

IN THE MUNICIPAL COURT of Peja
Case P. Number 685/09
5 August 2010

IN THE NAME OF THE PEOPLE

Judge Malcolm Simmons Presiding with Court Recorder Christin Nilsson in the criminal case against (1) Gjergj Luli (hereinafter "the First Defendant") and (2) Kole Krasniqi (hereinafter "the Second Defendant") both charged pursuant to Indictment Number PP. 1644/09 filed by the Municipal Prosecutor of Peja dated 3 September 2009 and amended on 29 January 2010 with the criminal offence of Giving a False Statement under Article 307 (1) of the Criminal Code of Kosovo, after holding a public trial on 14 July, 21 July, 22 July and 5 August 2010 at which Ms. Alenka Sagmeister-Ranzinger appeared for the Municipal Prosecution Office and the Defendants, who were unrepresented, on 5 August 2010 took and publicly announced the following

JUDGMENT

The First Defendant GJERGJ LULI, fathers name Pashk Luli, mothers name Zoje, maiden name Biblekaj, born on 15 February 1978 in Gjakova, ID number 2002986127, Kosovar Albanian, currently residing in the village of Doblbare, married, father of 2 children is

GUILTY

that on 11 March 2009 when appearing as a witness before the District Court of Peja in the case of Gjesh Krasniqi he gave a false statement in that he stated that on 24 March 1999 he did not know Gjesh Krasniqi, that on 24 March 1999 Gjesh Krasniqi together with another four KLA soldiers had not entered Pashk Luli'S house in Doblbare, and that therefore Gjesh Krasniqi had not participated in taking Pashk Luli as a hostage, although he knew that was not true.

By reason thereof the First Defendant committed the

criminal offence of Giving a False Statement under Article 307 (1) of the Criminal Code of Kosovo and is

SENTENCED

to a term of imprisonment of 5 months, suspended pursuant to Article 43 of the Criminal Code of Kosovo for a period of two years from the date hereof.

In accordance with Article 102 (1) of the Criminal Procedure Code of Kosovo the First Defendant shall pay the costs of these criminal proceedings which the Court assesses in the sum of 100 (one hundred) Euros. The First Defendant shall also pay the sum of 50 (Fifty) Euros in respect of the Scheduled amount.

The Second Defendant, KOLE KRASNIQI, fathers name Gjon, mothers name Gjyste, maiden name Skeli, born on 24 June 1950 in Nepole, ID number 1003357119, Kosovar Albanian, currently residing in the village of Doblbare, married, father of 5 children is

GUILTY

that on 31 March 2009 when appearing as a witness before the District Court of Peja in the case of Gjelosh Krasniqi he gave a false statement in that he stated that from 24 March 1999 to 25 March 1999 Gjelosh Krasniqi had been with him and other KLA soldiers in Pashk Krasniqi'S house in Nepole village, celebrating the bombardment, although he knew that was not true.

By reason thereof the Second Defendant committed the criminal offence of Giving a False Statement under Article 307 (1) of the Criminal Code of Kosovo and is

SENTENCED

to a term of imprisonment of 5 months.

In accordance with Article 102 (1) of the Criminal Procedure Code of Kosovo the Second Defendant shall pay the costs of these criminal proceedings which the Court assesses in the sum of 100 (one hundred) Euros. The Second Defendant shall also pay the sum of 50 (Fifty) Euros in respect of the Scheduled amount.

REASONING

The Indictment filed by the Municipal Prosecutors Office under Number PP. 1644/09 dated 3 September 2009 and amended on 29 January 2010 charged nine Defendants with giving False Statements contrary to Article 307 (1) of the Criminal Code of Kosovo.

On 14 July 2010 pursuant to Article 34 of the Criminal Procedure Code of Kosovo this Court severed the case against the First and Second Defendants, Bekim Luli, Engjëll Luli and Prenk Luli from the case against the remaining four defendants who did not appear at the first session, i.e. Pren Kashnjeti, Mihill Pergega, Gjergj Quni and Pashk Krasniqi. On 21 July 2010 the Court severed the case against the First and Second Defendants from the case against Bekim Luli, Engjëll Luli and Prenk Luli.

It was the Prosecution case against the First Defendant that on 11 March 2009 when appearing as a witness before the District Court of Peja in the case of Gjelosh Krasniqi he gave a false statement in that he stated that on 24 March 1999 he did not know Gjelosh Krasniqi, that on 24 March 1999 Gjelosh Krasniqi with another four KLA soldiers had not entered Pashk Luli's house in Doblbare and that, by reason thereof, the said Gjelosh Krasniqi had not participated in taking Pashk Luli as a hostage, although he knew that was not true.

It was the Prosecution case against the Second Defendant that on 31 March 2009 when appearing as a witness before the District Court of Peja in the case of Gjelosh Krasniqi he gave a false statement in that he stated that from 24 March 1999 to 25 March 1999 Gjelosh Krasniqi had been with him and other KLA soldiers in Pashk Krasniqi's house in

Nepole village, although he knew that was not true.

There was no dispute that on 29 April 2009 in case number 67/09 Gjelosh Krasniqi was convicted before a panel of the District Court of Peja of War Crimes against the Civilian Population, contrary to Article 142 of the SFRY Criminal Code, the Articles 3 and 147 of the 4th Geneva Convention, the Article 4 of the II Additional Protocol to the Geneva Conventions, committed in the village of Doblinare/Doblibare, Gjakova/Dakovica Municipality, on the 24 of March 1999.

Article 307 (1) provides

A witness, expert witness, translator or interpreter who gives a false statement in court proceedings, minor offence proceedings, administrative proceedings before a notary public or disciplinary proceedings shall be punished by a fine or by imprisonment of up to one year.

The Court finds that the false statement must relate to a material fact and the witness knew the statement was false or had no reasonable grounds to believe the statement was true.

1. The First Defendant

The First Defendant testified before the District Court of Peja in the case of Gjelosh Krasniqi on 11 of March 2009¹.

Prior to his testimony before that Court the First Defendant gave six statements relating to the facts in issue therein.

On 18 January 2003 the First Defendant gave a statement to ICTY Investigators².

On 2 March 2003 the First Defendant gave a further

¹ Exhibit P7

² Exhibit P1

statement to ICTY Investigators³.

On 16 January 2008 the First Defendant gave a statement to UNMIK Police⁴.

On 1 March 2008 the First Defendant gave a further statement to UNMIK Police⁵.

On 26 August 2008 the First Defendant gave a further statement to UNMIK Police⁶.

On 7 October 2008 the First Defendant gave a further statement to UNMIK Police⁷.

The Indictment alleged the First Defendant gave a false statement when he testified before the Court on 11 March 2009, thereby committing an offence under Article 307 (1) of the CCK.

It was the Prosecution case that the testimony the First Defendant gave before the Court on 11 March 2009 was, in several important material respects, false and contradicted his prior statements.

1.1 Statement given to the ICTY Investigators on 18 January 2003⁸.

The First Defendant stated that, on 24 March 1999, at approximately 8.30pm, five KLA soldiers in green camouflage entered the house of his father, Pashk Luli.

He said he knew one of the soldiers and he introduced himself as Gjesh Krasniqi. He knew that this person was from the village Nepole, Peja Municipality, and that he was about 30 years of age.

The First Defendant said the soldiers were armed and wore KLA patches on their sleeves.

³ Exhibit P2

⁴ Exhibit P3

⁵ Exhibit P4

⁶ Exhibit P5

⁷ Exhibit P6

⁸ Exhibit P2

The First Defendant stated that Gjelosh Krasniqi told them that his father had to go with them. According to the First Defendants statement, Gjelosh Krasniqi further stated "if Gega gives the permission, they will release him".

The First Defendant stated the soldiers asked for any weapons in the possession of Pashk Luli.

The First Defendant stated that after the soldiers had taken his father, they left one soldier behind to watch over the people in the courtyard and went, with his father, to the houses of Ded Quni, Mhill Pergega, Tune Kashnjeti and took weapons from them. Afterwards they returned and then departed from the courtyard taking Pashk Luli with them.

The First Defendant stated that, as they left, Gjelosh Krasniqi shouted that they were going to kill Pashk Luli "like a dog".

The First Defendant further stated that Gjelosh Krasniqi was, at that time, living in New York and that his sister Marta had informed him that, in August 2002, Gjelosh Krasniqi had visited her at the travel agency in New York where she worked and stated "I killed your father and I don't care about that a bit, neither of you".

1.2 Statement given to the ICTY Investigators on 2 March 2004⁹.

The First Defendant stated that he was scared of revealing the names of two persons who might be involved in the abduction of his father. He had known about these names from Gjelosh Krasniqi, whom he recognized as the kidnapper of his father, when he met him in his home village Doblbare, and asked him about his father's whereabouts.

The First Defendant stated that Gjelosh Krasniqi informed him that he had escorted his father to the village of Maznik. He suggested that if the First Defendant wanted to know what had happened to his father thereafter he should go to KLA Headquarters in Jabllanica and speak with Lahi Brahimaj and Maliq Ndrecaj.

⁹ Exhibit P3

The First Defendant further stated that, on the night his father was taken away, it was dark and he could recognize only Gjelosh Krasniqi.

1.3 Statement given to the UNMIK Police on 16 January 2008¹⁰.

The First Defendant stated that in 1998 a person called Gjelosh Krasniqi from the village of Nepole, Peja Municipality, together with three other persons, came to Doblbare and stole a Mercedes 190 motor vehicle the property of Pal Ndrecaj.

After having informed the KLA Headquarters, KLA soldiers went to Gjelosh Krasniqi's house in Nepole, seized the vehicle and returned it to Mr. Ndrecaj.

Referring to events on 24 March 1999, the First Defendant stated that at approximately 8.15pm Gjelosh Krasniqi, wearing a camouflaged jacket without KLA badges, entered the yard of the house, told them not to be afraid, since they were KLA soldiers, and then asked for a Mercedes belonging to "Tule". The First Defendant stated they did not have a Mercedes, but only a VW Golf that was not in working order.

The First Defendant stated that Gjelosh Krasniqi asked them "which one of you is a local police officer or we will take you all to the KLA HQ in Jabllanica". The First Defendant's father stood up and told them that he was the local police officer in question. Gjelosh Krasniqi asked him for his weapons. Gjelosh Krasniqi seized an AK-47 and a 7.65mm pistol in the possession of the First Defendant's father.

Having seized the weapons, Gjelosh Krasniqi ordered the other soldiers to search the other persons present. Afterwards, they took the First Defendant's father, left one person behind and went to the village to search for weapons.

The First Defendant stated that at approximately 11.30pm Gjelosh Krasniqi returned with his father. They drank some water whereupon Gjelosh Krasniqi told his father that he had to go with them to their HQ.

¹⁰ Exhibit P

The First Defendant stated that four days after the war he met Gjeloš Krasniqi in the house of Pashk Pergega in the village Doblbare. The First Defendant asked Robert Pergega to call Gjeloš Krasniqi and ask him where he had left his father.

The First Defendant stated that Gjeloš Krasniqi informed him that he had left his father in the village of Maznik, that he knew nothing about him and that he shouldn't bother looking for him as he might get lost the same way as his father. The First Defendant stated that, when he asked why, Gjeloš Krasniqi replied that he should go away or he would turn the village "green and black".

The First Defendant stated again that, after the war, Gjeloš Krasniqi had moved to the USA where he met the First Defendant's sister, Marta Nrecaj, in her workplace in a travel agency and told her that her father had been buried not far from their house.

1.4 Statement given to the UNMIK Police on 1 March 2008¹¹.

The First Defendant stated that on 20 February 2008 he had called police officer Hazbi Axhami in order to inform him about some threats he said he had received.

The First Defendant stated that a friend of his, during a conversation with Gjeloš Krasniqi, told the latter that Pashk's sons were growing older and that if he were in Gjeloš Krasniqi's shoes he would not feel so free to walk around Gjeloš Krasniqi allegedly replied that he would kill him and make him vanish the same as his father.

The First Defendant stated that he and his family were scared of Gjeloš Krasniqi because he was very dangerous.

1.5 Statement given to the UNMIK Police on 26 August 2008¹².

The First Defendant stated that on 24 March 1999 when his father was taken, Gjeloš Krasniqi with four other persons had ordered the people who were in the courtyard to remain

¹¹ Exhibit P

¹² Exhibit P

there for two hours. The First Defendant and his uncle Mark Luli were near the gate when Gjeloš Krasniqi, who was holding Pashk Luli by one hand, passed the gate. After a while the First Defendant opened the gate, but Gjeloš Krasniqi saw him and said "shut the door and I will kill him like a dog".

The First Defendant further stated that, one month prior to making the statement, while he was at a gas station, he overheard a discussion between two persons who stated "Gjeloš Krasniqi has a bad situation with one guy from Doblbare village and we have to go at his home".

The First Defendant stated that on 6 August 2008 Pal Krasniqi went to the First Defendant and asked him to "help Gjeloš Kasniqi and drop the charges against him, because he is not related to Pashk's killing".

1.6 Statement given to the UNMIK Police on 7 October 2008¹³.

The First Defendant stated that he wanted to drop the charges against Gjeloš Krasniqi because his father "had a wrong uniform of Serbian Police", had been missing for a long time and they wanted to live a quiet life.

The First Defendant stated that he had not been threatened and that, even though he had previously seen Gjeloš Krasniqi walking around Gjakova and had accused him, now he wanted to drop all the charges.

1.7 Testimony before the District Court of Peja on 11 March 2009¹⁴.

When he testified on 11 March 2009 the First Defendant stated he did not recognize any of the soldiers on the night in issue but simply that one of them presented himself as Gjeloš Krasniqi; that Gjeloš Krasniqi was not the person he had seen on the night in issue; that he had never seen Gjeloš Krasniqi before; that he did not see the colour of the uniforms the soldiers were wearing and he did not see any KLA insignia.

¹³ Exhibit P

¹⁴ Exhibit P

The First Defendant was confronted with the contradictions between his testimony before the Court on that occasion and his prior statements.

Public Prosecutor: With permission of the Court, I would like to go back to his previous statement, binder 2, subfolder 30, on 17th of January 2003; and also on the 18th of January 2003, on page 172. But I start to read from this. I'd like to ask you, do you know Gjelosh Krasniqi?

Gjergj Luli: No. I do not.

Public Prosecutor: I will go to page 172, the last paragraph and according to the statement that you gave to investigator you said on March 24th 1999, at 20.30 hrs that 'five KLA, in green camouflage uniform, entered my father's house in Doblbare. I knew one of them and he introduced himself as Gjelosh Krasniqi.'

Presiding Judge: There a big discrepancy that was read by the Public Prosecutor and the statement that you gave to the Court that you gave five minutes ago. Can you explain to us? Why did you declare to ICTY that you knew Gjelosh Krasniqi and five people dressed in KLA uniform entered your fathers' house?

Gjergj Luli: They did not enter my fathers house and I did not know Gjelosh Krasniqi. He just presented himself as Gjelosh Krasniqi. This thing should be clarified. And I never said that they were wearing green uniform.

Presiding Judge: Here it's written and signed by you. So you are saying that... (interrupted)

Gjergj Luli: Yes but the interpreter... (interrupted)

Defence Counsel: He is saying that nobody read what was signed by the interpreter.

Presiding Judge: You gave the statement in Albanian?

Gjergj Luli: Yes.

Presiding Judge: How did you sign this English

Version?

Gjergj Luli: After I gave my statement, it was an international investigator Kelly, and I signed and it was Hazbije as well.

Presiding Judge: Yes but it's also written that his statement, that Public Prosecutor referred to, has been read to me in Albanian English and this is true to best of my knowledge and recollection and your signature.

Gjergj Luli: It was not read. They asked me if I wanted to read it, but I did not.

Presiding Judge: This was signed by you but this is a signature saying that this statement which is in English was read to you in Albanian. This is your acknowledgement, so be careful because you know that the witness is obliged to say the truth and false testimony is a criminal offence. So you insist that statement of 18th of January 2007, was not read to you in Albanian?

Gjergj Luli: It was not read.

Presiding Judge: Regarding to the fact that you do not know Gjesh Krasniqi, you said that a person presented himself as Gjesh Krasniqi, is this true?

Gjergj Luli: Yes, I did not know him before but that person presented himself as Gjesh Krasniqi.¹⁵

...

Presiding Judge: What about the uniforms. In the statement it says that these '5 KLA soldiers in green camouflage entered my father's house'. How could you say they were KLA soldiers?

Gjergj Luli: I never mentioned the colour.

Presiding Judge: I am not interested in the colour; I am interested to know how you knew they were KLA soldiers?

¹⁵ Extract from the Minutes of the Main Trial of 11.03.2009, pages 13 - 14

Gjergj Luli: I did not say KLA because, they had no emblems.

Presiding Judge: But these were your words.

Gjergj Luli: I have said in other statements that I never saw KLA or other signs.

Presiding Judge: Is it possible that some of these people have said that they were KLA?

Gjergj Luli: None of them said that.

...

Public Prosecutor: I would like to continue where I stopped before. According to the statement you said (referring to Gjelosh Krasniqi), I knew he was from the village of Nepole in Peja municipality and he was about 30. All the KLA soldiers were armed and had KLA patches on their sleeves. How did this come into the statement, because before you said something else?

Gjergj Luli: I never said anything about signs, this is not true.

Public Prosecutor: But you have signed it.

Gjergj Luli: I have signed, but I did not say that.

Public Prosecutor: If we go to page 174, you said the following to the investigators, 'Because of the fact that I knew Gjelosh Krasniqi from before and saw him personally entering my father's house in KLA uniform, I am one hundred percent sure that it was he who took my father away, whether he was in the KLA or not.'

Gjergj Luli: This is not true

Public Prosecutor: You signed it.

...

Presiding Judge:...The Public Prosecutor is drawing your attention to the fact that you told the court you don't know Gjelosh Krasniqi, while in this statement

on two occasions you said that you knew Gjeloš Krasniqi and that you saw him entering wearing a KLA uniform

...

Gjergj Luli: I do not know him, he presented himself as Gjeloš Krasniqi, and so I don't see a discrepancy.

Presiding Judge: ...You keep on saying that you don't know Gjeloš Krasniqi, but you don't know him now or you did not know him in 1999?

Gjergj Luli: Back then I did not know him; he presented himself as Gjeloš Krasniqi. Now I know him from the confirmation of indictment and that day I wanted to say something, but everything was too fast. The person that came in the courtyard back then was shorter and fatter.

Presiding Judge: Fatter than whom?

Gjergj Luli: ... Gjeloš Krasniqi, the person who is here. I can state this is not the same person.

Presiding Judge: So the person who presented himself as Gjeloš Krasniqi in 1999 is not the person present now?

Gjergj Luli: No, not the same.

Presiding Judge: What about the KLA uniforms, because you said the person calling himself Gjeloš Krasniqi was wearing a KLA uniform.

Gjergj Luli: I never said KLA uniforms, I only said uniforms.

Presiding Judge: ...were they wearing KLA uniforms?

Gjergj Luli: No.¹⁶

...

Public Prosecutor: I would like to read what you told the investigators (page 173). It is the second to

¹⁶ Extract from the Minutes of the Main Trial of 11.03.2009, pages 14 - 16

last paragraph, and according to this it says when they were leaving the house, Gjelosh Krasniqi said they are going to kill the dog, meaning my father. Do you remember having said that to the investigators?

Gjergj Luli: I can't remember.

Public Prosecutor: How did this enter the statement?

Presiding Judge: Now you cannot remember, but is it true or not that you heard these words?

Gjergj Luli: I don't remember saying such words.

Presiding Judge: Now that the Public Prosecutor has refreshed your memory, do you recall it?

Gjergj Luli: No.

Defence Counsel: You are asking about the facts and he is referring to his statement.

Presiding Judge: The Public Prosecutor has drawn your attention to the statement you gave to ICTY investigators. In this statement it is written that when these people were leaving the house, Gjelosh Krasniqi cried out that they were going to kill the dog, meaning my father. This was your answer at the time. Now that you are in front of the court, I ask you again do you remember this fact or not?

Gjergj Luli: As I said he was presenting himself (judge interrupts)

Presiding Judge: I am thinking of the person who presented himself as Gjelosh Krasniqi and uttered these words, so?

Gjergj Luli: He did not say such words.

Presiding Judge: So how in this statement is there a different answer?

Gjergj Luli: In the beginning, also for those words that Gege and Meme will release your father, I did not say them, but after Mark Luli mentioned the words that if Gege and Meme will release my father, then I said

the same answer as Mark Luli.

Presiding Judge: What about these other words; we are going to kill the dog?

Gjergj Luli: I cannot recall mentioning those words.

Ferdinando Buatier: But you can exclude saying them?

Gjergj Luli: I can't recall saying those words.

Presiding Judge: Do you exclude or not?

Gjergj Luli: I don't know.

...

Public Prosecutor: I will go to the same statement page 174, second paragraph, according to the investigator, you said 'Gjelosh Krasniqi is now residing in USA, I know he has an address in New York and has visited my sister Marta Nrecaj who is living in the Bronx also.' Do you remember saying that?

Defence Counsel: There is something about this question; can the Public Prosecutor continue with the whole sentence?

Public Prosecutor: ...'I have also another sister living in the USA close to Detroit, Michigan.' Do you remember telling the investigators this?

Gjergj Luli: Yes,

Public Prosecutor: But before this you said that you did not know anything about the fate of those who picked up your father.

Gjergj Luli: I said the people in the courtyard were not the people living in USA

Public Prosecutor: But according to the statement you said that Gjelosh Krasniqi was living in the USA. How do you know this if you do not know him?

Gjergj Luli: As a name, but as a person I did not know him

Presiding Judge: How can you know that a person whose name you know only now, is living in the USA?

Gjergj Luli: I heard from some people that Gjeloš Krasniqi was living in New York USA.

Presiding Judge: Was your sister visited by Gjeloš Krasniqi or not?

Gjergj Luli: I don't know, she said that she had a visit but later she said she is not sure.

Presiding Judge: I just want to know whether your sister told you that Gjeloš Krasniqi visited her.

Gjergj Luli: She was doubtful.

Presiding Judge: Doubtful about what, the person or the visit?

Gjergj Luli: The person.

Presiding Judge: Why, because she knew Gjeloš Krasniqi by face? How can she say that he visited her?

Gjergj Luli: She said, I don't know him

Presiding Judge: How can she say that Gjeloš Krasniqi visited her?

Gjergj Luli: It was the same scenario like when I saw then in the courtyard and they did the same.

Presiding Judge: So you are saying that a person who presented himself as Gjeloš Krasniqi visited your sister and that your sister referred to you about the visit of this person calling himself Gjeloš Krasniqi, because like this it makes sense. What did your sister tell you?

Gjergj Luli: My sister said that a person came to visit her and presented himself as Gjeloš Krasniqi.

Presiding Judge: Did your sister know Gjeloš Krasniqi by face?

Gjergj Luli: He did not stay long, just two minutes.

Presiding Judge: My question is, did your sister know Gjelosh Krasniqi by face or not?

Gjergj Luli: No.

Public Prosecutor: Do you remember if you had a call from your sister in New York were she talked about this visit from this person called Gjelosh Krasniqi.

Gjergj Luli: I cannot remember.

Public Prosecutor: The next paragraph on page 174; I know this is what has been said and is second hand. It says that my sister in New York told me Gjelosh Krasniqi came one day in August 2002 to her office of her travel company called Dolphin travel. Gjelosh Krasniqi said, 'Listen I killed your father and I don't care a bit about that neither you' and then he just left the office. Has that phone conversation taken place?

Gjergj Luli: No, I did not say that.

Public Prosecutor: But you signed it?

Gjergj Luli: Yes.

Public Prosecutor: Why did you do that?

Gjergj Luli: Because it was not mentioned the words, I killed him.

Public Prosecutor: You mean the statement was changed after you signed it?

Gjergj Luli: I don't know.

Public Prosecutor: After the war, did you meet the person who introduced himself as Gjelosh Krasniqi?

Gjergj Luli: No.

...

Presiding Judge: I want to know; since this statement bears two dates, 25th Feb and the 2 March; now I ask, how did the interview go? You were questioned on the 25th and then on the 2 March the police officer read to you the Albanian version of your statement?

Gjergj Luli: It was not read by them to me.

Presiding Judge: You signed on the 2 March 2004 that this statement was read to you in Albanian; so this is stated by you, but since there are two dates, the most likely thing to be thought is that on the 25th you gave the statement and then it was put in writing and read to you in Albanian on 2 March 2004. Is it possible?

Gjergj Luli: I do not recall it.

Presiding Judge: Since you signed on 2 March.

Gjergj Luli: I have signed it, but no one read it to me.

Presiding Judge: Then why did you sign it?

Gjergj Luli: That day only blood samples were taken from me.

Presiding Judge: You said that on 25th you gave statement and on 2 March an investigator from ICTY came to this other person's house to take blood samples?

Gjergj Luli: Yes.

Presiding Judge: On the 2 March you signed this acknowledgement?

Gjergj Luli: I have signed on 2 March but no one read it to me. No one came to me, I went to Pristina. Not in his house that you just mentioned, but in Pristina.

...

Public Prosecutor: To go back to this statement that you went to ICTY to ask for your father. I would like to confront you with page 167 paragraph 3, you said the investigator: "I have now spontaneously come to

ICTY to this office in Pristina, in my will to ask for evidence for my father. When I was interviewed in January 2003, I was afraid to explain everything. I did not dare to give the two names that were involved in kidnapping of my father but I do now want to add this information."

As I read this statement, you have not gone only for your father but to add to your statement also.

Gjergj Luli: Regarding those two people that I have never mentioned them, if you want to confront me, tell me their names.

Public Prosecutor: Paragraph 4, 'the names that I did not dare to confirm were Lahi Ibrahimaj and Maliq Ndrecaj. The first one was from Jabllanica and the other one from Klina'. Those were the names that you did not give on the first statement then you did on the second.

Gjergj Luli: It's not true.

Public Prosecutor: But you signed the statement.

Gjergj Luli: I never mentioned this. Everything else is written but this is not...

Presiding Judge: ... So you said that you never said these names?

Gjergj Luli: No.

Presiding Judge: So ICTY invented these things out of the blue because they wrote those two names?

Gjergj Luli: I do not know. I did not mention them.

Presiding Judge: But bear in mind that you signed.

Gjergj Luli: Yes, I signed but I did not mention these names.

Presiding Judge: In paragraph 4 you said something more precise 'I learned Lahi Ibrahimaj and Maliq Ndrecaj from Gjeloš Krasniqi who was the one whom I identified as one of the kidnapers of my father - I received this information approximately 4 months after

the war - when by accident I met Gjelosh Krasniqi in my village Doblbare. I saw him on the street in my village and approached him to ask for my father's whereabouts.'

Defence Counsel: Regarding what you read, Your Honour, I am reading now I met Gjelosh Krasniqi at my place in my village Doblbare, this is contrary to my previous statement. Was he in the village or at his house? Also at point 7, there is another contradiction.

Presiding Judge: Let's see the most important part first then we continue. Here, you said that you heard these names from Gjelosh Krasniqi 'the one that I identify as one of the kidnapers of my father.' What do you say now?

Gjergj Luli: The things written here, that I have met Gjelosh Krasniqi at my house, it's not true.

Presiding Judge: I want to know whether you heard these names from Gjelosh Krasniqi?

Gjergj Luli: I met a person called Gjelosh Krasniqi, in the village, but it's not the same person sitting in the court now.

Ferdinando Buatier: The person who kidnapped your father?

Gjergj Luli: Yes, and things that I met Gjelosh Krasniqi it's not true, I never said that.

Presiding Judge: In my home village not in my village.

Gjergj Luli: I said home but now I make it clear that it's about village.

Public Prosecutor: Paragraph 5, it says that Gjelosh Krasniqi said that 'what has happened to my father I must go to KLA Head Quarters in Jabllanica, and talk to Lahi Ibrahimaj and Maliq Ndreca. Gjelosh Krasniqi told me that he escorted my father to village Maznik.' Paragraph 7, 'when the kidnapping of my father took place it was dark and I could only identify Gjelosh Krasniqi as one of the kidnapers.' Do you remember stating that to one of the investigators?

Gjergj Luli: Based on the name, I said that.

Public Prosecutor: The one that you mentioned Gjelosh Krasniqi, it's not Gjelosh Krasniqi sitting here today?

Gjergj Luli: No, it's not.¹⁷

...

Public Prosecutor: If we go to subfolder 28, it's page 154, statement of 16th of January 2008, now I will go to page 155, and it's paragraph starting with 'I met', a little bit under the middle, it says, according to this, you told an investigator, UNMIK investigator 'I met Gjelosh Krasniqi 4 days after the war, on Tuesday, in Dolibare, in the house of Pashk Luli. When I went to Pashk Luli, his son Gjelosh came out and told him to call him. Gjelosh came out and said what do you want? I asked him where my father is.'

'Gjelosh said I left him in village Maznik, Peja Municipality and don't bother to look for him because you might get lost as your father did. I asked why and he said get away because I will make this village black and green and he shut the door and I went back to my house.'

Presiding Judge: bear in mind that this statement was not given to ICTY investigator. We have Albanian version and translation in English.

So, you signed the original version in Albanian. Be very careful when you answer and the Public Prosecutor is confronting you based on another statement, which is your answer because in this statement it's more or less the same as you said to the ICTY investigator and again I warn you not to say the truth is a criminal offence.

Gjergj Luli: My first answer is that we met in the village.

Presiding Judge: We want to hear you again, go ahead.

Gjergj Luli: I've got nothing to add.

¹⁷ Extract from the Minutes of the Main Trial of 11.03.2009, pages 23 -- 25

Presiding Judge: 16th of January 2008, do you stand by this statement?

Gjergj Luli: Yes, this is my statement.

Presiding Judge: So you stand by?

Gjergj Luli: Yes.

Presiding Judge: When did you realise that Gjelosh Krasniqi is not the same?

Gjergj Luli: On the day of the confirmation of the indictment.

Presiding Judge: Were you present?

Gjergj Luli: Yes.

Presiding Judge: Why didn't you say something?

Gjergj Luli: Because all of a sudden they said that the session is adjourned.

Presiding Judge: So, you stand behind the statement given on 16th of January.

Gjergj Luli: Yes.

Public Prosecutor: I would like to continue with this statement because it says that 'Gjelosh Krasniqi left Kosovo to USA - my sister Marta Ndrecaj, that lives in New York and works in Travel Agency - Gjelosh Krasniqi went to my sister's office and told her that our father is not buried far from the house. My sister called me and said that our father is not far from the house.'

You said to the investigators about the conversation that you had with your sister. Is this Gjelosh Krasniqi that you met here or that you invented?

Gjergj Luli: I can not talk in behalf of my sister, but this accused, this is not the same that I spoke about.

Presiding Judge: Which Gjelosh Krasniqi went to USA,

the one that is sitting here or the one who according to your version kidnapped your father?

Gjergj Luli: I do not know which one left Kosovo but I said that the guy called Gjelosh Krasniqi left and went to USA.

Presiding Judge: And then you spoke to your sister and she told you that he paid a visit to her? Is that correct?

Gjergj Luli: He presented himself as Gjelosh Krasniqi, she doesn't not know the guy.

Presiding Judge: This guy, presenting himself as Gjelosh Krasniqi, said something regarding the fate of your father; he knew the place where your father is buried.

Gjergj Luli: Yes.

Confrontation as to the threats reported by the First Defendants friend.

Public Prosecutor: Did anyone threaten you after the war, so you can withdraw from this case?

Gjergj Luli: No.

Public Prosecutor: Have you heard about a threat relating to your name?

Gjergj Luli: No.

Public Prosecutor: Sub-paragraph 27, page 149, it's a statement given on the 1st of March 2008, to UNMIK investigators and that was Hazbi officer, there you gave the following statement: 'A friend of mine, who was drinking with Gjelosh Krasniqi, he said that Gjelosh Krasniqi does not feel that free now that Pashk's sons are grown.' And his answer was that 'I will kill the same as his daddy and I will make him disappear as same as his father and my friend informed me on the phone about this and was asked not to mention his name, for both safety reasons for him and

his family. My family and I, are scared from Gjelosh Krasniqi because he is very dangerous person.' Do you remember this?

Gjergj Luli: I did not say afraid.

Public Prosecutor: My question was, do you remember saying this to UNMIK investigators?

Gjergj Luli: I gave this statement.

Public Prosecutor: But today you say that you were threatened by the third person.

Gjergj Luli: No.

Public Prosecutor: Now I am confused.

Presiding Judge: Here it's written that 'I am afraid from Gjelosh Krasniqi because he is very dangerous'. Why were you scared?

Gjergj Luli: I never said that.

Presiding Judge: 10 minutes ago you said this. This is not among friends, this is Court.

...

Gjergj Luli: But I never said that I was afraid.

Presiding Judge: Yes but you signed and it's in Albanian.

Presiding Judge: What about the words quoted by Public Prosecutor: 'I am going to kill him the same way as I killed his daddy'. It sounds like a threat.

Defence Counsel: These are not words said by the witness but please say all the quotes and do not interrupt them.

Presiding Judge: Okay but I do not think that the meaning changes but anyway, I will read it. 'I am going to kill him in the same way that I killed his father and I will make him disappear as I did to his father.'

Gjergj Luli: This is not a threat, unless someone comes at my door.

Presiding Judge: We are not here to give a definition of threat; we are here to know if this friend of yours referred the words said by Gjeloš Krasniqi.

Gjergj Luli: I was told so.¹⁸

...

Public Prosecutor: I go to the next statement. Its sub-folder 26, and it's a statement given in 26th of Aug 2008, it's the first paragraph, it says from the beginning when my father was taken in March 24, 1999, then for 2 hours you did not move from the house, 'we were at the yard of my uncle, Nikolle Luli, when Gjeloš Krasniqi caught my father by his arm and while they were passing the gate, me and my uncle Mark Luli, were being close to the gate. At about 2300 hrs, Gjeloš Krasniqi together with 4 of his friends went out of the yard of my uncle, and then I went behind them to see where they were sending my father. After I passed the gate, I passed again but when Gjeloš Krasniqi saw me that I opened the gate he addressed to me with these words: 'shut the door or I will kill him as a dog.' Then I shut the gate and I did not go out there anymore.'

Do you remember saying this to UNMIK investigator?

Gjergj Luli: I said but I did not mention any name. They said close the door and do not leave the house for the next 2 hours.

Public Prosecutor: So when investigator put the name of Gjeloš Krasniqi, they invented this?

Gjergj Luli: I am saying that I never said that.

Presiding Judge: there is the Albanian version with the name of Gjeloš Krasniqi, twice there is the name in Albanian version. How is it possible?

Gjergj Luli: I said that one of them turned and said

¹⁸ Extract from the Minutes of the Main Trial of 11.03.2009, pages 27 -- 28

'shut the door.'

Presiding Judge: Yes but you signed it, you said that. It's different. So you deny that you mentioned the name Gjelosh Krasniqi?

Gjergj Luli: At that moment yes.

Presiding Judge: In the English version, second line, is Gjelosh Krasniqi and again the third line from the bottom.

Defence Counsel: You are asking for certain circumstance.

Presiding Judge: Yes but the first line is clear (line being read to Defence Counsel) It's written in Albanian version well and I think that it's undisputable. You insist that the name and surname of Gjelosh Krasniqi was not mentioned?

Gjergj Luli: At the moment he turned to the door, I did not say his name.

Presiding Judge: was this Gjelosh Krasniqi one of the 4 that ordered not to leave the house for 2 hours?

Gjergj Luli: He presented himself as Gjelosh Krasniqi but he was not the person who ordered me not to move from the house from the next 2 hours.

Presiding Judge: This person presented himself as Gjelosh Krasniqi was with other 4 persons but did not order to you to stay in the house for 2 hours, is this correct or not?

Gjergj Luli: Yes, as far as I am concerned.

Presiding Judge: What about the other person who said 'shut the door or I will kill his father as a dog', was it Gjelosh Krasniqi or another person?

Gjergj Luli: Another person.

Presiding Judge: Okay this is your answer. Why did you declare in Albanian version that you never heard these words?

Gjergj Luli: Things that I have said I admit it but I can't say anything for things that I never said.

Presiding Judge: Yes but you signed it and that means that you said it.

Gjergj Luli: I can't remember saying these words.

Presiding Judge: Yes but a year ago you said these words and you signed each page.

Public Prosecutor: The disappearance of your father on 24 March 1999; did that make a great impact of you?

Gjergj Luli: Of course.

Public Prosecutor: The first statement to the police in 2003 and there you said, you positively knew that it was the defendant who came to your house on that evening, because you had known him from former times and now you want us to believe that you remember nothing except that he was called Gjeloš Krasniqi?

Gjergj Luli: I can say only that he presented himself as Gjeloš Krasniqi, but I knew no one of that name before.

...

Confrontation as to the fact that, on 7 October 2008, the First Defendant dropped all the charges against Gjeloš Krasniqi:

Presiding Judge: It cannot be denied that on 7 October 2008 you gave a statement to the police.

Public Prosecutor: It was the last statement you gave regarding this case. Do you remember why when you gave the last statement to them, did you go there?

Gjergj Luli: I do not recall it.

Public Prosecutor: I will refresh your memory. On page 134 it says to the question of why are you here

today and the answer was that you came to drop charges against Gjeloš Krasniqi. Do you remember that?

Gjergj Luli: Yes.

Public Prosecutor: Do you remember why you went to the police, what was the reason you wanted to drop the charges?

Gjergj Luli: I remember it now. The reason I did that is based on his name because back then I did not know him and they said that he was released from prison, because back then I did not know him. When I heard he was released I went there to ask Kelly and Hazbi the reason why he was released and they told me they did not know because he was released by court order. I then said that if he was released by the court, then I can do so. And this was it; Kelly and Hazbi told me he was released by the prosecution and the court. Then I said if they released him he is innocent; but I have to highlight that I did not know him by face back then.

Public Prosecutor: But you are operating with two Gjeloš Krasniqi's? You said that you only knew the one that came to your house by name and you knew one Gjeloš Krasniqi had been taken into custody by the police. Why did you want to drop charges against someone that you thought had done something to your father?

Gjergj Luli: I did not know him, but the prosecution decided to release him regardless of the fact of whether he was the one that came that night. So as he was released by court and prosecution, I dropped my charges too regardless of the fact if he was that person or another one.

...

Public Prosecutor: Next, line 3, where it says why, and the answer was that on consultation with family members and relative I can to the decision to drop charges because my father had the wrong uniform of Serbian police. That was not the reason you gave before.

...

Gjergj Luli: This is true. I talked about this with my family when he was released from prison.

Presiding Judge: Which was the real reason; because your father was wearing a wrong uniform or that the court released him?

Gjergj Luli: I heard that the person who presented himself as Gjelosh Krasniqi was released from prison. I discussed it with my family and after I talked with Kelly and Hazbi and once they said he was released by the court and prosecution and after talking to my family, my family said he is innocent here and to go and give a statement that because the court and prosecution released him, for us he is innocent.

Presiding Judge: This is the answer you gave at the beginning of your statement, but the Public Prosecutor reminded you that in front of the police you did not mention this reason, but just said that it was because you father was wearing the wrong uniform of Serbian police.

Gjergj Luli: The real reason why that was because he was released by prosecution and court and also that he was wearing the wrong uniform. The first is the most important.

Presiding Judge: Why did you not tell the police about this most important reason? On the contrary you referred to the less important reason; this is a strange behaviour isn't it?

Gjergj Luli: I declared the reason to that he was released by the court and prosecution, but I mention the uniform too.¹⁹

Confrontation as to the Mercedes 320 allegedly driven by Gjelosh Krasniqi:

Public Prosecutor: I would like to stay in the same statement. Further down, the sentence which starts

¹⁹ Extract from the Minutes of the Main Trial of 11.03.2009, pages 32 – 33

with 'then he came', it's the big paragraph, it says: 'Then he came (he is Gjelosh Krasniqi) to Kosovo driving a Mercedes 320, with New York licence plates, after that, he went to Croatia, and in information that I have, he went to Croatia to change his identity (name and surname) but he was not successful in this. After he came from Croatia, he stayed for couple of weeks to in Kosovo and then he went to Albania and returned with BMW Albanian licence plates.'

Gjergj Luli: I was told he went to Albania but I never saw him.

Public Prosecutor: How come someone told him that he came back with Mercedes New York number plates?

Gjergj Luli: Because they saw him.

Public Prosecutor: Who are they?

Gjergj Luli: There are some people there and perhaps they recognised him.

Public Prosecutor: Who are 'they'? 'Names?'

Gjergj Luli: Some of my people.

Public Prosecutor: Names?

...

Gjergj Luli: I can't give information.

Confrontation as to the encounter between the First Defendant and Gjelosh Krasniqi in Gjakova after the war:

Ferdinando Buatier: Going to the current suspect in today's trial. You said that you first saw him at the confirmation hearing?

Gjergj Luli: Yes.

Ferdinando Buatier: In your statement to UNMIK international police in October 2008, page 135, you said to the investigator that you charged him because you saw him moving in Gjakova. This is your statement

on 7 October. To which person are you referring; the current suspect or the one who took your father or both of them?

Gjergj Luli: This person I saw on that night when they came into my house. Later on after the war when I met him in the village.

Ferdinando Buatier: Why do you say on 7 October 2008 that you charged him because you saw him in Gjakova. This is what you said. I saw him moving in Gjakova and I charged him.

Gjergj Luli: I did not mention that I saw him. I just said that he is moving around.

Ferdinando Buatier: It is not what you signed and what is written in your statement.

Gjergj Luli: I did not see him, because I was working all day long.²⁰

1.8 Summary

The First Defendant did not testify in his trial, save to state that his testimony on 11 March 2009 was true.

The Court finds there are clear and incontrovertible contradictions between what the First Defendant testified before the Court on 11 March 2009 and what he told investigators in his prior statements.

The First Defendant testified that on 24 March 1999 he was in the yard of the home of his uncle Mark Luli together with his father Pashk Luli, Prenk Luli, Engjell Luli and Bekim Luli.

When he testified before the Court the First Defendant stated that he was at the home of his uncle, Mark Luli. In the statement he gave to the ICTY investigators on 18 January 2003 the First Defendant referred to being at his "fathers house in Doblbare". In the statement he gave to ICTY investigators on 2 March 2004, referring to his

²⁰ Extract from the Minutes of the Main Trial of 11.03.2009, pages 39 – 40

father, the First Defendant states that he was abducted from "his" house. In his statement to UNMIK police on 16 January 2008 the First Defendant refers to Gjelosh Krasniqi entering the yard of "my uncles house". He gives his uncles name as Nikolle Luli. In his statement to UNMIK police on 26 August 2008 the First Defendant refers to his being in the yard of his uncle Nikolle.

While in the yard, five soldiers entered the premises and enquired about the First Defendants father. The men were carrying weapons.

In his statement to ICTY investigators on 18 January 2003 the First Defendant stated the soldiers entered the yard at 8.30pm. In the statement he gave to UNMIK police on 16 January 2008 he gave the time as approximately 8.15pm.

The First Defendant testified it was dark and he could not see the uniforms. That contradicted the statement he gave on 18 January 2003 to the ICTY investigators, and the statement he gave to UNMIK police on 16 January 2008. In both statements the First Defendant said the soldiers wore green camouflage uniforms.

The First Defendant testified that he did not see any military insignia. That contradicted the statement he gave to the ICTY investigators on 18 January 2003. In that statement he said the soldiers wore KLA patches on their sleeves. However, in his statement of 18 January 2008, referring to 24 March 1999, the First Defendant said Gjelosh Krasniqi was wearing a camouflage uniform without KLA badges.

The First Defendants father presented himself. His weapons were seized and he was instructed to accompany the uniformed men. They left together. The First Defendant testified that approximately 2 - 2 ½ hours later the uniformed men returned with his father. The soldiers subsequently left again, taking the First Defendants father with them. The First Defendants father was never seen again.

The First Defendant testified he did not know any of the five soldiers. It was his evidence that one of the soldiers simply presented himself as Gjelosh Krasniqi but that he did not know him. That contradicted his previous statements.

In his statement to the ICTY investigators on 18 January 2003 the First Defendant stated that he knew one of the soldiers and that he had introduced himself as Gjelosh Krasniqi. He said he knew this person from the village of Nepole, Peja Municipality. There was no dispute that Gjelosh Krasniqi was born in Nepole Village and that he currently resides there.

In that statement the First Defendant also referred to a meeting in New York in August 2002 between Gjelosh Krasniqi and his sister Marta Nrecaj.

In his statement to the ICTY investigators on 2 March 2004 the First Defendant stated that he was scared of revealing the names of two other persons who might be involved in the abduction of his father. He said he had discovered these names from Gjelosh Krasniqi, whom he recognized as the kidnapper of his father, when he met him in Doblbare.

The First Defendant further stated that, on the night his father was taken away, it was dark and he could recognize only Gjelosh Krasniqi.

In his statement to UNMIK police on 16 January 2008 the First Defendant referred to an incident in 1998 when Gjelosh Krasniqi from the village of Nepole, Peja Municipality, together with three other persons, stole a Mercedes 190 motor vehicle the property of Pal Ndrecaj.

In that statement, referring to events on 24 March 1999, the First Defendant stated that at approximately 8.30pm Gjelosh Krasniqi and other persons entered the yard of the house.

The First Defendant further stated that four days after the war he met Gjelosh Krasniqi in the house of Pashk Pergega in the village of Doblbare. The First Defendant asked Robert Pergega to call Gjelosh Krasniqi and ask him where he had left his father.

The First Defendant stated that Gjelosh Krasniqi informed him that he had left his father in the village of Maznik, that he knew nothing about him and that he shouldn't bother looking for him or he might get lost the same way as his father. The First Defendant stated that, when he asked why, Gjelosh Krasniqi replied that he should go away or he would

turn the village "green and black".

In that statement the First Defendant again referred to the meeting in New York between Gjelosh Krasniqi and the First Defendants sister.

In his statement to UNMIK police on 1 March 2008 the First Defendant stated that on 20 February 2008 he had called police officer Hazbi Axhami in order to inform him about some threats he said he had received. He stated that he and his family were scared of Gjelosh Krasniqi because he was very dangerous.

In his statement to UNMIK police on 26 August 2008 the First Defendant again referred to the events of 24 March 1999. The First Defendant stated that on 6 August 2008 Pal Krasniqi went to the First Defendant and asked him "to help Gjelosh Kasniqi and drop the charges against him, because he is not related to Pashk's killing".

Finally, in his statement to UNMIK police on 7 October 2008 the First Defendant stated that he wished to drop the charges against Gjelosh Krasniqi. The First Defendant stated that he had not been threatened and that, even though he had previously seen Gjelosh Krasniqi walking around Gjakova and had accused him, now he wanted to drop all the charges.

The Court finds that the inconsistencies between the First Defendants prior statements and his testimony before the Court on 11 March 2009 cannot be explained by the mere fact the First Defendant was testifying about events some ten years prior. Indeed, the First Defendant has never averred that his memory of events on the night in question have been impaired by the passage of time.

The First Defendant did not deny that he had signed his prior statements.

The Statements the First Defendant gave to the ICTY investigators on 18 January and 2 March 2003 were recorded in English. The First Defendant averred the statements had not been read to him in Albanian. Further, he challenged the accuracy of those statements.

Both ICTY statements contain a declaration in English that the respective statements were read to the First Defendant

in Albanian. Indeed, during the trial of Gjeloš Krasniqi the Court called Emir Shehu, a certified Albanian translator of the ICTY, who testified that he had read to the First Defendant in Albanian his statement of 2 March 2004.

The translator who, purportedly, read to the First Defendant his statement to the ICTY investigators on 18 January 2003 did not testify during the trial of Gjeloš Krasniqi.

The statements the First Defendant gave to the UNMIK police were written in Albanian. Those statements were, in all material respects, consistent with the statements the First Defendant gave to the ICTY investigators.

The Court finds that the testimony the First Defendant gave before the Court on 11 March 2009 was false. In several material respects, his testimony contradicted his prior statements. In particular, the First Defendant testified that on 24 March 1999 he did not know Gjeloš Krasniqi. He said a person simply presented himself as Gjeloš Krasniqi. That was a lie. It is clear from his prior statements that he had known Gjeloš Krasniqi since at least 1998.

The Court finds the First Defendant gave a false statement when he testified before the Court on 11 March 2009 in the case of Gjeloš Krasniqi.

Giving a false statement before a Court is a serious offence. Those convicted of giving false statements can normally expect a long custodial sentence. Although the First Defendant denied having been threatened, the Court finds that if he was not directly threatened he was, at the very least, grossly intimidated by Gjeloš Krasniqi and feared for his personal safety and the safety of his family members. Given the unusual circumstances of this case the Court has chosen to impose the most lenient sentence it feels able to impose.

2. The Second Defendant

The Indictment alleged the Second Defendant gave a false statement when he testified before the Court on 31 March 2009, thereby committing an offence under Article 307 (1) of the CCK.

It was the Prosecution case that the testimony the Second Defendant gave before the Court on 31 March 2009 was, in several important material respects, false.

The Second Defendant had made no prior statements.

2.1 Testimony before the District Court of Peja on 31 March 2009²¹.

The Second Defendant testified that he had joined the KLA in 1998 and that during the period 1998 - 1999 he had been in charge of the defence of Nepole village.

One of the soldiers under his command was Gjelosh Krasniqi.

The Second Defendant testified that, on 24 March 1999, Gjelosh Krasniqi was working in the kitchen. He said he was assigned kitchen duties because he was "the youngest". He said young soldiers were regularly assigned those tasks.

Referring to the night of 24 March 1999 the Second Defendant testified that approximately 6 or 7 soldiers, including himself and Gjelosh Krasniqi, gathered to celebrate the NATO bombing. He testified that he instructed Gjelosh Krasniqi to kill a calf and to cook it for dinner. He testified they celebrated the whole night and did not retire to bed until approximately 7am the following morning.

The Second Defendant testified that when he woke on 25 March 1999 he discovered Gjelosh Krasniqi had gone. He said he did not see him again.

The Second Defendant was cross-examined by the Prosecution.

Presiding Judge: *The Public Prosecutor wants to know how is it possible that you do not know anything what Gjelosh Krasniqi did after 25th of March 1999, since you were in charge of village Nepole. Did Gjelosh Krasniqi leave the village and join this Brigade 35?*

²¹ Exhibit P

Kole Krasniqi: When the offensive was taken and he was wounded, we were in the mountains and he was taken by people assigned to those duties to receive treatment.

Presiding Judge: Before this offensive which happened in April 1999 and after the 25th of March, do you know what Gjelosh Krasniqi was doing?

Kole Krasniqi: He was there on the 24th because it's the day that all the Albanians remind. Until the morning of (interrupted)

Presiding Judge: Until 25th of March?

Kole Krasniqi: Yes.

Presiding Judge: We want to know what happened to Gjelosh Krasniqi after the 25th of March, did he leave the village? Did he leave the village?

Kole Krasniqi: He left. I do not know anything else.

Presiding Judge: How do you know that he left?

Kole Krasniqi: He was not there.

Presiding Judge: So you did not see him anymore after the morning of the 25th?

Kole Krasniqi: No, they had brigades and Units, I did not have anything to do with this.

[Public Prosecutor shows confirmation certificate of Kosovo Protection Corps - document embedded in subfolder 15, binder labelled materials paginated from page 1 - 179 of the court case file]

Public Prosecutor: I am going to show you the document in Albanian, are you comfortable to read the words, page 1-2?

Kole Krasniqi: I do not see very well.

Public Prosecutor: The document says Medicine Section dated, May 21st 2008, with the protocol no 09/08. Was Gelosh Prenk Krasniqi born in September 13, 1973, in Nepole Municipality of Peja, soldier of Kosovo

Liberation Army - Dukagjini Operative Zone in Nepole, from 16th of June 1998, the document goes on (interrupted)

Haxhi Millaku: Please continue to read from the document.

Public Prosecutor: He has been wounded on April 5th, 1999, while fighting in Jabllanica village, Gjakova municipality, wounded is in head. Does this information seem correct?

Kole Krasniqi: I do not know. I heard that he was wounded; there were times when we could not meet for 5-6 days.

Public Prosecutor: Did he ever return to the village?

Kole Krasniqi: No I have never seen him.

Public Prosecutor: Did you know that he was assigned to brigade 32, in September?

Kole Krasniqi: We were all assigned until the brigade 32 was created in May.²²

...

Presiding Judge: Who was present with you and Gjelo Krasniqi on the night between the 24th of March 1999 and the morning of the 25th of March 1999? Start telling us some names and surnames.

Kole Krasniqi: There were 6-7 of us. Pashk, Kristi, I do not know the other names.

Presiding Judge: What are their surnames?

Kole Krasniqi: They are all Krasniqi.

Presiding Judge: Are these people alive?

Kole Krasniqi: Yes.

Presiding Judge: Where are they currently living?

²² Extract from the Minutes of the Main Trial of 31.03.2009, pages 17 - 18

Kole Krasniqi: In Nepole.

Public Prosecutor: Up to now, you said there were 6-7 people, you Gjelosh Krasniqi and?

Kole Krasniqi: I did not count people.

Presiding Judge: You stayed the entire night with these people, it was a very important night, and you do not remember who were the other people that you stayed together?

Kole Krasniqi: I do not know their exact names. I would recognise them if I see them.

Presiding Judge: They were from your village?

Kole Krasniqi: Yes but all the houses were burnt.

Presiding Judge: Yes but you should remember who remained in the village.

Kole Krasniqi: I could not have counted.

Presiding Judge: How many people were in the village at that time?

Kole Krasniqi: They would go to the church and come back to the village.

Presiding Judge: But before the bombardment, how many people were in the village?

Kole Krasniqi: There were 200-300 people in the village, including women and children.

Presiding Judge: At that time, how long did you live in that village, until 1999?

Kole Krasniqi: Since I was born.

Presiding Judge: So you should know the village.

Kole Krasniqi: I know them but sometimes I forget even my sons' names. I know the ones which older but the younger ones I do not know.

Presiding Judge: These 4 others, were they young or old?

Kole Krasniqi: They were young, 3 of us were older.

Presiding Judge: How young?

Kole Krasniqi: I do not know.

Presiding Judge: Young is not accurate, how young?

Kole Krasniqi: They were younger, I do not know. I can ask if you want me to.

Presiding Judge: So you know them, give us names.

Kole Krasniqi: I do not know their names.

Presiding Judge: You know them by face?

Kole Krasniqi: Yes of course.

Presiding Judge: Roughly, how old were they?

Kole Krasniqi: I do not understand, it was 10 years ago.

Presiding Judge: Were they children, teenagers, toddlers?

Kole Krasniqi: They were young persons.

Presiding Judge: So you can say only that they were young?

Kole Krasniqi: Yes.

Presiding Judge: Older or younger than 20?

Kole Krasniqi: I don't know.

Presiding Judge: I asked whether they were older than 20 or not?

Kole Krasniqi: I do not know if they were 17, 19 or 20, I do not know.

Presiding Judge: Were they older than 10 or not?

Kole Krasniqi: Yes of course.

Presiding Judge: All these 4 people were of the same age, more or less?

Kole Krasniqi: I do not know.

Presiding Judge: Do you remember how was Gjelosh Krasniqi dressed on that night?

Kole Krasniqi: Yes. He had a kitchen apron.

Presiding Judge: Was this his usual uniform while working in the kitchen?

Kole Krasniqi: Yes of course. Sometimes he was not even wearing that, we just had our clothes.

Presiding Judge: Do you remember the other two people that you remember, how they were dressed?

Kole Krasniqi: Which ones?

Presiding Judge: You mentioned two others Prenk Krasniqi.

Kole Krasniqi: Yes but we were not wearing uniforms.

Presiding Judge: Yes but I want to know what were they wearing?

Kole Krasniqi: Civilian clothing.

Presiding Judge: Yes but what exactly were they wearing?

Kole Krasniqi: I do not remember even now what I am wearing.

Presiding Judge: You should answer and do not make comments. Do you remember how they were dressed?

Kole Krasniqi: No.

Presiding Judge: How do you remember that Gjelosh Krasniqi was wearing that apron, is it a memory or a deduction?

Kole Krasniqi: I remember because he was serving us food with one other person.

Presiding Judge: So you remember only Gjelosh Krasniqi how he was dressed and not the others, is this your answer?

Kole Krasniqi: Yes. I was not paying attention how they were dressed.

Presiding Judge: So you were paying attention only how Gjelosh Krasniqi was dressed.

Kole Krasniqi: Yes, he was serving us.

Presiding Judge: This is why you paid attention as why he was dressed?

Kole Krasniqi: Yes. I told him to get calf at my house.

Presiding Judge: Was this the first time that Gjelosh Krasniqi served you?

Kole Krasniqi: No, he served hundreds of times.

Presiding Judge: And each time he paid attention how he was dressed?

Kole Krasniqi: Sometime when a bomb would go off we would leave to the mountains and we would not see each other for 10 days.

Presiding Judge: Was he serving alone or with other?

Kole Krasniqi: He would prepare it and bring it over there.

Presiding Judge: So he was serving alone?

Kole Krasniqi: Yes.

Presiding Judge: Then what happened, he was serving

all of you, also these young people?

Kole Krasniqi: He prepared the food, there was an old stove there and we would take the food and serve it by himself.

Presiding Judge: Was he wearing boots or not?

Kole Krasniqi: I do not know what I was wearing.

Presiding Judge: You remember him wearing apron but not boots, if you pay attention to his clothing than you should know about his shoes.

Kole Krasniqi: Why would I care about his boots?

Presiding Judge: So you do not remember shoes but you remember the apron.

Kole Krasniqi: I know that.

Presiding Judge: You know or you saw.

Kole Krasniqi: I saw him wearing it.

Presiding Judge: What was the colour of this apron?

Kole Krasniqi: I do not know the colour because our thoughts were elsewhere at that time.

Presiding Judge: What was the shape of the apron?

Kole Krasniqi: It was longer at the front I did not care about it.

Presiding Judge: Did it have buttons? We were not there, just tell us?

Kole Krasniqi: I did not care about this.

Presiding Judge: Did this apron have pockets?

Kole Krasniqi: I do not know, I was not dealing with aprons.

Presiding Judge: So you remember the apron but you do not remember the shape or colour?

Kole Krasniqi: We were listening to the news; they were saying that the NATO planes would leave at 8.20. I did not even care to look at them.

Presiding Judge: Was Gjelosh Krasniqi wearing gloves?

Kole Krasniqi: No, were could we have gotten gloves from.

Presiding Judge: Please just answer and do not make comments. This is the last warning. Was he wearing gloves?

Kole Krasniqi: No.

Ferdinando Buatier De Mongeot: At what time did you see Gjelosh Krasniqi that night?

Kole Krasniqi: From around 2p.m. until next morning.

Ferdinando Buatier De Mongeot: The other persons present, when did they join you?

Kole Krasniqi: We were together at all time.

Ferdinando Buatier De Mongeot: So 6-7 persons were whole the time together?

Kole Krasniqi: Yes.

Ferdinando Buatier De Mongeot: In which house were they that day?

Kole Krasniqi: In the house of Pashke Krasniqi, who was there. His house had not burnt down.

Ferdinando Buatier De Mongeot: Were you all the time in the house or did you move around?

Kole Krasniqi: When they were shooting us or bombed, we would leave.

Ferdinando Buatier De Mongeot: You are talking about the same day?

Kole Krasniqi: The NATO planes, we heard that they

would leave at 8.30. and we were there until 8.00.

Ferdinando Buatier De Mongeot: Since when you were concentrated there?

Kole Krasniqi: The mountains were close to the house and we would move to that distance. They would bomb us with grenades during the day, and at night we would return to the house.

Ferdinando Buatier De Mongeot: On that day, did they grenade you?

Kole Krasniqi: No.

Presiding Judge: At that night, on the 24th of March 1999?

Kole Krasniqi: Yes, all of them together. After 3-4 days they bombed us together.

Ferdinando Buatier De Mongeot: During that time, did someone leave?

Kole Krasniqi: We were there all the time.

Ferdinando Buatier De Mongeot: Inside the house?

Kole Krasniqi: Yes.

Ferdinando Buatier De Mongeot: All of them?

Kole Krasniqi: Yes, we had nowhere else to go.²³

...

Presiding Judge: In that night, how many KLA soldiers were present, on 24th of March?

Kole Krasniqi: 7-8 of us were there that night.

Presiding Judge: How many of these people were present there where Gjelosh Krasniqi was serving dinner?

²³ Extract from the Minutes of the Main Trial of 31.03.2009, pages 19 – 25

Kole Krasniqi: 7-8 people.

Presiding Judge: So all the people present were KLA soldiers?

Kole Krasniqi: Yes, 7-8 people.

Presiding Judge: How old was the youngest soldier recruited by you in Nepole?

Kole Krasniqi: We recruited them from 17 years old and up. We were dealing more with emergency situations.

Presiding Judge: In that house, that night, was there anyone younger than 17?

Kole Krasniqi: I do not know, perhaps they were, I was concentrated on what was happening.

Presiding Judge: You said that they were KLA?

Kole Krasniqi: Yes.

Presiding Judge: So you know them.

Kole Krasniqi: I do not know them, I know 2-3 of them, and I told you whose names I know.

Presiding Judge: You said that none of these people, names that you do not know, were not younger than 17?

Kole Krasniqi: I do not know.

Presiding Judge: Since you told us that you did not recruit people younger than 17, and since you told us that all of the people in the house were KLA soldiers, how is it possible that there were people younger than 17?

Kole Krasniqi: It is not strange for me not to know what age they were, what they were wearing, what was the colour of apron.

Presiding Judge: Since they were KLA soldiers you should know their age.

Kole Krasniqi: I told you, I was there in an attempt to help people, I did not care what age they were.

Presiding Judge: The answer is not consistent to my question. Since they were KLA soldiers, you should know their age.

Kole Krasniqi: I can ask the Commander.

Presiding Judge: This is not the way of answering. I want you know that since they were KLA soldiers of your village, you did not know the age of these people?

Kole Krasniqi: I did not ask for their age, someone else asked their age.

Presiding Judge: Who was recruiting people in the village?

Kole Krasniqi: They came voluntarily and joined.²⁴

...

Presiding Judge: No, did you know how many people were serving in Nepole?

Kole Krasniqi: Yes, of course.

Presiding Judge: Who was informing you about this number?

Kole Krasniqi: Because I was together with them.

Presiding Judge: During the day.

Kole Krasniqi: During the day, during the night. When the situation would calm down, we would put a guard on watch.

Presiding Judge: Since you were informed about all the movements, how come that Gjeloš Krasniqi, on the morning of 25th just left the village and you did not know anything about his fate?

²⁴ Extract from the Minutes of the Main Trial of 31.03.2009, pages 26 – 27

Kole Krasniqi: He did not have to tell me.

Presiding Judge: Were these guards aware where they were?

Kole Krasniqi: The guards were in the village. We thought since NATO was about to bomb we were liberated and we did not think twice.

Presiding Judge: Of what?

Kole Krasniqi: We thought we are free. NATO will bomb and we did not have to deal with it.

Presiding Judge: Yes but that night, did you put the guards to patrol?

Kole Krasniqi: There were no guards; it was just us in the house.

Presiding Judge: Since all of you were in this house, how is it possible that Gjeloš Krasniqi just left the house, did anyone realise that he left the house and the village?

Kole Krasniqi: We did not see where this person went.

Presiding Judge: Since all of you were in the same house.

Kole Krasniqi: It was our obligation to care about the people as long as they were in the village, if they wanted to leave they could.

Presiding Judge: Since all of you were in the same house, did anyone of you realise that Gjeloš Krasniqi left the house?

Kole Krasniqi: Others left as well.

Presiding Judge: Did anyone realise that Gjeloš Krasniqi left the village?

Kole Krasniqi: I did not realise.

Presiding Judge: Did you see Gjeloš Krasniqi leaving

the house or not?

Kole Krasniqi: I did not see him.

Presiding Judge: Did somebody else from this house, see him leaving?

Kole Krasniqi: I do not know. I know that we were celebrating until the early morning.

Presiding Judge: How many doors does this house have?

Kole Krasniqi: It's not my house, how would I know.

Presiding Judge: Yes but you stayed there all over the night, do you remember how many doors it had?

Kole Krasniqi: I know there was one, it could have been two.

Presiding Judge: Were you all staying in the same room or separate room?

Kole Krasniqi: In the same room, until the morning hours.

Presiding Judge: How is it possible that you all stayed together until morning hours and no one saw Gjelosh Krasniqi?

Kole Krasniqi: Perhaps someone saw him.

Presiding Judge: Since you were a Commander, I think that you should have been informed because you said that the movements of the soldiers were controlled.

Kole Krasniqi: We were not genuine military. Even Wesley Clark could have not known these things.

Presiding Judge: We are talking about just 7 people at the same room.

Kole Krasniqi: We were there until morning, whether it was 25th or 26th I do not remember. I just know that we were there until the early hours.

Presiding Judge: So you do not remember if it was 25th

of 26th?

Kole Krasniqi: It was 25th because on the 24th we stayed until the morning hours.

Presiding Judge: You mean on the night of 24th?

Kole Krasniqi: Yes.

Presiding Judge: Why a while ago, you don't even remember if it was 25th or 26th?

Kole Krasniqi: We remembered that NATO will bomb, we had been waiting for that for 50 years, and we did not care about anything else.

Presiding Judge: So you are sure that this happened when NATO bombed?

Kole Krasniqi: Yes I will never forget it.

Presiding Judge: Was it the first time of NATO bombing?

Kole Krasniqi: Yes.

Presiding Judge: I want to know - so you were all staying in this room until the morning, were you all awake until morning?

Kole Krasniqi: Yes.

Presiding Judge: So how it is possible, you were staying in one room, there was just one door in that house, how is it possible that no one saw Gjelosh Krasniqi leaving the house?

Kole Krasniqi: We live in a village, we do not even have a bathroom, and we did not even care what was happening.

Presiding Judge: So you are saying that you did not see Gjelosh Krasniqi leaving the house?

Kole Krasniqi: No.

Presiding Judge: When after 2-3 hours you did not see

him in the house, what did you do?

Kole Krasniqi: Nothing. ²⁵

...

Presiding Judge: To resume, you are saying that you did not see Gjelosh Krasniqi leaving the house?

Kole Krasniqi: We stayed drinking until the morning hours at some time we went to sleep then I did not care about what happened we dispersed to our own house.

Presiding Judge: You said you stayed awake until the morning?

Kole Krasniqi: We stayed awake all hours.

Presiding Judge: When?

Kole Krasniqi: It was about 7 or 8 am

Presiding Judge: You are talking about the morning of 25th March?

Kole Krasniqi: Yes.

Presiding Judge: Where did these 7 people sleep?

Kole Krasniqi: Our houses are close to one another. Two or three of us slept there, the others left.

Presiding Judge: Who slept there?

Kole Krasniqi: Pashk and myself.

Presiding Judge: While the others went to where?

Kole Krasniqi: Their own houses. We did not deal with them anymore.

Presiding Judge: Can you explain why you stayed until 7 in the house? What happened at 7 that made you say

²⁵ Extract from the Minutes of the Main Trial of 31.03.2009, pages 29 – 31

"OK we can go to sleep now"?

Kole Krasniqi: We believed that NATO had begun bombing. We believed we had been liberated.

Presiding Judge: When did the bombing start?

Kole Krasniqi: I don't know if it was 9am, or 8.50am. We had a bad radio.

Presiding Judge: How come that at 7 the situation was not so dangerous anymore?

Kole Krasniqi: We could celebrate all night long.

Presiding Judge: So you were celebrating the whole night long?

Kole Krasniqi: Yes.

Presiding Judge: And at 7 what happened?

Kole Krasniqi: What was there to happen? We went to bed.

Presiding Judge: Who decided the party was over?

Kole Krasniqi: All of us. We all said "OK, the whole ordeal is over." I believe all of Kosovo felt the same way.

Presiding Judge: Who owned the house?

Kole Krasniqi: Pashk.

Presiding Judge: You stayed in the house and Pashk stayed in the house?

Kole Krasniqi: Pashk and myself. After 7 o'clock we went to sleep. The others went to their house.

Presiding Judge: Did Gjelosh Krasniqi say anything?

Kole Krasniqi: He did not say anything and I didn't see him.

Presiding Judge: He just left without saying a word?

Kole Krasniqi: We went to sleep and were drunk anyway.

Presiding Judge: Did he say goodbye?

Kole Krasniqi: I don't know whether he said goodbye.

Presiding Judge: Was he drunk?

Kole Krasniqi: We were so overjoyed that we were drunk even if we had not drunk anything.

Presiding Judge: Was he drunk or not?

Kole Krasniqi: I don't know, I don't know. We were all drinking. I cannot say I was drunk or not.²⁶

...

Presiding Judge: When a soldier left your unit, you did not inform anybody?

Kole Krasniqi: Then I did not have anything to do with the soldiers, it was the other commander.

Presiding Judge: We are talking of a soldier in your unit. You don't see him anymore and you don't inform anybody?

Kole Krasniqi: After the 25th we did not inform anyone about anything. I don't know what the others did.

Presiding Judge: When did you realise that Gjesh was not any more in the village? On the same morning of the 25th?

Kole Krasniqi: On the 25th in the morning we were together. The others went to their houses and I did not care who went there.

Presiding Judge: After some time you woke up?

Kole Krasniqi: Yes.

²⁶ Extract from the Minutes of the Main Trial of 31.03.2009, pages 32 - 34

Presiding Judge: And so you did not care any more about the people in the village?

Kole Krasniqi: I went to my own house, the other commander came and I did not deal with this anymore.

Presiding Judge: So on the 25th another commander came?

Kole Krasniqi: Pashk was the commander.²⁷

2.2 Summary

The Second Defendant did not testify in his trial, save to state that his testimony on 31 March 2009 was true.

The Second Defendant testified on 31 March 2009 that Gjeloš Krasniqi was assigned Kitchen duties because he was "the youngest". However, he subsequently testified that he did not know how old the other KLA soldiers were - he thought some were around 20 years of age - and that some might have been younger than Gjeloš Krasniqi. This was contradicted by a witness²⁸ called by the Defence during the trial of Gjeloš Krasniqi who testified that the other KLA soldiers were around 35 years of age.

The Second Defendant testified that he instructed Gjeloš Krasniqi to kill a calf for dinner. He remembered it well because all his other cattle had been killed. The calf was the surviving animal of the herd.

The Second Defendant testified he clearly recalled Gjeloš Krasniqi being present on the night in issue. However, he could not recall the names of all of the other soldiers who had been present that night. That was surprising given the fact only 6 or 7 soldiers had been present and all were from his village.

The Second Defendant did not testify during the trial of Gjeloš Krasniqi about the time dinner commenced. However, another Defence witness²⁹ testified they started drinking at approximately 8pm and began eating at approximately 10pm.

²⁷ Extract from the Minutes of the Main Trial of 31.03.2009, page 34

²⁸ Pashk Krasniqi, Exhibit P9

²⁹ Pashk Krasniqi, Exhibit P9

In his statement to ICTY investigators on 18 January 2003 the First Defendant stated Gjelosh Krasniqi entered the yard at 8.30pm. In the statement he gave to UNMIK police on 16 January 2008 he gave the time as approximately 8.15pm.

Clearly dinner preparations commenced some hours before the group actually sat down to eat. It was the Second Defendants testimony on 31 March 2009 that Gjelosh Krasniqi was the person responsible for preparing dinner.

The First Defendant testified that Gjelosh Krasniqi left the house with the First Defendants father, returning approximately 2 - 2 ½ hours later. In his statement to UNMIK police dated 16 January 2008 the First Defendant stated the soldiers returned with his father at approximately 11.30pm.

The Second Defendant testified that after dinner the group was awake celebrating until approximately 7am the following morning and that they were drunk. When he awoke he realized Gjelosh Krasniqi had left. He said he did not see him again.

Another Defence witness³⁰ testified the group was together until approximately 2am on 25 March when they retired to bed³¹ and that everybody was sober.

The Second Defendant testified that Gjelosh Krasniqi was not wearing a uniform on the night of 24 March 1999. He said this was because one could not be found to fit him. That evidence was contradicted by Prosecution witnesses who described Gjelosh Krasniqi wearing a uniform³².

The Second Defendant testified that, although he was in charge of the Defence of the village, he had no idea what happened to Gjelosh Krasniqi after the morning on 25 March 1999. He simply said that when he woke he discovered Gjelosh Krasniqi had gone. The Defence witness³³ stated that Gjelosh Krasniqi did not leave the next morning but that on the contrary he stayed in Nepole village until the end of the war. He specified that Gjelosh Krasniqi was with the group of soldiers on the morning of 25th to perform the

³⁰ Pashk Krasniqi, Exhibit P9

³¹ Exhibit P9

³² Exhibit P9

³³ Pashk Krasniqi, Exhibit P9

daily activities. When asked if the Second Defendant was also present then, the Defence witness said yes.

When asked by the Court how Gjelosh Krasniqi had left the village without the KLA commander knowing, the Second Defendant replied "he did not have to tell me".

The Second Defendant appeared remarkably unconcerned that one of the soldiers under his command and the person supposedly responsible for cooking meals for the soldiers has simply left. Indeed, it appears the Second Defendant failed to inform anyone Gjelosh Krasniqi had simply left

"After the 25th we did not inform anyone about anything. I don't know what the others did"

A Defence witness³⁴ testified during the trial of Gjelosh Krasniqi that if a soldier under the Second Defendants command had left the village without the Second Defendants permission he would have been punished. The witness described the Second Defendant as a strict commander. However, the Second Defendant would have the court believe that he was singularly unconcerned when a soldier under his command simply disappeared in the manner Gjelosh Krasniqi purportedly had on the morning of 25 March. The Second Defendants evidence in that regard is untenable.

When the Second Defendant was asked about the morning of 25 March 1999 and the departure of Gjelosh Krasniqi he testified

"We were there until morning, whether it was 25th or 26th I do not remember. I just know that we were there until the early hours".

And yet, on the Second Defendants own testimony, this was a night he remembered vividly because of the NATO bombing.

The Second Defendant attempted to portray to the Court an unequivocal recollection of events of the night in issue. However, he knew the matters about which he testified were a lie, concocted to provide a false alibi for Gjelosh Krasniqi.

Later in his testimony the Second Defendant corrected

³⁴ Pashk Krasniqi, Exhibit P9

himself and said he was sure the events about which he testified occurred on the night of 24 March and early hours of 25 March 1999.

Equally compelling is the fact Gjelosh Krasniqi was convicted on 29 April 2009 of War Crimes against the Civilian Population as to the taking as hostage of Pashk Luli on 24 March 1999.

In his testimony on 31 March 2009 the Second Defendant attempted to portray Gjelosh Krasniqi as a simple cook. He was anything but that. The Second Defendant contradicted himself about important events and his explanations were simply untenable.

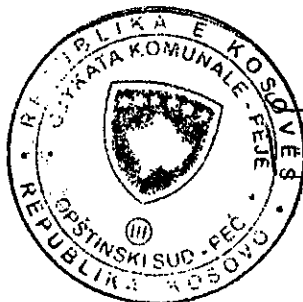
In several important material respects his evidence was a lie, concocted to provide a false alibi for Gjelosh Krasniqi.

The Court finds the Second Defendant gave a false statement when he testified before the Court on 31 March 2009 thereby committing an offence under Article 307 (1) of the Criminal Code of Kosovo.

Having regard to all the circumstances of this case the Court is satisfied the sentences are reasonable and proportionate.

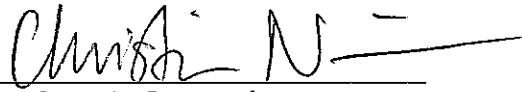
For the reasons stated herein I hereby render this Judgment.

Dated this 5 day of August 2010.



[Handwritten Signature]

Judge Malcolm Simmons
Presiding Judge



Court Recorder
Christin Nilsson

LEGAL REMEDY: Pursuant to Article 398(1) of the Criminal Procedure Code of Kosovo, the authorized persons may file an appeal of this Judgment within fifteen (15) days of the day the copy of the judgment has been served.