

**Case: Gnjilane Group, the indicted Fazli Ajdari and others**  
**Belgrade Court of Appeals – War Crimes Department**  
**No. of case: KŽ 1 Po2 No. 2/13 (appeal)**

**Trial Chamber:** judge Sonja Manojlović (the Chair), judges Sretko Janković, Omer Hadžiomerović, Vučko Mirčić and Miodrag Majić (Chamber members)

**Office of the War Crimes Prosecutor:** Mioljub Vitorović, Deputy Prosecutor

**Session: May 14, 2013**

**Report:** Marina Kljaić, the observer on behalf of HLC

The trial continued by presentation of the appeals from the indictees' attorneys, and their response to the appeal from the Office of the War Crimes Prosecutor.

The defense of the indicted Shefket Musliu stated there is no evidence that his client committed the felony he is charged for. He was pronounced guilty only on the basis of testimony of an injured party C2. He considers as very unrealistic that the injured party could recognize him on a photo, if he, allegedly, beaten her only once in the boarding-school in Gnjilan/Gjilan. Such a conclusion was also supported by testimony from the witness Stanković, who said that he didn't see Shefket in the boarding-school, so he suggests that the court amend the first instance verdict in such a way to acquit his client. The appeal from the Office of the War Crimes Prosecutor he considers unsounded and suggests that the court dismiss it.

The defense of the indicted Agush Memishi denied the legal classification of the act in question, saying that in this case it cannot be a war crime against civilian population, because at the time in question – period of June 17-23, 1999 – there was no military conflict. Such a conclusion was supported by the statement of the witness Gavrančić, the head of police in Gnjilan/Gjilan at the time, who said that the military withdrew from Gnjilan/Gjilan on June 14, and the police on June 15, 1999. He also said that the court based the decision on his client's guilt on the statements from the injured C1 and C2 who did not speak the truth, and who gave several conflicting statements during the investigation. He pointed out that they didn't mention that they gave statements to police and investigative judge in Niš too, and that they didn't mention on that occasion that they had been detained and raped. The injured C2 recognized his client only at the main trial – she described him as a person with a mole on his faces, although he got no mole. Also, it was only during the proceedings that she mentioned he put a gun in her mouth and broke her tooth, what was never confirmed by medical documentation. He asked that the verdict be amended and his client, due to lack of evidence, acquitted. In regard to his second client, Shaqiri Shaqir, who was acquitted on all counts of indictment, he proposed that the decision of the first instance court be confirmed.

Agush Memishi said this was a political trial, that the Deputy Prosecutor was offering him a passport and money if he would agree to be cooperative witness, and that C1 and C2 wouldn't be present at trial as witnesses if he agreed to give false testimony. He thinks they appeared afterwards, as "the joker" of the Office of the War Crimes Prosecutor, and that the testimony by the cooperative witness „Božur 50“ was false.

The defense of the indicted Faton Hajdari, Samet Hajdari, Ferat Hajdari, Kamber Sahiti and Selimon Sadiki, pointed out during his presentation of the plea that the first instance court, while rendering the appealed verdict, didn't take into consideration the bidding from the Court of Appeals to determine the existence of the armed conflict at the time of the felony, but it gave an unacceptable explanation why it was there. He denied the credibility of the cooperative witness „Božur 50“ and the injured parties C1 and C2, saying that they were instructed by the Office of the War Crimes Prosecutor. He also pointed that the whole trial was covered by an extensive media campaign, during which were presented falsehoods about his clients. He proposed to the court to amend the appealed verdict and to acquit his clients. The indicted Faton Hajdari said that the Deputy Prosecutor had beaten him because he didn't want to be a cooperative witness. He denied the credibility of the injured C1 and C2, saying that they were instructed how to testify.

The defense team of the indicted Shemsi Nuhui stated that all of the first instance proceedings were wrong, and that the evidence upon which the verdict was based was not valid, so they suggested a trial at the second instance court.

The defense of the indicted Fazliu Hajdari claimed that there was no evidence that his client committed the felony for which he was indicted, so he proposed that the first instance verdict be amended and his client acquitted.

The defense team of the indicted Idriz Aliu and Rexep Aliu, who were acquitted in first instance verdict on all counts of the indictment, replying to the appeal from the Office of the War Crimes Prosecutor, said that it was unfounded and proposed to the court to reject it.