center, saw the latter sometime in June 1998 covered with blood. Another witness, Witness O, also saw H█████ P█████ this time at a detention center in Malishevo.

v. M█████ R█████ was unlawfully arrested on 10 June 1998 by 3 UCK soldiers in black uniform, two of whom were Agron Krasniqi and Zaim Bajraktari. They took him from the yard of his house. The abduction was witnessed by Witnesses P and I. Witness X saw M█████ R█████ being beaten at the Detention Center.

vi. H█████ T█████ was unlawfully arrested on 2 July 1998 by 4 KLA soldiers manning a checkpoint at Drenovc/Drenovac and Pataqan roads, one of whom was Xhavit Elshani. Hazer Tarjani was with Witness F when stopped at the said checkpoint. A nephew of Hazer Tarjani visited him at the Detention Center and was told by the soldiers: “We are questioning him and his brother Zenel has to pick him up, not you guys”.

vii. A█████ B█████ was unlawfully arrested on 13 July 1998 by 7 KLA soldiers at his family home who told Avdi’s family that they are only going to ask A█████ some questions but would be immediately released. This was witnessed by Witness K. This was the last time Witness K saw A█████ B█████

EXPLANATION OF THE GROUNDS FOR FILING THE INDICTMENT

17. Between June 1998 and October 1998, members of the Kosovo Liberation Army (KLA) organized and ran a detention center in Drenovc/Drenovac Village in Zatriq, Rahovec/Orahovac (“Detention Center”). A KLA policy was in existence which resulted in the unlawful arresting, interrogating, detaining, beating, torturing and, in some instances, murdering of non-combatant Kosovo Serbian and Kosovo Albanian citizens who were suspected of collaborating with the Serbian authorities. The KLA established the Detention Center which kept those so suspected in “isolation”. A number of victims were taken against their will from their families and brought to the Detention Center or were detained after they appeared in the Detention Center on different occasions.
18. Several witnesses testified that the following victims were arrested or abducted, taken to the Detention Center June-July 1998, and have since disappeared:
 - i. Sh█████ SH█████ (Missing, presumed dead)
 - ii. B█████ B█████ (Missing, presumed dead)

- iii. H [REDACTED] K [REDACTED] (Missing, presumed dead)
- iv. H [REDACTED] P [REDACTED] (Missing, presumed dead)
- v. M [REDACTED] RR [REDACTED] (Missing, presumed dead)
- vi. H [REDACTED] I [REDACTED] (Missing, presumed dead)
- vii. A [REDACTED] B [REDACTED] (Missing, presumed dead)

19. On 2 June 1998, Shaban SH [REDACTED] together with H [REDACTED] M [REDACTED] and F [REDACTED] H [REDACTED] went to the KLA Drenovc/Drenovac Headquarters on board Sh [REDACTED] Sh [REDACTED]'s vehicle. Sh [REDACTED] Sh [REDACTED] was detained by the KLA soldiers while H [REDACTED] M [REDACTED] and Is [REDACTED] Ho [REDACTED] were allowed to go home. On 3 or 4 June 1998, Witness C, accompanied by Ha [REDACTED] M [REDACTED] went to the Detention Center to look for Sh [REDACTED] Sh [REDACTED]. They were not allowed to see him. On his second visit 3 days after his first visit, Witness C failed to see the victim again. However, somebody told him at the headquarters that "*Shaban is no longer here, he is in Drenica*". Witness C saw Shaban's vehicle parked outside the headquarters. Witness C never saw Sh [REDACTED] Sh [REDACTED] again after 2 June 1998.
20. H [REDACTED] M [REDACTED] informed Witness H that Sh [REDACTED] Sh [REDACTED] was detained at the Detention Center. M [REDACTED] further told Witness H that he saw several KLA soldiers there, among them, co-accused **Selim Krasniqi, Bedri Zyberaj** and **Isuf Sherifi (Isuf Gashi)**. Witness H met Isuf Gashi in Rahovec who told the witness that around 38 prisoners from Drenovac/Drenovc, Sh [REDACTED] Sh [REDACTED] included, were taken to Malishevo on 20 June 1998.
21. Witness A testified that on 4 June 1998, he was on his way to the Detention Center to look for Be [REDACTED] B [REDACTED] a when he was stopped on the road by KLA soldiers who asked for his ID. A KLA soldier brought his ID to the headquarters and thereafter, 3 KLA soldiers arrived. They were **Celiku, Gjermani** and **Islam Isuf Sherifi**. Witness A was brought to the headquarters where he was beaten by Celiku and Gjermani using their fists and feet and by Islam who used a baton with wires wrapped around it. On the second or third day of his illegal detention, Witness A was taken out of prison by two (2) KLA Military Police wearing black uniforms. After about 100 meters, Witness A saw Be [REDACTED] B [REDACTED], Sh [REDACTED] Sh [REDACTED] and a certain Hy [REDACTED] n from the village of Dejn coming out of another door which was opened by KLA guards. The guards escorted them up a hill where there were wells and were told that they can wash their faces if they wanted to. Witness A noticed Be [REDACTED] B [REDACTED]'s cheek all swollen while Sh [REDACTED] Sh [REDACTED] and H [REDACTED] were full of blood. Thirty minutes later, they were all brought back to their respective prison cell. On the third day, Witness A was released.
22. Three (3) days after Witness A's release, his wife told him to go to Radostë/e (Rahovec/Orahovac municipality). While on the road going to Radostë/e, two (2) young KLA soldiers stopped him and asked for his ID. He was told that they have to bring his ID to the headquarters to find out if he can be allowed to go to Radostë/e. Thereafter, the KLA soldier who took his ID came back with three (3)

other KLA soldiers and told him *that he was seen waving his cap to the Serbs*. Witness A was unlawfully arrested the second time and was brought to the Detention Center where he shared a room with Hidaj Popaj, whom he knew for a long time. He noticed that Hidaj Popaj was covered with blood. The following day, Sh■■■■ Sh■■■■ was brought to their room also covered with blood. Thereafter, three (3) KLA soldiers wearing black uniform went inside their room and started beating Sh■■■■ Sh■■■■. After beating Sh■■■■ severely, the same KLA soldiers beat Witness A who vividly recall seeing his blood splattered on the ceiling after he was kicked by one of the soldiers.

23. On 3 June 1998, Be■■■■ B■■■■ was illegally arrested from his uncle ■■■■ H■■■'s home in Ratkovc/Ratkovac (Rahovec/Orahovac municipality) village by KLA soldiers M■■■■ L■■■■ R■■■■ Q■■■■ K■■■■ and N■■■: K■■■■ upon the orders of G■■■ Pa■■■■ (nicknamed "Rrezik, now deceased) who was then the Commander of the Military Police in Drenovc/Drenovac Village. The unlawful arrest was witnessed by Is■■■ H■■■ and Witness B. As narrated in paragraph 21 above, Witness A saw Be■■■■ Be■■■■ at the Detention Center with swollen cheeks on 5 or 6 of June 1998. This was the last time Witness A saw Be■■■■ Be■■■■.
24. Another witness, Witness B, likewise saw Be■■■■ Be■■■■ looking very pale and his clothes full of dried blood, at the Detention Center sometime in July 1998. Witness B gave Be■■■■ B■■■■ a change of clothes. Be■■■'s bloodied clothing was taken by Witness B who in turn gave it to International Police investigators for DNA examination. Witness B testified before the Investigating Judge that she saw Bedri Zyberaj several times at the Detention Center during the period June to July 1998 when she tried to visit B■■■■ Be■■■■. This was the last time Witness B saw B■■■■ B■■■■.
25. On 4 June 1998 H■■■n K■■■■ was taken from his home by KLA soldiers Agron Krasniqi, Zaim Bajraktari, **Islam Isuf Gashi** and Islam Gashi's uncle's son. The following day, Witnesses TT, N and T went to the Detention Center to look for Hysen Krasniqi and were able to talk to **Isuf Sherifi Gashi**, then to **Selim Krasniqi**, who referred them to **Bedri Zyberaj**. Although the three (3) co-accused denied having knowledge of Hysen Krasniqi's detention, the witnesses saw the victim several weeks after his unlawful arrest in a room at the Detention Center where several KLA soldiers, among them **Selim Krasniqi** and **Islam Gashi** were also present.
26. Witness TT recalled that when he went and talked to Bedri Zyberaj, as suggested by Selim Krasniqi, Bedri Zyberaj told them that they should talk to Selim Krasniqi *because this is his competence. He is the commander of the police*". Witness TT stated that Bedri Zyberaj was a "political commissar" while Selim Krasniqi was the Commander of the Military Police who took over the post from Gani Paqarizi after the latter was killed on 18 July 1998.

27. Witness N corroborated the statements of Witness TT. He further stated that when they finally saw the victim H█████ K█████ about five (5) weeks after his unlawful arrest, he was in a very grave condition. H█████ was wearing the same clothes he was wearing when he was unlawfully arrested. Gani “Rrezik” Paqarizi told Witness N that they were the first persons allowed to visit a detained prisoner. It was at the Detention Center that Witnesses TT, N and T last saw ██████ K█████.
28. On 7 June 1998, H█████ P█████ was unlawfully arrested and detained at the Detention Center. The day prior to his unlawful arrest, his son, M█████ P█████ went to the Detention Center with H█████ D█████ to find out if their names were on the “black list”. M█████ P█████ was detained by the KLA soldiers. The KLA soldiers told H█████ D█████ to tell H█████ P█████ to go to the Detention Center so that his son can be released. Thus, H█████ P█████ went to the Detention Center where he was illegally detained while his son M█████ was released.
29. On 16 June 1998, Witness Z and H█████ D█████ went to the Detention Center to visit H█████ P█████. He was able to talk to Zaim Bajraktari who told them to go to the KLA Headquarters and look for Bedri Zyberaj. Bedri Zyberaj told them to go to the military police and look for “Rrezik” (the nickname of Gani Paqarizi). It was Rrezik who confirmed to Witness Z that H█████ P█████ was in their custody. Paqarizi further told Witness Z that if he can bring N█████ P█████ to them, they would release H█████ P█████. Witness Z refused Paqarizi’s proposal.
30. Subsequently, Witness Z and H█████ D█████ went back to the Detention Center and met Gani “Rrezik” Paqarizi, **Selim Krasniqi** and another military police. It was Selim Krasniqi who talked to them. Witness Z told Selim that he could not bring N█████ P█████ as ordered by Rrezik. Selim replied: *“that condition stands and if you bring that person you can have H█████”*.
31. M█████ P█████ was able to visit and meet H█████ P█████ in a room at the Detention Center. Hidaj gave his dentures to Muharrem for repair. After their brief meeting M█████ left the room and saw and overheard Bedri Zyberaj saying: *I would not have allowed H█████ to see them, but I would allow them to see H█████*. Three (3) days later, Witness Z and H█████ went back to the Detention Center to return the dentures but were informed that H█████ was transferred to Malisheve/Malisevo when the Serbian Police bombed Drenovc/Drenovac.
32. Witness O testified that he was illegally arrested in July 1998 and illegally detained in a huge building in Malisheve/Malisevo where he was beaten repeatedly until he lost consciousness. When he regained his consciousness there were three (30 other prisoners who were in very critical conditions. They were H█████ P█████, a certain H█████ and H█████. These prisoners told him that they were from Drenovc/Drenovac and that they were beaten up many times.
33. On 10 June 1998, M█████ RR█████ was taken from outside his home by three (3) men wearing black uniforms, two (2) of whom were identified as Agron

Krasniqi and Zaim Bajraktari. The following day, Witness P and Witness I went to the school in Drenovc/Drenovac village where they saw Zaim Bajraktari. When they confronted Zaim Bajraktari, the latter told them that Murat was locked in the basement and that if they wanted to know more about Murat, they should talk to Bedri Zyberaj.

34. During their visits at the Detention Center, Witness P and Witness I saw Islam Gashi, Isuf Gashi, Agron Krasniqi and Zaim Bajraktari at the Detention Center while Bedri Zyberaj was seen in an office at the KLA Headquarters located at the agricultural cooperative building in Drenovc village. Witness P further testified that during one of their visits at the Detention Center, he heard screams of people coming from the basement which had metal doors and steel bar on the window.
35. On 2 July 1998, H [REDACTED] T [REDACTED] and Witness F were on their way to pick up a bride. At the Drenovc/Drenovac and Paragan roads, they were stopped at a KLA checkpoint manned by four (4) armed KLA soldiers, one of whom was **Xhavit Elshani**. Their IDs were taken and brought by the soldier to the vineyard. Thereafter, one of the KLA soldiers came back and asked who H [REDACTED] T [REDACTED] was. H [REDACTED] identified himself and after three (3) hours, a “Lada Caravan” car arrived and took H [REDACTED] T [REDACTED]. The KLA soldier told Witness F that he could pick up H [REDACTED] the following day at 8:00 a.m. Witness F however did not come back out of fear.
36. A nephew of H [REDACTED] T [REDACTED] tried to see him, but the KLA soldier told the nephew that *they were still questioning H [REDACTED] and his brother Ze [REDACTED] should come to pick him up.*
37. On 13 July 1998, A [REDACTED] B [REDACTED] was abducted in his house by seven (7) KLA soldiers who told A [REDACTED]’s family that they were only going to ask him some questions and release later. Since A [REDACTED] never came back, Witness K went to Drenovc/Drenovac to look for him. There he met **Bedri Zyberaj**, whom he heard was the police “commissar” in charge of the KLA headquarters. Bedri Zyberaj told him to go to the police located at the school building and ask for “**Celiku**”.
38. At the school building, Witness K met a KLA soldier named [REDACTED] B [REDACTED] who told him that he brought A [REDACTED] water and other essentials he needed. While they were talking a man called “Celiku” arrived. Isuf B [REDACTED] told Witness K that “Celiku” was the main person in charge of the military police. Isuf berisha also told him that Celiku’s real name is **Selim Krasniqi**.
39. Witness K approached Selim Krasniqi and asked about the whereabouts of A [REDACTED] B [REDACTED]. Selim told Witness K that A [REDACTED] is not in Drenovc/Drenovac but in Drenica but he (Witness K) could not go there because of the bad condition of the road. Witness K testified that Selim acknowledged to him that he (Selim) was responsible for the detainees.

40. From the testimonies given during the investigation hearings it appears that Selim Krasniqi and Bedri Zyberaj occupied high positions or were persons in authority at the KLA headquarters in Drenovc/Drenovac village and/or the Detention Center. This is shown by the following:
- 40.1. Witnesses TT, P and K testified that Bedri Zyberaj was called *political commissar* or *police commissar*.
- 40.2. Witnesses who went to the Detention Center to look for the victims were referred by the KLA soldiers guarding the compound to either Selim Krasniqi or Bedri Zyberaj.
- 40.3. After failing to see H [REDACTED] K [REDACTED] at the Detention Center, Witnesses N and TT were finally allowed by Selim Krasniqi to see H [REDACTED]
- 40.4. Witness Z was referred by Zaim Bajraktari to Bedri Zyberaj when he went to the Detention Center to look for H [REDACTED] P [REDACTED]
- 40.5. When Witness K went to Drenovc/Drenovac village to look for A [REDACTED] B [REDACTED] he saw Bedri Zyberaj sitting in front of a computer with two (2) KLA soldier beside him inside a small house belonging to a vineyard cooperative. Bedri Zyberaj referred him to Selim Krasniqi.
- 40.6. When Witness TT went to the Detention Center to look for H [REDACTED] K [REDACTED] Selim Krasniqi referred him to Bedri Zyberaj. Bedri on the other hand referred him back to Selim saying: *“this is his competence. He is the commander of the police”*. Furthermore, when Witness TT had a loud argument with Agron Krasniqi during one of his visits, Selim approached them and ordered Agron: *“you go and do your job”*.
- 40.7. In July 1998, Witness U was interrogated for four (4) hours by Selim Krasniqi. Selim ordered Agron Krasniqi and Zaim Bajraktari to beat him in another room *“to show him how things should be from now on”*. Witness U further stated that he learned from some KLA soldiers that Selim Krasniqi was the head of office.
41. In some instances, the evidence point to the actual participation of Bedri Zyberaj and Selim Krasniqi to the beatings and tortures of the victims.
- 41.1. On 19 August 1998, Witness W’s son was stopped and arrested by Serbian police who beat him then detained him for 4 hours before being released. Two days later, the son was picked up by KLA soldiers who interrogated him as to what he told the Serbian police and why he was released. He was beaten by Selim Krasniqi in a school building in Drenovc/Drenovac village. When the son arrived home, he told Witness W that he (Witness W) should go to the school the following day at 9:00 a.m. Witness W went as told by his son. Upon his arrival at the school

building, Selim Krasniqi called him a traitor and accused him of providing food to the Serbs. Selim Krasniqi slapped him so hard that he fell from the chair.

41.2. In May 1998, Witness E was in a car heading towards Drenovc/Drenovac village when they were stopped by a KLA soldier. Thereafter, Selim Krasniqi and Gani Paqarizi arrived. While going out of the car, Selim Krasniqi tied him up then hit him twice with the butt of a Kalashnikov. He was brought to a wooden building where he saw Bedri Zyberaj, then was transferred to the basement of another building where he was unlawfully detained for 3 ½ days without food and water.

41.3. During his unlawful detention in the basement, Bedri Zyberaj appeared. Bedri pulled a gun from his waist and pointed it to Witness E's chest. Isuf Gashi egged on Bedri to shoot him saying: *"shoot this guy because he is a Serbian collaborator and I don't know him at all"*. After what seemed like interminable length of time subjected to mental torture and reduced to abject terror, Witness E got temporary relief when Bedri and Isuf left the room. His reprieve was shortlived as moments later, 2 persons came in and beat him with wooden stocks causing him to lose consciousness.

Statement of Selim Krasniqi:

42. In his testimony before the Investigating Judge, Selim Krasniqi stated that he joined the KLA in 1997. The KLA's main goal was to liberate Kosovo from the Serbian occupiers, military and paramilitary. He explained that in the early stage of KLA in Drenovc/Drenovac village the headquarters were located in private houses until they were transferred to the former cooperative building. A few meters from this building was an old school building where the offices of the KLA military police were located. Selim Krasniqi confirmed that Bedri Zyberaj was at the KLA headquarters in 1998.
43. Selim Krasniqi also stated that he stayed in Drenovc/Drenovac in Zatriq/c in May and June 1998 but it was not continuous. He stressed that he did not have any special duties in Drenovc/Drenovac village but that he was just a simple soldier. He further stated that sometime in the beginning of July 1998, he traveled to Albania to get arms and stayed there until the middle of August 1998.
44. In support of his defense, Selim Krasniqi presented witnesses who testified seeing him in Tirana, Albania sometime in July until August 1998.

Statement of Bedri Zyberaj:

45. Bedri Zyberaj opted not to give any statement during the investigative hearing. Instead he presented witnesses who testified on his character; that during the period in question, Bedri Zyberaj was involved in charitable work of managing a warehouse where relief goods were received, stored and distributed to villagers.

Statement of Islam Gashi:

46. Islam Gashi testified that he joined the KLA on 26 April 1998. He was seriously wounded on 27 May 1998 which required him to be hospitalized for more than one (1) month. Because of his injury, he was only able to re-join the KLA in January 1999. He likewise stated that his father Isuf Gashi was also seriously injured on 18 July 1998. Islam Gashi denied that there was a KLA headquarters and Detention Center in Drenovc/Drenovac.

Statement of Isuf Gashi:

47. Isuf Gashi stated he joined the KLA in 1996. His main duty was taking care of supplies, food and weapons. He was seriously injured on 18 July 1998 and this stopped him from joining any activity of KLA since he stayed in Tirana, Albania for 9 months to recuperate. He likewise stated that there was no KLA prison in Drenovc/Drenovac at that time but only meeting office.
48. Xhavit Elshani did not give any testimony nor proposed any witness.

**DESCRIPTION AND LEGAL NAMES OF THE CRIMINAL OFFENCES
(PURSUANT TO ARTICLE 262 (1) OF THE LCP)**

49. In the Description and Legal Names of the Criminal Offenses, each Count of War Crime is preceded by a recitation of one or more specific crimes which could be encompassed within it and which would constitute specific offenses under the Criminal Code of Kosovo as read with the Criminal Code of Yugoslavia.

COUNT 1

50. On days between 2 June 1998 and 13 July 1998, **Selim Krasniqi, Bedri Zyberaj, Xhavit Elshani, Xhemajl Gashi, Isuf Sherifi Gashi, Islam Gashi**, while being members of the organized paramilitary organization Kosovo Liberation Army (KLA), that was acting on the territory of Kosovo with the purpose to resist activity of the armed forces and police forces of the government of Federative Republic of Yugoslavia (FRY), acting in concert with other individuals, and pursuant to a joint criminal enterprise, ordered and/or participated, directly or indirectly, in the **killings** of civilians illegally detained in the Detention Center in Drenovc/Drenovac village. Among those illegally detained civilians subjected to killings were:
- i. **Sh[REDACTED] SH[REDACTED]** was unlawfully arrested and illegally detained on 2 June 1998 at the Detention Center in Drenovc/Drenovac village. To this day, he has never been seen again.

- ii. **B [REDACTED] B [REDACTED]** was unlawfully arrested and Illegally detained on 3 June 1998 at the detention Center in Drenovac/Drenovc village. To this day, he has never been seen again.
 - iii. **Hy [REDACTED] n K [REDACTED]** was unlawfully arrested and illegally detained on 4 June 1998 at the Detention Center in Drenovac/Drenovc village. To this day, he has never been seen again.
 - iv. **H [REDACTED] P [REDACTED]** was unlawfully arrested and illegally detained on 7 June 1998 at the Detention Center in Drenovac/Drenovc village. To this day, he has never been seen again.
 - v. **M [REDACTED] R [REDACTED]** was unlawfully arrested and illegally detained on 10 June 1998 at the Detention Center in Drenovac/Drenovc village. To this day, he has never been seen again.
 - vi. **H [REDACTED] T [REDACTED]** was unlawfully arrested and illegally detained on 2 July 1998 at the Detention Center in Drenovac/Drenovc village. To this day, he has never been seen again.
 - vii. **A [REDACTED] B [REDACTED]** was unlawfully arrested and illegally detained on 13 July 1998 at the Detention Center in Drenovac/Drenovc village. To this day, he has never been seen again.
51. By participating in the killings Kosovo Albanian civilians, **Selim Krasniqi, Bedri Zyberaj, Xhavit Elshani, Xhemajl Gashi, Isuf Sherifi Gashi, Islam Gashi** incurred personal responsibility for the war crimes of **killings 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 2

52. On days between 2 June 1998 and 13 July 1998, **Selim Krasniqi, Bedri Zyberaj, Xhavit Elshani, Xhemajl Gashi, Isuf Sherifi Gashi, Islam Gashi**, while being members of KLA, acting in concert with other individuals and pursuant to a joint criminal enterprise to unlawfully detain Kosovo Albanian civilians, participated, directly or indirectly, in the **illegal arrest and detention** of Kosovo Albanian civilians and held those civilians in the Detention Center located in the school building at the village of Drenovc/Drenovac. Among those civilians subjected to inhumane treatment were seven (7) victims mentioned in paragraphs 50i to 50vii above.
53. By participating in the illegal arrests and detention of Kosovo Albanian civilians as mentioned in paragraph 50i to 50vii above, **Selim Krasniqi, Bedri Zyberaj,**

Xhavit Elshani, Xhemajl Gashi, Isuf Sherifi Gashi, Islam Gashi, incurred personal responsibility for the war crimes of **illegal arrests and detention** pursuant to Article 142 of the Criminal Code of Yugoslavia (CCY) as read with Articles 22, 23, 24, 26 and 30 of the CCY.

COUNT 3

54. On days between 2 June 1998 and 13 July 1998, **Selim Krasniqi, Bedri Zyberaj, Xhavit Elshani, Xhemajl Gashi, Isuf Sherifi Gashi, Islam Gashi**, while being members of KLA, acting in concert with other individuals, and pursuant to a joint criminal enterprise, ordered and/or participated, directly or indirectly, 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 seven (7) victims mentioned in paragraphs 50i to 50vii above.
55. By participating in the establishment and perpetuation of the inhumane treatment of Kosovo Albanian civilians, **Selim Krasniqi, Bedri Zyberaj, Xhavit Elshani, Xhemajl Gashi, Isuf Sherifi Gashi, Islam Gashi** 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 4

56. On days between 2 June 1998 and 13 July 1998, **Selim Krasniqi, Bedri Zyberaj, Xhavit Elshani, Xhemajl Gashi, Isuf Sherifi Gashi, Islam Gashi**, while being members of KLA, acting in concert with other individuals, and pursuant to a joint criminal enterprise, ordered and/or 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 50i to 50vii above.
57. By participating in the beating and torture of Kosovo Albanian civilians, **Selim Krasniqi, Bedri Zyberaj, Xhavit Elshani, Xhemajl Gashi, Isuf Sherifi Gashi, Islam Gashi** 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.

JUSTIFICATION

- 58. The evidence gathered during the police investigation and judicial investigation supports the charges that the co-accused violated the law in the manner described above. The evidence gathered to date does not support any legal defense to the charges.
- 59. It is the position of the undersigned that the defenses raised by the co-accused in paragraphs 42 to 47, which are generally denials, cannot overcome the positive testimony and identification made by the witnesses.

**PROPOSAL FOR TRIAL
(PURSUANT TO ART. 262 (1) 4) LCP)**

The International Public Prosecutor proposes that the main trial of this case be scheduled and held.

**RECOMMENDATION AS TO EVIDENCE AND WITNESSES
(PURSUANT TO ART 262 (1) 5) LCP)**

The International Public Prosecutor requests:

A. that the following persons be summoned to attend:

- The International Public Prosecutor of Prizren
- The co-accused
- The defense advocates of the co-accused

Along with the following witnesses:

- 1. Witness A c/o CCIU Investigator Amrendra Sengar
- 2. Witness B -//-
- 3. Witness C -//-
- 4. Witness E -//-
- 5. Witness F -//-
- 6. Witness H -//-
- 7. Witness I -//-
- 8. Witness K -//-
- 9. Witness N -//-
- 10 Witness O -//-
- 11. Witness P -//-
- 12. Witness U -//-
- 13. Witness W -//-
- 14. Witness X -//-

- 15. Witness Z -//-
- 16. Witness TT -//-
- 17. R [REDACTED] B [REDACTED]
- 18. E [REDACTED] B [REDACTED]
- 19. S [REDACTED] K [REDACTED]
- 20. M [REDACTED] Sh [REDACTED]

B. That the court read and consider the following documents:

- 1. Minutes of the testimony of UNMIK Police Officer Hans Georg Jaeger who already left the Mission;
- 2. Minutes of the testimony of Civpol Alonso Franco Vega who also left the Mission;
- 3. Results of the Report of the Forensic Medicine Expert on DNA test of the bloodied clothing of B [REDACTED] B [REDACTED]

C. That the court review and consider the following physical exhibits:

- 1. Photo line-up of suspects (14 pictures, Exhibit No.3)
- 2. Photo line-up number one (suspects, 31 pictures, Exhibit No. 4)
- 3. Photos of structures (33 pictures, Exhibit No. 5)
- 4. Photo line up of the victims (9 pictures, Exhibit No. 7)
- 5. Photo line up of the suspects (33 pictures, Exhibit No. 6)

D. The undersigned International Prosecutor reserves the right to propose other matters as she deems fit, in the course of the trial.

**MOTION AS TO DETENTION OF DEFENDANTS
(PURSUANT TO ART. 262 (2) LCP)**

Pursuant to Article 191 (2), items 1, 2 and 3, LCP the DETENTION of ALL SIX ACCUSED is proposed for the following reasons.

The Prosecution asserts that there exists a serious risk that the suspects would, if released, have the opportunity through their connections as former members of the KLA to leave Kosovo, by lawful or unlawful borders, given the widespread public support of their cause, and the recent disturbances in March 2004 indicating continued unqualified support for war veterans.

Additionally, the Prosecution submits, pursuant to Article 191 (2) Item 2, that there is a serious risk that the Investigation will be hindered if the suspects are released. The evidence indicates that the suspects and/or their associates are prepared to warn and/or threaten others not to answer questions regarding the investigation crimes. In a particularly disturbing incident, on day after the arrests of four of the co-accused the house belonging to a relative of a victim in the case was the subject of an attack by an explosive device. There are no other known motives for this attack and it raises the reasonable suspicion that it was connected to the witness's providing testimony in this case. Moreover, as borne by the Minutes of Witness B's testimony,

Witnesses A and B reported to the Investigating Judge, that after their testimonies, 3 armed persons, two of whom wearing ski masks, followed them to their house. There is therefore already a risk of intimidation of witnesses, which in the submission of the Prosecution would be substantially increased if the suspects were released.

Given the brutal and cold-blooded nature of the criminal acts committed by the accused and the number of victims who are still missing and presumed dead, there is a serious risk that they would, if released, commit further offences of violence against witnesses who are due to testify in the main trial. That the accused are capable of using and threatening violence is shown by the detention, torture and beating of the victims contained in the allegations against the accused.

Therefore, the International Public Prosecutor proposes that **all** defendants remain in detention on remand until the end of all criminal proceedings.

Based on the above, it is obvious to the prosecution that the actions of the co-accused comprise all essential qualifications of the criminal acts of which they are charged, so this Indictment is justified, proven and based upon the law.

Deborah Wilkinson
International Public Prosecutor