

**Organization for Security and Co-operation in Europe
MISSION IN KOSOVO**

**Department of Human Rights and Rule of Law
Legal System Monitoring Section**

Case Report:

The Public Prosecutor's Office

vs

Latif Gashi, Rrustem Mustafa, Naim Kadriu and Nazif Mehmeti

The “Llapi Case”

1. Introduction:

This case report concerns the trial against Latif Gashi, Rrustem Mustafa, Naim Kadriu and Nazif Mehmeti, otherwise known as the “Llapi Trial”. It has been compiled by the OSCE’s Legal System Monitoring Section, which is part of the Department of Human Rights and Rule of Law. It has been released following the release of the written verdict on 16 December 2003. The verdict can be appealed by either party to the Supreme Court.

The Legal System Monitoring Section is tasked with the role of monitoring cases in the criminal justice system, assessing their compliance with international standards, and reporting on matters of concern. The Legal System Monitoring Section has monitored all the war crimes cases held in Kosovo. A detailed analysis of these cases may be found in the report entitled “*Kosovo’s War Crimes Trials: A Review*” published in September 2002 and available on the OSCE website.¹

In accordance with its mandate, the Legal System Monitoring Section monitored the Llapi case for the duration of the trial. The analysis of the conduct of the proceedings is outlined below. It is important to note that the trial was monitored in order to assess whether or not there were any concerns in relation to the fairness of the proceedings (or other related rule of law concerns). These tend to be procedural issues. The Legal System Monitoring Section through this report does *not* seek to comment upon, or endorse, the substantive findings of the court.

2. Summary of the Llapi case:

The case was the first major trial in Kosovo to charge Kosovo Albanians accused for war crimes and hence gained considerable public attention. The accused were indicted for war crimes under domestic applicable law for acts perpetrated against predominantly Kosovo Albanian victims; out of twenty-six victims listed in the indictment, one victim was a Kosovo Serb.

The court initially convened on 17 February 2003 in an office in the British Council Building in Prishtinë/Pristina. Given the public interest generated by the case and the security concerns exigent to it, the trial was moved to a large auditorium with seating capacity for around 200 people. Radio headsets were distributed to all parties in the case, as well as attendant members of the public, which relayed simultaneous interpretation of the proceedings in the Albanian, Serbian and English languages.

The four accused, Latif Gashi, Rrustem Mustafa, Naim Kadriu and Nazif Mehmeti, were charged for their alleged participation in the unlawful detention, torture and murder of civilians from August 1998 to June 1999. During that time, the accused were members of the Kosovo Liberation Army (KLA) assigned to the Llap Zone of operation; a geographic area of roughly 50 square kilometres located near the city of Podujevë/Podujevo towards the northern extreme of central Kosovo. Within that zone, there were five detention units in which civilians were allegedly detained:

- Bajgore/Bajgora detention unit: In operation between August 1998 and September/October 1998;
- Llapashtica/Lapaštica detention unit: In operation between November 1998 and March 1999;

¹ <http://www.osce.org/kosovo/documents/reports/>

- Majac/Majance detention unit: In operation between March 1999 and April 1999;
- Potok detention unit: In operation between March 1999 and April 1999;
- Koliq/Količ detention unit: In operation between May 1999 and June 1999.

The accused were charged for acting with other unidentified guards and members of the KLA in illegally detaining civilians either via unlawful arrest or after inviting prospective detainees for “informative talks”. According to the indictment, those detained were accused of having collaborated with the Serb forces, which the KLA were fighting at the time. It further alleged that the detainees were housed in inhumane conditions; denied adequate sanitation, food, water and medical care; were subject to routine beatings and tortures, forced to beat each other, forced to make false confessions and threatened with death.

3. Findings of the Court:

The trial proper commenced on 20 February 2003 (after two days of pre-trial hearings). In total there were 54 days of trial in which 45 witnesses were heard. The International Presiding Judge declared the trial over on Monday 14 July 2003 and delivered the oral verdict on Wednesday 16 July 2003. In its written verdict, dated 11 November 2003 (and released following translation on 16 December 2003), the court summarized its findings in relation to the culpability of the accused persons as follows:

“Pursuant to Article 351 of the Law of Criminal Procedure (“LCP”), the following acts are found to have been proved in the case of each Accused:

IN RELATION TO LATIF GASHI, aka Commander ‘Lata,’ ethnicity Kosovar Albanian, father’s name Riza, mother’s name Raba, born on 12.09.61, place of birth Doberdol, municipality of Podujevo, married with three children, graduated from the Faculty of Law in Pristina, Director of the Intelligence Service of Kosovo and reserve officer of the TMK, without previous convictions or pending criminal proceedings, living in Pristina city centre off Mother Theresa Avenue, grid coordinates EN 1328 2333 in detention since 28 January 2002;

During the period 30th October 1998 to late April 1999, in complicity with Rustem Mustafa, and aided and abetted by Nazif Mehmeti and others, and pursuant to a joint criminal plan, he illegally detained Kosovo Albanian citizens suspected of collaboration with Serbs in a detention centre organised by and under the control of the KLA at Llapashtica, and also at Majac and Potok by causing them to be detained in inhumane conditions, depriving them of adequate sanitation and beating and torturing them thus causing them great suffering and violation of their health, and thereby depriving them of their right to a fair trial: the citizens so detained included witnesses 7, 4, Drita Bunjaku, Agim Musliu, Idriz Zvarqa, Alush Kastrati, Hetem Jashari, and witness “V”, the purpose of the plan being to seek to force those detained to confess to disloyalty to the KLA and to punish those detained for that alleged disloyalty to the KLA. (Count 2, 5 and 8).

During the period 31st May 1999 until an unknown date in mid June 1999, at an unknown location in Koliq, in complicity with Naim Kadriu, he illegally detained, beat and tortured witnesses “Q” and “R” thus exposing them to great suffering and violation of bodily health and thereby depriving them of their right to a fair trial (Count 3 and 9).

During the period 1st August 1998 to 26th September 1998, at a detention centre organised by and under the control of the KLA at Bajgora, he beat and tortured Milovan Stankovic thereby exposing him to great suffering and violation of bodily health, and thus aided and abetted the unlawful detention of Milovan Stankovic. (Count 12 and 14).

In relation to Latif Gashi, the following acts were not established:

Count 1 - Allegation relating to illegal detention (Kosovo Albanian victims) at Bajgora;
Count 4 – Allegation relating to inhumane treatment (Albanian victims) at Bajgora;
Count 5 (part) – Allegations relating to inhumane treatment at Majac and Potok only;
Count 6 – Allegation relating to inhumane treatment at Koliq;
Count 7 – Allegation relating to beating and torture at Bajgora;
Count 8 (part) – Allegations relating to beating and torture at Majac and Potok only;
Count 10 – Allegation relating to killing of Victim 1, Osman Sinani;
Count 11 – Allegation relating to killing of Drita Bunjaku, Agim Musliu, Idriz Svarqa, Alush Kastrati, and Hetem Jashari;
Count 13 – Allegation relating to inhumane treatment (Stankovic) at Bajgora.

IN RELATION TO NAZIF MEHMETI, aka ‘Dini,’ ethnicity Kosovar Albanian, born on 20.09.61, father’s name Hajredin, mother’s name Shahe, married with three children, place of birth Shajkofc, municipality of Podujevo, graduated from the Faculty of Law in Pristina residing in the village of Shajkofc/ Pristina, SU 3/2, 2nd floor #9, Pristina, employed as KPS officer in Pristina, Station 3 without previous convictions or pending criminal proceedings and has been in detention since 28 January 2002;

During the period 30th October 1998 to late April 1999, he aided and abetted Rustem Mustafa and Latif Gashi illegally to detain Kosovo Albanian citizens in a detention centre organised by and under the control of the KLA at Llapashtica, by supervising the detention centre and directing the guards under his control and ensuring that the detainees remained in detention whilst knowing that they were detained in inhumane conditions and deprived of adequate sanitation and that unlawful measures of beating and torture were being applied to them, thus causing them great suffering and violation of their health and thereby depriving them of their right to a fair trial: the citizens so detained included witnesses 7, 4, Drita Bunjaku, Agim Musliu, Idriz Zvarqa, Alush Kastrati, Hetem Jashari, and witness “V”. (Counts 2, 5 and 8).

On a date unknown during but prior to late April 1999, in complicity with Rustem Mustafa and in compliance with his order that Drita Bunjaku, Agim Musliu, Idriz Svarqa, detained at that time at Majac, and Alush Kastrati and Hetem Jashari detained at that time at Potok, be killed, he conveyed the order from Rustem Mustafa to kill these persons to unknown members of the KLA and further himself ordered those members of the KLA to carry out the killings which they then did. (Count 11).

In relation to Nazif Mehmeti, the following acts were not established:

Count 5 (part) – Allegations relating to inhumane treatment at Majac and Potok only;
Count 8 (part) – Allegations of torture at Majac and Potok only;
Count 12 – Unlawful detention at Bajgora (Stankovic);
Count 13 – Inhumane treatment at Bajgora (Stankovic);
Count 14 – Torture at Bajgora (Stankovic).

IN RELATION TO NAIM KADRIU, aka ‘Lumi,’ born on 05.03.73, place of birth Turqice, ethnicity Kosovar Albanian, father’s name Halit, mother’s name Mihane, married with two children, literate, living in the city of Podujevo at grid coordinates EN 1630 5062, employed by Kosovo Petrol, without previous convictions or pending criminal proceedings and has been in detention since 28 January 2002;

During the period 31st May 1999 until an unknown date in mid June 1999, at an unknown location in Koliq, in complicity with Latif Gashi, he illegally detained, beat and tortured witnesses “Q” and “R” thus exposing them to great suffering and violation of bodily health and thereby depriving them of their right to a fair trial (Counts 3 and 9).

In relation to Naim Kadriu, the following act was not established:

Count 6 – Inhumane treatment at Koliq.

IN RELATION TO RRUSTEM MUSTAFA, aka ‘Remi’, ethnicity Kosovar Albanian, born on 27.02.71, place of birth Perpellac, father’s name Musli, mother’s name Nefise, married, graduated from the Faculty of Law, Pristina, residing in the city of Podujevo, Fiteria Street, at grid coordinates EN 1601/5245 without previous convictions or pending criminal proceedings and has been in detention since 11 August 2002;

During the period 1st August 1998 to 26th September 1998, knowing that Kosovo Albanian citizens and Milovan Stankovic were being illegally detained at a detention centre organised by and under the control of the KLA at Bajgora in the Llap zone, and being in a position of responsible command as Commander of the Llap zone, he failed to prevent the further illegal detention of those persons and failed to take any steps to identify and punish the members of the KLA responsible for those offences. (Count 1 and 12).

During the period 30th October 1998 to late April 1999, in complicity with Latif Gashi, and aided and abetted by Nazif Mehmeti and others, and pursuant to a joint criminal plan, he illegally detained Kosovo Albanian citizens suspected of collaboration with Serbs in a detention centre organised by and under the control of the KLA at Llapashtica, and also at Majac and Potok by causing them to be detained in inhumane conditions, depriving them of adequate sanitation and beating and torturing them thus causing them great suffering and violation of their health, and thereby depriving them of their right to a fair trial: the citizens so detained included witnesses 7, 4, Drita Bunjaku, Agim Musliu, Idriz Svarqa, Alush Kastrati, Hetem Jashari, and witness “V”, the purpose of the plan being to seek to force those detained to confess to disloyalty to the KLA and to punish those detained for that alleged disloyalty to the KLA. (Counts 2, 5 and 8).

On an unidentified date between 31st May 1999 and mid June 1999, he ordered Naim Kadriu to torture witness “R” by directing Naim Kadriu to coerce witness “R” to agree to commit an act of murder in order to obtain his own release from illegal detention at a location at Koliq. (Counts 3 and 9).

On a date unknown during but prior to late April 1999, he ordered the murder of Drita Bunjaku, Agim Musliu, Idriz Svarqa, detained at that time at Majac, and Alush Kastrati and Hetem Jashari detained at that time at Potok, by ordering Nazif Mehmeti to travel to Majac and Potok for the purpose of ensuring that his order for these killings be carried out by members of the KLA and which killings were then carried out as ordered by him. (Count 11).

In relation to Rrustem Mustafa, the following acts were not established:

- Count 4 – Allegation relating to inhumane treatment (Albanian victims) at Bajgora;
- Count 5 (part) – Allegations relating to inhumane treatment at Majac and Potok only;
- Count 6 – Allegation relating to inhumane treatment at Kolec;
- Count 7 – Allegation relating to beating and torture at Bajgora;
- Count 8 (part) – Allegations relating to beating and torture at Majac and Potok only;
- Count 10 – Allegation relating to killing of Victim 1, Osman Sinani; Count 13 – Allegation relating to inhumane treatment (Stankovic) at Bajgora;
- Count 14 – Allegation relating to torture (Stankovic) at Bajgora.”²

Having found all the accused guilty on certain counts, the court imposed the following sentences:

- “LATIF GASHI, for the criminal acts of War crime as set out above, is sentenced to a term of 10 (TEN) years imprisonment.
- NAZIF MEHMETI for the criminal acts of War crime as set out above, is sentenced to a term of 13 (THIRTEEN) years imprisonment.
- NAIM KADRIU for the criminal acts of War crime as set out above, is sentenced to a term of 5 (FIVE) years imprisonment.

² See written verdict at pages 1-5

RRUSTEM MUSTAFA for the criminal acts of War crime as set out above, is sentenced to a term of 17 (SEVENTEEN) years imprisonment.”³

4. Analysis of the Trial Proceedings:

The Legal System Monitoring Section assessed the trial for compliance with the fair trial standards enshrined in the European Convention on Human Rights (ECHR). The results of its assessment are summarized below. However, it is worth noting that the following analysis deals with procedural issues of the trial and *does not* seek to evaluate, endorse, or reject, the above substantive findings of the court, or the sentences imposed.

i. Article 6(1) ECHR: The right to a public trial:

Under Article 6(1) ECHR, “*everyone is entitled to a ... public hearing*”

The holding of court hearings in public constitutes a fundamental principle enshrined in international law. The purpose is to render the justice system to public scrutiny and thereby protect the parties from the exercise of arbitrary State power. This helps to build public confidence in the administration of justice as a whole. Applicable law in Kosovo is consistent with this requirement. Article 287(1) of the Federal Republic of Yugoslavia Criminal Procedure Code prescribes that the main trial shall be public and their exclusion is permitted only in certain limited circumstances.⁴

Hearings in the Llapi trial were initially convened in a room in the British Council building. At the very first session in this office, all parties present, including the press, defence counsel and the trial panel, were unanimous in accepting that the venue would have to be changed in order to accommodate those interested in attending. The trial was thus moved to a larger venue and members of the public attended on all days of the trial, except during the non-public sessions.

During this initial stage, the issue of permitting television cameras into the courtroom to film and broadcast the proceedings on public television networks was raised by the defence counsel. In the opinion of one of the defence counsel, this would ensure that the trial would be public. The court considered the proposal and, considering the potential sensitivities of the witnesses, rejected it. However, journalists were permitted into the court during regular open sessions, even though no photography was allowed.

Considering the above, the Legal System Monitoring Section is satisfied that the accuseds’ right to a public trial was respected. Indeed, neither the local applicable law nor international human rights law requires a court to permit television cameras to film court hearings.

ii. Article 6(3)(b): The right of the accused to adequate time and facilities to prepare his case:

Under Article 6(3)(b) ECHR, a person charged with a criminal offence is entitled to “*adequate time and facilities for the preparation of his case*”. This right is also reflected in applicable

³ See written verdict at pages 1-5

⁴ Article 288 the Federal Republic of Yugoslavia Criminal Procedure Code (FRY CPC) permits the exclusion of the public if this is required to preserve secrecy, to preserve the law and order, to protect morality, to protect the interests of a juvenile or to protect other particular community interests. Note also Article 461 FRY CPC in relation to juvenile proceedings.

domestic law.⁵ The purpose of this right is to ensure that the accused is ready to start trial, to answer the allegations against him, and to mount a defence.

Each of the accused, with the exception of Rrustem Mustafa, had been in detention from 28 January 2002, the latter being in detention from 11 August 2002. Defence counsel, who had been assigned to the accused shortly after their arrest, received documentation and attended the investigative hearings. The trial did not commence until February 2003, which was between 5 and 11 months after the initial arrest. It was noted that, when the court first convened in February 2003, no applications were lodged to postpone the commencement of the trial on the grounds that the defence were not prepared. Thus, it would appear that the accused had adequate time to prepare before the commencement of the trial.

Moreover, during the course of the trial, neither the accused nor their counsel raised motions to request more time. Only after the closure of the evidential stage did defence counsel request extra time for the submission of their closing speeches. Ultimately, after hearing their concerns, the deadline for submission of closing arguments was extended by the trial panel from 16:00hrs on Tuesday 8 July to 09:00hrs on Friday 11 July.

The Legal System Monitoring Section is satisfied that the defence teams were afforded adequate time and facilities to prepare their case.

iii. Article 6(3)(c): Right to effective counsel:

ECHR Article 6(3)(c) guarantees the right of a person charged with a criminal offence to:

“defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require”.

Defence counsel are obliged to act in the best interests of their clients. The applicable law obliges defence counsel to play an active part throughout the proceedings so as to ensure the rights and interests of their clients are protected.⁶ International law also imposes a similar obligation on defence counsel.⁷

In relation to the appointment of defence counsel during the Llapi trial, the Legal System Monitoring Section made the following observations:

- The accused were allowed to appoint defence counsel of their *own choosing*, who were paid for by the court;
- The accused were represented by one, two or three defence counsel each;

⁵ Article 11(3) of the Federal Republic of Yugoslavia Criminal Procedural Code, Official Gazette SFRY, No. 26/86 (FRY CPC).

⁶ See further the Kosovo Code of Lawyers Professional Ethics, in its section entitled “The Duty in Defence”, which obliges all lawyers to advise and defend their clients without delay, consciously and with zeal.

⁷ See further Principles 13-15 of the Basic Principles on the Role of Lawyers which requires defence counsel to actively assist their clients by advising them of their rights and by representing them in court throughout the proceedings and providing them with a service which is both ‘practical and effective’.

- The accused were granted access to the Criminal Defence Resource Centre⁸ who materially contributed to the defence of one of the accused; and,
- One accused appointed an “international legal expert” to assist his regular, locally appointed, defence counsel.
- Throughout the trial defence counsel for all accused actively and zealously defended their clients.

The Legal System Monitoring Section is of the view that the accuseds’ right to effective counsel was respected.

iv. Article 6(3)(d): The right to call and cross-examine witnesses:

Article 6(3)(d) guarantees a person charged with a criminal offence the right:

“to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him”

According to fair trial standards, the defence must be able to call witnesses on its behalf and to test the evidence of witnesses who give evidence against the accused i.e. to cross-examine. In general, the Legal System Monitoring Section perceived no obstacles to defence counsel calling at trial those witnesses it considered pertinent for its case. Further, the accused and defence counsels’ ability to pose questions to prosecution witnesses remained largely unhampered. Certain restrictions, however, in relation to the identity of the witnesses were applied in furtherance of the perceived need to protect witnesses.

Protected witnesses:

UNMIK Regulation 2001/20 On the Protection of Injured Parties and Witnesses in Criminal Proceedings grants trial panels in Kosovo the power to restrict the disclosure of a witness’s identity where it is perceived that to do otherwise may subject that witness or his/her family to possible physical harm.⁹ This, however, must be balanced with the accused right to cross-examine prejudicial witnesses. Further, in determining the credibility of a witness, it is important for a court to be able to assess the witness’s demeanor (the way that the witness looks and behaves under questioning) - and to do so must be able to physically see the witness. Thus, the application of protective measures requires careful consideration.¹⁰

Between 20 March and 8 May 2003, thirteen (13) prosecution witnesses testified in the Llapi trial with protective measures in accordance with the Regulation. These witnesses were heard in non-public sessions. For the most part, the Legal System Monitoring Section is satisfied that, when

⁸ The Criminal Defence Resource Centre was established by the OSCE’s Department of Human Rights and Rule of Law to provide case assistance and research facilities to defence lawyers in Kosovo.

⁹ Section 3 of the Regulation enables the court to take such measures as may be necessary during trial proceedings, for example, expunging witnesses’ identifying data from transcripts, statements and other documents, or by enabling the witnesses to testify with their physical appearance or voice subject to disguise. Section 4 of the Regulation enables the court to consider granting total anonymity to especially vulnerable witnesses; a measure which may require housing the witness in a secure, secret location and ultimate relocation to a foreign country with an assumed identity.

¹⁰ For a detailed discussion on this issue see further the OSCE’s Review of the Criminal Justice System (March 2002 - April 2003) “Protection of Witnesses in the Criminal Justice System”, available on the OSCE Website <http://www.osce.org/kosovo>.

deciding whether to order protective measure, the court correctly balanced the need for protection of witnesses with the rights of the accused, and applied a correct procedure.

However, three of these witnesses testified as anonymous witnesses from a remote booth so that their physical features could not be recognized in the courtroom. But this also meant that the panel was unable to see the demeanor of the witnesses *during testimony*.¹¹ For this reason, the Legal System Monitoring Section is of the view that the panel did not employ the most appropriate procedure in hearing anonymous witnesses from the remote booth. An alternative method, which would have enabled the witness to remain visible to the trial panel (but not to the public or to the defence) would have been preferable, as this would have enabled the trial panel to properly assess the witnesses' credibility.¹² However, the adverse effect of this procedural irregularity is limited by the fact that the evidence of these anonymous witnesses was relied upon, if at all, in conjunction with other witnesses and did not form the sole basis for proof of any particular count.

Release of confidential information by defence counsel:

The first anonymous witness gave his/her evidence during a closed (non-public) session from a separate room. Immediately following this closed session, two defence counsel gave a summary of the non-public session testimony to the press, where it was published.¹³ Information from the second protected witness was also reported in the local media.¹⁴

It is of concern that, despite the court order for anonymity under the Regulation and the non-public nature of the hearing, defence counsel still chose to inform the media (and thus the public) of what they heard.

5. Difficulties of contradictory testimony:

During the examination of evidence, the Legal System Monitoring Section observed that a number of witnesses who had given incriminating evidence during the investigative stage changed their evidence at trial and gave evidence that was exculpatory. Some witnesses suggested that they had given incorrect evidence during the investigation because they had been bribed or threatened by the investigating police officers, or had been coerced and intimidated by the investigating judge. The prosecution asserted that the witnesses had changed their evidence due to threats or intimidation by supporters of the accused.

In respect to the accusation that investigative police officers were offering bribes or otherwise threatening individuals for the purposes of securing inculpatory evidence, the trial panel called

¹¹ In our view, the fact that the trial panel may have - privately and in person - spoken to the witnesses earlier about protective measures and thus seen his/her demeanor at that stage, does not make up for the fact that they couldn't see the witness *during testimony*. It was not the credibility of the witness' fear of intimidation that mattered, but the credibility of his/her substantive testimony.

¹² For example, the court could have heard (and seen) the witness via a video link so that the trial panel, but not the defence or accused, could see the face of the witness while giving testimony. Or, the court could have used an opaque three-sided booth in the courtroom, which would have shielded the witness from all apart from the trial panel.

¹³ "Witness no. 4 denied everything he said during the investigation saying that he was pressured by the UNMIK police and that he was promised a big amount of money [...]" from article '*Was the Protected Witness Number Four Threatened by the UNMIK Police?*' Kosova Sot, 21 March 2003 (unofficial translation).

¹⁴ Epoka e Re, 1 April 2003, "*The Second Witness Also Speaks About Gross Scandals in investigations.*"

five officers into court to testify in regard of their conduct during the Llapi investigation. During their testimonies on 24, 25 June and 1 July, both the accused and their defence counsel were given an opportunity to pose questions to these investigators after extensive questioning by the trial panel.

In regard of the issue of possible biased examination by the investigative judge, the trial panel gave consideration to this issue in its written verdict. The court asserted that it “carefully scrutinised the answers of witnesses to the Investigating Judge in order to establish whether the conduct of the Investigating Judge could have had any bearing on the accuracy of any answers given by any witness” and concluded that “such scrutiny has not, however, led the trial panel to the view that anything said by any witness to the Investigating Judge should be treated as unreliable, save as mentioned in the case of witness ‘K’”.¹⁵

The Legal System Monitoring Section is satisfied with the procedures followed by the court in relation to these issues.

6. Post Trial Reactions:

From the outset, the Llapi case was consistently subjected to a high degree of media and political interest. The Legal System Monitoring Section was particularly concerned about a newspaper article “*Why is Remi’s trial being politicized?*” published in Koha Ditore, 8 August 2003, which was authored by the judge who had been the investigating judge on the case. The article, which contained the investigating judge’s views on aspects of the case, was published notwithstanding that the written verdict had not been released and despite the fact that the decision could have been appealed by the parties. The article sparked an exchange of newspaper articles concerning the trial as one of the defence counsel from the case published a reply entitled “*There are 8 Reasons why Kosovars do not Believe in International Judges*” (Koha Ditore, Aug 12). This vitriolic, public exchange between an international investigating judge and a defence lawyer concerning an emotive case (on which they had both worked) can only damage the dignity of the court. The Legal System Monitoring Section concurs with the trial panel who considered that the article was “inappropriate.”¹⁶

Furthermore, resulting comments from members of the Assembly of Kosovo, post verdict were unhelpful. The Legal System Monitoring Section noted media quotes of statements from the likes of the then Acting Prime Minister who said, “*Kosovo courts are politically motivated and they are detrimental to Kosovo future. People who used to serve the Serb regime are fabricating these trials*” and similarly emotive and detrimental comments from other members of the Assembly of Kosovo. Such unsubstantiated sentiments are likely to undermine public confidence in the judiciary.

7. Conclusion:

The Legal System Monitoring Section is content with the running of the proceedings. The panel of judges made much effort to ensure that the trial was conducted fairly and that all issues raised by the parties were listened to carefully and considered thoroughly. At no time were the rights of the accused seriously impaired.

¹⁵ See written verdict at page 55, footnote 130.

¹⁶ See the written verdict at page 55 footnote 130.