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**THE INTERNATIONAL CRIMINAL TRIBUNAL  
FOR THE FORMER YUGOSLAVIA**

**Case No. IT-05-87/1-A**  
**Case No. IT-05-87/1-T**

**IN THE APPEALS & TRIAL CHAMBER**

**Before:** Judge Carmel Agius, Presiding  
Judge Mehmet Güney  
Judge Fausto Pocar  
Judge Liu Daqun  
Judge Andréia Vaz

**Registrar:** Mr. John Hocking

**Date Filed:** 20 December 2011

**THE PROSECUTOR**

v.

**VLASTIMIR ĐORĐEVIĆ**

***PUBLIC***

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**PUBLIC REDACTED FINAL TRIAL BRIEF AND CORRIGENDUM**

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The Office of the Prosecutor:

Mr. Chester Stamp  
Ms. Daniela Kravetz  
Ms. Priya Gopalan  
Ms. Paige Petersen  
Ms. Silvia D'Ascoli  
Mr. Elliott Behar

Counsel for the Accused:

Mr. Dragoljub Đorđević  
Mr. Veljko Đurđić



**THE INTERNATIONAL CRIMINAL TRIBUNAL  
FOR THE FORMER YUGOSLAVIA**

**THE PROSECUTOR**

v.

**VLASTIMIR ĐORĐEVIĆ**

**Case No. IT-05-87/1-A**  
**Case No. IT-05-87/1-T**

***PUBLIC***

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**PUBLIC REDACTED FINAL TRIAL BRIEF AND CORRIGENDUM<sup>1</sup>**

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1. The Prosecution hereby respectfully submits its Public Redacted Final Trial Brief with Annexes A to G.<sup>2</sup> The redactions seek to protect the identities of witnesses subject to protective measures and confidential material.
2. The Prosecution has identified several errors in its Brief, which it seeks to correct in this filing, as detailed below.
3. Paragraph 171 reads:  
"Just after the Rambouillet talks had collapsed, at a Serbian Radical Party (SRS) rally in Zemun, Vojislav Šešelj, a deputy Prime Minister of Serbia, stated that "If NATO bombs us, we Serbs will suffer casualties [...] but there will be no Albanians left in Kosovo."<sup>3</sup> During his testimony in relation to this video, Đorđević explained that:

"... parliament duly backed Milošević's rejection of the Rambouillet terms as did the Serb public. Serbia's deputy prime minister

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<sup>1</sup> The Prosecution originally filed a public redacted version of its Final Trial Brief on 19 July 2010. Because the redactions were not applied properly in that version, the Prosecution is now filing a new public redacted version of its Brief.

<sup>2</sup> Annex C has been redacted because it contains references to confidential material.

<sup>3</sup> P1510;Đorđević,T.10044-10045.

revealed what Milošević was planning to do next. If it comes to bombing by the NATO alliance, if an American aggression happens, we Serbs will suffer significant casualties, but there will be no Albanians in Kosovo."<sup>4</sup>

This paragraph should read:

"Just after the Rambouillet talks had collapsed, at a Serbian Radical Party (SRS) rally in Zemun, Vojislav Šešelj, a deputy Prime Minister of Serbia, stated that "If NATO bombs us, we Serbs will suffer casualties [...] but there will be no Albanians left in Kosovo."<sup>5</sup> **During his testimony, Đorđević was shown this video with the following interpretation:**

"... parliament duly backed Milošević's rejection of the Rambouillet terms as did the Serb public. Serbia's deputy prime minister revealed what Milošević was planning to do next. If it comes to bombing by the NATO alliance, if an American aggression happens, we Serbs will suffer significant casualties, but there will be no Albanians in Kosovo."<sup>6</sup>

**Đorđević testified that he was unaware of Mr. Šešelj's pronouncements at this rally.<sup>7</sup>**

4. Paragraph 234, seventh line reads: The Skorpions also had a Skorpions badge on the beret. This sentence is incorrect as it refers to a previous deployment of the Skorpions in the early 1990s. The last sentence of this paragraph reads: The Skorpions carried SAJ identity papers and were paid as SAJ reservists. This sentence should read: **The Skorpions were engaged as SAJ reservists.** The following reference should be included in footnote 520: **P86,p.1; D442,p.1.**

5. Paragraph 542, last sentence reads: The police also told K87 where to dig, and in cases where graves were more dispersed or difficult to identify, a policeman would show K72 where to exhume by using a flashlight. This sentence should read: The police also told **K72** where to dig, and in cases where graves were more dispersed or difficult to identify, a policeman would show K72 where to exhume by using a flashlight.

<sup>4</sup> Đorđević, T.10044-10045.

<sup>5</sup> P1510; Đorđević, T.10044-10045.

<sup>6</sup> Đorđević, T.10044-10045.

6. Paragraph 567, third sentence reads: Thirty-five to 37 corpses were later exhumed and identified as having originated from Kosovo. This sentence should read: **At least forty-eight** corpses were later exhumed and identified as having originated from Kosovo. Footnote 1375 should read: Baraybar,P453,paras.16-17; **Sterenber**,P815, p.37, para.1.

7. Footnote 1030 reads: T.4483,4908; P809,p.4, paras.1-3;P810,pp.3-4. This footnote should read: **Hyseni, P809,p.4;P810,pp.3-4.**

8. Footnote 1277 reads: Bucaliu,P825,pp.3-4; Zatriqi,T.8319; P672,pp.5-6,10. This footnote should read : Bucaliu,P825,pp.3-4; Zatriqi,**T.3830**; P672,pp.5-6,10.

9. Footnote 2173 reads: P338,p.6. *See* Peraj,T.1341. This footnote should read: P338,p.6. *See* **Stojanović, D724,p.22.**

10. The references to P1595 in footnote 3228 should read: P1595(MFI).

11. Footnote 3336 reads: P815, pp.31-35; [REDACTED]. This footnote should read: **Dorđević, T.9973-9975; P1508; P815, pp.31-35.**

12. Footnote 3585 reads: *See* Part V, Section (C)(1)(f). This footnote should read: *See* Part V, Section (C)(1)(g).

13. In order to preserve the public character of these proceedings and avoid unnecessary redactions to the main text of the brief, where applicable, the Prosecution has replaced the references to P370 with P370A, the public redacted version of this exhibit, in footnotes 1390, 1393, 1396, 1397, 1398, 1399 and 1400. The Prosecution has also replaced the references to P1416 and P1414 with P1416.1 and P1415, the public redacted version of these exhibits, in footnotes 1378, 1381, 1385, 1386, 1388, 1389 and 3311. Finally, the Prosecution has replaced the reference to P340 with P340A in footnote 158.

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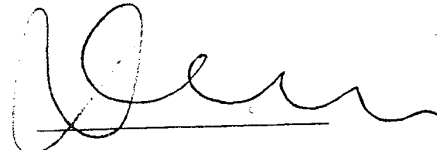
<sup>7</sup> Dorđević,T.10046.



14. Given that the original Trial Chamber is no longer constituted, this submission is filed before the Appeals Chamber, currently seized of the case.

Word count: 719

Word count of Final Trial Brief: 118,623

A handwritten signature in black ink, appearing to read 'Daniela Kravetz', written over a horizontal line.

Daniela Kravetz

Trial Attorney

Dated this 20<sup>th</sup> Day of December 2011  
The Hague, The Netherlands

**THE INTERNATIONAL CRIMINAL TRIBUNAL  
FOR THE FORMER YUGOSLAVIA**

**Case No. IT-05-87/1-T**

**IN THE TRIAL CHAMBER**

**Before:** Judge Kevin Parker, Presiding  
Judge Christoph Flügge  
Judge Melville Baird

**Registrar:** Mr. John Hocking

**Date Filed:** 30 June 2010

**THE PROSECUTOR**

**v.**

**VLASTIMIR ĐORĐEVIĆ**

***PUBLIC/REDACTED***

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**FINAL TRIAL BRIEF**

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The Office of the Prosecutor:

Mr. Chester Stamp  
Ms. Daniela Kravetz  
Ms. Priya Gopalan  
Ms. Paige Petersen  
Ms. Silvia D'Ascoli  
Mr. Elliott Behar

Counsel for the Accused:

Mr. Dragoljub Đorđević  
Mr. Veljko Đurđić

<b>I. INTRODUCTION .....</b>	<b>1</b>
<b>II. THE JOINT CRIMINAL ENTERPRISE.....</b>	<b>2</b>
A. THE ACCUSED .....	3
B. OTHER JCE MEMBERS .....	3
<b>III. THE PLAN .....</b>	<b>8</b>
A. THE PLAN TO MAINTAIN SERB CONTROL OVER KOSOVO.....	8
1. Historical and Political Background.....	8
(a) Introduction .....	8
(b) Legislative Changes .....	9
(i) Special Measures .....	9
(c) Demographic Changes .....	12
2. Early development of the JCE prior to the NATO bombing campaign .....	14
(a) Arming of non-Albanians and disarming of ethnic Albanians.....	14
(b) 1998 Operations and the Excessive Use of Force.....	16
(i) Overview.....	16
(ii) February-March 1998 - Likošane and Ćirez.....	17
(iii) The Attack on the Jashari Compound.....	17
(iv) March-April 1998 .....	19
(v) Attacks on Dečani/Dečan – April to June 1998.....	19
(vi) The Establishment of KDOM.....	20
(vii) The Plan for Suppressing Terrorism.....	20
(viii) The Summer Offensive.....	20
(ix) The Use of the VJ in these Operations was Unlawful .....	21
(x) Mid-July-September 1998 .....	22
(c) Breach of peace-building measures in the October Agreements.....	26
(i) The October Agreements .....	26
a. Đorđević Led the Negotiations for the MUP.....	28
b. Kosovo Verification Mission .....	28
(ii) Violations of the October Agreements .....	29
a. Refusal to Reduce Forces .....	29
b. Refusal to Withdraw Heavy Weapons .....	31
c. Breach of the Ceasefire.....	31
(d) Rambouillet and Paris negotiations.....	38
3. Administration and co-ordination bodies in Kosovo used to implement the JCE .....	40
(a) Forces operating in Kosovo.....	40
(i) Ministry of Internal Affairs (MUP) .....	41
a. Public Security Department (RJB) .....	41
b. State Security Department (RDB) .....	45
(ii) Army of Yugoslavia (VJ) .....	46
(iii) Other units operating in Kosovo.....	48
a. Military Territorial Detachments (VTod).....	49
b. Civil Defence and Protection.....	49
c. Paramilitaries .....	50
d. Volunteers .....	52
e. Local/Village Defence Forces and Armed non-Albanian Population (RPOs) .....	53
(b) Co-ordination/ control of entities implementing the goals of the JCE.....	55
(i) Joint Command .....	56
a. Overview .....	56
b. Establishment of the Joint Command.....	56
c. The Joint Command commanded and controlled the actions of the forces of the FRY and Serbia .....	58
d. The Joint Command exercised authority over units engaged in combat actions.....	59
e. The Planning and Co-ordination Process .....	63

f. The Joint Command continued to function after October 1998.....	66
(ii) MUP Staff.....	72
a. Establishment and composition of the MUP Staff .....	72
b. Role of the Head of the MUP Staff, Lukić.....	76
c. The role of the MUP Staff was to plan, organise, co-ordinate and control the activities of MUP units engaged in combat actions in Kosovo .....	77
d. The MUP Staff operated within a functional chain of command.....	82
e. The MUP Staff co-ordinated, organised and managed the engagement of MUP units in joint combat actions with the VJ .....	91
(c) Supreme Defence Council (SDC) and Supreme Command (SC) .....	96
(i) The SDC and SC were key entities in implementing the objectives of the JCE .....	96
(d) VJ General Staff and SC Staff .....	97
(i) The VJ General Staff and its war-time equivalent, the SC Staff, were key entities in implementing the objectives of the JCE. ....	97
(e) Co-ordination of the VJ and the MUP.....	98
B. THE IMPLEMENTATION OF THE JCE IN 1999.....	100
1. The leadership of the VJ and the MUP prepare to launch an offensive in the Spring .....	100
(a) The VJ and MUP leadership planned the Spring offensive .....	101
(i) The VJ and the MUP fortified their units in Kosovo and incorporated armed non- Albanian civilians into their ranks .....	102
(ii) The VJ and the MUP amassed weaponry in Kosovo.....	107
2. Launching the Spring offensive .....	108
3. Pattern of crimes .....	112
(a) The scope and scale of crimes.....	112
(b) Forcible Expulsion .....	114
(c) Murder .....	120
(d) Rape .....	120
(e) Seizure of Identification Documents .....	121
(f) Destruction of Religious and Cultural Sites .....	122
(g) The Existence of a Plan.....	123
4. Steps were not taken to punish those responsible for crimes committed in Kosovo. ....	126
5. Investigations obstructed and crimes concealed .....	128
(a) Evidence of the Systemic Removal and Transport of Bodies .....	128
(i) Bodies from the Berisha Massacre .....	128
(ii) Bodies from the Izbica/Izbičë Massacre.....	130
(iii) Bodies from Đakovića/Gjakove Municipality.....	130
(iv) Other Evidence of the Systematic Removal and Transportation of Bodies.....	133
(b) The Refrigerator Truck in Bor/Kladovo .....	134
(c) The Refrigerator Truck Incident at Lake Peručac .....	137
(d) The Concealment of Bodies at the 13 Maj Centre in Batajnica .....	138
(e) Forensic Evidence from Batajnica .....	140
(f) Bodies Concealed near the SAJ Training Grounds at Petrovo Selo .....	142
6. The rewards for those supportive of the objectives of the JCE .....	144
<b>IV. THE CRIMES.....</b>	<b>147</b>
A. GENERAL REQUIREMENTS OF ARTICLE 3 OF THE STATUTE.....	147
1. Existence of an armed conflict.....	147
2. Nexus between the armed conflict and the crimes.....	148
B. GENERAL REQUIREMENTS OF ARTICLE 5 OF THE STATUTE .....	148
1. The attack.....	148
2. The widespread and/or systematic nature of the attack.....	148
3. Civilian population .....	149
4. The acts of the accused formed part of the attack and the accused were aware that their acts formed part of the attack .....	149
5. Discriminatory intent for persecutions .....	149

C. THE CRIMES CHARGED .....	149
1. Orahovac/Rahovec municipality .....	149
(a) Celina/Celinë .....	149
(b) Bela Crkva/Bellacërkvë .....	152
(c) Velika Kruša/Krusha e Madhe .....	155
(d) Mala Kruša/Krusë e Vogel .....	155
(e) Nogavac/Nagavc .....	158
2. Prizren .....	163
(a) Pirane .....	165
(b) Srbica .....	165
(c) Landovica .....	166
(d) Dušanovo .....	166
3. Srbica/Skenderaj .....	167
(a) Izbica/Izbicë .....	167
(b) Turicevac/Turicec .....	172
(c) Kladernica/Klladernicë .....	173
4. Suva Reka/Suharekë municipality .....	173
(a) Murder of the Berisha family .....	175
5. Peć/Pejë .....	180
6. Kosovska Mitrovica/Mitrovica .....	183
7. Priština/Prishtinë municipality .....	188
(a) Priština/Prishtinë town .....	190
8. Đakovica/Gjakovë Municipality .....	194
(a) Đakovica/Gjakovë town .....	195
(b) Miloš Gilić Street/Millosh Giliq Street .....	195
(c) Korenica/Korenicë .....	198
(d) Meja/Mejë .....	199
9. Gnjilane/Gjilan Municipality .....	204
(a) Žegra/Zhegër .....	204
(b) Vladovo/Lladovë .....	206
(c) Prilepnica/Përlepticë .....	207
10. Uroševac/Ferizaj .....	209
(a) Staro Selo/Fshati I Vjeter .....	209
(b) Biba/Bibe and Sojevo/Sojevë .....	210
(c) Mirosavlje/Mirosalë .....	212
(d) The Uroševac Train Station .....	214
11. Kačanik Municipality .....	218
(a) Kotlina/Kotlinë .....	218
(b) Kačanik/Kaçanik town .....	220
(c) Slatina/Sllatina and the Vata/Vataj hamlet .....	221
12. Dečani/Deçan .....	223
(a) Drenovac/Drenoc and Beleg .....	223
13. Vučitrn/Vushtrria municipality .....	227
14. Podujevo/Podujevë .....	232
15. Unscheduled Incidents .....	238
(a) Čuska/ Qyshk .....	238
(b) Pusto Selo/PustaSelë .....	240
<b>V. RESPONSIBILITY PURSUANT TO ARTICLES 7(1) AND 7(3) OF THE STATUTE..</b>	<b>242</b>
A. LEGAL ELEMENTS OF ARTICLE 7(1) MODE OF LIABILITY .....	242
1. Joint criminal enterprise (JCE) .....	242
2. Ordering .....	246
3. Planning .....	246
4. Instigating .....	247
5. Aiding and abetting .....	247

B. LEGAL ELEMENTS OF ARTICLE 7(3) MODE OF LIABILITY .....	248
1. Superior-subordinate relationship .....	248
2. Knew or had reason to know .....	249
3. Failed to prevent or punish .....	251
C. VLASTIMIR ĐORĐEVIĆ'S INDIVIDUAL CRIMINAL RESPONSIBILITY UNDER ARTICLE 7(1) OF THE STATUTE .....	254
1. Đorđević is responsible for the crimes charged in the Indictment as a member of the JCE .....	254
(a) Introduction .....	254
(b) Đorđević's position .....	255
(c) Đorđević commanded and controlled all RJB units in Kosovo .....	255
(i) Đorđević headed the RJB .....	255
(ii) Đorđević continued to command RJB units in Kosovo after June 1998 and during the Indictment period .....	257
(iii) Đorđević participated in high-level strategic meetings .....	261
(iv) The Serbian military and political leadership, and internationals, recognised Đorđević as the leader of the RJB in Kosovo .....	264
(v) Conclusion .....	265
(d) Đorđević participated in training and arming non-Albanian civilians and disarming Albanian villages .....	266
(i) The arming of the non-Albanian population .....	266
(ii) Đorđević participated in the disarming of predominantly Albanian villages .....	270
(iii) By arming non-Albanians and disarming ethnic Albanians, Đorđević facilitated the commission of the crimes charged .....	271
(e) Đorđević planned and co-ordinated joint MUP/VJ combat operations .....	271
(f) Đorđević used paramilitary groups and volunteers .....	274
(i) Prior to the commencement of the NATO campaign Stojiljković and Đorđević prepared for the introduction of paramilitaries and volunteers in to the MUP .....	274
(ii) Đorđević approved and facilitated the use of the Skorpions unit in Kosovo in 1999 .....	275
a. Đorđević reinforced the SAJ with the Skorpions .....	275
b. The re-grouping of the Skorpions .....	276
c. Đorđević ordered the deployment of Medić's unit to Kosovo with the SAJ .....	277
d. Đorđević knew he was deploying a notorious paramilitary unit .....	278
e. The Skorpions were deployed to Kosovo in late March 1999 .....	280
f. Upon arriving in Podujevo/Podujevë, the Skorpions killed a group of civilians .....	281
g. The Skorpions were under SAJ command by the time they arrived in Podujevo/Podujevë .....	281
h. At Prolom Banja, the Skorpions were disarmed and disbanded .....	282
i. In April 1999, Đorđević redeployed the Skorpions to Kosovo .....	283
j. Once redeployed to Kosovo, the Skorpions participated in "cleansing" ethnic Albanian villages .....	284
(g) Đorđević played a leading role in the concealment of the crime of murder .....	285
(i) The Refrigerator Truck in Bor/Kladovo .....	286
(ii) The Refrigerator Truck Incident at Lake Perućac .....	290
(iii) The Concealment of Bodies at the 13 Maj Centre in Batajnica .....	294
(iv) Bodies Concealed at Petrovo Selo .....	297
(v) Đorđević's flight .....	298
(h) Đorđević created an environment permissive of criminal behaviour .....	298
(i) Đorđević's knowledge of crimes .....	299
(i) Knowledge of crimes in 1998 .....	299
a. Knowledge of MUP operations on the ground .....	300
b. Knowledge of widespread destruction and looting .....	301
c. Knowledge of killings .....	302
d. Knowledge of the large-scale displacement of civilians .....	303
e. Knowledge of allegations levelled against the MUP by the international community .....	305
(ii) Knowledge of crimes in 1999 .....	306
a. Knowledge of MUP operations .....	306

b. Knowledge of large-scale displacement.....	309
c. Knowledge of killings .....	309
d. Knowledge of crimes at high-level meetings in Belgrade.....	311
e. Knowledge of crimes from the international community and the media .....	312
2. Đorđević shared the intent to carry out the common plan.....	313
3. Other forms of participation under Article 7(1).....	314
(a) Đorđević is responsible for aiding and abetting the commission of crimes.....	314
(b) Đorđević is responsible for planning, ordering and instigating .....	316
D. VLASTIMIR ĐORĐEVIĆ'S INDIVIDUAL CRIMINAL RESPONSIBILITY UNDER ARTICLE 7(3) OF THE STATUTE .....	317
1. Superior-subordinate relationship .....	317
2. Knew or had reason to know and failure to take necessary and reasonable measures to prevent or to punish .....	320
(a) Failure to prevent .....	320
(i) Đorđević had reason to know of and failed to take necessary and reasonable measures to prevent crimes committed by his subordinates in 1999.....	320
(ii) Đorđević had reason to know of and failed to take necessary and reasonable measures to prevent crimes committed by the Skorpions .....	322
(b) Failure to punish.....	324
(i) Đorđević knew about the Podujevo/Podujevë massacre and failed to take necessary and reasonable measures to punish the crime.....	324
(ii) Đorđević knew that his subordinates had committed murders and failed to take necessary and reasonable measures to punish them .....	328
<b>VI. SENTENCING.....</b>	<b>332</b>

## I. INTRODUCTION

1. This trial is about responsibility for a widespread and systematic campaign of terror and violence conducted by the forces of the Federal Republic of Yugoslavia (FRY) and Serbia against Kosovo Albanians from 24 March 1999 to 20 June 1999 (Indictment period). Thousands were abused and killed and over 800,000 were forcibly expelled from the province as an intended consequence of the deliberate and coercive actions of these forces.

2. The purpose of this campaign was to ensure continued Serbian rule over the province of Kosovo. Đorđević, the Accused, acting individually and collectively with others, orchestrated these events and the evidence discussed in the brief establishes that he is criminally liable for the crimes charged.

### *Assessment of evidence*

3. In a case of this magnitude, it is not sensible to recite in a final brief all the evidence that has been heard by the Trial Chamber. The Prosecution has therefore made a selection of the matters it assesses to be of greatest relevance. However, if the Trial Chamber finds that there is evidence, outside that specifically cited, which lends support to the submissions made by the Prosecution, then its omission in this brief should not be taken as an indication that it is considered less than compelling. The same applies to exhibits.

4. Of the many defence witnesses who testified, only those who are assessed to be of particular interest are discussed. The fact that others are not mentioned in this brief does not mean that the Prosecution accepts that they are credible or reliable. As a general observation, a great number of the defence witnesses were former subordinates of the Accused who carried out his orders during the material time or who were sympathizers of the policies of the Accused or participants in implementing them. Many were vehement in their denial of any knowledge relating to matters they must have known about, for example, the Joint Command or the Accused's authority as Chief of the Public Security Sector (RJB). This renders their evidence of very little value and it should be approached with extreme caution. Some only relented after documents of irresistible force were shown to them.

5. The Accused elected to testify and made denials of several areas of the Prosecution's case. His evidence is discussed extensively in this brief but the fact that a particular area of contention is not directly traversed herein does not mean that the Prosecution accepts that it is credible or reliable.



*Annexes to the brief*

6. Several annexes are attached. Annex A contains two maps of the deportation and murder sites charged in the Indictment. Annex B contains two maps of crime-site areas where forces of the FRY and Serbia were deployed pursuant to Joint Command orders. Annex C contains the proof-of-death charts. Annex D is a chart with the structure of the Yugoslav Army (VJ) during the Indictment period. Annex E is a chart with the structure of the Ministry of Interior (MUP) in Kosovo during the Indictment period. Annex F is the glossary of terms and legal authorities used in the brief. Annex G is a map showing the place of origin of the bodies found at mass grave sites in Serbia proper.

## II. THE JOINT CRIMINAL ENTERPRISE

7. Đorđević participated in a joint criminal enterprise (JCE) to modify the ethnic balance in Kosovo through criminal means in order to ensure continued Serbian control over the province, and the crimes charged in the Indictment were committed in the course of the JCE.

8. A number of other individuals participated in the JCE, including his former co-accused — Nikola Šainović, Dragoljub Ojdanić, Nebojša Pavković, Vladimir Lazarević, and Sreten Lukić — and Slobodan Milošević (FRY President), Vlastimir Đukić (MUP Minister), Radomir Marković (Head of the Public Security Department), Obrad Stevanović (Head of Police Administration), and Dragan Ilić (Head of Crime Police). These persons worked together and with others including members of command and co-ordinating bodies and members of the forces of the FRY and Serbia who shared their intent to fulfil the purpose of the JCE.

9. Insofar as any crimes charged in the Indictment were committed by members of the forces of the FRY and Serbia who were not members of the JCE, liability still attaches to the Accused for his participation in that JCE, because the physical perpetrators of the crimes were used by participants in the JCE.

10. The common purpose of the JCE was to be achieved through a campaign of deportations, forcible transfers, murders and persecutions. Such a campaign was the result of a concerted effort. The Kosovo Albanian population was the target of this campaign that aimed to forcibly expel a substantial portion of the majority Albanian population from Kosovo.

11. The Accused shared the common criminal purpose and intended the crimes charged. These crimes were committed pursuant to that common purpose. Alternatively, should the Trial Chamber

find that the crimes in Counts 3 to 5 (murder and persecutions) were outside the common purpose, these crimes were natural and foreseeable consequences of its execution. In deciding to participate in that enterprise, the Accused willingly accepted that risk.

#### **A. The Accused**

12. The evidence proves beyond reasonable doubt that Đorđević was a key participant in the formulation, preparation and execution of the common purpose to forcibly expel Kosovo Albanians from Kosovo. During the Indictment period, Đorđević was Assistant Minister of Internal Affairs of the Republic of Serbia and Chief of the Public Security Sector (RJB) of the Ministry of Internal Affairs (MUP). Đorđević led the RJB under the direction of the then MUP Minister, Vljako Stojiljković, and was responsible for all units and personnel of the RJB in Serbia. This included the MUP units deployed to Kosovo that participated in the direct perpetration of the crimes charged during the Indictment period.

13. Through his acts or omissions, Đorđević contributed to the JCE:

- as Assistant Minister of the MUP, Chief of the RJB and member of the MUP Minister's Collegium, he commanded and controlled all RJB units and subordinate units in Kosovo, which perpetrated the crimes charged in the Indictment;
- as a member of the Joint Command and Head of the RJB, he participated in the training and arming of non-Albanian civilians and the disarming of Albanian villages;
- he participated in the planning and co-ordination of joint MUP/VJ combat operations;
- he incorporated paramilitary groups into the MUP in Kosovo;
- he concealed murders perpetrated during MUP/VJ actions in Kosovo; and
- he created an environment permissive of criminal behaviour by MUP units.

#### **B. Other JCE Members**

14. The evidence proves beyond reasonable doubt that in addition to the Accused, the following individuals were also members of the JCE charged in the Indictment: Slobodan Milošević; Nikola Šainović; Vljako Stojiljković; Sreten Lukić; Radomir Marković; Obrad Stevanović; Dragan Ilić; Dragoljub Ojdanić; Nebojša Pavković; and Vladimir Lazarević.

15. Milan Milutinović, former president of Serbia, was also included among the JCE members in the initial Indictment. The Prosecution in this case has not led sufficient evidence to prove his participation in the JCE beyond reasonable doubt.

16. During the Indictment period, **Slobodan Milošević**, President of the FRY, was unquestionably the most powerful person in the country.<sup>1</sup> He was the one and only person controlling everything in the FRY.<sup>2</sup>

17. Milošević was the leading figure in the JCE. Milošević's dominance was built on manipulation of Serbian nationalist policies – the essence of which was that Serbs must live in territory controlled by Serbs or be vulnerable to discrimination, persecution and genocide by non-Serbs. Milošević was elected President of Serbia on 8 May 1989, a post he held for the next eight years, until he was elected President of Yugoslavia on 23 July 1997- the position he held until October 2000.<sup>3</sup> In order to maintain his political dominance, it was imperative that Milošević retain Serb control over Kosovo. His strategy was to force Kosovo Albanians out of Kosovo and to move in Serbs in order to alter the ethnic balance in favour of Serbs.<sup>4</sup> He manipulated the political, military, and police promotion systems to ensure that his nominees retained control. During his meetings with Knut Vollebaek, the Chairman of the OSCE, Milošević was adamant that Kosovo was the cradle of Serbian culture. Vollebaek concluded that Milošević needed a conflict in Kosovo to keep his personal base of power.<sup>5</sup>

18. Milošević controlled all major decisions and institutions of government.<sup>6</sup> He led the dominant political party at the time, the Socialist Party of Serbia (SPS). He ordered the formation of the Joint Command in 1998,<sup>7</sup> which exercised command over MUP and VJ forces in Kosovo until June 1999. The Joint Command had no source of authority in law apart from that delegated to it by Milošević. He commanded the VJ in accordance with decisions taken by the Supreme Defence Council (SDC) and had significant *de facto* powers over the MUP.

19. **Nikola Šainović** was Milošević's man on the ground in Kosovo and one of his closest and most trusted associates.<sup>8</sup> He was the Deputy Prime Minister of the FRY responsible for Kosovo.<sup>9</sup> It was Šainović's close relationship to Milošević that led him to head the Joint Command in 1998 and

<sup>1</sup> Surroi, T.347; Vollebaek, P1073, pp.4-5; P1072, pp.12-14.

<sup>2</sup> Vollebaek, P1073, pp.4-5; P1072, p.14.

<sup>3</sup> Abrahams, P738, p.14.

<sup>4</sup> Vollebaek, P1073, p.15; Merovci, P416, para.8.

<sup>5</sup> Vollebaek, P1073, p.10-11; P1072, p.42.

<sup>6</sup> See Vollebaek, P1073, p.5.

<sup>7</sup> P1245.

<sup>8</sup> Vasiljević, T.5700; Merovci, T.2225; P490.

<sup>9</sup> Vollebaek, P1073, p.4; P1071, p.5; Philips, T.8687; Drewienkiewicz, T.6342; D472; D484; D494.

1999 and to become the Chairman of the Commission of Co-operation with the KVM in late 1998.<sup>10</sup> Šainović oversaw the activities of the VJ, the MUP and the civilian structures in Kosovo, and also directed them in conformity with instructions provided by Milošević.<sup>11</sup> He was in regular contact with MUP and VJ leadership, including Generals Nebojša Pavković and Sreten Lukić. Šainović was able to exert influence over them and was aware of planned joint VJ and MUP actions.<sup>12</sup> [REDACTED].<sup>13</sup> Šainović had a decision-making role with respect to Kosovo.<sup>14</sup>

20. **Vlajko Stojilković** was the Minister of Interior during the Indictment period.<sup>15</sup> He headed the Ministry and was responsible for all its activities.<sup>16</sup> In accordance with the law governing the Ministry of the Interior, he directed the manner in which the Ministry carried out its work, issued instructions to its personnel in the performance of their duties and determined the structure, mandate and scope of the operations of organisational units within the Ministry.<sup>17</sup> He was empowered to call up reserve members of the Ministry to perform duties during peacetime.<sup>18</sup> As Minister of Interior he was politically responsible to the National Assembly and the President of the Republic for the work of the Ministry.<sup>19</sup> As Head of the RJB, Đorđević was directly responsible to Stojilković<sup>20</sup> and together they were the two highest officials responsible for the work of the RJB in Kosovo.<sup>21</sup>

21. **Sreten Lukić** was appointed Head of the MUP Staff for KiM on 11 June 1998 by Đorđević and was his direct subordinate.<sup>22</sup> He remained in this position until June 1999.<sup>23</sup> Through the MUP Staff, Lukić played a central role in planning, organising, controlling and directing the work of MUP units in Kosovo, as well as co-ordinating and planning joint operations with the VJ. Lukić was a crucial member of the Joint Command and worked closely with the VJ leadership, in particular Nebojša Pavković, to ensure the implementation of Joint Command directives in a co-

<sup>10</sup> See P1329; Cvetić, T.6627-6628.

<sup>11</sup> Vasiljević, T. 5682, 5746-5747; Drewienkiewicz, T.6342; P490. See Cvetić, T.6627-6628, 6655-6657.

<sup>12</sup> See Vasiljević, T.5824-5825.

<sup>13</sup> [REDACTED].

<sup>14</sup> Drewienkiewicz, T.6342; Ciaglinski, T.5285-5287.

<sup>15</sup> Cvetić, P1037.

<sup>16</sup> Đorđević, T.9400-9401.

<sup>17</sup> P66, Arts.6-8.

<sup>18</sup> P66, Arts.28.

<sup>19</sup> P66, Arts.9.

<sup>20</sup> Đorđević, T.9409, 9410; P263.

<sup>21</sup> Vasiljević, T.5683.

<sup>22</sup> P760. Although the date of P760 is illegible, a related document, P57, indicates that the date of this decision is 11 June 1998 (P57, para.6). See also Cvetić, T.6623.

<sup>23</sup> P57; P67.

ordinated manner between VJ and MUP forces.<sup>24</sup> Lukić was also the bridge between the policy-planners in Belgrade, such as Stojiljković and Đorđević, and those on the ground in Kosovo.<sup>25</sup>

22. Other MUP officers within the JCE were **Radomir Marković**, Head of the State Security Department (RDB);<sup>26</sup> **Obrad Stevanović**, Head of Police Administration,<sup>27</sup> and **Dragan Ilić**, Head of Crime Police,<sup>28</sup> and Đorđević's direct subordinate.<sup>29</sup>

23. **Dragoljub Ojdanić** served as Deputy Chief of the VJ General Staff between June 1996 and November 1998. On 24 November 1998, Ojdanić was appointed as Chief of the VJ General Staff,<sup>30</sup> a position he held during the Indictment period. As Chief of the VJ General Staff and of the Supreme Command Staff during the state of war in 1999, Ojdanić was the highest ranking military officer in the VJ and exercised command authority over the VJ, and forces subordinated to the VJ. In order to accomplish the directives of FRY President Milošević, he issued orders to strategic units of the VJ and VJ officers who were subordinate to him.

24. **Nebojša Pavković** was assigned to the Priština Corps in 1994 and assumed command of the Priština Corps (PrK) on 9 January 1998. On 25 December 1998, he was appointed Commander of the Third Army, a position he took up in January 1999.<sup>31</sup> In his role of Commander of the Third Army, Pavković had effective control over the VJ forces in Kosovo throughout the period during which crimes were committed. As a member of the Joint Command in 1998 and 1999, he worked closely with the MUP leadership, in particular Sreten Lukić. Pavković ordered and supported the operation of the VJ in Kosovo in 1999, including joint operations with the MUP co-ordinated through the Joint Command. Pavković was Lukić's counterpart with respect to the VJ. He had a close connection with Milošević, particularly in relation to the activities of the VJ and MUP in Kosovo during the Indictment period.

25. **Vladimir Lazarević** became Chief of Staff of the PrK in 1998, and was appointed Commander of the PrK on 25 December 1998.<sup>32</sup> As PrK Commander, Lazarević had effective control over members of PrK units in Kosovo. He planned, ordered and commanded the activities of PrK units during operations conducted in Kosovo in the Indictment period. Lazarević and the

<sup>24</sup> Cvetić, T.6650,6655,6657;P1039,p.1.

<sup>25</sup> Cvetić, T.6645,6597.

<sup>26</sup> Cvetić, P1037.

<sup>27</sup> Cvetić, T.6594.

<sup>28</sup> Cvetić, T.6667.

<sup>29</sup> Cvetić, T.6667.

<sup>30</sup> P1363, pp.3-5.

<sup>31</sup> P1343;P1494;P1493.

<sup>32</sup> P1494.

PrK Command also participated in the planning and execution of joint operations with the MUP in 1999.<sup>33</sup> The PrK Command was the source of Joint Command orders.<sup>34</sup>

26. Milošević surrounded himself with loyal followers. All JCE members shared Milošević's sentiments about Kosovo and were loyal to him. During a meeting with Michael Phillips of the Kosovo Verification Mission, in November 1998, Šainović said that Kosovo was Serbian homeland and the cradle of Serbian civilisation, and that the Albanian population had no desire to coexist with Serbs to whom Kosovo belonged.<sup>35</sup>

27. With Milošević at the helm, on or about 24 March 1999, the members of the JCE launched a large-scale and highly coordinated operation in pursuit of the goal of the JCE: the modification of the ethnic balance of Kosovo through criminal means in order to ensure continued Serbian control over the province. The MUP and VJ units acted together in a closely-coordinated fashion to achieve this end.

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<sup>33</sup> See Vasiljević, T.5828-5830.

<sup>34</sup> See Part III, Section (A)(3)(b)(i).

<sup>35</sup> Phillips, P1303, p.15.

### III. THE PLAN

#### A. The plan to maintain Serb control over Kosovo

##### 1. Historical and Political Background

###### (a) Introduction

28. Although Serbs are the minority population in Kosovo,<sup>36</sup> many Serbs considered Kosovo to be an integral part of Serbia. The majority of Serbs have a strong emotional connection to the territory which they considered to be the cradle of their culture.<sup>37</sup> Illustrative of this sentiment is Commander of the 549<sup>th</sup> Motorised Brigade Delić's statement "We all [Serbs] will protect Kosovo with our lives [...]"<sup>38</sup>

29. During the 1980s, one principal grievance of Serbian nationalist circles, was that the 1974 SFRY Constitution<sup>39</sup> gave Kosovo substantial autonomy and left Kosovo Serbs vulnerable to discrimination by a government in Kosovo dominated by ethnic Albanians.<sup>40</sup> The notorious 1986 Memorandum, which originated from the Serbian Academy of Science and Art, spoke of genocide of the Serbian population in Kosovo and Metohija.<sup>41</sup>

30. Slobodan Milošević, head of the communist party in Serbia by 1986, came out in strong support of the Kosovo Serbs.<sup>42</sup> Milošević rose to power on his ability to convince the Serbian public that he could retain control over Kosovo.<sup>43</sup> On 24 March 1987, he addressed a crowd of Serbs in Kosovo Polje protesting maltreatment by Albanians, with the phrase that became a rallying cry for Serb nationalists: "No one should dare to beat you!"<sup>44</sup>

31. By the early 1990s, Serbian control of Kosovo had become central to Serbian policy.<sup>45</sup> The Serbian political leadership under Milošević pursued a two-tier strategy to achieve this goal. First, through legislation to bring Kosovo under its direct control. Second, by changing the demographic structure of the province to consolidate the Serbian grip over it.

<sup>36</sup> P983, p.16; Abrahams, P738, p.12; Brunborg, T.6113.

<sup>37</sup> Abrahams, P738, p.12.

<sup>38</sup> Maisonneuve, P860, p.2.

<sup>39</sup> D130.

<sup>40</sup> Abrahams, P738, p.13. See Jokanović, T.13191, 13152.

<sup>41</sup> Abrahams, P738, p.13.

<sup>42</sup> Abrahams, P738, p.13.

<sup>43</sup> Haxhiu, P992, p.5.

<sup>44</sup> Abrahams, P738, p.13.

<sup>45</sup> Surroi, T.248; Haxhiu, T.6137; P992, p.5; Abrahams, P738, pp.13-14.

(b) Legislative Changes

32. In March 1989, the Serbian Assembly proposed amendments to Serbia's Constitution that would strip Kosovo of most of its autonomy.<sup>46</sup> The SFRY Assembly supported this proposal.<sup>47</sup>
33. In order to amend the Serbian Constitution, approval was required from the Kosovo Assembly. On the day of the vote, the building was surrounded by MUP and VJ vehicles<sup>48</sup> and police were stationed in the building.<sup>49</sup> The Assembly members were heavily pressured prior to the vote. Under pressure, the Assembly approved the amendments.<sup>50</sup>
34. The Serbian Assembly then adopted the constitutional amendments and proclaimed that Serbia was to be unified.<sup>51</sup> As a result of the revocation of the autonomous status, all subsequent decisions concerning Kosovo were made in Belgrade.<sup>52</sup>
35. On 2 July 1990, Kosovo Assembly members were prevented from entering the Assembly building. In response, Kosovo's parliament declared Kosovo to be an independent republic within Yugoslavia, and LDK leader, Ibrahim Rugova, was elected President.<sup>53</sup> The Serbian Assembly responded by disbanding the Kosovo parliament on 5 July.<sup>54</sup>
36. On 18 March 1991, Milošević signed a proclamation formally disbanding the Kosovo Presidency.<sup>55</sup> In a popular referendum in September 1991, Kosovo voted overwhelmingly for independence from Yugoslavia.<sup>56</sup> Serbia rejected the results.<sup>57</sup>

(i) Special Measures

37. Following the revocation of Kosovo's autonomy, the situation in Kosovo deteriorated, with public protests often leading to violence.<sup>58</sup> As a response to the crisis, in March 1989 the SFRY Presidency imposed "special measures" in Kosovo and sent federal forces into Kosovo to assume responsibility for security in the province.<sup>59</sup> Through the imposition of "special measures", Kosovo

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<sup>46</sup> Surroi, T.248-249.

<sup>47</sup> D905.

<sup>48</sup> Surroi, T.248,307,309; Abrahams, P738, p.14; Rugova, P286, pp.4,130.

<sup>49</sup> Rugova, P286, pp.4,130.

<sup>50</sup> Rugova, P286, pp.4,130; Surroi, T.248,307,309; Abrahams, P738, p.14; D906, p.19.

<sup>51</sup> P8; P6; Surroi, T.249; Rugova, P285, p.2.

<sup>52</sup> Surroi, T.249-250; Rugova, P285, pp.2-3; P286, p.131.

<sup>53</sup> Rugova, P285, pp.2-3; P286, pp.6,7,18; Abrahams, P738, p.14; Surroi, T.255,338-339.

<sup>54</sup> P1497; Rugova, P285, p.2; P286, pp.6,18. *See also* P1584, pp.2-4.

<sup>55</sup> P21.

<sup>56</sup> Abrahams, P738, p.14; Surroi, T.255; Rugova, P285, pp.2-3; P286, p.7.

<sup>57</sup> Surroi, T.255-256.

<sup>58</sup> Abrahams, P738, pp.13-16; Rugova, P285, p.2; P286, p.3.

<sup>59</sup> Abrahams, P738, p.13; D905. *See* Rugova, P285, p.2; P286, p.3; Merovci, T.2204.



turned into what Human Rights Watch (HRW) researcher Fredrick Abrahams described as a “police state”.<sup>60</sup> These measures remained in force until the arrival of NATO troops on 11 June 1999.<sup>61</sup>

38. Defence witness Vukašin Jokanović, a retired politician, testified that the majority of the Albanian population were in favour of constitutional amendments,<sup>62</sup> and that the special measures were needed because separatists tried to paralyze the entire society.<sup>63</sup> Jokanović’s assessment is not supported by the evidence examined below. Kosovo Albanians perceived the imposition of these special measures as removing their substantial autonomy.

39. After the adoption of these measures, life in Kosovo was negatively impacted. Police violence and repression increased.<sup>64</sup> Albanians were harassed, detained, stopped at checkpoints, imprisoned, and punished for acts such as carrying letters in the Albanian language or membership in political organizations.<sup>65</sup> In 1992, the UN Special Rapporteur on Human Rights in the former Yugoslavia expressed concern about discrimination against the Albanian population, citing allegations of torture and mistreatment in detention.<sup>66</sup>

40. Throughout late 1990 and 1991, thousands of Kosovo Albanian doctors, teachers, professors, judges, police, civil servants, and other employees were fired from their jobs.<sup>67</sup> Kosovo Albanians were removed from managerial and directorial positions in the public administration as well as in public companies.<sup>68</sup> Ethnic Albanian employees were asked to sign a declaration of loyalty to Serbia or face termination.<sup>69</sup> The majority refused to sign this oath.<sup>70</sup> Vacant positions were then given exclusively to Serbs.<sup>71</sup> By 1991, all Kosovo Albanian policemen had been dismissed.<sup>72</sup> Albanian leaders and government officials were also fired and replaced with Serbs.<sup>73</sup>

<sup>60</sup> Abrahams, P738, p.14; Surroi, T.249; Merovci, T.2201; Rugova, P285, p.3; P286, pp.4-5, 7-8, 10; Halit Berisha, P598, p.2; P599, pp.4-5.

<sup>61</sup> Surroi, T.254.

<sup>62</sup> Jokanović, T.13210-13211, 13221-13222.

<sup>63</sup> Jokanović, T.13194-13195.

<sup>64</sup> Rugova, P285, pp.2-3; P286, pp.7-8, 10.

<sup>65</sup> Surroi, T.249-250; Rugova, P286, p.16; P285, p.5; Hyseni, P809, p.3; Merovci, P416, para.19.

<sup>66</sup> P1504, paras.99-113.

<sup>67</sup> Merovci, T.2201; P416, paras.15-16; Haxhibeqiri, P1068, p.5; T.6973; Rugova, P285, p.3; P286, pp.7-8, 10; Beqiraj, T.4824; Surroi, T.317; P34; P35; P38; P39; P10; P13; P15; P16; P18; P20; P26; P27, pp.13, 20, 38; P33; P36; P17; P19; P23; P27; P28; P30; P31; P32.

<sup>68</sup> E.g. P10; P13; P15-P20; P22; P23; P26-P36; P38; P39.

<sup>69</sup> Surroi, T.250-251; Hyseni, P809, p.2; Bucaliu, T.5102-5103; Merovci, P416, paras.13, 16; T.2203; Rugova, P286, p.5;

Haxhibeqiri, T.6979-6980; P1068, p.5.

<sup>70</sup> Haxhibeqiri, T.6979; P1068, p.5.

<sup>71</sup> Hyseni, P809, pp.2-3; Merovci, T.2201; P416, para.14; P417, pp.8, 10; Bucaliu, P826, pp.6, 38.

<sup>72</sup> Rugova, P286, p.5.

<sup>73</sup> Halit Berisha, P598, p.2; P599, pp.4-6, 23-27; P600, pp.4-6; T.3396-3397; P601; P13, pp.3-8; P1497.

For example, Serb held 27 seats on the Suva Reka/Suharekë Municipality Council, even though 95 per-cent of Suva Reka/Suharekë was Albanian.<sup>74</sup>

41. The Assembly of the Republic of Serbia enacted laws that severely affected freedom of the press.<sup>75</sup> Throughout the 1990s the Serbian government closed Albanian newspapers and radio and television stations, often with violence.<sup>76</sup> Serbian became the official language.<sup>77</sup>

42. Serbs were not allowed to sell their property to Kosovo Albanians.<sup>78</sup> Many Kosovo Albanians had their company-owned flats taken and the Serb authorities implemented a system to give accommodation to Serbian employees.<sup>79</sup>

43. Serbia shut down all Albanian schools from primary to University level and imposed an exclusively Serbian curriculum.<sup>80</sup> Teachers who refused to implement the new Serbian curriculum were fired.<sup>81</sup> The Serbian government fired Albanian professors, teachers and employees and replaced them with non-Albanians.<sup>82</sup>

44. Priština University's assembly and several faculty councils were dissolved and replaced by provisional organs staffed predominantly by Serbs who controlled salaries and reported directly to the Serbian Ministry of Education.<sup>83</sup> Albanians were forced out of the school buildings and the vast majority of education facilities were occupied by Serbs.<sup>84</sup> By 1992 all Albanian institutions of education were closed.<sup>85</sup> Only primary school students were still allowed on the premises of state schools. They were nonetheless segregated, had to attend in shorter sessions, and had almost no school resources.<sup>86</sup>

<sup>74</sup> Halit Berisha, P599, p.32; P608.

<sup>75</sup> Haxhiu, D227, p.1; P25, p.5; P13, pp.1-3; P11; P22.

<sup>76</sup> Rugova, P285, p.3; P286, pp.6,10; Surroi, T.250; Haxhibeqiri, P1068, pp.5-7; T.6977; P13; Haxhiu, P994, p.11; P992, p.10.

<sup>77</sup> Beqiraj, T.4839-4840; Surroi, T.252, 320; Bucaliu, P825, pp.2-3; P826, pp.8-10, 37-42; T.5108.

<sup>78</sup> Merovci, P417, pp.4-6; Surroi, T.251.

<sup>79</sup> Surroi, T.251, 336; Merovci, T.2202.

<sup>80</sup> D130, Arts.145, 147; Beqiraj, T.4812; P805, pp.9-10; Bala, T.2308; Haxhiu, P993, pp.13-18; P992, p.8; P994, pp.4-6; Hoxha, P881, pp.17-18; Kickert, T.2599; P1504, paras.100, 105-106, 113; Latifi, 4344-4345; P778, p.2; Abrahams, P738, p.14; P28; P17, pp.110-113, 186-189; P27, p.24.

<sup>81</sup> Abrahams, P738, p.14. *See also* P1504, para.105.

<sup>82</sup> Beqiraj, T.4824; Deda, P1031, pp.22, 23, 32; Mazrekaj, T.3862-

3863; Kadriu, P515, p.4; P27, p.24; Haxhiu, P993, pp.14, 17; P992, p.9; Abrahams, P738, p.14; P28; P17, pp.110-113, 186-189; P27, p.24.

<sup>83</sup> P28, pp.3-14; Abrahams, P738, p.14.

<sup>84</sup> Merovci, T.2202-2203; Deda, P1031, p.22, 23, 32; Mazrekaj, T.3863; Beqiraj, T.4812, 4822-4823, 4856; P805, p.10.

Haxhibeqiri, P1068, p.5; T.6969, 6971.

<sup>85</sup> Haxhibeqiri, P1068, p.5; T.6969, 6971; Rugova, P286, pp.11-12, 26; Kickert, T.2599; Haxhiu, P993, pp.13, 15; Surroi, T.325.

<sup>86</sup> Haxhibeqiri, T.6971; Beqiraj, T.4812-4814, 4823; P805, pp.9-11; S.Bogujevci, T.1904-1906; F.Bogujevci, T.1947-1948; Surroi, T.325.

45. In response, the LDK and other Kosovo Albanian political parties developed their own parallel educational system.<sup>87</sup> From 1990 to 1999, Albanian students were educated through the parallel education system,<sup>88</sup> in private buildings and homes.<sup>89</sup> As the degrees were not recognized by the Serbian state, graduates seeking employment were forced to leave Kosovo.<sup>90</sup>

46. The international community attempted to redress the education situation in Kosovo throughout the 1990s, but to no avail.<sup>91</sup> On 1 September 1996, Milošević and Rugova signed the St. Edigio Agreement, which envisaged allowing Albanian children to return to school.<sup>92</sup> The agreement was never implemented and there was no substantive change to the segregation and discrimination in Kosovo schools.<sup>93</sup>

47. In 1996 and 1997, Albanian students staged protests and demonstrations asking for access to educational institutions, as well as the return of Kosovo's autonomy, which were violently suppressed by Serbian police.<sup>94</sup>

48. Kosovo Albanians also established unofficial parallel systems of defence, government, and health care.<sup>95</sup> In 1993 a Kosovo Albanian Ministry of Defence was created for the collective security of Albanians against any attack by the Serbian police or army.<sup>96</sup> In 1994 a Kosovo Albanian police force was established. However, by 1995, most of the participants in these bodies had been arrested and the rest fled the country.<sup>97</sup>

49. By 1996, an armed resistance had also begun, with the creation of the Kosovo Liberation Army (KLA).<sup>98</sup>

(c) Demographic Changes

50. The Serbian political leadership was convinced that the ethnic demographic balance in Kosovo needed to be altered in order to retain political control over the province.<sup>99</sup>

<sup>87</sup> Surroi, T.253-254,258,325-326; Beqiraj, T.4824; Bala, T.2308; Kadriu, P515, p.4; Rugova, P286, pp.11-12; Haxhiu, P992, p.9; Hoxha, P881, pp.17-18.

<sup>88</sup> Surroi, T.254; Haxhiu, P992, pp.8-9; P994, pp.5-7.

<sup>89</sup> Surroi, T.253-254. *See* Beqiraj, T.4826,4857.

<sup>90</sup> Haxhiu, P992, pp.8-9; P994, pp.5-7; Kickert, T.2596-2597.

<sup>91</sup> *See e.g.* Surroi, T.264-265,330; P267; D2.

<sup>92</sup> P266; D1; Merovci, P416, para.27; T.2204; P417, p.15; Rugova, P285, pp.5-6; P286, pp.20-23; Beqiraj, T.4825-4826, 4829,4830; Surroi, T.261-263.

<sup>93</sup> Rugova, P285, p.6; P286, p.24; Merovci, T.2204-2205; Surroi, T.262-263; Beqiraj, T.4825-4826,4830-4831,4837-4838; Haxhiu, P994, p.8; P992, p.5. The only Albanian institution allowed to remain was the Albanological Institute.

<sup>94</sup> Surroi, T.256-257; Beqiraj, T.4829,4836-4837; Haxhiu, P992, pp.9-10,15; D227, pp.1,3; P994, pp.9-10; P992.

<sup>95</sup> Abrahams, P738, p.15.

<sup>96</sup> Rugova, P285, p.5; P286, pp.19-20.

<sup>97</sup> Rugova, P285, p.5; Haxhiu, P992, pp.5,9; P994, pp.3,8-9.

<sup>98</sup> Surroi, T.257.

51. In January 1990, the SFRY assembly adopted a programme to prevent Serb and Montenegrin emigration from Kosovo. The programme accused Albanian nationalists of pursuing the goal of an “ethnically cleansed Kosovo and set up measures to immediately stop the emigration of Serbs, Montenegrins, and other non-Albanian citizens from Kosovo”.<sup>100</sup> Ethnic Serbs from outside Kosovo were encouraged to move to Kosovo.<sup>101</sup> In 1996, 16,000 Serbian refugees from Bosnia and Croatia were resettled to Kosovo.<sup>102</sup>

52. On 27 November 1992, the National Assembly of the Republic of Serbia adopted a “Declaration on Human Rights and the Rights of National Minorities”. It declared that:

the history of Serbia and the History of Kosovo and Metohija is the history of the continual ethnic cleansing of Serbs [...]The process of Kosovo and Metohija’s Albanisation, which has lasted for several decades, represents the greatest ethnic cleansing in Europe, [...].<sup>103</sup>

53. This inflammatory rhetoric underlined the extreme anti-Albanian climate that led to the widespread and systematic crimes against Kosovo Albanians charged in the Indictment. Also illustrative of this climate is the 1998 proposal from the SPS provincial board of Kosovo. It claimed that over 400,000 Kosovo Albanian inhabitants were Albanian immigrants who needed to be dealt with in accordance with “international law”: a thinly-veiled proposal that they be deported.<sup>104</sup>

54. By 1997, it was evident to the FRY and Serbian leadership that the discriminatory measures were insufficient to dramatically change Kosovo’s demographics. A more drastic response was required.

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<sup>99</sup> P678,p.30;P55.

<sup>100</sup> P5,pp.1-2,4;Merovci,P416,paras.9,14;Abrahams,P738,p.15;P1504,paras.100,104.

<sup>101</sup> Merovci, P416, para.9;Abrahams,P738,p.15;P677;P5;P1504,para.100,1004;P9.

<sup>102</sup> Abrahams,P738,p.15;Surroi,T.251-252.

<sup>103</sup> P55,items 3-4.

<sup>104</sup> P677,p.6.

## 2. Early development of the JCE prior to the NATO bombing campaign

55. Prior to the Indictment period, the FRY and Serbian leadership:

- Armed the non-Albanian population in Kosovo and disarmed ethnic Albanians;
- Conducted an extensive co-ordinated campaign against the KLA, during which they used excessive and indiscriminate force against Kosovo Albanian civilians;
- Breached peace-building measures; and
- Obstructed peace negotiations.

### (a) Arming of non-Albanians and disarming of ethnic Albanians

56. During 1998 and 1999, the MUP and the VJ covertly armed over 60,000 non-Albanian citizens from local villages and towns in Kosovo.<sup>105</sup> Although the process of selectively arming and disarming the population may have seemed a legitimate policy to fight the KLA on its face, it rendered the Albanian civilian population in Kosovo vulnerable to the forces of the FRY and Serbia, while empowering the non-Albanian population. In 1999 armed locals were utilised to forcibly expel the ethnic Albanian population from the province.

57. In mid-1998, the MUP and the VJ began distributing weapons to persons of non-Albanian ethnicity,<sup>106</sup> who were later organized into Reserve Police Squads (RPOs).<sup>107</sup> Various FRY official documents demonstrate that the MUP and the VJ armed the non-Albanian population.<sup>108</sup> In a parallel process, predominantly ethnic Albanian villages were disarmed in 1998.<sup>109</sup> These forces collected weapons in “Šiptar villages” throughout various municipalities.<sup>110</sup>

58. The process of arming and disarming was carried out along ethnic lines. In an order dated 21 May 1998, specifically aimed at arming Serb and Montenegrin inhabitants of villages in which they were a minority, the Chief of the Priština Defence Administration stated that the Defence Administration, in co-ordination with the MUP and the VJ, should inform the municipal leadership of the “special plan to protect Serbian, Montenegrin and other citizens loyal to the state of Serbia”.<sup>111</sup> On 26 June 1998, the PrK issued an order directed to subordinate commands to arm and train village defence units in Kosovo “to defend and protect the citizens from the Šiptar terrorist

<sup>105</sup> P688,p.7;P1330,p.9;P1055,p.7;P976;P901. See D340,p.4;P886,pp.18,20,55.

<sup>106</sup> Cvetic,T.6719;Đaković,T.8137. At a VJ Collegium meeting of 2 February 1999, Ojdanić refers to the distribution of weapons to the so-called “armed Serbs”.P1333,p.23.

<sup>107</sup> Dordević,T.9862,9901,9904;Cvetic,T.6634,6663. See P1052;P1055,p.7;see also P1333,p.23;P901,pp.1-2.

<sup>108</sup> P688,p.7;P1330,p.9;P1055,p.7;P901,pp.1-2. See also P1054;P975;P1355,p.1;P1333,p.23.

<sup>109</sup> P87,p.4.

<sup>110</sup> P1220,p.5;P1218,p.6;P1399,p.8.

<sup>111</sup> P1355,p.2.

groups” and to organise the distribution of weapons in “Serbian and Montenegrin villages”.<sup>112</sup> The following day, 27 June 1998, a Military District command report noted that the organisation of “Serbs and Montenegrins” for the defence of villages was being carried out.<sup>113</sup> A 3<sup>rd</sup> Army combat report of 2 October 1998 assessed the 1998 summer offensive and noted under the heading “positive experiences” that the distribution of weapons to “citizens loyal to the FRY (of Serbian and Montenegrin ethnicity)” had made it possible to organise the large-scale resistance against the “terrorists”. The report also stated that the “surrender of weapons by the Šiptar population” to the MUP and the VJ had seriously undermined the morale of the KLA.<sup>114</sup>

59. The arming and disarming of the population was co-ordinated by the MUP and the VJ under the direction of the Joint Command. The progress of this process was reported at Joint Command meetings.<sup>115</sup> An operational report of the Joint Command dated 15 October 1998 stated that the MUP continued to collect weapons from the Albanian villages and that the VJ was engaged in disarming the population in the border belt.<sup>116</sup> A Joint Command report of 20 November 1998 reported on the collection of weapons in Albanian villages.<sup>117</sup> Joint Command orders issued in 1999 show that the armed non-Albanian population provided support to joint MUP-VJ operations.<sup>118</sup>

60. The arming of the non-Albanian population was conducted in a manner to ensure that the large majority of able-bodied Serb men in Kosovo were armed by March 1999. When the number of weapons distributed to the population — around 60,000—<sup>119</sup> is compared with the total Serbian population in Kosovo, estimated to be 210,000 in 1998,<sup>120</sup> it shows that a high percentage of able-bodied Serb men were armed.<sup>121</sup> The non-Albanian population was organised into village defence squads or RPOs.<sup>122</sup> Individuals with wartime assignments in the VJ and the MUP were issued weapons through their wartime units and then sent back to their villages when not on active duty.<sup>123</sup>

<sup>112</sup> P901,p.1. “Šiptar” refers to Albanians from Kosovo and is considered a derogatory term when used by Serbs. Surroi, T.299.

<sup>113</sup> P1455,p.1.

<sup>114</sup> D340,pp.4,6.

<sup>115</sup> See e.g. P886,p.3 (“continue weapon distribution and training in the towns”); p.4 (“weapons have not been distributed to everyone, the problem lies with the Ministry of Defence”); p.22 (“weapons were distributed today in Vitina (1,100) Kosovska Kamenica, training has not been conducted yet”); e.g. P886,pp.18,55,103; See also P886, p. 38 (“weapons surrendered in the villages of Korito and Bec”); p.39 (“the surrender of weapons continues and other villages are expected to join...”) e.g. P886,pp.41,43,48-49,54-55,66,70,73,75,78,84,87,89-90,93,97,99-100,103,120.

<sup>116</sup> P1220,p.8.

<sup>117</sup> P1218, p.6; P1399,p.8.

<sup>118</sup> See e.g. D104,P971,P1382,P1328.

<sup>119</sup> P688,p.7;P1330,p.9;P1055,pp.6-7;P976.

<sup>120</sup> See Brunborg,T.6113;P983,p.1.

<sup>121</sup> See Merovci,T.2215.

<sup>122</sup> P1455;D270;Cvetić,T.6634,6663.

<sup>123</sup> P901;P1052.

From May 1998 the Ministry of Defence issued weapons to citizens without wartime assignments in these structures.<sup>124</sup>

61. The Serbian leadership was aware that ethnic tensions in Kosovo were running high and that there was a real risk of violence against the Kosovo Albanian population. At a VJ Collegium of 21 January 1999, Dimitrijević expressed concern about the armed non-Albanian population, stating, “[B]earing in mind the number of people owning or having been distributed weapons there is a realistic possibility on the Serbian and Montenegrin side of the Serbian population organising itself to offer resistance and of an increasing emergence of radical forces.”<sup>125</sup> On 1 February 1999, the VJ General Staff warned that in response to attacks against the Serbian and Montenegrin population of Kosovo, “there is a realistic danger of these people organising resistance on their own, which may further complicate the existing situation in Kosovo and Metohija”.<sup>126</sup> At a MUP Staff meeting of 17 February 1999, Stojiljković instructed those present, “Tell the RPO and the people that a civil war must be avoided at all costs, but that in case of conflict, no women and children should be killed, only the aggressor.”<sup>127</sup> It would have been obvious to the Serbian leadership, including Đorđević, that arming one ethnic group while disarming another in an atmosphere of mutual hostility and ethnic clashes was likely to facilitate crimes based on ethnicity.

62. The process of arming and disarming was integral to the 1998 summer offensive and was a significant factor in the commission of the crimes in 1999. This process was carried out on a discriminatory basis at a time of intense ethnic tensions. It was designed to render Kosovo Albanians vulnerable to widespread expulsions in 1999, while at the same time enabling non-Albanians to participate in the crimes taking place in their respective villages.

(b) 1998 Operations and the Excessive Use of Force

(i) Overview

63. From February to the end of September 1998, the forces of the FRY and Serbia increased their troop levels and significantly intensified their activities in Kosovo, engaging in a co-ordinated campaign against the KLA that was typified by the use of excessive and indiscriminate force against Kosovo Albanian civilians. These operations involved heavy-handed tactics that resulted in the mass displacement and killing of civilians, and cultivated a climate of fear and oppression for

<sup>124</sup> P1355, pp.1-2.

<sup>125</sup> P902, p.16.

<sup>126</sup> D523, p.16.

<sup>127</sup> P85, p.3.

Kosovo Albanians. The concerns of the international community were ignored during these operations that laid the groundwork for actions in 1999.

(ii) February-March 1998 - Likošane and Ćirez

64. On 28 February and 1 March, in response to KLA provocations, the police attacked two adjoining Albanian villages in the Drenica region, Likošane and Ćirez.<sup>128</sup> This marked an intensification of the conflict between the KLA and the forces of the FRY and Serbia.

65. Đorđević addressed the pretext to these police operations in his testimony, stating that a regular police patrol had been ambushed between Likošane and Ćirez. Following this incident, units from the Priština SUP and the SAJ Priština were deployed<sup>129</sup> and attacked Likošane and Ćirez with mortars and automatic machine guns.<sup>130</sup> In the attack, police killed twenty-five ethnic Albanians, including members of the Sejdiu and Ahmeti families.<sup>131</sup>

66. On 24 May, HRW researcher Fred Abrahams investigated the attacks on Likošane and Ćirez<sup>132</sup> and concluded that in both,

...special police forces attacked without warning, firing indiscriminately at women, children and other non-combatants. Helicopters and military vehicles sprayed village rooftops with gunfire before police forces entered the village on foot, firing into private homes.<sup>133</sup>

(iii) The Attack on the Jashari Compound

67. Adem Jashari lived in the village of Prekaz, in the Drenica region, and was one of the founders of the KLA.<sup>134</sup> Following the attack on Likošane and Ćirez, Serbian police attacked the Jashari family on 5 March, besieging their compound using armed vehicles and large-scale police forces.<sup>135</sup> Every member of the extended family inside the compound was killed, with the exception of one 11 year-old girl.<sup>136</sup> HRW estimated that fifty-eight people were killed and subsequently buried after the police action, including a significant percentage of women and children.<sup>137</sup>

<sup>128</sup> Abrahams, T.3941; P741, pp.26-27.

<sup>129</sup> Đorđević, T.9537-9538; D424, p.1.

<sup>130</sup> Abrahams, P741, p.27.

<sup>131</sup> Kadriu, P515, pp.5-6; P516, p.55; P741, pp.29-31; Abrahams, P741, pp.31-33.

<sup>132</sup> Abrahams, T.3941-3943; P741, pp.26-34.

<sup>133</sup> P741, p.26.

<sup>134</sup> Surroi, T.269-270.

<sup>135</sup> Surroi, T.270; P741, p.26.

<sup>136</sup> P741, pp.26,36; Surroi, T.270.

<sup>137</sup> P741, pp.26,38,40.



68. The operation against the Jashari family was a co-ordinated effort. SAJ units from Priština and Belgrade and a unit from the JSO took a direct role in the operation.<sup>138</sup> The broader area was secured by the 37th PJP Detachment from Niš and the 24th PJP Detachment from Priština. Local police from OUP Srbica were involved in securing the roads and the Kosovska Mitrovica SUP provided the security detail.<sup>139</sup>

69. The operation against the Jashari family was confirmed by a statement issued by the Information Service of the MUP.<sup>140</sup> Although the Ministry's statement did not acknowledge any civilian casualties and stated that only twenty "hard-core terrorists" were killed, the police subsequently arranged for the bodies of the victims to be put on public display in a warehouse.<sup>141</sup>

70. The display of the bodies allowed several sources to confirm the number of casualties and the civilian identities of the victims.<sup>142</sup> Many of the victims were young children, a number of them ranging from 7 to 13.<sup>143</sup>

*Dorđević's Knowledge of and Responsibility for the Jashari Massacre*

71. Dorđević confirmed his own role in the attack on the Jashari compound. He testified that the Minister had ordered "a co-ordinated action" of the RJB and RDB to capture the terrorists and set up a Staff for this purpose, headed by Jovica Stanišić with Dorđević as the Deputy.<sup>144</sup> Dorđević acknowledged that the MUP had information that "there were also a number of civilians in the area".<sup>145</sup> Dorđević confirmed his knowledge that civilians were killed in the attack.<sup>146</sup>

72. It was recognized even within the ranks of the Serb forces that the operation had used excessive force and unnecessarily killed civilians.<sup>147</sup>

73. Detailed information about this event was conveyed to Milošević by a negotiating group known as the G5, led by Ibrahim Rugova and including Veton Surroi.<sup>148</sup>

<sup>138</sup> Cvetić, T.6616; Trajković, T.9060-9061; Crosland, P1400, para.28; T.9156.

<sup>139</sup> Cvetić, T.6616; Crosland, P1400, para.28; T.9156.

<sup>140</sup> D424, p.1; Dorđević, T.9543.

<sup>141</sup> P741, p.39. See Kickert, T.2625; P478, p.2; P479, pp.8-9; P516, p.7.

<sup>142</sup> P741, pp.38-39; Kadriu, P515, pp.6-7; P516, pp.6-9; Crosland, T.9156. See Kickert, T.2626-2629; Surroi, T.271.

<sup>143</sup> P741, p.40.

<sup>144</sup> See also: Cvetić, T.6747-6748.

<sup>145</sup> Dorđević, T.9541.

<sup>146</sup> Dorđević, T.9541.

<sup>147</sup> Stojanović, T.11874-11875; P1543; Trajković, T.9061.

<sup>148</sup> Rugova, P285, pp.6-7; P286, pp.27-29; Surroi, T.272-274.

(iv) March-April 1998

74. The heavy-handed actions of police in Drenica created a watershed moment in the Kosovo crisis.<sup>149</sup> At the end of March, the UN Security Council issued Resolution 1160, which condemned, “the use of excessive force by Serbian police forces against civilians and peaceful demonstrators in Kosovo, as well as all acts of terrorism by the Kosovo Liberation Army or any other group or individual...”<sup>150</sup> Despite the UN resolution condemning their practices, the forces of the FRY and Serbia not only continued with their operations against both the KLA and the civilian population, but in fact began to increase the intensity of their campaign.

75. As of February, the forces of the FRY and Serbia had increased their troop levels in Kosovo.<sup>151</sup> There were also increasing indicators of joint activities between the MUP and the VJ – Crosland witnessed the first instances of VJ green vehicles, including APCs and BOV-3s, having been repainted in blue MUP colours as early as April.<sup>152</sup>

(v) Attacks on Dečani/Deçan – April to June 1998

76. From early April to June, MUP and VJ forces launched operations in western Kosovo, including Dečani/Deçan municipality. VJ forces began a build-up in the area in late March/early April<sup>153</sup>, and as of mid-May the PJP and JSO were patrolling the area in a “very heavy handed way”.<sup>154</sup> On the main road from Peć/Peja to Dečani/Deçan, Crosland and his colleagues observed spent bullet and shell cases and saw burned houses.<sup>155</sup>

77. On 29 May, Serb forces surrounded the town of Drenoc and from a hill, shelled villages within Dečani municipality,<sup>156</sup> causing the population to flee.<sup>157</sup> PJP officer K25 confirmed the presence of the PJP in the area, testifying that his unit had been deployed to liberate the road between Peć/Peja and Dečani/Deçan.<sup>158</sup>

78. Austrian Diplomat Jan Kickert visited Dečani/Deçan in early June and found “considerable devastation”. He witnessed a strong police presence and noted that the town “appeared dead”,

<sup>149</sup> Abrahams,P738,p.18.

<sup>150</sup> P1074,p.1.

<sup>151</sup> Crosland,P1400,para.32.

<sup>152</sup> Crosland,P1400,para.33;P1405,p.4;T.9164.*See* [REDACTED];P1401,pp.16-17.

<sup>153</sup> Crosland,P1400,para.30.

<sup>154</sup> Crosland,P1404,p.1.

<sup>155</sup> Crosland,P1405,pp.2-3.

<sup>156</sup> Mazrekaj,P675,pp.5-6;P676,p.4.*See* Haxhibeqiri,P1068,p.7.

<sup>157</sup> Mazrekaj,P675,p.6.

<sup>158</sup> K25,P340A,p.5; [REDACTED].*See* Surroi,T.275,317-318.

observing many houses that had been burned and destroyed, which his military colleagues concluded was due to arson.<sup>159</sup>

(vi) The Establishment of KDOM

79. In mid-June, Milošević agreed to the establishment of the Kosovo Diplomatic Observer Mission (KDOM), which was mandated to observe and report on the security situation in Kosovo. Despite the existence and active deployment of KDOM as of early July 1998, the use of excessive and indiscriminate force by the forces of the FRY and Serbia continued unabated.<sup>160</sup>

(vii) The Plan for Suppressing Terrorism

80. On 21 July, Đorđević attended a meeting with President Milošević, along with other senior representatives of the MUP (Stojiljković, Stevanović, Marković and Lukić), the VJ (Perišić, Samardžić, Pavković and Dimitrijević) and other state officials (Milutinović, Šainović and Anđelković). Milošević discussed that the Supreme Defence Council (SDC) had met previously and decided to draw up a Plan for Suppressing Terrorism in Kosovo.<sup>161</sup> This plan, which provided for the co-ordinated engagement of MUP and VJ forces, was to be made pursuant to a decision adopted at the 5<sup>th</sup> session of the SDC on 9 June 1998.<sup>162</sup> General Đaković and his team in the PrK Command were responsible for drafting the Plan, relying on information provided by the MUP, the State Security Service, the brigade commanders and the military district.<sup>163</sup> The PrK would later draw up detailed plans for operations whose basic elements had been set out in the global plan, co-ordinating combat operations of the MUP and the VJ at various stages of the operation.<sup>164</sup>

81. Đorđević participated in two further meetings at Beli Dvor in Belgrade in August, along with the same members of the senior leadership, where the implementation of the Plan for Suppressing Terrorism was assessed.<sup>165</sup>

(viii) The Summer Offensive

82. In the summer of 1998, from late July through September, the MUP and VJ initiated a large-scale offensive against the KLA forces and, more generally, against the Kosovo Albanian population. The combat operations carried out pursuant to the Plan were characterized by the use of

<sup>159</sup> Kickert, T.2573-2574;P478,p.2;P479,pp.9-13;P480,pp.1-2.

<sup>160</sup> Byrnes, T.8162-8163;P1214,pp.2-7.

<sup>161</sup> Đaković, T.7916-7918,8048;Đorđević, T.9563-9564.

<sup>162</sup> P87,pp.3. See P1361;P682.

<sup>163</sup> Đaković, T.7994-7995;T.7916.

<sup>164</sup> Đaković, T.7996-7997;T.8110. See e.g. P1361,pp.1-2,4;P682,pp.4-5,9-10;P87,p.3.

<sup>165</sup> Đorđević, T.9620.

heavy-handed tactics and the wanton destruction of Kosovo Albanian towns and villages.<sup>166</sup> There was a significant increase in the police forces that came from Serbia.<sup>167</sup>

83. The summer offensive lasted from 25 July until the end of September 1998, and throughout the Joint Command co-ordinated joint actions between the MUP and VJ across Kosovo.<sup>168</sup> In village after village where Abrahams conducted his research, he observed a similar pattern: the army shelled from a distance, forcing the villagers to flee, and then the police moved in on foot.<sup>169</sup>

84. Crosland similarly observed that the Serbian forces would often warn the local population to leave the place of assault by firing warning shots, after which the MUP troops would sweep through and wantonly destroy the deserted places in an attempt to ethnically cleanse the area.<sup>170</sup>

85. From July to September, there were massive movements of displaced civilians from the areas attacked to larger areas, like the Pagaruša valley north of Suva Reka. Civilians also fled westwards into Albania and Montenegro and southwards into Macedonia.<sup>171</sup> Crosland estimated that by the end of the summer of 1998 there were between 100,000 and 400,000 IDPs.<sup>172</sup>

(ix) The Use of the VJ in these Operations was Unlawful

86. Throughout 1998, the VJ operated in many areas in Kosovo that were well away from the border, and were involved in joint operations with MUP forces.<sup>173</sup> However, in order for the VJ to be legally used outside of the border belt area in Kosovo, a state of emergency, a state of immediate threat of war, or a state of war, had to be declared. Actively deploying the VJ outside of the border belt was otherwise illegal.<sup>174</sup> However, no such state of emergency was declared.<sup>175</sup>

87. In the minutes of a meeting of the VJ Collegium held on 20 July 1998, Chief of the General Staff Perišić referred to an order he issued that explicitly prohibited the use of the VJ, except in the defence of the border area or to protect military facilities or personnel. Perišić complained that the VJ had been deployed when General Samardžić used a combat group in Orahovac/Rahovec to assist MUP forces.<sup>176</sup> On 24 July 1998, three days after Milošević's meeting to discuss the

<sup>166</sup> Crosland, P1400, para. 39; Surroi, T. 278, 333; Kickert, P479, pp. 22-23.

<sup>167</sup> Surroi, T. 279; P1038, p. 2; Cvetić, T. 6608, 6618.

<sup>168</sup> Cvetić, T. 6608.

<sup>169</sup> Abrahams, T. 4076-4077. See P738, p. 37.

<sup>170</sup> Crosland, P1400, para. 46.

<sup>171</sup> Crosland, T. 9175-9176; Surroi, T. 281.

<sup>172</sup> Crosland, P1407, p. 3; T. 9172, 9175.

<sup>173</sup> See D340; Crosland, P1400, para. 38; P1407, p. 2, T. 9167-9169; Abrahams, P738, p. 33; P886.

<sup>174</sup> Čučak, T. 10952-10954, 10956.

<sup>175</sup> P87, p. 3.

<sup>176</sup> P1424, p. 1, 3; Čučak, T. 10954-10956.

implementation of the Plan for Suppressing Terrorism, Perišić sent a letter to Milošević complaining of the “Constant tendency to use the VJ outside the institutions of the system” and expressly noted that “any engagement of the VJ in combat operations outside the border and beyond is still illegal – with possible consequences unforeseeable.”<sup>177</sup>

88. Complaints from within about the illegal use of the VJ continued throughout 1998 and into early 1999.<sup>178</sup> The senior members of the VJ leadership who had complained about this illegal use of the VJ, including Perišić, Dimitrijević and Samardžić, were replaced after they raised their complaints.<sup>179</sup>

(x) Mid-July-September 1998

89. The PJP was deployed to “liberate” Orahovac/Rahovec in mid-July. The VJ had encircled the outside perimeter of Orahovac with tanks and Pragas, armed with self-propelled anti-aircraft guns, while the PJP and the SAJ were engaged in the town.<sup>180</sup>

90. The Joint Command minutes from this time period indicate that Đorđević was actively involved in the operations in and around Orahovac/Rahovec. Đorđević participated in the discussions and reported back to the Joint Command with respect to progress and activities on the ground.<sup>181</sup> Đorđević was also personally issuing orders. For example, reporting to the Joint Command with respect to the situation on 29 July, Lukić states: “the unit did not leave Orahovac as ordered by General ĐORĐEVIĆ.”<sup>182</sup>

91. The Joint Command discussed the progress of the summer offensive at a meeting on 27 July, with Đorđević specifically addressing details of the operation against Mališevo/Malisheva. In response, Samardžić stated, “the main goal is Mališevo and we must not back away”, and then added, “Mališevo must be crushed”.<sup>183</sup> The next day, 28 July, a joint MUP-VJ action was launched against Mališevo.<sup>184</sup>

<sup>177</sup> P1329; Čučak, T.10957-10960.

<sup>178</sup> P1362; D169, p.19; P1335, p.15; P1343, p.9; Čučak, T.10960-10970. See D169, p.19; P1335, p.15

<sup>179</sup> See Part III, Section(B)(6).

<sup>180</sup> K79, [REDACTED] P1260, p.14. See also Beqiraj, P806, p.2; P805, p.15; T.4841.

<sup>181</sup> P886, pp.8-26.

<sup>182</sup> P886, p.19.

<sup>183</sup> P886, pp.13-14.

<sup>184</sup> Crosland, T.9167; P1407, pp.1-2.

92. Đorđević was in the field himself on 28 July when the security forces were undertaking the final operations to enter Mališevo.<sup>185</sup> He in fact called in by radio from Mališevo to the 28 July MUP Staff meeting and reported that "Mališevo was free".<sup>186</sup>

93. Đorđević testified that the action was conducted by police and military forces operating from two axes<sup>187</sup> and that the action did not entail any damage.<sup>188</sup>

94. However, the evidence on the ground painted a very different picture. Crosland had entered Mališevo *before* the offensive and observed that "life appeared normal". He saw only about 30 members of the KLA. As he left the town he observed significant numbers of "exceptionally well armed" MUP and VJ forces. *After* the attack by MUP and VJ forces (on 29 July), Crosland witnessed severe, wanton damage there.<sup>189</sup> Crosland estimated that approximately 30,000 civilians had been displaced from Mališevo and subsequently discovered that they had gone to the Pagaruša/Pagarusha valley.<sup>190</sup>

95. Surroi toured Mališevo, observing burnt houses and watched as a uniformed policeman set a house on fire.<sup>191</sup> The ECMM monitoring mission also observed destruction in Mališevo, reporting incidents of uniformed policemen looting shops in Mališevo and setting houses on fire in late July/early August 1998.<sup>192</sup>

96. Kickert noted that "every time you would go through (Mališevo), there was more destruction in the city, until this town was even partly levelled."<sup>193</sup> Kickert expressly rejected the suggestion that the cause of the destruction in Mališevo was continuous fighting between the KLA and the FRY forces.<sup>194</sup> Crosland, who visited Mališevo again in early August 1998, similarly observed that "Mališevo was completely gutted by fire and looting."<sup>195</sup>

<sup>185</sup> Đorđević, T.9597; Stalević, T.13790.

<sup>186</sup> Cvetić, T.6621,6644.

<sup>187</sup> Đorđević, T.9597-9598. This was consistent with Crosland's observations of the forces: T.9169.

<sup>188</sup> Đorđević, T.9597,9599; D386.

<sup>189</sup> Crosland, T.9170-9171; P1407, p.3.

<sup>190</sup> Crosland, P1400, para.37.

<sup>191</sup> Surroi was careful to testify that all he observed was the policeman entering the house and then emerging and "a few seconds later the house was on fire", the clear inference being that the officer set the house on fire himself. (Surroi, T.280)

<sup>192</sup> Kickert, T.2579-2581; P479, p.23; P483, p.2. *See also* Kickert, P478, p.3; T.2578; P479, pp.18, 25.

<sup>193</sup> Kickert, P479, p.22.

<sup>194</sup> Kickert, P479, pp.86-87.

<sup>195</sup> Crosland, P1408, p.2.

97. Even the Serb forces themselves acknowledged the excessive use of force in the operations in and around Mališevo. On 7 August, Pavković sent an order to his units stating that some units “made too much use of combat equipment, which resulted in increased damage to buildings”.<sup>196</sup>

98. In late August, Crosland witnessed VJ, SAJ, JSO, and PJP troops in operation between Đakovica/Gjakove and Dečani, in an area that included Junik, Prilep, Rznice and Glodjane. The forces were “torching, burning and firing into various houses”.<sup>197</sup> Entire villages like Prilep were razed.<sup>198</sup> Crosland estimated that between 200 and 300 villages were damaged, burnt and/or looted in 1998 and early 1999.<sup>199</sup> Also in late August, an EU delegation visited the Drenica region and encountered a large congregation of internally displaced persons.<sup>200</sup>

99. The VJ and the MUP launched a major operation in the Drenica region in September.<sup>201</sup> The 37<sup>th</sup> PJP Detachment, accompanied by the 87<sup>th</sup> PJP reserve detachment “practically covered the entire territory of Kosovo during that month”.<sup>202</sup> During these operations, villages were burned.<sup>203</sup>

100. K79, a PJP member, came across thousands of refugees in Drenica, Čičavica and Bajgora. He saw PMP members rob the refugees and loot the villages.<sup>204</sup> He also witnessed the execution and rape of civilians and the torching of houses in Glogovać and Bajgora in September.<sup>205</sup>

101. The Head of US KDOM, Shaun Byrnes, observed the PJP in action in September when his team arrived at a village “midway on a road running from Kijevo to the town of Mališevo.”<sup>206</sup> The village was in flames.<sup>207</sup> Byrnes saw no civilians in the village.<sup>208</sup>

102. The MUP launched an operation in Peć/Peje in September. They drove out all the residents.<sup>209</sup> An Austrian Embassy report of 11 September noted that “Villages along the main Priština-Peć road are, with the exception of Serbian villages, no longer inhabited.”<sup>210</sup>

<sup>196</sup> P1344, pp.60-61.

<sup>197</sup> Crosland, P1400, paras.41-42; P1413, p.2.

<sup>198</sup> Crosland, P1400, para.42; P1413, p.2.

<sup>199</sup> Crosland, P1400, para. 43; T.9174.

<sup>200</sup> Kickert, P478, p.4; P479, pp.25-26. *See also* P489, p.1; D328, p.2; Daković, T.8026.

<sup>201</sup> Abrahams, T.3949; P753, pp.30-33; P740, p.6.

<sup>202</sup> K79, [REDACTED]; P1260, pp.30,32.

<sup>203</sup> K79, [REDACTED]; P1260, pp.35-36,39; [REDACTED]; [REDACTED]; [REDACTED].

<sup>204</sup> K79, [REDACTED]; P1260, pp.57-59.

<sup>205</sup> K79, [REDACTED]; P1260, pp.48-51,54-55,57-60.

<sup>206</sup> Byrnes, T.8172; P1214, pp.21-22.

<sup>207</sup> Byrnes, T.8172; P1214, pp.21-22.

<sup>208</sup> Byrnes, T.8172; P1214, p.21.

<sup>209</sup> Byrnes, P1214, pp.26-27.

<sup>210</sup> Kickert, P484, p.1; Kickert, T.2582-2585. *See also* P479, pp.26-32,56-58,98-100.

103. The international press reported the events in Peć/Peje, and Byrnes stated that this embarrassed Belgrade. In response, the MUP went to the areas where the people were gathered in the woods and “herded” them home. The villagers were terrified.<sup>211</sup>

104. On 26 September, Abrahams heard shelling and saw fires burning in the area of Gornje Obrinje/Abria r Eperme.<sup>212</sup> In that day’s Joint Command meeting, both Pavković and Lukić reported on the completion of the MUP-VJ action in the area.<sup>213</sup> Two PJP units, the JSO and combat groups from the 125<sup>th</sup> Motorised Brigade took part in the action.<sup>214</sup> Serb forces had killed twenty-one members of the Delijaj family, including six women and five children between the ages of eighteen months and nine years.<sup>215</sup> Police had also found 150 members of the Hysenaj family in the woods, separated the men and stripped them naked. The men were interrogated and brutally beaten at the Glogovac police station for three days.<sup>216</sup> Serb forces largely destroyed the village of Gornje Obrinje/Abria r Eperme. When Abrahams visited the village on 29 September, it was “still smoldering” and most of the homes had been destroyed and were marked by bullets, shrapnel or tank fire.<sup>217</sup>

105. The killings at Gornje Obrinje received widespread media attention, including front-page coverage in the New York Times.<sup>218</sup> At a 1 October Joint Command meeting, Radović specifically addressed an article published in *Koha Ditore* on these events.<sup>219</sup> In February 1999, HRW published a detailed report entitled “A Week of Terror in Drenica: Humanitarian Law Violations in Kosovo” that set out their findings and the sources they relied upon in detail.<sup>220</sup>

106. Abrahams also visited the village of Plocice, near Gornje Obrinje, in September. Abrahams observed that the village had been heavily destroyed, saw that the homes were still burning, and “did not find a single shell casing or any other evidence of fighting” or any “signs that the KLA had used the village as a base.”<sup>221</sup>

107. KDOM observers reported seeing the police in particular engage in excessive activity, such as burning villages, destroying property, and expelling Albanian residents, “unfortunately very,

<sup>211</sup> Byrnes, P1214, pp.27-28.

<sup>212</sup> Abrahams, T.4045; P740, p.6. Joint actions of the MUP and VJ in the area were noted by the Joint Command: P886, p.112.

<sup>213</sup> P886, p.112.

<sup>214</sup> P891, p.3.

<sup>215</sup> Abrahams, T.3949-3950, 3953, 3955-3956; P749; P740, pp.7, 10-12, 16-17; P750; P751; P753, pp.11, 37.

<sup>216</sup> Abrahams, P753, pp.54-58.

<sup>217</sup> Abrahams, P753, p.34.

<sup>218</sup> Abrahams, T.3960. See Kickert, T.2586; P485, p.3.

<sup>219</sup> P886, p.116.

<sup>220</sup> Abrahams, P740, p.12; T.3950; P753, p.3.

<sup>221</sup> Abrahams, T.3957-3959; P752; P753, p.12; P740, p.6.



very regularly” from June to September 1998, meaning “virtually every day.”<sup>222</sup> Byrnes always brought such information to Lukić’s attention.<sup>223</sup>

108. On 2 October 1998, the 3<sup>rd</sup> Army Command provided a detailed analysis of the tasks and engagement of Serb forces and an assessment of the operations to date.<sup>224</sup> On 29 October 1998, at a large meeting chaired by Milošević and attended by the senior leadership of the MUP, VJ and civilian sectors, the execution of the Plan for Suppressing Terrorism was similarly assessed by members of the Joint Command. Pavković reported that 39,000 MUP and 13,500 VJ were involved in operations, along with 438 tanks, 334 infantry combat vehicles, 236 artillery weapons, 410 anti-aircraft guns, 570 mortars, and a tremendous quantity of ammunition.<sup>225</sup> The UNHCR estimated that as of October 1998, approximately 285,000 people – roughly 15 percent of the population – had been internally displaced or had fled from Kosovo.<sup>226</sup>

109. Observing this humanitarian crisis, the international community intervened and sought to find a peaceful solution to the turmoil in Kosovo. The U.N. Security Council responded to the intense fighting in Kosovo on 23 September 1998 with Resolution 1199,<sup>227</sup> which made note of the “excessive and indiscriminate use of force by Serbian security forces and the Yugoslav Army,” which had resulted in civilian casualties, the displacement of around 230,000 civilians from their homes, and a flow of refugees into neighbouring counties.<sup>228</sup> Resolution 1199 gave the OSCE the mandate to address the situation in Kosovo.<sup>229</sup>

(c) Breach of peace-building measures in the October Agreements

(i) The October Agreements

110. In an attempt to convince FRY and Serbian authorities to comply with Resolution 1199 and its predecessor Resolution 1160, U.S. Ambassador Richard Holbrooke travelled to Belgrade in early October 1998 and met with Milošević.<sup>230</sup> After these talks, further negotiations took place between representatives of the FRY, Serbia, the OSCE and NATO resulting in the Agreement on the OSCE

<sup>222</sup> Byrnes, P1214, pp.22-23.

<sup>223</sup> Byrnes, P1214, p.25.

<sup>224</sup> D340.

<sup>225</sup> P87, pp.4,6.

<sup>226</sup> P735. Note that according to the UNHCR, 239,000 persons had been displaced from Kosovo as of 31 August 1998. As Resolution 1199 was adopted on 23 September 1998, the statistics in the two documents would appear generally consistent.

<sup>227</sup> D160.

<sup>228</sup> D160, p.1.

<sup>229</sup> Vollebaek, T.7206-7207.

<sup>230</sup> Kickert, T.2638-2639; D62.

Kosovo Verification Mission (KVM),<sup>231</sup> the Understanding Between KDOM and Ministry of Interior of The Republic of Serbia,<sup>232</sup> and the Record of Meeting in Belgrade dated 25 October 1998 (together, the "October Agreements").<sup>233</sup>

111. The Agreement on the KVM was signed on 16 October 1998, and aimed at implementing Resolutions 1160 and 1199.<sup>234</sup> The Agreement established the KVM.<sup>235</sup>

112. In the "Record of Meeting in Belgrade," dated 25 October 1998, the FRY and Serb governments agreed to:

1. withdraw special police units deployed to Kosovo after February 1998;
2. return combined police/special police strength to their February 1998 duty level;
3. withdraw any heavy weapons or equipment brought into Kosovo or transferred from the VJ to the police after February 1998;
4. have police resume normal peacetime activities, and return any remaining heavy weapons and equipment to cantonments and police stations;
5. withdraw all VJ units brought into Kosovo after February 1998; and
6. return all VJ units except three company-sized teams to garrison.<sup>236</sup>

113. This was to be done by 27 October 1998.<sup>237</sup> The agreement was signed by Deputy Prime Minister Nikola Šainović for the FRY, Đorđević for the Republic of Serbia, and Generals Klaus Naumann and Wesley Clark for NATO.<sup>238</sup>

114. The "Understanding Between KDOM and Ministry of Interior of The Republic of Serbia" came about the same day, 25 October 1998.<sup>239</sup> This agreement required the MUP to dismantle all checkpoints, but permitted them to establish 27 observation points and use armoured vehicles with machine guns in case of incidents or increased tension.<sup>240</sup> It was signed by Byrnes and Đorđević.<sup>241</sup>

<sup>231</sup> P835.

<sup>232</sup> P836.

<sup>233</sup> P837.

<sup>234</sup> P835,p.1.

<sup>235</sup> P835,paras. 1.1-1.2;Vollebaek,T.7203,7208-7210,7242;P1072,p.7;P1073,p.3.

<sup>236</sup> P837,paras.1-5. Byrnes explained that the February 1998 date was chosen because "there was a big build-up of Serbian security forces, the police, and the army after – in March of 1998." T.8182-8183.

<sup>237</sup> P837,para.7.

<sup>238</sup> P837,p.1.

<sup>239</sup> P836.

<sup>240</sup> P836,paras.1-3.

<sup>241</sup> P836;Byrnes,T.8178-8179;P1214,p.32.

a. Đorđević Led the Negotiations for the MUP

115. During the negotiations in late October 1998, Đorđević headed the negotiations for the MUP.<sup>242</sup> Also participating on the Serbian side were Obrad Stevanović, Head of the Police Department; Sreten Lukić, the Head of the MUP Staff, and Mijatović, Lukić's deputy.<sup>243</sup> Byrnes participated in the negotiations on the side of the internationals.<sup>244</sup> He understood Đorđević to be leading the Serbian side because "he was the senior professional, non-political official of the Serbian police. And . . . there were formal introductions before the negotiations started, and he was introduced in that capacity."<sup>245</sup> Đorđević explained that Serbian President Milutinović and Minister Stojiljković decided that he should participate in the negotiations.<sup>246</sup>

116. Byrnes described Đorđević as a "very impressive, very imposing, big man, with . . . what we would call command presence. He was a man who was very much in charge."<sup>247</sup> With regards to Đorđević's role in the negotiations, Byrnes testified, "General Đorđević was the lead negotiator. What I recall is General Lukić would very occasionally be involved or say something, but General Đorđević was clearly in charge."<sup>248</sup>

117. The MUP working group dealt with very specific details regarding MUP activities in Kosovo.<sup>249</sup> Byrnes stated that during these detailed negotiations, Đorđević "demonstrated a very clear knowledge of the facts on the ground in Kosovo."<sup>250</sup> Byrnes explained,

He took his job as deputy – as head of the police, deputy minister of interior seriously, and he knew down to detail what was going on and where his people were and what they were doing. . . . General Đorđević had – very frankly, had a professional's command of the facts. He was on top of his brief, and he was a very tough negotiator.<sup>251</sup>

b. Kosovo Verification Mission

118. KDOM served in place of KVM until it became operational.<sup>252</sup> Ambassador William Walker was appointed KVM Head of Mission on 22 October 1998.<sup>253</sup> Walker and his Chief of Staff, Michael Phillips, arrived in Priština/Prishtinë on 4 November 1998.<sup>254</sup>

<sup>242</sup> Byrnes, T.8177; P1214, p.31.

<sup>243</sup> Byrnes, T.8175. There were other participants who Byrnes did not know. T.8175.

<sup>244</sup> Byrnes, T.8174-8175.

<sup>245</sup> Byrnes, T.8230-8231. See Đorđević, T.9870.

<sup>246</sup> Đorđević, T.10147.

<sup>247</sup> Byrnes, T.8227.

<sup>248</sup> Byrnes, T.8178.

<sup>249</sup> Byrnes, T.8177-8180.

<sup>250</sup> Byrnes, T.8180.

<sup>251</sup> Byrnes, T.8180-8181.

<sup>252</sup> Byrnes, T.8186, 8260-8261; P1214, pp.42-43; P835, para. 1.5.

119. In early December, Walker and Phillips began to meet regularly with FRY and Serbian government representatives who had been designated to liaise with the KVM in Kosovo,<sup>255</sup> including Deputy Prime Minister Šainović, retired General Dušan Lončar, and Lukić.<sup>256</sup> In these meetings, Walker regularly reported non-compliance issues.<sup>257</sup>

(ii) Violations of the October Agreements

120. Ultimately, the FRY and Serbia did not comply with the October Agreements. The MUP and VJ violated important technical provisions of the Agreements. The MUP failed to reduce its numbers and withdraw heavy weapons, and ultimately increased both; and the VJ failed to remain in barracks as required and ultimately increased its numbers in Kosovo. Worst of all, the VJ and MUP thwarted the very purpose of the Agreements: they began fighting the KLA anew, destroying the fragile ceasefire. Meanwhile, FRY and Serb officials took deliberate steps to mislead KVM into believing they were complying with the Agreements.

a. Refusal to Reduce Forces

121. The MUP did not comply with the requirement that it return combined police/special police strength to their February 1998 duty level; and the VJ did not comply with the requirements that it withdraw all units brought into Kosovo after February 1998.<sup>258</sup>

122. At a VJ Collegium meeting on 28 October 1998, the day after these withdrawals and reductions were to be accomplished,<sup>259</sup> Chief of the VJ General Staff Perišić told participants that:

I want to tell you now that something from Resolution 1199 has not been implemented. If you pass this on outside in this way you will bring a lot of things into question. For example, the MUP has not been cut back to the level of March or the end of February 1998, and not all units of the Yugoslav Army have been withdrawn to barracks, but only these three what I call companies, and nor have these units which were at the border been withdrawn, concerning which no one is yet posing any questions, but they will pose questions.<sup>260</sup>

123. Additionally, Serbian President Milutinović told attendees at a MUP Staff meeting in Kosovo on 5 November 1998 that "With regard to the Yugoslav Army and police, everything will

<sup>253</sup> Drewienkiewicz, T.6430-6431; P844, p.2.

<sup>254</sup> Phillips, T.8686.

<sup>255</sup> Phillips, T.8686-8687.

<sup>256</sup> Phillips, T.8686,8717; P1303, pp.4-5,163.

<sup>257</sup> Phillips, T.8692.

<sup>258</sup> P837, paras.1-5.

<sup>259</sup> P837, para.7.

<sup>260</sup> P1425, p.12.

stay the same as it has been up to now, (a joint command, VJ army units will not withdraw, and police forces have only been reduced by the number that has already been withdrawn).<sup>261</sup>

124. In fact, the MUP and VJ actually increased their numbers.<sup>262</sup>

125. The MUP obscured their failure to comply with these provisions by not providing KVM with the February 1998 baseline numbers or weekly reports about ongoing MUP numbers by which KVM could judge compliance. KVM repeatedly asked for this information.<sup>263</sup> They never received the 1998 baseline data or weekly reports about manning.<sup>264</sup> This made it impossible for KVM to confirm whether or not the MUP and VJ had reduced their numbers accordingly.<sup>265</sup>

126. Further, the VJ prevented KVM from monitoring whether its numbers were affected when it rotated troops. Ojdanić advised Drewienkiewicz that the VJ intended to rotate forces in and out of Kosovo in keeping with standard military practice.<sup>266</sup> Drewienkiewicz requested that the KVM be involved in verifying the change-over ratio in order to ensure that equal numbers of forces were coming in and leaving Kosovo.<sup>267</sup> This request was flatly rejected by Ojdanić.<sup>268</sup>

127. In addition to failing to reduce its numbers as agreed in October, the MUP in fact bolstered its strength by arming Serb civilians and hiding this fact from KVM.<sup>269</sup>

128. Lukić sought to mislead the KVM about the actual number of armed Serb civilians supplementing the police. At a meeting held with SUP chiefs and PJP detachment commanders at the MUP Staff on 2 November 1998, the following conclusion was adopted:

Make sure that Serbs and members of the RPO do not misuse weapons, let off guns at weddings, celebrations of *slava*, farewell parties and so on, do not carry weapons or show them in public in the presence of members of the Mission. When on guard duty, use one weapon and prevent individuals bringing in the weapons they have been issued. *Tell them not to state the fact that Serbs are armed and to explain this fact, if they must, using the excuse that it is only members of the guard who are armed.*<sup>270</sup>

<sup>261</sup> P770, p.4.

<sup>262</sup> See Part III, Section(B)(1).

<sup>263</sup> P838; P1001; Phillips, T.8692, 8715-8716; P1303, pp.6-7, 9; Drewienkiewicz, P996, para.63; P998, p.1.

<sup>264</sup> Drewienkiewicz, T.6317, 6326-6327, 6330, 6333; P997, pp.154-155; P998, p.1; Phillips, T.8718.

<sup>265</sup> Drewienkiewicz, T.6317, 6461; P997, p.154; Byrnes, T.8183.

<sup>266</sup> Drewienkiewicz, T.6338; P996, para.64.

<sup>267</sup> Drewienkiewicz, P996, para.66; P998, p.2.

<sup>268</sup> Drewienkiewicz, P996, para.66.

<sup>269</sup> See P87, p.10. See Part III, Section(A(2)(a)).

<sup>270</sup> P690, p.3.

b. Refusal to Withdraw Heavy Weapons

129. The MUP also refused to withdraw its heavy weapons and equipment as required. At a VJ Collegium meeting held on 3 December 1998, General Milorad Obradović reported on the MUP's refusal to return VJ equipment, including 20 personnel carriers and 23 mortars that were subject to the October Agreement.<sup>271</sup>

130. The VJ resolved the problem of KVM discovering non-compliance through inspections by never allowing KVM to conduct the inspections proposed by General Drewienkiewicz, or to even enter VJ barracks.<sup>272</sup>

131. These provisions were an important component of fostering peace in Kosovo. The MUP and VJ's refusal to abide by them contributed to renewed violence.

c. Breach of the Ceasefire

132. The fundamental purpose of the October Agreements was to maintain a ceasefire in Kosovo. The VJ and the MUP thwarted efforts to achieve peace in Kosovo by returning to the use of excessive force and violence. Drewienkiewicz testified that the use of disproportionate force by the FRY government in response to insurgent activities in Kosovo "was observed by (the KVM) on many occasions."<sup>273</sup> This involved the use of heavy artillery, tanks, and machine-guns which often resulted in civilian casualties.<sup>274</sup>

133. Two specific instances of the VJ and MUP breaching the ceasefire were their actions in Podujevo/Podujeva and Račak/Recak, which ultimately brought about a return to violence and the failure of the October Agreements.

*Podujevo/Podujeva*

134. In December 1998, the VJ and MUP breached the ceasefire and violated technical provisions of the October Agreements through their co-ordinated actions in Podujevo/Podujeva. KDOM and KVM observed the VJ and MUP actively working together in a co-ordinated fashion, much as they had done during the 1998 summer offensive.

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<sup>271</sup> P967,p.19.

<sup>272</sup> Drewienkiewicz,P997,p.216;Ciaglinski,P832,p.6.

<sup>273</sup> Drewienkiewicz,T.6322.

<sup>274</sup> Drewienkiewicz,T.6321-6322.

135. Although the Priština/Prishtinë, Podujevo/Podujeva, Niš road was of strategic importance to the MUP and VJ, it was not one of the three strategic supply routes included in the Clark-Naumann Agreement that the VJ was permitted to patrol.<sup>275</sup> The KLA subsequently moved into some of the positions in the area.<sup>276</sup>

136. Between 18 and 19 December, the VJ returned the 15<sup>th</sup> Armoured Brigade Tank Company to the airfield near Batlava/Batlava, joined by MUP and MUP vehicles.<sup>277</sup> Verifiers became aware of the deployment because they observed a VJ armoured unit leaving the barracks in the west of Priština and moving to Batlava airfield on 18 December.<sup>278</sup> The deployment included heavy weapons, tanks, and artillery.<sup>279</sup>

137. The deployment involved both the VJ and the MUP working together.<sup>280</sup> Drewienkiewicz noted that the VJ and MUP units were not moving separately one after the other as would normally be expected, but were intermixed throughout the convoy.<sup>281</sup> According to Drewienkiewicz, "one of the reasons you might do that is ... so that the army and the MUP can communicate together in an operation where both have a part."<sup>282</sup>

138. VJ representatives told KVM that this was a normal training exercise, specifically tank driver training.<sup>283</sup> This claim was not true. At the meeting of the VJ Collegium on 30 December 1998, General Aleksandar Dimitrijević, Chief of the Security Administration, stated,

In addition, the current situation in the vicinity of Podujevo, I think that we must be completely consistent here and completely open towards each other, so to speak. The situation in Podujevo and the surroundings, it was complex before, but when did it suddenly become even more complicated? After the so-called pretend or real planned exercises in which this company took part in the field. Generals, these sorts of moves will lead us to disaster, the explanation that this was a planned exercise, that is not true. It was planned that the unit would provoke the terrorists so that the MUP would then have to do whatever it had to do. The fact that the MUP did not do what it had to do afterwards has resulted in what we have now.<sup>284</sup>

<sup>275</sup> P837, para. II.5.

<sup>276</sup> Byrnes, P1214, p.66; Phillips, P1303, pp.79-80; Drewienkiewicz, T.6351-6352. See D351.

<sup>277</sup> D590, p.1; Byrnes, T.8191; Phillips, T.8710; Crosland, P1400, para.65; Drewienkiewicz, P996, para.95.

<sup>278</sup> Drewienkiewicz, T.6349; P996, paras.95-96; P844, p.4; Byrnes, T.8191; P1246, p.1.

<sup>279</sup> P01247, p.1.

<sup>280</sup> Phillips, T.8706; P1303, p.22; P1311, pp.1,5,9; Byrnes, T.8199-8200.

<sup>281</sup> Drewienkiewicz, T.6349-6350; P996, para.100.

<sup>282</sup> Drewienkiewicz, T.6350.

<sup>283</sup> Drewienkiewicz, T.6351; P996, para.96; Byrnes, T.8191; Phillips, T.8710; P1246, p.1; D590, p.3. See P1246, p.1.

<sup>284</sup> P1330, p.14.

139. General Obradović then told the Collegium that the VJ had “managed to avoid registering it as a combat group” by calling it “some sort of mixed or mechanised company that is on extended combat training in this training ground.”<sup>285</sup>

140. Dimitrijević’s comments show not only that the “training exercise” explanation was a ruse, but also that this was a joint VJ and MUP plan. The VJ unit was to provoke the KLA, so that the MUP would have to begin fighting the KLA in the area under the guise of self defence.<sup>286</sup> Lukić’s comments at the MUP Staff meeting on 17 February 1999 in Priština make clear that this was not a training exercise. He reported to senior leadership of the MUP that “[c]onsiderable police and Yugoslav army forces have been engaged in the Podujevo area to secure the Priština-Niš road.”<sup>287</sup>

141. At the time, verifiers rightly perceived that the deployment was not in reality a training exercise.<sup>288</sup> Verifiers also correctly discerned that the deployment was intentionally provocative.<sup>289</sup> Drewienkiewicz made repeated efforts to protect the ceasefire by warning the VJ that their deployment in Podujevo/Podujeva would provoke fighting and asking them to “train” elsewhere.<sup>290</sup> However, the VJ ignored the protests of Drewienkiewicz,<sup>291</sup> and made it “impossible” for KVM to properly verify what was actually taking place in Podujevo/Podujeva by sealing off the area to the verifiers.<sup>292</sup>

142. Verifiers’ fears that the joint VJ-MUP deployment would spark fighting proved correct. Within two days of the deployment, US KDOM reported,

F.R.Y. army (VJ) forces flouted the cease-fire today when their teams in the Podujevo area attacked KLA positions. . . . The action, in clear violation of the cease-fire accords, renders the overall agreement increasingly fragile.<sup>293</sup>

143. General Drewienkiewicz was assured by the VJ that the training exercise would end on 22 December.<sup>294</sup> However, not only did the company not leave that day, it was instead reinforced,<sup>295</sup> as

<sup>285</sup> P1330, pp.14–15.

<sup>286</sup> Phillips, P1303, p.22; T.8710. See P85, p.1.

<sup>287</sup> P85, p.1.

<sup>288</sup> Byrnes, T.8193; P1247, p.1.

<sup>289</sup> Drewienkiewicz, T.6351-6352.

<sup>290</sup> Drewienkiewicz, T.6354; P996, para.94; P1312, p.23; See D590, pp.3-4.

<sup>291</sup> Drewienkiewicz, P996, para.97.

<sup>292</sup> Ciaglinski, P834, pp.34-35.

<sup>293</sup> P1248, p.1; Byrnes, T.8198.

<sup>294</sup> D590, p.4.

<sup>295</sup> D590, p.1.



confirmed by the VJ Duty Operations Head, General Mihajlović, at the VJ Collegium meeting of 24 December 1998.<sup>296</sup>

144. The fighting continued up until the NATO bombing,<sup>297</sup> with the VJ in fact “heavily reinforced” its presence there,<sup>298</sup> and continuing supposed “training exercises”.<sup>299</sup>

145. The VJ and MUP’s return to fighting seriously affected civilians. Around 10 January 1999, a UNHCR team observed that the population of Perane/Peran was gone.<sup>300</sup> “Most houses at the fringes of Podujevo and along the Priština/Prishtinë to Belgrade road were empty.”<sup>301</sup> At the end of January, Crosland witnessed the VJ and MUP deliberately “razing, burning, and looting” villages to the west of Podujevo/Podujeva, including Lapaštica, Donje Lapaštica, Bradaš, and Dobratin.<sup>302</sup>

146. Knut Vollebaek, the Chairman of OSCE, visited Podujevo/Podujeva and neighbouring villages on 15 March 1999.<sup>303</sup> He observed that nearby villages had been destroyed.<sup>304</sup> He saw people from Podujevo/Podujeva fleeing their homes.<sup>305</sup> During last-ditch negotiations prior to the NATO bombing, Vollebaek mentioned his observations directly to Milošević.<sup>306</sup> Milošević “laughed,” and responded that the refugees were merely “people on picnic” and the burning homes were just “hay burning”.<sup>307</sup>

147. KVM repeatedly brought up the situation in Podujevo/Podujeva with the VJ and MUP, asking the VJ to return the company to barracks, and the MUP to stop the ongoing fighting.<sup>308</sup> Instead, the VJ and MUP remained in Podujevo/Podujeva until the start of the NATO intervention.<sup>309</sup> In fact, this VJ unit, along with three PJP companies, had a significant role in an order to combat the KLA in the area just prior to the start of the NATO bombing campaign.<sup>310</sup>

<sup>296</sup> P966,p.14.

<sup>297</sup> P1249,p.1;P1529,p.1;P844,p.4;P1334,p.7;Byrnes,T.8206;P973,pp.1-3.

<sup>298</sup> P1075,pp.1-2.

<sup>299</sup> P1529,p.1;P1015,p.7.

<sup>300</sup> P1075,p.1.

<sup>301</sup> P1075,p.1.

<sup>302</sup> Crosland,P1400,para.68.

<sup>303</sup> Vollebaek,T.7215-7216.

<sup>304</sup> Vollebaek,T.7216.

<sup>305</sup> Vollebaek,T.7216.

<sup>306</sup> Vollebaek,T.7217-7218.

<sup>307</sup> Vollebaek,T.7217-7218.

<sup>308</sup> Drewienkiewicz,P996,paras.94,96,97,164;P1026,pp.1-2;P1529,p.5;Byrnes,T.8206-8207;P1005,p.1;P1014,p.2.

<sup>309</sup> Byrnes,T.8206.

<sup>310</sup> P973,pp.1-3.

148. Throughout, the VJ and the MUP worked together, with the “army providing covering fire from its armour, and the police engaging in an infantry assault” in order to take a position.”<sup>311</sup>

#### *Račak/Recak*

149. In another joint action, the VJ shelled the village of Račak/Recak while the MUP rounded up and shot to death 45 alleged KLA members on 15 January 1999. As defence witnesses themselves described, this was a planned action, not reactive self defence.<sup>312</sup> The action was co-ordinated between the VJ and the MUP. The Račak/Recak action marked the end of the fledgling peace in Kosovo.

150. Tensions in the area began around 8 or 9 January 1999, when three MUP members were killed on the Crnoljevo- Štimlje road.<sup>313</sup> KVM observed that in reaction to this incident, the MUP and VJ began to significantly build up forces in the area.<sup>314</sup> The VJ was positioned on a bluff that overlooked the region, and the MUP were deployed in Račak and Stimlje, “setting up check-points and going through the village in good numbers.”<sup>315</sup> Due to this increasing tension, KVM requested KDOM to send a patrol to the area to supplement the international presence.<sup>316</sup>

151. On 15 January 1999, the KDOM patrol, commanded by U.S. Army Major Brad Scott, reported that the MUP and the VJ were attacking the village of Račak/Recak.<sup>317</sup> This was another “co-ordinated action” similar to Podujevo/Podujeva, where “the VJ provided covering fire on target before the assault began.”<sup>318</sup> KVM had not been notified of this action.<sup>319</sup>

152. As was their practice, KDOM and KVM vehicles positioned themselves in between the police and the village in order to “calm the situation down.”<sup>320</sup> For the first time, however, “the police, had simply ignored our presence, and they had moved through . . . our line and went on into attack the village.”<sup>321</sup> A KDOM report described the situation:

US KDOM observed the FRY police/military attack on the Račak-Pettovo-Malopoljce area throughout the day on January 15. VJ armoured units and mortars fired into the villages, with at least three tank rounds visibly hitting civilian houses. Fires started by the shelling burned in the

<sup>311</sup> Byrnes, T. 8200; Phillips, P1303, pp. 22-23.

<sup>312</sup> Mitić, T. 12676-12678; Đorđević, T. 9667-9668.

<sup>313</sup> Crosland, T. 9183; Phillips, T. 8735.

<sup>314</sup> Crosland, P1400, para. 67; T. 9186-9187; Phillips, T. 8735; Byrnes, T. 8201. Numerous reports in the KVM Blue Book documented this build-up: P1029, pp. 9, 10, 11, 15, 16, 17, 19.

<sup>315</sup> Phillips, T. 8735.

<sup>316</sup> Byrnes, T. 8201-8202.

<sup>317</sup> Byrnes, T. 8201.

<sup>318</sup> Byrnes, T. 8205.

<sup>319</sup> Drewienkiewicz, T. 6504.

<sup>320</sup> Byrnes, T. 8203-8204.

<sup>321</sup> Byrnes, T. 8204.

villages for several hours after the attack. By 4:30 that afternoon, the attack had ended and KDOM entered the villages where one body was found quickly. KDOM called in the OSCE Kosovo Verification Mission (KVM) to assess the situation, which turned out to represent one of the most serious humanitarian disasters of the Kosovo crisis. KDOM then undertook the evacuation of wounded civilians, including one child, two women, and an elderly man.<sup>322</sup>

153. High-level actors were involved in the action. On the morning of the operation, Đorđević himself visited the Stimlje police station and monitored the action while it was underway. He received two telephone calls from Deputy Prime Minister Šainović and reported about the situation.<sup>323</sup>

154. As the action progressed on 15 January, Maisonneuve went to investigate.<sup>324</sup> He met with verifiers, who told him they had seen Pragas and T55 tanks on the hills overlooking Račak/Recak.<sup>325</sup> They observed tanks firing into Račak/Recak, and then MUP personnel going into the village.<sup>326</sup> There was no outgoing fire from Račak/Recak.<sup>327</sup> The next day, Maisonneuve went to the hill where verifiers had seen the tanks, and he saw tank tracks on the spot.<sup>328</sup>

155. On 16 January, members of KVM, including Walker, Phillips, and Drewienkiewicz, travelled to Račak/Recak.<sup>329</sup> Phillips and Drewienkiewicz gave similar accounts of what they saw. Both saw police “everywhere” in Stimlje, although not in Račak. Instead there was a KLA presence there. The VJ was behind Račak/Recak up on the hill-side.<sup>330</sup>

156. Phillips described in his notebook the “revolting scene”<sup>331</sup> that KVM discovered in Račak/Recak:

The scene in the village of Račak was the most horrifying thing one can imagine – a true tragedy. We counted 45 bodies; all were shot in the head, either front, back, top or behind the ear. Powder burns were noted on most bodies indicating a very close range shot. Some of the bodies had been mutilated with either ears, eyes, fingers and in one case, a head missing.

<sup>322</sup> P1250,p.1.Byrnes stated that the report was drafted earlier than 26 January 1999, the date on the exhibit, and that may be the date of the Department of State publication of the report. T.8273.

<sup>323</sup> See Part V, Section(C)(1)(e).

<sup>324</sup> Drewienkiewicz,P996,para.138.

<sup>325</sup> Maisonneuve,P851,para.36.

<sup>326</sup> Maisonneuve,T.5466.

<sup>327</sup> Maisonneuve,T.5467.

<sup>328</sup> Maisonneuve,T.5471.Some defence witnesses claimed that the VJ was not involved in the Račak/Recak operation. See Ćurčin,T.10692; Mitić,T.12753. In light of the observations of multiple international verifiers, who saw tanks firing into the village, and Maisonneuve, who observed the tank tracks himself, their denials are not credible. Notably, neither Ćurčin nor Mitić were eyewitnesses to the action. Maisonneuve found it inconceivable that the VJ and MUP did not cooperate here, as “they definitely coordinated regularly during action” and “you would never have two forces, friendly forces, which are working on the same side operating in the same zone without ensuring that you have good co-ordination to make sure that there are no engagement of friendly forces, any friendly fire.” Maisonneuve,T.5471.

<sup>329</sup> Phillips,T.8735;Drewienkiewicz,P996,para.146. See also P1026, p.3.

<sup>330</sup> Phillips,P1303,p.29;Drewienkiewicz,P996,para.146.

<sup>331</sup> P1312,p.33.

The majority of those killed were older men, in the 50s and 60s, there were some late 20s and 30s. We also came across three women and one 12-year old boy. Again just a horrifying scene – something I'll never forget. This is not the way to solve problems anywhere in the world.<sup>332</sup>

157. Drewienkiewicz recounted the same scene.<sup>333</sup> On the way back, Drewienkiewicz inspected the trench system at the bottom of the hill for signs of fighting but found none.<sup>334</sup>

158. As no “scene of crime” examination appeared to be being undertaken, KVM “undertook to video all the bodies at close quarters.”<sup>335</sup> KVM established that 45 people were killed during the MUP offensive, 23 of them in close proximity to each other.<sup>336</sup> Villagers moved forty bodies found in and around the village to the mosque.<sup>337</sup>

159. KVM immediately and repeatedly called for an independent investigation of the incident. Walker held a press conference during which he condemned the attack,<sup>338</sup> and urged that the ICTY be granted visas immediately so that a proper investigation could be carried out.<sup>339</sup> Drewienkiewicz also told Lončar that only the ICTY could carry out a credible investigation.<sup>340</sup> However, Lončar insisted that a FRY “crime scene” team would conduct an investigation if Drewienkiewicz would facilitate their entry into Račak/Recak.<sup>341</sup>

160. Ultimately, Investigative Judge Danica Marinković conducted an investigation that sought not to uncover the truth of what happened in Račak/Recak, but to clear the MUP of wrongdoing. She entered Račak/Recak on 18 January with her team, including a Professor Slaviša Dobričanin.<sup>342</sup> They went to the mosque, where the villagers had placed 40 of the 45 bodies on 16 January.<sup>343</sup> With each body, Professor Dobričanin “simply picked up the towel to see the head and then . . . put it back.”<sup>344</sup> On this basis, which Marinković herself conceded was “not an official examination,”<sup>345</sup> Dobričanin “immediately stated . . . that there were no traces of slaughter on those bodies” –

<sup>332</sup> P1312,p.44. *See also* P1575, a video showing the scene that KVM saw in Račak/Recak on 16 January 1999, including a decapitated body and many bodies with head wounds in civilian clothes.

<sup>333</sup> Drewienkiewicz, P996, para. 147; P1013.

<sup>334</sup> Drewienkiewicz, P996, para. 148.

<sup>335</sup> Drewienkiewicz, P996, para. 148; P1575.

<sup>336</sup> Drewienkiewicz, P996, para. 152; Phillips, P1312, p.44.

<sup>337</sup> Drewienkiewicz, P996, para. 151.

<sup>338</sup> Drewienkiewicz, P996, para. 154; P844, p.5.

<sup>339</sup> Drewienkiewicz, P996, para. 154.

<sup>340</sup> Drewienkiewicz, P996, para. 156.

<sup>341</sup> Drewienkiewicz, P996, para. 155-154. *See also* Vollebaek, T.7214.

<sup>342</sup> Marinković, T.12975-12976.

<sup>343</sup> Drewienkiewicz, P996, para. 151.

<sup>344</sup> Marinković, T.13113.

<sup>345</sup> Marinković, T.13115.

meaning there had been no massacre – and that the head injuries were “caused by birds or animals”.<sup>346</sup> She never located the gully where the largest grouping of bodies had been found.<sup>347</sup>

161. In the following days, Marinković made a public statement that there had been no massacre.<sup>348</sup> At this time, the autopsies had just begun,<sup>349</sup> she had not interviewed any witnesses to the incident,<sup>350</sup> and indeed, had not even located the primary crime scene.<sup>351</sup> She made no further efforts to do so. Meanwhile, ICTY Chief Prosecutor Louise Arbour’s efforts to investigate the Račak/Recak incident were thwarted when she was denied a FRY visa.<sup>352</sup>

162. Defence witness Mitić claimed that the Račak/Recak action was a legitimate response to terrorism, and that the MUP merely planned to “arrest” terrorists.<sup>353</sup> However, they once again used excessive force – their “arrest” turned into the killing of 45 people. Drewienkiewicz explained that he had expressed his concern to FRY and Serb authorities about their use of disproportionate force at almost every meeting he had with them.<sup>354</sup>

163. The Račak/Recak action caused the ceasefire to collapse. Afterward, the regular meetings between KVM and the liaison group stopped.<sup>355</sup> As Byrnes testified, “At the end of the day, Račak destroyed that agreement.”<sup>356</sup>

(d) Rambouillet and Paris negotiations

164. The Račak/Recak massacre provoked an outcry in the international community. Diplomats made intense efforts to mediate between Kosovo Albanian and Serb representatives, including

<sup>346</sup> Marinković, T.12976, 13079, 13085. In light of the testimony of Phillips and Drewienkiewicz about the state of the bodies they saw on 16 January, and the footage in P1575 which confirms their descriptions, this statement of Professor Dobričanin is incomprehensible. Interestingly, when shown P1575, Marinković claimed these were not the bodies she had seen on in the mosque. T.13083. However, as Drewienkiewicz made clear, they were the same bodies. Villagers took 40 of the 45 bodies killed in Račak/Recak and laid them in the mosque before Drewienkiewicz departed on 16 January. P996, para.151.

<sup>347</sup> Marinković, T.12978, 13087.

<sup>348</sup> On cross-examination, Marinković was shown a newspaper article dated 20 January 1999, entitled, “They were not massacred” in which Marinković was quoted as saying, “The terrorist’ corpses have not been massacred, as the more than biased head of Kosovo Verification Mission William Walker has claimed.” T.13085-13087.

<sup>349</sup> Marinković, T.13086-13087; The bodies had been taken from the mosque and transported to the Priština/Prishtina morgue for autopsy. Drewienkiewicz, P1016, p.1.

<sup>350</sup> Marinković, T.12979, 13087.

<sup>351</sup> Marinković, T.12978, 13087.

<sup>352</sup> Drewienkiewicz, P844, p.5.

<sup>353</sup> Drewienkiewicz, P996, para.155; Mitić, T.12676.

<sup>354</sup> Drewienkiewicz, T.6323-6324.

<sup>355</sup> Phillips, T.8691-8692; P1303, p.5.

<sup>356</sup> Byrnes, T.8225.

shuttle negotiations conducted under the auspices of U.S. envoy Christopher Hill and European Union envoy Wolfgang Petritsch.<sup>357</sup>

165. Kosovo Albanians and Serbs were summoned to Rambouillet, France for negotiations between 6 and 22 February 1999.<sup>358</sup> The purpose of the Rambouillet negotiations was to create a transitional situation in Kosovo to restore peace and allow the refugees to return to their homes.<sup>359</sup>

166. FRY President Milošević did not attend the peace talks,<sup>360</sup> causing many to believe that Serbian delegates never had the will or ability achieve a political solution.<sup>361</sup> According to Surroi, “realistically speaking, there was only one address for the negotiations . . . Belgrade. The man who was there was Slobodan Milošević.”<sup>362</sup>

167. After protracted negotiations, all members of the Kosovo Albanian delegation were ready to sign the agreement, except for Thaqi who would not sign without first returning home and consulting with KLA commanders. The Serbian delegation offered to accept in principle part of the document and discuss the rest of it.<sup>363</sup> Before their departure, both delegations agreed to return to Paris on 15 March for the completion and implementation of the agreement.<sup>364</sup>

168. When the delegations met again, only the Kosovo Albanians signed the agreement that was tabled by the Contact Group negotiators. The Serb side introduced new drafts and went back on earlier agreed issues and eventually refused to sign.<sup>365</sup>

169. While these peace talks were ongoing, Serb forces were building up in Kosovo and intensifying their operations on the ground.<sup>366</sup>

170. On 19 March 1999, the Co-Chairmen of the Contact Group issued a statement that “the Rambouillet agreements represent the only peaceful solution to the problem of Kosovo” and that the “Kosovo delegation in Paris has taken that opportunity and committed itself to the agreement in its entirety by signing it”, whereas the “Yugoslav delegation has not only not used that opportunity,

<sup>357</sup> Merovci, P416, para. 33.

<sup>358</sup> Abrahams, P738, p. 21; Rugova, P285, p. 7; Surroi, T. 283.

<sup>359</sup> Rugova, P286, pp. 31-32. On 30 January 1999, the Contact Group had formulated “non-negotiable principles” on the basis of which the talks at Rambouillet were to proceed. Jovanović, D455, pp. 65-66.

<sup>360</sup> Surroi, T. 283-284.

<sup>361</sup> Rugova, P285, pp. 6-7; P286, pp. 30-32; Surroi, T. 287; Byrnes, P1214, pp. 63-64, 102.

<sup>362</sup> Surroi, T. 347. See Jovanović, D455, p. 66.

<sup>363</sup> Surroi, T. 287-288; Merovci, P416, para. 36; Rugova, P285, p. 8.

<sup>364</sup> Merovci, P416, para. 36.

<sup>365</sup> Rugova, P285, p. 8; P286, pp. 33-34; Surroi, T. 289.

<sup>366</sup> See Part III, Section (B)(1).

but it has also tried to dispute the Rambouillet agreement again".<sup>367</sup> They concluded that "it serves no purpose to further prolong the talks"<sup>368</sup> and would consult with their allies and contact the NATO Secretary General.<sup>369</sup>

171. Just after the Rambouillet talks had collapsed, at a Serbian Radical Party (SRS) rally in Zemun, Vojislav Šešelj, a deputy Prime Minister of Serbia, stated that "If NATO bombs us, we Serbs will suffer casualties [...] but there will be no Albanians left in Kosovo."<sup>370</sup> During his testimony in relation to this video, Đorđević explained that:

"... parliament duly backed Milošević's rejection of the Rambouillet terms as did the Serb public. Serbia's deputy prime minister revealed what Milošević was planning to do next. If it comes to bombing by the NATO alliance, if an American aggression happens, we Serbs will suffer significant casualties, but there will be no Albanians in Kosovo."<sup>371</sup>

172. Vollebaek met with Milošević in Belgrade to persuade him to accept an international military presence in Kosovo. Milošević refused this proposal.<sup>372</sup> Vollebaek decided he had to withdraw KVM.<sup>373</sup>

173. Ambassadors Hill and Holbrooke and other international representatives lobbied Milošević to change his mind and avoid being bombed by NATO.<sup>374</sup> These final-effort negotiations were unsuccessful.<sup>375</sup> Holbrooke asked Milošević if he was aware of the consequences of his decision, and he replied that he was fully aware of the consequences.<sup>376</sup> The NATO air-strike campaign against Serbia began on 24 March 1999.

### 3. Administration and co-ordination bodies in Kosovo used to implement the JCE

#### (a) Forces operating in Kosovo

174. Forces of the FRY and Serbia were the principal perpetrators of the crimes charged in the Indictment. They were either members of the JCE because they shared the common criminal purpose or they were used by the JCE members to carry out the *actus reus* of crimes forming part of the common criminal purpose. These principal perpetrators include the following forces of the FRY and Serbia.

<sup>367</sup> D492,p.5.

<sup>368</sup> D492,p.5.

<sup>369</sup> D492,p.5.

<sup>370</sup> P1510;Đorđević,T.10044-10045.

<sup>371</sup> Đorđević,T.10044-10045.

<sup>372</sup> Vollebaek,P1072,pp.22-23,31-32;P1071,pp.13-14;T.7277-7278.

<sup>373</sup> Vollebaek,T.7223-7227;P1073,p.6,12-13;P1071,p.39;P1076.

<sup>374</sup> Surroi,T.290.

<sup>375</sup> Surroi,T.290-291.

<sup>376</sup> Surroi,T.291.

(i) Ministry of Internal Affairs (MUP)

175. In 1998 and 1999, Vlajko Stojiljković was the Minister of Internal Affairs.<sup>377</sup>

176. The MUP was composed of two main departments: the Public Security Department (RJB) and the State Security Department (RDB), whose tasks were set out, respectively, in the Rules on Internal Organisation of the MUP,<sup>378</sup> and in the Rules on the Internal Organisation of the RDB.<sup>379</sup> During the Indictment period, Đorđević headed the RJB, while the RDB was headed by Radomir Marković.<sup>380</sup> Đorđević was “the number 2 man in MUP”.<sup>381</sup>

177. In Kosovo, Sreten Lukić headed the MUP Staff, which brought the RJB and the RDB in Kosovo under the direction of a central body.<sup>382</sup>

178. The RJB in Belgrade was divided into a number of Administrations responsible for specific aspects of MUP operations, all reporting to Đorđević. In terms of MUP operations in Kosovo, the most important Administrations were the Police Administration, Crime Police and the Duty Operations Centre. The Police Administration headed by General Obrad Stevanović had broad responsibility for all regular police units, as well as the special police units, the SAJ and the PJP.<sup>383</sup> The Duty Operations Centre provided a means for senior MUP officials to remain informed of the activities of field headquarters and units. The head of the Crime Police Administration of the MUP was Dragan Ilić.<sup>384</sup>

a. Public Security Department (RJB)*Secretariats of Internal Affairs (SUPs)*

179. The MUP also comprised Secretariats of Internal Affairs (SUPs), managed by a Chief of Secretariat.<sup>385</sup>

180. There were 33 SUPs in the territory of the Republic of Serbia, seven of which were in Kosovo.<sup>386</sup>

<sup>377</sup> P688;P770;P85.

<sup>378</sup> P357,Arts.1-2. See also Đorđević,T.9434.

<sup>379</sup> P1349,Art.1. See also Đorđević,T.9434.

<sup>380</sup> P694;P85;P770. See also D100.

<sup>381</sup> Vasiljević,T.5933. See also Mišić,T.14073.

<sup>382</sup> P57. See Part III, Section A(3)(b)(ii).

<sup>383</sup> Cvetić,T.6594. Vasiljević testified that Stevanović was “the third-ranking man in MUP” (Vasiljević,T.5683).

<sup>384</sup> Cvetić,T.6667.

<sup>385</sup> P357,Arts.2-3;Cvetić,T.6746;Đorđević,T.9435. See also P1056.



181. All the 33 SUPs in the territory of the Republic of Serbia were within the RJB. SUP chiefs were subordinated to Đorđević.<sup>387</sup> SUPs in Kosovo reported to the MUP in Belgrade and to the MUP Staff in Priština.<sup>388</sup>

182. Each SUP was divided into municipal Departments/Sectors of the Interior (OUPs), which in turn controlled local police stations (PSs).<sup>389</sup>

183. During the Indictment period, the chiefs of the seven SUPs on the territory of Kosovo and Metohija were: Boško Petrić (until April 1999) and Bogoljub Janičević (from May 1999), Priština SUP;<sup>390</sup> Ljubinko Cvetić (until 16 April 1999) and Vucina Janicević (from 16 April 1999), Kosovska Mitrovica SUP;<sup>391</sup> Boro Vlahović, Peć SUP; Milan Kovačević (until April 1999) and Dragutin Adamović (after April 1999), Đakovica SUP; Miloš Vojnović, Prizren SUP; Dušan Gavrančić, Gnjilane SUP; Bogoljub Janičević (until April 1999) and Božidar Filić (from May 1999), Uroševac SUP.<sup>392</sup>

#### *Special Police Units (PJPs)*

184. In 1998 and in 1999, the MUP had a number of special combat units in Kosovo.<sup>393</sup> The RJB possessed two special units: the Special Police Unit (PJP) and the Special Anti-Terrorist Unit (SAJ).<sup>394</sup> Obrad Stevanović was the overall head of the PJP.<sup>395</sup>

185. The PJPs were the largest group of RJB special units and were used much as light infantry units.<sup>396</sup> PJPs were responsible for dealing with complex security tasks.<sup>397</sup> Members of PJP units also had regular police duties.<sup>398</sup>

186. PJP troops were recruited from the regular police forces, but were better trained and better equipped than regular police.<sup>399</sup> Detachments of the PJP were assigned regionally<sup>400</sup> and attached to

<sup>386</sup> P357, Art.3; P1037; Cvetić, T.6595; Đorđević, T.9435; Mišić, T.14019; Pantelić, T.12029. *See also* P1056, pp.1-2.

<sup>387</sup> Cvetić, T.6591,6598; Mišić, T.14075. *See also* P1056, p.1, item 2.

<sup>388</sup> Cvetić, T.6597. *See also* Part III, Section(A)(3)(b)(ii).

<sup>389</sup> P357, Art.4; Cvetić, T.6595-6596,6746; Đorđević, T.9435-9436; [REDACTED].

<sup>390</sup> Braković, T.4092; P759, para.1.

<sup>391</sup> Cvetić, T.6590; P78.

<sup>392</sup> P1037; Cvetić, T.6590; [REDACTED].

<sup>393</sup> Byrnes, T.8171-8172; P1214, pp.20-21; Phillips, T.8697; P357, Art.6; Đorđević, T.9446.

<sup>394</sup> Cvetić, T.6601; Crosland, P1400, para.7.

<sup>395</sup> Cvetić, T.6594; Vasiljević, T.5683.

<sup>396</sup> Crosland, P1400, para.13.

<sup>397</sup> Cvetić, T.6603; Đorđević, T.9447-9449; P58; Braković, P759, para.12.

<sup>398</sup> Đorđević, T.9448; Stoparić, P495, p.14; Pantelić, T.12045.

<sup>399</sup> Cvetić, T.6601; Đorđević, T.9448-9449; P58; Braković, T.4089.

<sup>400</sup> Đorđević, T.9448; P58; P1360, pp.1-2.

SUPs.<sup>401</sup> Each SUP in Kosovo had at least one PJP company, while the Priština SUP had two companies.<sup>402</sup>

187. SUPs were responsible for providing logistics to PJP units.<sup>403</sup> SUPs also implemented training programs developed by the MUP HQ for PJP units when these were not on detachment duty.<sup>404</sup> PJP commanders were members of and attended the SUP Collegium.<sup>405</sup>

188. Decisions to engage PJP detachments were made by the MUP Minister or a person authorised by him.<sup>406</sup> In practice, the person authorised to deploy PJP units was Đorđević.<sup>407</sup>

189. Once deployed, MUP Staff directed and co-ordinated PJP units, as “the body directly on the ground that had an insight into the overall security situation”.<sup>408</sup> Braković testified that his PJP detachment would usually receive tasks either from the MUP Staff, or directly in the field during briefings that they had together with VJ personnel.<sup>409</sup> On the ground, PJP units were commanded by a PJP commander.<sup>410</sup>

190. PJP units wore green camouflage uniforms, with the flag of the Republic of Serbia on the left sleeve, and the PJP insignia on the right sleeve.<sup>411</sup> When conducting operations, PJPs would wear coloured ribbons on the epaulettes of the uniforms.<sup>412</sup>

191. PJP units employed both light vehicles and APCs and, on occasion, had VJ tanks and artillery supporting them.<sup>413</sup> [REDACTED].<sup>414</sup>

192. In 1998 and in 1999, PJP detachments from all parts of Serbia were engaged on the territory of Kosovo,<sup>415</sup> [REDACTED].<sup>416</sup> The 24<sup>th</sup> PJP Detachment commanded by Braković was deployed in Kosovo.<sup>417</sup> In June 1998, the 24<sup>th</sup> PJP Detachment became the 124<sup>th</sup> Intervention Brigade.<sup>418</sup>

<sup>401</sup> Cvetić,T.6602;Braković,T.4089; [REDACTED].

<sup>402</sup> Braković,T.4099.

<sup>403</sup> Cvetić,T.6603,6662,6696. *See also* Đorđević,T.9452-9453;Pantelić,T.12047-12048;Mitić,T.12629.

<sup>404</sup> Cvetić,T.6698;P1045,p.36. *See also* Mitić,T.12629.

<sup>405</sup> P689,p.8.

<sup>406</sup> Cvetić,T.6604,6607,6649.*See also* Đorđević,T.9453.

<sup>407</sup> Cvetić,T.6604,6649. *See e.g.* P131;P132;P137;P138;P139;P1182;P1183.

<sup>408</sup> Cvetić,T.6650. *See also* Part III, Section A(3)(b)(ii)(c).

<sup>409</sup> Braković,T.4095. *See also* Part III, Section A(3)(b)(ii)(c).

<sup>410</sup> Cvetić,T.6604-6605,6649-6650;Kerić,T.7830-7831.

<sup>411</sup> Braković,P759,para.7; [REDACTED];P831. In April 1996, the old police uniforms with the insignia “milicija” were replaced with new uniforms with the insignia “policija”. *See* Cvetić,T.6700-6701;P327,items 6,7; [REDACTED]; [REDACTED]; P331-A,para.15;P335.

<sup>412</sup> Braković,P759,para.8;T.4127-4128. *See e.g.* P761;P762. *See also* [REDACTED];P334;P335.

<sup>413</sup> [REDACTED];Byrnes,T.8171;P1214,pp.20-21; [REDACTED].

<sup>414</sup> [REDACTED]

193. Starting from July 1998, and continuing in 1999, Đorđević ordered the deployment of PJP detachments to Kosovo.<sup>419</sup>

194. In 1999, the PJP units in Kosovo included the 122<sup>nd</sup> and 124<sup>th</sup> Intervention Brigades, and the 23<sup>rd</sup>, 35<sup>th</sup>, 36<sup>th</sup>, 37<sup>th</sup>, 73<sup>rd</sup>, 85<sup>th</sup> and 86<sup>th</sup> PJP Detachments, among others.<sup>420</sup>

195. PJP units included sub-units known as the Operational Sweep Groups (OPGs), composed of specially-trained individuals drawn from the larger PJP units.<sup>421</sup> The decision to create OPGs was taken by the MUP Staff in early December 1998.<sup>422</sup> OPGs provided the SUP with a quick reaction force, especially for cases when the main PJP unit was already engaged.<sup>423</sup> Each OPG had its own commander within the SUP to which it was attached.<sup>424</sup> All OPGs were under the authority of the Assistant Head for Special Operations of the MUP Staff, Goran Radosavljević.<sup>425</sup>

#### *Special Anti-Terrorist Unit (SAJ)*

196. The Special Anti-Terrorist Unit (SAJ) was an elite special unit within the RJB.<sup>426</sup> Up until 1998, the SAJ had three branches: the Novi Sad, Belgrade and Priština units—each with approximately 100 men.<sup>427</sup> In late 1998, Stojiljković disbanded the Novi Sad unit,<sup>428</sup> removing “one-third of the personnel” of the SAJ.<sup>429</sup>

197. In 1998 and during the Indictment period, the Commander of the SAJ at the MUP HQ was Živko Trajković.<sup>430</sup> The Commander of the Belgrade SAJ was Zoran Simović, aka Tutinać.<sup>431</sup> The Commander in Novi Sad was Branko Curčić, and the Commander in Priština was Radoslav Stalević.<sup>432</sup>

<sup>415</sup> D340,p.10;Cvetić,T.6603-6604. See also Braković,T.4124;Mišić,T.14039.

<sup>416</sup> [REDACTED].

<sup>417</sup> Braković,T.4093.

<sup>418</sup> Braković,T.4092,4123;P759,para.9;Cvetić,T.6601-6602,6698;P257;P132.

<sup>419</sup> See e.g. P131;P133;P135;P136;P137;P139;P346.

<sup>420</sup> P764,pp.2-3;P345;P974;Braković,T.4124;Cvetić,T.6603-6604;P1392.

<sup>421</sup> Braković, P759,para.11; [REDACTED];Cvetić,T.6605.

<sup>422</sup> Cvetić,T.6605[REDACTED].

<sup>423</sup> Braković,P759,para.11.

<sup>424</sup> Cvetić,T.6605;Braković,P759,para.11.

<sup>425</sup> Cvetić,T.6605-6606;Braković,P759,para.11.

<sup>426</sup> P357,Art.6;P1037. See also Cvetić,T.6601;Crosland,P1400,para.7;Đorđević,T.9462;Stalević,T.13840.

<sup>427</sup> Stalević,T.13770;Simović,T.13574.

<sup>428</sup> Đorđević,T.9694;Stalević,T.13774;Simović,T.13579.

<sup>429</sup> Simović,T.13574,13580,13593.

<sup>430</sup> Cvetić,T.6599;P1037;P57;Trajković,T.9056;Stalević,T.13767-13768;Simović,T.13572.

<sup>431</sup> Simović,T.13570,13573;Stoparić,P493,para.48.

<sup>432</sup> Trajković,T.9057;Simović,T.13572.

198. SAJ members were equipped with special uniforms and weapons: green and brown tiger stripe camouflage uniforms, Gore-Tex boots, modern weaponry and newer all-terrain vehicles.<sup>433</sup>

199. On 23 March 1999, the Belgrade SAJ unit was sent to Kosovo.<sup>434</sup> The Belgrade and Priština SAJ remained in Kosovo for the duration of the war.<sup>435</sup>

*Reserve police or police reservists*

200. The MUP could also be supplemented by reservists.<sup>436</sup> Reservists brought up staffing levels when there were not enough members in the regular force.<sup>437</sup>

201. Reservists were employed across all MUP organisational units.<sup>438</sup> When not mobilised, police reservists were civilians with regular civilian jobs.<sup>439</sup> When engaged in MUP activities, reservists had the same entitlements of regular members of the police.<sup>440</sup>

202. Reservists wore the same blue camouflage uniforms as regular policemen<sup>441</sup> [REDACTED].<sup>442</sup>

b. State Security Department (RDB)

*Special Operations Unit (JSO)*

203. The Special Operations Unit (JSO) was a special formation within the RDB.<sup>443</sup> The commander of the JSO was Milan (or Milorad) Ulemek Luković, aka "Legija", who was the Assistant Head for Special Operations of the MUP Staff.<sup>444</sup> Until July/August 1998, his superior was Franko Simatović, aka Franki.<sup>445</sup> The JSO was also known as the "Red Berets".<sup>446</sup> Satellite units attached to the JSO were: Arkan's Tigers, the Grey Wolves from near Zvornik; the CSB

<sup>433</sup> Crosland,P1400,para.8;Dordević,T.9464;P327,item 12; [REDACTED].

<sup>434</sup> Simović,T.13575,13609.

<sup>435</sup> Simović,T.13609-13610.

<sup>436</sup> Cvetić,T.6739-6740;Mirčić,T.13297-13298.

<sup>437</sup> Mirčić,T.13297.

<sup>438</sup> Mirčić,T.13298.

<sup>439</sup> Cvetić,T.6740.

<sup>440</sup> Cvetić,T.6740-6741..See also D101,p.1;D263.

<sup>441</sup> [REDACTED]. See also [REDACTED];P831..See also Mirčić,T.13297.

<sup>442</sup> [REDACTED].

<sup>443</sup> Cvetić,T.6606;Stoparić,P495,pp.15-16;P1349,Arts.5,41,42.

<sup>444</sup> P57;Cvetić,T.6599,6863;P1037;Crosland,P1400,para.11;K88,T.1983.

<sup>445</sup> K79,P1260,p.92.

<sup>446</sup> Stoparić,P495,p.15.

(Central Security Service) from Doboj; the Wolves from Vučjak; and the Vipers commanded by Gumar.<sup>447</sup> The JSO had previously fought in Bosnia and Herzegovina, and Croatia.<sup>448</sup>

204. JSO were primarily used for more specialized operations.<sup>449</sup> They wore grey camouflage uniforms, and were equipped with newer weaponry<sup>450</sup> and a red beret.<sup>451</sup>

205. The JSO operated in Kosovo.<sup>452</sup> Crosland testified that JSO forces operated together with PJPs, and that the JSO was present in the Mališevo area in mid-July 1998, in the Dreniča and Jablanica areas in 1998,<sup>453</sup> in the Gornje Streoc area in July/August 1998, and in Ištok, Srbica and Dečani in 1999.<sup>454</sup> General Drewienkiewicz also saw JSO forces in Rogovo in late January 1999.<sup>455</sup>

206. Crosland estimated that there were 8,000-10,000 MUP personnel and 15,000 VJ deployed in Kosovo in March and April 1998.<sup>456</sup> In October 1998 and during the state of war in 1999, the MUP had approximately 14,000 personnel in Kosovo.<sup>457</sup>

(ii) Army of Yugoslavia (VJ)

207. The VJ included the Land Forces, the Air Force, and the Anti-Aircraft Defence.<sup>458</sup> The VJ General Staff was the "highest professional and staff organ for the preparation and use of the Army in times of peace and war".<sup>459</sup> During the Indictment period, Colonel-General Dragoljub Ojdanić was the Chief of the VJ General Staff.<sup>460</sup>

208. The largest and most important forces of the VJ were the Land Forces, which were divided into Armies.<sup>461</sup>

<sup>447</sup> Stoparić, P493, para. 10.

<sup>448</sup> Stoparić, P493, paras. 10, 23; P495, p. 8.

<sup>449</sup> Crosland, P1401, p. 13.

<sup>450</sup> Crosland, P1400, paras. 9-10; P1403, p. 4.

<sup>451</sup> Stoparić, P493, para. 11; Crosland, P1400, para. 10.

<sup>452</sup> See e.g. D340, p. 10.

<sup>453</sup> Crosland, P1401, pp. 14-15; P1400, para. 11. See also K79, [REDACTED]; P1260, p. 93.

<sup>454</sup> Crosland, P1400, para. 12.

<sup>455</sup> Drewienkiewicz, P996, paras. 165-166, 195; T. 6370-6372, 6481.

<sup>456</sup> Crosland, P1400, para. 32.

<sup>457</sup> P1038, p. 2; Cvetić, T. 6608-6609, 6618-6619. In the period between the signing of the October Agreements and the start of the 1999 conflict, the number of police officers was reduced from 14,000 to approximately 10,000. See P769, p. 1; P87, p. 7; Cvetić, T. 6608, 6618. In March 1999 the number of MUP forces in Kosovo increased to 14,571 (Cvetić, T. 6609-6610). See also P1509 MFI, pp. 4-5, which contains a table indicating that in April 1999, there were 15,779 policemen in Kosovo. With regard to this exhibit, Đorđević said that he believed the numbers on this table were correct. Đorđević, T. 10043.

<sup>458</sup> P43, Art. 2.

<sup>459</sup> P43, Art. 5.

<sup>460</sup> P1492; P1363, p. 5. See also P1242; Đaković, T. 7977.

<sup>461</sup> P1440, pp. 99-100.

209. The 3<sup>rd</sup> Army's zone of responsibility encompassed the southern part of Serbia and all of Kosovo.<sup>462</sup> During the Indictment period, the 3<sup>rd</sup> Army was under the Command of General Nebojša Pavković.<sup>463</sup>

210. The Niš Corps and the Priština Corps (PrK) were subordinate corps of the 3<sup>rd</sup> Army.<sup>464</sup> Beyond those Corps, the 3<sup>rd</sup> Army also had additional independent military units and institutions under its authority, such as the Priština and Niš Military Sectors and their Military Departments.<sup>465</sup> Military Territorial Districts and their units were thus also within the organisational structure of the 3<sup>rd</sup> Army.<sup>466</sup>

211. By late March 1999, the personnel strength of the 3<sup>rd</sup> Army was approximately 61,500.<sup>467</sup>

212. The area of responsibility (AOR) of the PrK was Kosovo.<sup>468</sup> In 1999, the Commander of the PrK was General Vladimir Lazarević, who succeeded Pavković.<sup>469</sup> The PrK comprised 12 brigades, each assigned to an AOR within Kosovo.<sup>470</sup> Lazarević commanded and exercised control over all brigades of the PrK and other attached and subordinated units.

213. During the Indictment period, the main PrK units deployed in Kosovo were:

- the 15<sup>th</sup> Armoured Brigade, commanded by Colonel Mladen Čircović;
- the 125<sup>th</sup> Motorised Brigade, commanded by General Dragan Živanović;
- the 243<sup>rd</sup> Mechanised Brigade, commanded by General Kršman Jelić;
- the 549<sup>th</sup> Motorised Brigade, commanded by General Bozidar Delić;<sup>471</sup>
- the 52<sup>nd</sup> Mixed Artillery Brigade, commanded by Colonel Ranko Milinović;<sup>472</sup>
- the 52<sup>nd</sup> Air Defence Artillery Rocket Brigade, commanded by Miloš Došan;
- the 37<sup>th</sup> Motorised Brigade, commanded by General Ljubiša Điković;<sup>473</sup> and

<sup>462</sup> Vasiljević, T.5658.

<sup>463</sup> P1493; Vasiljević, T.5659. *See also* P1343, pp.5-8.

<sup>464</sup> P1448; Vasiljević, T.5658.

<sup>465</sup> P1448; Vasiljević, T.5658, 5661; P883. *See also* P1242; Daković, T.7977.

<sup>466</sup> P43, Arts.279-281; P1440, pp.100-101; P1448. *See also infra* paras. 219-223.

<sup>467</sup> P1441, p.1. *See* Vasiljević, T.5658.

<sup>468</sup> Vasiljević, T.5659.

<sup>469</sup> P1494; Vasiljević, T.5659.

<sup>470</sup> *See* P1366. *See also* P1242.

<sup>471</sup> P1391, p.1.

<sup>472</sup> P1441, pp.3-4.

- the 211<sup>th</sup> Armoured Brigade, commanded by Colonel Mihailo Gergar.

214. The total personnel strength of the PrK during peacetime was between 10,000 and 12,000. Additional units were brought into Kosovo before and during the state of war in 1999.<sup>474</sup> A 3<sup>rd</sup> Army report to the Supreme Command Staff presented the total strength of the PrK at 17,971 men, as of 31 March 1999.<sup>475</sup> A combat report of 13 April 1999, from the PrK to the 3<sup>rd</sup> Army Command and Supreme Command Staff, reported the manpower levels of the PrK at 61,892 men, including re-subordinated units and volunteers.<sup>476</sup>

215. The VJ consisted of regular and reserve forces.<sup>477</sup> VJ regular forces wore a green camouflage uniform with the VJ insignia (depicting a double-headed eagle above the FRY flag) on the upper left arm.<sup>478</sup>

216. Members of the VJ Military Police wore the regular official uniform of the VJ.<sup>479</sup> Depending on the kind of operation they were engaged in, members of the Military Police also wore face masks, as well as black berets or helmets (US-type "Panama" helmets).<sup>480</sup>

217. VJ forces were equipped with standard infantry weaponry,<sup>481</sup> three-barrel anti-aircraft guns, Pragas, tanks and trucks.<sup>482</sup>

(iii) Other units operating in Kosovo

218. Along with MUP and VJ forces, other units under the control of state authorities also operated in Kosovo in 1998 and in 1999. These included military territorial detachments, the civil defence and civil protection units of the Federal Ministry of Defence, paramilitaries and volunteers. In addition, from mid-1998, non-Albanian villagers were armed and organised into local village defence units.

<sup>473</sup> P1443.

<sup>474</sup> P1341,p.12;P1452;P1238;P1356;P1443. See also P1339,p.15: by 18 March 1999, the total number of VJ forces deployed in full combat readiness was "66,438 or 65.22 per cent of the current Yugoslav Army manning level". According to the Minutes of the Collegium of the VJ General Staff of 9 April 1999, the VJ had by then increased "by about 70,000 to more than 240,000, in which regard 70 brigades, 15 regiments and 41 independent battalions have been mobilised. Of this number, about 50,500 men are in Kosovo and Metohija alone." (P1331,p.11).

<sup>475</sup> P1441,p.3.

<sup>476</sup> P948,p.2. See also P1331,p.11.

<sup>477</sup> P43,Art.7.

<sup>478</sup> [REDACTED];P336;P327,n.3; [REDACTED].

<sup>479</sup> [REDACTED]; P327,n.4-5.

<sup>480</sup> [REDACTED];P333. See Phillips,T.8696;P1029,p.48.

<sup>481</sup> [REDACTED];P326; [REDACTED].

<sup>482</sup> See e.g. K82,P1315,paras.6-7, 24.

a. Military Territorial Detachments (VTOD)

219. According to the Law on the VJ, military territorial organs were in charge of the maintenance of VJ manpower levels through the organisation and implementation of compulsory military service in their respective territories.<sup>483</sup> Military territorial organs consisted of Military Sectors (VOk), Military Departments, and Military Territorial Detachments (VTOD).<sup>484</sup>

220. The VOk were responsible for conscription, reservist call-up, and their assignments to active VJ units, and were subdivided into a number of Military Departments.<sup>485</sup> These departments controlled a number of VTOD activated during wartime to conduct combat operations.<sup>486</sup>

221. The Priština VOk was responsible for the entire territory of Kosovo,<sup>487</sup> and was commanded in 1999 by Colonel Zlatomir Pešić.<sup>488</sup> The Priština VOk had five Military Departments under its control: Priština/Prishtinë, Prizren, Peć/Peja, Gnjilane/Gjilan, and Kosovska Mitrovica/Mitrovica.<sup>489</sup> In early 1999, there were 24 VTOD subordinated to the Military Departments of the Priština VOk.<sup>490</sup> The tasks of the VOk are set out in an order of 27 March 1999 signed by Pešić.<sup>491</sup>

222. The VTOD within the Priština VOk were re-subordinated to various PrK units during the NATO bombing.<sup>492</sup> When PrK units carried out operations in the territorial areas of VTODs, they would be attached to PrK Brigades.<sup>493</sup>

223. By the end of March 1999, the Priština VOk had 4,000 personnel.<sup>494</sup>

b. Civil Defence and Protection

224. The FRY Law on Defence regulated Civil Defence (CO) and Civil Protection (CZ) units,<sup>495</sup> providing for the obligation of citizens to participate in units and organs formed for the protection and rescue of the civilian population during wartime.<sup>496</sup> Under the law, the Federal Defence

<sup>483</sup> See P43, Arts. 279-280.

<sup>484</sup> P43, Art. 279.

<sup>485</sup> P1448; P883.

<sup>486</sup> P1440, pp. 100-101; P1454.

<sup>487</sup> P1448; Vasiljević, T. 5659.

<sup>488</sup> Vasiljević, T. 5657-5658, 5661; P883. See also P1242; Đaković, T. 7977.

<sup>489</sup> P1448; Vasiljević, T. 5659.

<sup>490</sup> P1448.

<sup>491</sup> P896.

<sup>492</sup> P1375. See P1374.

<sup>493</sup> P1239; P896.

<sup>494</sup> P1441, p. 5.

<sup>495</sup> P44, Arts. 22, 54-63.

<sup>496</sup> P44, Art. 22.



Ministry (MoD) could organise and arm CO and CZ units,<sup>497</sup> although those units were intended to fulfil a non-combat role.<sup>498</sup>

225. The Priština Defence Administration was the MoD entity directly responsible for the organization, administration, and command of the Kosovo CO and CZ units.<sup>499</sup>

226. Members of CO and CZ units were issued light weapons for personal defence.<sup>500</sup>

227. At the end of 1998, there were over 9,000 civilians in CO and CZ units in Kosovo.<sup>501</sup> CZ units were armed, wore uniforms similar to VJ uniforms with patches of the civilian protection.<sup>502</sup>

228. During 1998 and 1999, CO and CZ units were used by the VJ and MUP to support their combat actions in Kosovo. In July 1998, the Joint Command issued instructions for the defence of populated areas. Pursuant to those instructions, the MoD issued orders subordinating units of both the CZ and CO to the MUP.<sup>503</sup>

229. The use of CO and CZ units as combat units was contrary to the provisions of the Law on Defence.<sup>504</sup> These units were intended exclusively for self defence for the protection of civilian life and property in the event of an attack.<sup>505</sup> Despite this prohibition, these units undertook security tasks during joint VJ-MUP operations in Kosovo in 1998 and 1999.<sup>506</sup>

### c. Paramilitaries

230. Paramilitaries operated in Kosovo in 1998 and in 1999, and they played an important role in forcibly expelling the Kosovo Albanian civilian population from Kosovo.

231. Notorious groups of paramilitaries that had been active in the Bosnian and Croatian conflicts went to Kosovo in 1998 and during the Indictment period.<sup>507</sup> These paramilitary formations supplemented MUP units.

<sup>497</sup> P44, Arts. 59-63. *See also* Vasiljević, T. 5941-5942.

<sup>498</sup> P44, Arts. 59, 61; P1224.

<sup>499</sup> P1223; P1224.

<sup>500</sup> P1345, p. 2. *See* Đaković, T. 7903.

<sup>501</sup> P1345, p. 2.

<sup>502</sup> Đaković, T. 7902.

<sup>503</sup> P1051, pp. 3-5; P1224.

<sup>504</sup> P44, Arts. 59, 61.

<sup>505</sup> P44, Arts. 59, 61.

<sup>506</sup> P1223; P1224; D348, p. 3; P1333, p. 23. *See also* Crosland, P1400, para. 19.

<sup>507</sup> Vasiljević, T. 5663-5664, 5667-5668; Stoparić, P493, paras. 34-35; T. 2816.

232. The Skorpions were among the paramilitary groups deployed with the MUP. In 1999, Đorđević ordered the deployment of the Skorpions to Kosovo.<sup>508</sup> The Skorpions were attached to the SAJ commanded by Trajković.<sup>509</sup> Slobodan Medić (aka Boca) was the Skorpions' unit commander.<sup>510</sup>

233. On 28 March 1999, upon arriving in the town of Podujevo, members of the Skorpions killed a group of civilians, mostly women and children.<sup>511</sup> Although the unit was sent back to Serbia,<sup>512</sup> Đorđević later redeployed it to Kosovo.<sup>513</sup> The unit was active in Kosovo until May 1999.<sup>514</sup>

234. On both deployments, the Skorpions were deployed as a separate group, kept together as a group, and not dispersed into detachments.<sup>515</sup> The Skorpions were identified by others and identified themselves as a separate unit. Stoparić testified that the Skorpions uniforms had the SAJ patch/insignia (the sword with the 4S's) on one arm and the Skorpions patch/insignia on the other arm, although there were not enough SAJ patches for every member.<sup>516</sup> This uniform with two insignias was only worn by Skorpions members.<sup>517</sup> Their hats had MUP insignia and the tricolour Serbian flag.<sup>518</sup> The Skorpions also had a Skorpions badge on the beret.<sup>519</sup> The Skorpions carried SAJ identity papers and were paid as SAJ reservists.<sup>520</sup>

235. Arkan's Tigers were also present in Kosovo.<sup>521</sup> Members of the Arkan's Tigers were incorporated directly into the JSO under Legija.<sup>522</sup> They carried official RDB identity cards.<sup>523</sup> Members of this unit had well-known criminal backgrounds.<sup>524</sup>

236. Prior to the NATO bombing, Stojiljković and Đorđević made preparations for the introduction of paramilitaries and volunteers into the MUP. Notwithstanding the fact that by law the MUP could not engage volunteers,<sup>525</sup> at a MUP Staff meeting held on 17 February 1999,

<sup>508</sup> Trajković, T.9087,9089,9092. *See also* Part V, Section C (I)(e)(ii).

<sup>509</sup> Vasiljević, T.5663,5667; Stoparić, P493, para.35; T.2816.

<sup>510</sup> Trajković, T.9099-9100; [REDACTED]; Stoparić, T.2814-2815,2859.

<sup>511</sup> Stoparić, P493, para.56; Vasiljević, T.5663; D442; P86. *See also* Part V, Section C (I)(e)(ii).

<sup>512</sup> Vasiljević, T.5666-5667; Trajković, T.9095-9096.

<sup>513</sup> Trajković, T.9101, 9105-9106. *See also* Stoparić, T.2844; P495, p.17; P493, paras.66-67.

<sup>514</sup> Stoparić, P493, para.79. *See also* Part V, Section C (I)(e)(ii).

<sup>515</sup> Stoparić, P495, p.101.

<sup>516</sup> Stoparić, P493, paras.11,41; T.2819.

<sup>517</sup> Stoparić, T.2820.

<sup>518</sup> Stoparić, P493, para.41; T.2819.

<sup>519</sup> Stoparić, P493, para.11.

<sup>520</sup> Stoparić, P493, paras.13,18; [REDACTED].

<sup>521</sup> Vasiljević, T.5663-5664,5668; K89, T.8410-8411.

<sup>522</sup> Stoparić, P493, para.10; P495, p.8.

<sup>523</sup> Vasiljević, T.5669-5670.

<sup>524</sup> Vasiljević, T.5669.

<sup>525</sup> Cvetic, T.6675,6678; Pantelić, T.12078.

Stojiljković instructed those present to “[a]pproach and engage volunteers carefully, linking their engagement through the reserve police force when assessed as necessary”.<sup>526</sup> The following day, on 18 February 1999, Đorđević issued a dispatch to all SUP chiefs, MUP Staff, border police stations, and the Chief of the RDB ordering them to “carry out the necessary checks, compile lists and establish complete control over volunteer and paramilitary units and their members.”<sup>527</sup>

237. At the beginning of the NATO campaign, on 24 March 1999, Stojiljković issued a follow-up dispatch to reinforce the instructions contained in Đorđević’s dispatch of 18 February 1999.<sup>528</sup>

238. The minutes of the evening briefings of the SC Staff show that the VJ was aware of the use of paramilitaries by the MUP in Kosovo.<sup>529</sup> At a meeting in Belgrade on 17 May 1999, Milošević, senior members of the VJ and Rade Marković discussed the issue of crimes committed by paramilitaries in Kosovo. Marković said that Arkan had contacted him offering 100 of his men.<sup>530</sup> Marković accepted 30 men from Arkan, provided that they wore uniforms.<sup>531</sup> Marković added that he had learnt the day before that members of Arkan’s Tigers had killed a married couple in Kosovo and investigations had been initiated.<sup>532</sup>

#### d. Volunteers

239. According to the Law on the VJ, during a state of war the VJ was authorised to be reinforced by volunteers.<sup>533</sup> These were “individuals who are not subject to compulsory military service and military conscripts who do not have wartime assignments”.<sup>534</sup>

240. During the Indictment period, VJ units in Kosovo were supplemented with volunteers.<sup>535</sup>

241. Volunteers deployed to Kosovo were not properly screened. A progress report of 10 April 1999, sent by the 3<sup>rd</sup> Army to the SC Staff, complained about the high number of unscreened volunteers, who were either medically unfit for service, or members of paramilitary groups.<sup>536</sup> Problems resulting from deficiencies in the screening process led to the deployment of

<sup>526</sup> P85,p.3.

<sup>527</sup> P356,para.7. See also Cvetić,T.6678.

<sup>528</sup> P702;P356. See Cvetić,T.6680.

<sup>529</sup> P1533,pp.2,5;P1534,pp.1,4;P1536,p.3. See also Vljaković,T.11271-11272,11274.

<sup>530</sup> Vasiljević,T.5681;P884,p.1.

<sup>531</sup> Vasiljević,T.5681;P884,p.1.

<sup>532</sup> Vasiljević,T.5681;P884,p.1.

<sup>533</sup> P43,Art.15. See also P44,Art.18.

<sup>534</sup> P43,Art.15. See Cvetić,T.6675.

<sup>535</sup> See D185;D679;P1943;D185.

<sup>536</sup> P1377,pp.1-2.

paramilitaries as well as a number of volunteers with criminal backgrounds.<sup>537</sup> Complaints against the volunteers included the commission of crimes such as looting and murder.<sup>538</sup> Past paramilitary involvement was not a barrier to admitting an individual volunteer, if other requirements were complied with.<sup>539</sup> In addition, a group of foreign volunteers, mostly from Russia and Ukraine, were admitted as volunteers and integrated into VJ units.<sup>540</sup>

242. Despite orders dealing with discipline and screening procedures for volunteers,<sup>541</sup> the conduct and control of volunteers continued to be a serious and pervasive issue in the VJ during the 1999 conflict.<sup>542</sup>

e. Local/Village Defence Forces and Armed non-Albanian Population (RPOs)

243. The arming of the non-Albanian population began in mid-1998.<sup>543</sup> On 21 May 1998, the MoD issued an order requiring local department and section chiefs, in co-ordination with municipal leaders, to compile lists for the arming of the local population.<sup>544</sup> The order explicitly stated that those with wartime duty obligations in the VJ, MUP, VOK, or MoD (CZ and CO) should not be included in these lists.<sup>545</sup>

244. Weapons were distributed to persons of non-Albanian ethnicity,<sup>546</sup> who were later organized into RPOs.<sup>547</sup>

245. On 26 June 1998, the PrK Command issued an order to distribute weapons to and train village defence units.<sup>548</sup> Pursuant to a Joint Command order on the defence of populated areas, the Priština Defence Administration issued an order on 28 July 1998, entitled "Instructions for the Defence of Inhabited Areas." This order organised the structure of all local defence planning in order to defend Serb villages or enclaves.<sup>549</sup> By July 1998, over 54,000 citizens in Kosovo had been armed,<sup>550</sup> and this number continued to grow until around 60,000 weapons were distributed to the

<sup>537</sup> See e.g. P679, item 8.

<sup>538</sup> P680, p.2; D775, items 3-4; P1377, p.2; P679, item 8.

<sup>539</sup> D185, item 2.1; P679, item 10.

<sup>540</sup> P1377, p.1.

<sup>541</sup> See e.g. P681; P680; D775; D185.

<sup>542</sup> P681, p.1.

<sup>543</sup> P1223; P1051; P901. See also Part III, Section A(2)(a).

<sup>544</sup> P1355.

<sup>545</sup> P1355, para. 1.

<sup>546</sup> P1051; P901; P1355; P1333, p.23; Vasiljević, T. 5946-5947.

<sup>547</sup> Dordević, T. 9862, 9901, 9904; Cvetić, T. 6634, 6663. See P1052; P1054; P1330, p.9; P1055, p.7. See also P1333, p.23; P901, pp. 1-2. See also Part III, Section A(2)(a).

<sup>548</sup> P901.

<sup>549</sup> See P1223; P1051. See also Part III, Section A(2)(a).

<sup>550</sup> P688, p.7.

population.<sup>551</sup> These local defence units were armed in co-ordination with the MoD, the VJ and the MUP.<sup>552</sup>

246. The decision to form and arm RPOs was made at the level of the MUP HQ in Belgrade. The arming then proceeded from the MUP down the MUP Staff and the SUPs.<sup>553</sup> On 10 July 1998, the MUP Staff authorized the formation of RPOs and issued directions for their combat training.<sup>554</sup>

247. While the MUP was primarily in charge of these units, the VJ also influenced the establishment of the RPOs.<sup>555</sup> The military sectors participated in training RPO members, in co-operation with the commanders of the police stations in the relevant area.<sup>556</sup>

248. Đorđević testified that RPOs did not comprise only members of the reserve police forces, but also members of the reserve force of the VJ, locals and people who lived in those villages.<sup>557</sup> Thus, there were cases in which the VJ co-ordinated with the MUP in the arming and training of RPO members, in the sense that "the Yugoslav army provided assistance to the MUP to train the reserve force".<sup>558</sup> A report from the Kosovska Mitrovica SUP to the MUP Staff indicates that the various RPOs established in villages in the area of that SUP included individuals who were active-duty officers, members of the reserve police forces, and VJ reservists.<sup>559</sup>

249. The primary function of the RPOs was to supplement the active duty rosters of MUP units. The RPOs were tasked with the defence of their villages and towns, inhabited settlements, and particularly with protection from intrusions and attacks by the KLA.<sup>560</sup> They were not permanently mobilised and were engaged to aid police and military forces in operations as needed, but only in their respective territory.<sup>561</sup> Even when engaged, RPO members did not have the status and rights of MUP employees/officials.<sup>562</sup>

250. The structure and organization of RPOs followed military principles: these units had their own commander, deputy commander, liaising with the chiefs of the police stations of the area

<sup>551</sup> P688,p.7;P1330,p.9;P1055,pp.6-7;P976.

<sup>552</sup> P1333,p.23;P975.

<sup>553</sup> Cvetic,T.6713.*See also* P1052.

<sup>554</sup> P1052,p.2. *See also* Part III, Section A(2)(a).

<sup>555</sup> P1051,p.7.

<sup>556</sup> Cvetic,T.6714;P1053.

<sup>557</sup> Đorđević,T.9908.*See also* Mitić,T.12624;P1053;D268.

<sup>558</sup> Đorđević,T.9908.

<sup>559</sup> P1054.*See also* D268.

<sup>560</sup> Cvetic,T.6610,6644,6671-6672;P688,p.7;Mitić,T.12624.

<sup>561</sup> Cvetic,T.6644,6672.*See also* P1333,p.23.

<sup>562</sup> Cvetic,T.6741-6742;Mitić,T.12624.

where they were based, and regular members.<sup>563</sup> RPOs were less trained and less equipped than regular police reservists.<sup>564</sup>

251. RPOs did not usually wear a complete police uniform, but parts of uniforms.<sup>565</sup> Each RPO member was issued a personal weapon.<sup>566</sup> Đorđević testified that, when not mobilised, some RPO members took their weapons home.<sup>567</sup>

252. The number of reservists in an RPO depended on the size of the village.<sup>568</sup> By February 1999, the total number of RPOs in Kosovo was around 255.<sup>569</sup>

253. The armed non-Albanian population was used by the MUP and the VJ in combat operations during the 1999 conflict. Numerous PrK and Joint Command orders stated that “with its reinforcement and the armed non-Šiptar population in KiM, the Priština Corps shall support MUP forces in breaking up and destroying ŠTS in its zone of responsibility.”<sup>570</sup> This group, referred to as “armed non-Šiptars” or “armed non-Šiptar population” in military and Joint Command documents,<sup>571</sup> was generally composed of armed local non-Albanian villagers. The PrK and Joint Command ordered the engagement of the “armed non-Šiptar population” in actions with MUP and VJ units.<sup>572</sup>

254. The absence of written orders setting out the tasks of the non-Albanian population suggests that field commanders issued verbal instructions to armed locals and directly organised these groups on the ground.

(b) Co-ordination/ control of entities implementing the goals of the JCE

255. JCE members, through command and co-ordinating bodies, used the forces of the FRY and Serbia to carry out the *actus reus* of crimes arising from the common criminal purpose. Through their participation in these co-ordinating bodies, JCE members pursued the goals of the JCE and secured its implementation. Notably, Đorđević and other JCE members had authority over and participated in the following bodies, in which they worked together to implement the common criminal purpose and through which they used the principal perpetrators:

<sup>563</sup> Cvetić, T.6644,6671-6672,6714.

<sup>564</sup> Cvetić, T.6610.

<sup>565</sup> Cvetić, T.6610-6611; D111, para.19. See also P771, p.12; P345, pp.8-9.

<sup>566</sup> Cvetić, T.6715-6716. See e.g. P1054, p.1; P975.

<sup>567</sup> Đorđević, T.9918. See also Cvetić, T.6715.

<sup>568</sup> See e.g. Cvetić, T.6718; P1055, p.4.

<sup>569</sup> Cvetić, T.6718; P1055, p.4.

<sup>570</sup> See P969, p.1; P971, p.2; P970, p.2; P1382, p.2; P766, p.2; P767, p.2; P350, p.2; P961, p.2.

<sup>571</sup> See e.g. P961, p.2; D104, p.2; P971, p.2; P1382, p.2.

<sup>572</sup> See e.g. P1422, p.10; P889, p.4; P1328, p.2; P969, p.1; P767, p.2; P960, p.3; P350, p.2; P1333, p.23.

- Joint Command for Kosovo and Metohija (Joint Command);
- Ministerial Staff for the Suppression of Terrorism (MUP Staff)
- Supreme Defence Council (SDC) and Supreme Command(SC); and
- VJ General Staff and Supreme Command Staff (SC Staff);

(i) Joint Command

a. Overview

256. The Joint Command, made up of the senior MUP and VJ leadership in Kosovo and overseen by Šainović, was a high-level co-ordinating body that acted to command and control forces of the military, the MUP, and civilian organizations in Kosovo. Its members, including Đorđević, attended frequent Joint Command meetings where they would report on events on the ground and then plan upcoming operations. The Joint Command was established in June 1998, held its first meeting towards the end of July 1998, and continued operating through June 1999. The Joint Command derived its authority from FRY President Milošević.

257. The Joint Command did not supplant the authority of the VJ or MUP internal chains of command but operated concurrently with the existing system. The Joint Command brought senior members of the MUP, the VJ and the civilian leadership together in Priština to ensure that they operated in a coordinated manner that was consistent with the political goals of Milošević and the aims of the JCE.

b. Establishment of the Joint Command

258. The Joint Command was formed in June of 1998, on the order of Milošević. It was not established by any specific written document or order.<sup>573</sup>

259. On 9 June 1998, the SDC decided to intervene militarily in Kosovo on a larger scale and the VJ drew up the Plan for Suppressing Terrorism, which provided for extensive combat operations involving a number of VJ brigades and MUP special units.<sup>574</sup> The Plan was adopted at a meeting convened by Milošević on 21 July 1998 to discuss the security situation in Kosovo. Present at the meeting were the senior leadership of the MUP (Đorđević, Stojiljković, Stevanović, Marković and

<sup>573</sup> P1245; Daković, T.8110-8112.

<sup>574</sup> P683, pp.1-2; P682, pp.4-10; P87, p.3; P1361, pp.1-4.

Lukić), the VJ (Perišić, Samardžić, Pavković and Dimitrijević) and other state officials (Milutinović, Šainović and Anđelković).<sup>575</sup> Pavković presented the Plan, which set out joint combat actions to be carried out in several stages over the summer. Milošević told the attendees that they would have to start implementing the plan, and that the police and military forces would have to work together.<sup>576</sup>

260. A large MUP meeting was convened the next morning and attended by Đorđević, Stevanović, Lukić, and, *inter alia*, all SUP Chiefs and PJP Commanders. At the meeting, Đorđević officially announced the establishment of the Joint Command and described its role.<sup>577</sup> Đorđević explained that the Plan had been adopted and that the MUP and the VJ would be working together to implement it on the ground.<sup>578</sup>

261. The first Joint Command meeting was held in Priština/Prishtinë later that same day, in the evening of 22 July 1998.<sup>579</sup> It was attended by Minić (President of the Council of Citizens in the Federal Assembly<sup>580</sup>), Šainović, Anđelković, Pavković, Đorđević, Lukić, Gajić and Đaković.<sup>581</sup> The men discussed the implementation of the Plan and Pavković explained the tasks for the first stage, which focused on the unblocking of roads, beginning with Priština-Peć.<sup>582</sup>

#### *Subsequent Meetings of the Joint Command*

262. After this first meeting, and until October 1998, Joint Command meetings were held in the evenings on an almost daily basis.<sup>583</sup> They followed a relatively standard format that entailed members of the VJ, MUP (RJB and RDB), and civilian representatives first providing briefings on activities that had occurred, and then the members of the Joint Command – often Šainović or Minić in particular – planning upcoming activities.<sup>584</sup> Šainović and Minić were the most senior persons from the state governing apparatus of Serbia and the FRY who attended these meetings.<sup>585</sup> Milošević exercised control over the Joint Command through them.<sup>586</sup>

<sup>575</sup> Đaković, T.7916-7918; T.8048; Đorđević, T. 9563-9564.

<sup>576</sup> Đorđević, T.9576-9577,9833.

<sup>577</sup> Cvetić, T.6627,6629; Đorđević, T.9574-9575; P768.

<sup>578</sup> Đorđević, T.9574-9575; P768.

<sup>579</sup> P886, p.2; Đaković, T.7878-7881; Đorđević, T.9577-9578; T.9800-9801.

<sup>580</sup> Đaković, T.8042.

<sup>581</sup> P886, p.2; Đaković, T.7880; Đorđević, T.9577; Cvetić, T.6628.

<sup>582</sup> Đorđević, T.9577-9578.

<sup>583</sup> P886; and see Đaković, T.7879.

<sup>584</sup> P886.

<sup>585</sup> Đorđević, T.9839.

<sup>586</sup> Vasiljević, T.5699-5700. *See also* P886.



263. Šainović, the Deputy Prime Minister of the FRY, was the person in Belgrade directly responsible for affairs in Kosovo.<sup>587</sup> Šainović headed the Joint Command.<sup>588</sup> He “was one of the closest authorities of President Milošević” and attended the meetings “as a person representing Slobodan Milošević in Kosovo.”<sup>589</sup> As Vasiljević explained, Šainović “came from the very top of politics” and his authority over men like Lukić, Lazarević, and Pavković “was beyond dispute”.<sup>590</sup> Šainović was responsible to ensure that the objectives of the JCE, and of Milošević in particular, were implemented in Kosovo.<sup>591</sup>

264. While the first Joint Command meeting was held in the MUP building,<sup>592</sup> the majority of Joint Command meetings were held at a building in the centre of Priština, which Đaković believed was the provisional Executive Council.<sup>593</sup> Some of the meetings between the MUP and the VJ that related exclusively to co-ordination were held either on the premises of the PrK or on the premises of the MUP.<sup>594</sup>

c. The Joint Command commanded and controlled the actions of the forces of the FRY and Serbia

265. The Joint Command directed the actions of the MUP, the VJ, and attached units operating in Kosovo. The Joint Command would hold briefings on the most important developments on the ground in Kosovo and then agree on orders or decisions for the next day. Once items had been discussed and verified by the Commander of the 3<sup>rd</sup> Army, MUP Generals and Šainović, any associated documents would be drafted by the PrK Command. Since the preliminary decision had been taken during a session of the Joint Command, such documents would bear the phrase “Joint Command”.<sup>595</sup> The Joint Command produced daily situation reports on VJ and MUP activities.<sup>596</sup> Đorđević frequently participated at Joint Command meetings.<sup>597</sup>

<sup>587</sup> Vollebaek,P1073,p.4;P1071,p.5;Philips,T.8687;Drewienkiewicz,T.6342;Ciaglinski,T.5285-5287;Vasiljević,T.5682;P490,p.1;D472;D484;D494.

<sup>588</sup> Cvetic,T.6627; *See also* P1329,pp.2-3.

<sup>589</sup> Vasiljević,T.5699-5700. *See also* Merovci,T.2225;P490;Phillips,T.8687.

<sup>590</sup> Vasiljević,T.5694,5699-5700.

<sup>591</sup> P886;Vasiljević,T.5699-5700.

<sup>592</sup> Đaković, T.7879.

<sup>593</sup> Đaković, T.7879-7880.

<sup>594</sup> Đaković, T.7879-7880.

<sup>595</sup> Vasiljević,T.5824-5845.

<sup>596</sup> *See e.g.* P1220;P1218;P1219;P1221;P1222;P1463;P1462. *See also* P1461,Item 3. *But see:* Đorđević,T.9871.

<sup>597</sup> *See e.g.* P886,pp.9,12-14,17,19,23,26-27,29,33,41,46,49,52,54,57, 60,67,69,73,76,78-79,82-83,95-96,100-101,103,105,108,140,141.

d. The Joint Command exercised authority over units engaged in combat actions

266. In his testimony, Đorđević repeatedly sought to deny that the Joint Command directed, ordered or exercised any control over Serb forces in Kosovo.<sup>598</sup> When asked directly, Đaković similarly sought to deny that the Joint Command actually “commanded” or exercised any authority<sup>599</sup>, although in other aspects of his testimony he appears to have recognized this role implicitly, particularly in his specific approvals of the content and accuracy of his notes. At times, witnesses sought to rely on arguments of technical legality to suggest that no such institution *could* have existed within the organizational scheme of the VJ or the MUP.<sup>600</sup> Defence witnesses Čurčin and Stojanović also claimed that the title “Joint Command” was merely a phrase intended to indicate to subordinate commanders that activities had been agreed upon between the MUP Staff and the PrK Command.<sup>601</sup>

267. Taken individually, none of these claims were credible or accurate. More generally, however, these assertions are fundamentally inconsistent with the significant evidence detailing the Joint Command’s existence and actions in both 1998 and 1999. The comprehensive notes of actual Joint Command meetings, the many orders implementing directives that were set forth at these meetings, the internal documentation reflecting the manner in which the Joint Command subverted aspects of the normal chain of command, and testimonial evidence from a range of insider witnesses, make it clear that the Joint Command existed in both 1998 and 1999 and that it exercised these command functions.

*The Joint Command Directed the Plan for Suppressing Terrorism*

268. It is evident from the Joint Command notes that the Plan for Suppressing Terrorism was directed by the Joint Command from the time of its inception. The first Joint Command meeting sought to establish “Drafting priorities in the second phase” of the Plan, with Šainović asking the group for “A plan of special activities listing the goals, tasks and those responsible for them”, and Minić indicating that “Everyone should be involved in this.”<sup>602</sup> Item two on the agenda for the next day’s meeting was, “Plan for the execution of the second phase”, and members issued broad planning directions at the meeting, such as: “we must carry out raids with the help of the army to mop up”[Šainović] and “the stationary part of the MUP should be assigned active

<sup>598</sup> See e.g. Đorđević, T.9575-9576,9812-9815,9833-9835,9838-9897.

<sup>599</sup> See e.g. Đaković, T.7930-7932; T.8000-8002; T.8011-8012; T.8128-8129.

<sup>600</sup> See e.g. Đaković, T.8000-8001; T.8070; Đorđević, T.9855; Čurčin, T.10856.

<sup>601</sup> See e.g. Čurčin, T.10790, P555, p.111; Stojanović, T.11965-T.11968. Vasiljević denied this suggestion when it was put to him in cross-examination - T.5827-5828.

<sup>602</sup> P886, pp.2-4.

operations”[Minić].<sup>603</sup> The Joint Command ultimately assessed the second phase of the Plan on 29 July, where “Assessment of the planned implementation of the second phase” was identified as the first item on the agenda.<sup>604</sup>

269. The Joint Command continued to direct the implementation and execution of the plan through to the end of October. The planning and implementation of the third phase was discussed from 29 July to 3 August, and detailed accounts were provided with respect to MUP and VJ engagements over this period.<sup>605</sup> On 5 August, the Joint Command began to address the Plan’s fourth phase, with Minić directing: “in the fourth phase, strongholds, one by one, are to be taken”.<sup>606</sup>

270. At the 26 October meeting, Šainović reported on the results of talks with NATO representatives, ordered particular troop reductions and withdrawals for MUP and VJ in Kosovo, and declared that “This section of combat operations should be closed”.<sup>607</sup> Three days later, on 29 October 1998, a meeting of the Operations Inter-Departmental Staff for the Suppression of Terrorism in KiM was held in Belgrade and attended by the highest members of civilian, military and MUP leadership, including Đorđević.<sup>608</sup> At the meeting, Joint Command members like Pavković and Lukić summed up the development and implementation of the Plan and addressed the “highly professional successful cooperation between Army and police commands and units”.<sup>609</sup> When Minić took the floor, he proposed that “The Operations Staff should provide an assessment of *how successfully the Joint Command for KiM has fulfilled the authorizations conferred upon it.*”<sup>610</sup> The statements by Joint Command members, and the entire tenor of the meeting, further underline the central role of the Joint Command in actively directing the Plan.

271. The notes of the Joint Command’s activities from July to October of 1998 are replete with examples of orders or directions being given at the level of the Joint Command.<sup>611</sup> Though the examples are numerous, a closer look at specific instances may nonetheless be instructive. At the meeting of 10 September 1998, for example, after Lukić and Pavković have reported back about operations on the ground, Minić states: “Go into Dubovik and Radovic villages and see what the situation is like [...] Go into Prapraćañ village (VJ/Yugoslav Army/) and have the police occupy

<sup>603</sup> P886,pp.5-7.

<sup>604</sup> P886,pp.19-22.

<sup>605</sup> P886,pp.19-31; And see D324 (first sentence).

<sup>606</sup> P886,p.34.

<sup>607</sup> P886,pp.137-139.

<sup>608</sup> P87;Đorđević,T.9872.

<sup>609</sup> P87,p.7;Đorđević,T.9876-9877.

<sup>610</sup> P87,p.9 (*emphasis added*).

<sup>611</sup> P886. *See also* Đorđević,T.9838-9897 and Đaković,T.8118-8126.

it.” He continues, “Go into all villages and pressure them into handing over weapons. Secure the roads and control the territory. The army will adopt a plan on the arrangement of the territory on Monday. The MUP should do the same”.<sup>612</sup>

272. A review of the notes makes clear that these meetings consisted of far more than a simple exchange of information, and in fact frequently provided both broad and precise directions for taking specific actions in specific places. At virtually every meeting for which detailed notes are available, after information was reported from the field the members of the Joint Command would provide orders and directions for further action. The rather narrow position put forward at times by Đaković<sup>613</sup> and Đorđević<sup>614</sup> that such directions should not technically have been binding on the VJ or MUP pursuant to law are beside the point. The question is whether the Joint Command actually issued directions, instructions or orders that were followed. The evidence is abundantly clear that this was the case.

#### *Documents Implementing Joint Command Orders*

273. There are numerous documents that reflect the manner in which orders or directions given at the level of the Joint Command were implemented on the ground. For example, the notes of the 12 August 1998 Joint Command meeting record Đorđević stating: “do Vokša and Slup and engage the army.”<sup>615</sup> The notes of the following day record Stanišić stating: “Vokša and Slup - preparations of the 5<sup>th</sup> and 8<sup>th</sup> MUP detachments today; the 6<sup>th</sup> and 7<sup>th</sup> detachments and the BG-VJ/Yugoslav Army combat group/ as support”.<sup>616</sup> Pavković later states, “the Slup and Vokša action can begin with the 8<sup>th</sup> Detachment”, adding, “draft the plan in the morning”. The next day, 14 August 1998, Lazarević issued an order for a joint MUP-VJ action in Slup and Vokša. The order directly states: “Combat operations will be commanded by the Joint Command for KiM/Kosovo and Metohija/ with the PrK IKM/Forward Command Post/ in Đakovica.”<sup>617</sup> When confronted with this order, Đaković claimed, “In the computer there must have been a template for all types of command orders, and the operator probably kept this term “Joint Command.”<sup>618</sup> This would seem rather implausible. In any event, the existence of a template stating that “Combat operations will be commanded by the Joint Command” would seem to further suggest that the Joint Command was frequently involved in directing combat operations. When Đorđević was confronted with this order he stated, “I have

<sup>612</sup> P886,p.84.

<sup>613</sup> Đaković,T.8119-8121.

<sup>614</sup> Đorđević,T.9840-9841,9844; *See also* T.9838-9846,9855,9859-9860,9867.

<sup>615</sup> P886,p.41.

<sup>616</sup> P886,pp.44.

<sup>617</sup> P1232,p.3.

<sup>618</sup> Đaković,T.7930.

never seen anything like this up till now” and claimed not to remember the corresponding Joint Command meeting.<sup>619</sup>

274. Đorđević was also confronted with P890, a decision by Pavković on the joint engagement of MUP and VJ forces in Glodjane village, which similarly stated that “Combat operations will be commanded by the Joint Command for Kosovo and Metohija”.<sup>620</sup> Though he had testified that he was aware of this operation, he again stated that he was “completely unaware” of this statement about the Joint Command exercising a command role.<sup>621</sup>

275. In P1231, a report dated 7 August 1998, the Commander of the 15<sup>th</sup> Armoured Brigade states, “MUP units were engaged by decision of the Joint Command for KiM along the following axes[...]” He goes on to report:

[p]revious operations by MUP and VJ units were carried out with the knowledge and approval of the joint command for KiM and there was no deviation from orders...<sup>622</sup>

*Documents reflecting the status of the Joint Command in the command hierarchy*

276. The co-ordinating and commanding role played by the Joint Command at times led to friction and disagreement within the VJ command structure. The nature of this disagreement further underlines not only the Joint Command’s significance but also its role in controlling the operations of both the MUP and the VJ.

277. In his letter of 23 July 1998, just after the Joint Command’s first meeting, Perišić addressed this issue in a pointed letter to Milošević. His comments reflect the manner in which the Joint Command would plan and execute operations through the PrK:

The Corps commander is responsible for assessing the situation and for planning VJ and MUP operations in cooperation with the civilian part of the staff and the MUP, for forwarding it to ŠAINOVIĆ and MINIĆ for them to distribute assignments to all except the Priština Corps. **In practice, the commander of the Priština Corps plans what he has been ordered to, and this is at the request of ŠAINOVIĆ and MINIĆ and the MUP, and so turns into something like a service of theirs, for planning and execution.**<sup>623</sup>

<sup>619</sup> Đorđević, T.9847-9851.

<sup>620</sup> Đorđević, T.9858; P890, item 6.

<sup>621</sup> Đorđević, T.9857-9858. Another example concerned operations in Čičavica. See P886, p.103 “a plan for Čičavica has been made”; P1422, p.5-6; Đorđević, T.9860-9863.

<sup>622</sup> P1231.

<sup>623</sup> P1329, pp.2-3 (*emphasis added*).

278. A number of orders indicate that decisions were being taken at the level of the Joint Command and evidence the potential complications that could result from the existence of this parallel command structure. In P1229, in the context of a discussion about the 3<sup>rd</sup> Army's failure "to carry out its duties under the plan" by delivering rapid intervention helicopter units as was directed by the Joint Command, Pavković wrote to Samardžić: "Moreover, we are giving the members of the ZK for KiM [the Joint Command] the opportunity to report to the president of the SRJ that the VJ has not carried out its duties under the Plan."<sup>624</sup> In short, Pavković was warning that the Joint Command could report the VJ to Milošević for not carrying out its assigned duties.<sup>625</sup>

279. Approximately two weeks later, on 5 October 1998, Pavković again wrote to Samardžić, stating:

On my return from the reporting session with the ZK [Joint Command] on 19 and 20 September 1998, I informed you personally by telephone of the decision to form rapid-intervention forces. As part of the conclusions from the ZK [Joint Command] meeting, I sent you the decision to form rapid-intervention forces which you forbade in your order strictly confidential no. 168-262 of 3 October 1998.<sup>626</sup>

Pavković then asked the 3<sup>rd</sup> Army Command to "determine the composition of these forces", but reaffirmed again in the next paragraph that "We [the Joint Command] have decided on this decision..."<sup>627</sup> Pavković's letter thus makes clear not only that the Joint Command had made the decision to form rapid-intervention forces, but also that it did so despite a previous 3<sup>rd</sup> Army Command order expressly forbidding this.

280. Other instances of tension between the Joint Command and the Third Army Command, and between Pavković and Samardžić in particular, are apparent in D321/P1227<sup>628</sup> and in D324/D327<sup>629</sup>.

#### e. The Planning and Co-ordination Process

281. Because the Joint Command did not have its own staff, or separate registration log, Lazarević and his staff would draft Joint Command documents.<sup>630</sup> As Vasiljević explained, once the Joint Command had reached a decision, General Lazarević, who attended the meetings, was

<sup>624</sup> P1229,p.2.

<sup>625</sup> Đaković,T.8130;Đorđević,T.9863-9867.

<sup>626</sup> D212,p.1;Đaković,T.8131.

<sup>627</sup> D212;Đaković,T.8132-8133. See P886,p.105.

<sup>628</sup> See also Đaković,T.8007-8008;7919-7920.

<sup>629</sup> See also Đaković,T.8134.

<sup>630</sup> Vasiljević,T.5760.

given the assignment of putting that into practice.<sup>631</sup> The Joint Command could thus issue orders to both the MUP and the VJ.<sup>632</sup> Lazarević became Chief of Staff of the PrK in 1998 and was appointed Commander of the PrK on 25 December 1998, giving him effective control over members of PrK units in Kosovo.<sup>633</sup> Lazarević was a contributor to the JCE, having planned, ordered and commanded the activities of PrK units during operations in Kosovo in the Indictment period.

282. According to Đaković, the Joint Command approved the joint engagement of VJ and MUP units and directions were then issued for combat operations, which were processed and implemented within the distinctive chains of command. When a decision to use forces was adopted or issued by the Commander of the VJ, that information would be received by the operative organ of the PrK command and the operational and logistics department of the MUP Staff, and on the basis of that decision they would then coordinate and plan the actions. There would be an exchange of information and data between the PrK and the MUP Staff, and they would agree on the forces to be used in a certain operation.<sup>634</sup> There needed to be very precise co-ordination at all levels, not only at the staff level of the MUP and PrK but also at the level of combat groups, special police units, police detachments and other units.<sup>635</sup>

283. As a matter of principle, once a decision had been made to break up forces within a certain area, and both the MUP forces and the VJ forces knew where they would be used, then the PrK would proceed to coordinate the operation at a lower level.<sup>636</sup> Upon approval, operational plans were passed down to the individual commanders of units on the ground – meaning units of the PJP, SAJ, JSO and VJ.<sup>637</sup> In order to pass along a Joint Command plan to MUP units in Kosovo, for example, the MUP Staff in Priština would call PJP commanders to a meeting and hand them the plans.<sup>638</sup>

284. On the ground, units would be brought within one or two kilometres from the area where they were to be used and the commander of the combat group and the supporting unit would typically meet.<sup>639</sup> If both commanders were not in the same place, they would have to make sure

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<sup>631</sup> Vasiljević, T.5760.

<sup>632</sup> Vasiljević, T.5829.

<sup>633</sup> P1494.

<sup>634</sup> Đaković, T.7955. *See* Đorđević, T.9840-9841.

<sup>635</sup> Đaković, T.7955.

<sup>636</sup> Đaković, T.7956.

<sup>637</sup> Cvetić, T.6655-6657, 6864.

<sup>638</sup> Cvetić, T.6874.

<sup>639</sup> Đaković, T.7956.

that they had some means of communication, usually a Motorola hand-held radio.<sup>640</sup> For example, P1232 states (at Item 2.1) that "Battle group 15-3 is to support an attack of the 8th MUP Detachment and the Djakovica PJP ... along the following axes ...", and then describes a particular line of axis.<sup>641</sup> In this case, the 8th MUP Detachment and the Djakovica PJP would receive a strictly defined assignment from the PrK as a basis for co-ordination.<sup>642</sup> Once he received these excerpts, the MUP Commander would use his own forces and would have to assess the situation in the same way that an army commander would.<sup>643</sup> The PrK would typically provide certain information for the MUP units, such as the location of neighbouring units, but information relating to issues like the treatment of prisoners or the provision of medical assistance would be left for the MUP to define.<sup>644</sup>

285. If there were multiple participants in an operation then the PrK would typically have to coordinate via the MUP Staff in Priština because they could not issue the excerpts directly.<sup>645</sup> Đaković typically forwarded such excerpts to Dusan Adamović at the MUP Staff.<sup>646</sup> Along with such excerpts, a map would also be delivered to the MUP.<sup>647</sup>

286. For other operations, particularly those of a "lower intensity", the co-ordination might be accomplished more directly. If General Lazarević was at the forward command post in Đakovica, for example, he would probably coordinate things himself with the SUP Chief in that territory. It was not only the MUP Staff that was in charge of co-ordination; co-ordination was also carried out at the level of secretariats, combat groups and detachments, all the way down to the lowest-level units.<sup>648</sup> For example, patrols were organised and "recognition signs" were set for during the night to allow for mutual contact between the MUP and the Army and in order to avoid friendly fire.<sup>649</sup> It was not necessary for staff (such as deputy commanders or chiefs of staff) to go to the command post of the other unit; the commanders could simply keep in contact in order to coordinate action.<sup>650</sup>

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<sup>640</sup> Đaković, T.7956.

<sup>641</sup> P1232, p.1.

<sup>642</sup> Đaković, T.7957-7958.

<sup>643</sup> Đaković, T.7957.

<sup>644</sup> Đaković, T.7958.

<sup>645</sup> Đaković, T.7959.

<sup>646</sup> Đaković, T.7959.

<sup>647</sup> Đaković, T.7959.

<sup>648</sup> Đaković, T.7959.

<sup>649</sup> Đaković, T.8074.

<sup>650</sup> Đaković, T.8108-8109.



f. The Joint Command continued to function after October 1998

287. Although the first phase of the Joint Command's work drew to an end after the signing of the October Agreements, the Joint Command continued to function in the same manner until the end of the indictment period.

288. After Šainović declared at the 26 October Joint Command meeting that, "[t]his section of combat operations should be closed"<sup>651</sup>, the Joint Command nonetheless met two days later, on 28 October. At the conclusion of that meeting, Minić stated, "I think that this command should remain unchanged and work until the end of the year, meeting when necessary."<sup>652</sup>

289. The 29 October meeting that Milošević chaired at the Beli Dvor Palace was held the next day. The minutes record that "President Milutinović supported the proposal for consideration of the continued status of the Joint Command".<sup>653</sup> Šainović agreed, although he suggested that "the present composition" of the Joint Command "should be re-evaluated".<sup>654</sup> Milošević concluded the meeting, and in his remarks pointed "to the need for the continued functioning of the Joint Command".<sup>655</sup>

290. On 5 November 1998, a large MUP Staff meeting was convened that was attended by the men Đorđević termed "all the major actors in Kosovo", including Šainović, Minić, Anđelković and Pavković, as well as Stojiljković and Đorđević himself.<sup>656</sup> At the meeting, President Milutinović addressed the implications of the October Agreements, stated that "we are now entering a difficult phase in the resolution of the Kosovo issue", and announced that the Joint Command would continue to function in the same manner.<sup>657</sup>

291. Throughout the month of November, the Joint Command continued to produce detailed operations reports, addressing the present engagement of the MUP and VJ in Kosovo and proposing detailed steps for further engagement.<sup>658</sup>

292. The Joint Command continued to operate through early 1999. For example, in the Minutes of the VJ Collegium for 21 January 1999, Ojdanić expressed his continued frustration with the command role of the Joint Command and its involvement in the Račak operation.<sup>659</sup>

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<sup>651</sup> P886, p.139.

<sup>652</sup> P886, p.142.

<sup>653</sup> P87, p.12.

<sup>654</sup> P87, p.13.

<sup>655</sup> P87, p.15.

<sup>656</sup> P770, p.3; Đorđević, T.9882-9883.

<sup>657</sup> P770, pp.3-4.

<sup>658</sup> See e.g., P1218; P1219; P1399.

i. Once the state of war was declared, the Joint Command co-ordinated and commanded the actions of the VJ and the MUP in furtherance of the goals of the JCE

293. In much the same way as it had before, the Joint Command continued to co-ordinate and direct combat operations once a state of war was declared in Kosovo.

*Joint Command Orders During the Indictment Period*

294. When a state of war was formally declared on 24 March 1999, the MUP was unwilling to submit to full subordination to the VJ for combat operations.<sup>660</sup> However the Joint Command compensated for the absence of official subordination of the MUP to the VJ by effecting *de facto* co-ordination and cooperation. In a report dated 25 May 1999, Pavković wrote to the SC Staff and noted that the re-subordination of MUP forces had not been carried out as envisaged. After addressing problems on the ground with MUP forces, and the MUP's failure to re-subordinate as planned, Pavković proposed two options: that the SC should take "urgent measures" to re-subordinate the MUP, or that they should,

annul the Order on their resubordination and leave the command and commanding of the forces of the MUP of the Republic of Serbia in the hands of the Ministry of the Interior - Staff of the MUP of the Republic of Serbia for KiM **through the Joint Command as has so far been the case.**<sup>661</sup>

P888 illustrates that the Joint Command had been commanding MUP forces through the MUP Staff through at least 25 May 1999.<sup>662</sup>

295. In a public announcement on the VJ website from June 2001, Pavković stated,

The Police had their own headquarters, headed by their own officers, and the cooperation with the Army was coordinated through political actors in joint command, formed for the purpose. Therefore, the information to what the police force units were doing can best be provided by the police commanders and the members of the Joint command in charge of them.<sup>663</sup>

296. The PrK Command continued to fulfill the role of a command staff for the Joint Command with respect to planning and co-ordinating combat operations. Joint Command orders were sent to

<sup>659</sup> P902,p.11.

<sup>660</sup> See Part III,Section(A)(3)(e).

<sup>661</sup> P888,p.2;Đaković,T.7971-7973. (*emphasis added*)

<sup>662</sup> Neither Đaković nor Đorđević were able to account for this. Đorđević claimed that "what the author wanted to say is really unclear to me" (T.9956). Đaković returned to his usual claim that the Joint Command was only "co-ordinating", although his comments underline the fact that the Joint Command continued to operate in 1999 as it had in 1998 (Đaković,T.7971-7973).

<sup>663</sup> P1241,p.2;Đaković,T.7974-7975.

field commanders, who then issued their own orders to their units. The MUP Staff was responsible for the implementation of Joint Command orders down the MUP chain of command.<sup>664</sup>

297. The Joint Command issued a significant number of orders directing combat operations over the Indictment period.<sup>665</sup> Each of these 1999 Joint Command orders directly states, at the conclusion of the order: "The Joint Command for KiM is to command and control all forces from the sector of Priština during the execution of combat operations." These operations have been sorted by area and set out in Annex B.

298. A number of witnesses testified about the operation of the Joint Command during the Indictment period, and the manner in which they received Joint Command orders and implemented them on the ground in Kosovo. Cvetić, for example, reviewed the Bajgora operation described in P969, explained that the operation was "harmonized at the level of the Joint Command", and testified that the order was likely drafted by the PrK.<sup>666</sup>

299. Trajković, the Commander of the SAJ, also testified that the Joint Command continued to operate during this period and explained the manner in which he would receive orders for SAJ operations.<sup>667</sup> On most occasions in 1999, as in 1998, orders coming from the Joint Command would be excerpted, so that he would receive the specific parts of orders that related to his SAJ units. As Trajković explained, after a joint plan was "adopted at the level of the Joint Command", the PrK Command would prepare excerpts from the joint decision to carry out certain tasks for the VJ, and the MUP Staff would typically provide excerpts for police units, like the SAJ. These excerpts would first emphasize the tasks of MUP units, and then emphasize the tasks to be carried out jointly with the VJ. Sometimes the heading on the orders Trajković received would say "MUP Staff", while other times it would say "Joint Command".<sup>668</sup>

300. Reviewing Joint Command order P766, Braković also confirmed that he saw similar orders from the Joint Command in 1998 or 1999, although he thought at the time that those were orders from the PrK Command.<sup>669</sup> Braković explained how he would receive those orders: he would go to a meeting where it would be agreed that preparations for an action should be undertaken, and he would receive a document containing an order for the execution of a task. The order would come

<sup>664</sup> See Section III(3)(b)(ii).

<sup>665</sup> P973, D104, P972, P350, P971, P970, P1235, P1382, P766, P1383, P1384, P1385, P969, P767, P1328, P1386, D105.

<sup>666</sup> Cvetić, T.6631-6632, P1040 is the subsequent order for the Bajgora operation that Cvetić described.

<sup>667</sup> Trajković, T.9071.

<sup>668</sup> Trajković, T.9071-9075.

<sup>669</sup> Braković, T.4146.

together with a map, which contained everything in the order and would dictate the operation.<sup>670</sup> These orders and maps would be delivered either in person during meetings or in envelopes, and according to Braković this was done “by people from the MUP staff”.<sup>671</sup> Braković was familiar with the operation ordered in P766 and recalled that parts of several companies from the 124<sup>th</sup> Intervention Brigade participated, along with some of the units of the 36<sup>th</sup> Detachment and the SAJ.<sup>672</sup> He also described his participation in the Ježerce action described in P767, which was a broad action comprising units of the MUP and the VJ.<sup>673</sup>

301. A number of military documents from 1999 refer specifically to the Joint Command and its role in directing operations.<sup>674</sup> For example, a combat report from the PrK Command, dated 25 April 1999, states that, “Operations of combing the terrain and breaking up STS continue in line with the decision of the Joint Command for KiM”.<sup>675</sup> A combat report sent from the 3<sup>rd</sup> Army Command to the VJ General Staff Operations Centre, dated 29 April 1999, similarly states that, “measures were undertaken to block the above sectors and carry out tasks in line with the joint KiM command decision.”<sup>676</sup>

*The Joint Command continued to meet in person through at least 1 June 1999*

302. As late as 1 June 1999, Joint Command meetings were being convened and attended by the same leading figures as had attended and participated in 1998, including Šainović, Đorđević, Anđelković, Stevanović, Lukić and Pavković. Vasiljević provided a clear and detailed account of a 1 June 1999 Joint Command meeting that he attended, describing its attendees and the specifics of the matters discussed. He was aided in his recollection by some notes that he took at the meeting.<sup>677</sup>

303. Vasiljević described going to the PrK command in Priština/Prishtinë, on 1 June 1999, where Pavković told him that a Joint Command meeting was going to be held and invited him to attend. Those in the command building when Vasiljević arrived included Pavković, Lazarević, Đorđević, Stevanović and Lukić. As was his custom at meetings, Vasiljević took notes and would write down “who said what”, but did not include a list of attendees. However, Đorđević’s attendance would have been memorable for Vasiljević, because this was the first time they had met. Vasiljević

<sup>670</sup> Braković, T.4146-4147.

<sup>671</sup> Braković, T.4148.

<sup>672</sup> Braković, T.4145; P766.

<sup>673</sup> Braković, T.4150.

<sup>674</sup> See e.g. P1236,p.1;P1393,p.2; P888,p.2.

<sup>675</sup> P1393,p. 2.

<sup>676</sup> P1394,p. 2.

<sup>677</sup> P885;Vasiljević,T.5695-5696.

already knew who Đorđević was at the time through the media, and remembered that he was able to easily recognise Đorđević because his picture had been in the news quite frequently.<sup>678</sup>

304. At the meeting, the MUP Generals - Đorđević, Lukić and Stevanović – sat on one end of the table. The military personnel—Pavković and Lazarević—sat at the other end, along with Vasiljević and Stojanović.<sup>679</sup> [REDACTED].<sup>680</sup> Vasiljević was under the impression that this was “a daily reporting session or meeting of the past 24 hours. No broad issues were discussed at the meeting. They only discussed what had taken place the day before and what was being planned for the next day.”<sup>681</sup>

305. Vasiljević remembered the order in which people spoke: Lukić, Lazarević, Šainović, Lazarević and then Pavković<sup>682</sup>, and he recalled the details that they spoke about, even describing how some of the information was consistent with other evidence he had received from security organ reports.<sup>683</sup>

306. Defence witness Momir Stojanović’s testimony that this was not a Joint Command meeting, and that Đorđević was not present as Vasiljević described<sup>684</sup>, were not credible. When he testified in *Milutinović et. al.*, Stojanović had claimed that he could specifically remember that Vasiljević had not taken any notes. He repeated this claim in *Đorđević*.<sup>685</sup> This claim is not credible on its face.<sup>686</sup> Nor does it make sense that Vasiljević, whose notes were tendered into evidence,<sup>687</sup> would have fabricated notes for no discernable reason. Stojanović’s claim underlines the fact that he had a clear agenda in his testimony and sought to assist the Defence case in both *Milutinović* and *Đorđević* wherever possible.<sup>688</sup> Indeed, Stojanović generally tailored his evidence to refute key aspects of not only Vasiljević’s testimony, but also that of Nike Peraj. When Vasiljević was confronted with Stojanović’s claim that Đorđević never attended the 1 June meeting, Vasiljević convincingly stood by his testimony that Đorđević had been present.<sup>689</sup>

<sup>678</sup> Vasiljević, T.5691-5692; 5695-5696.

<sup>679</sup> Vasiljević, T.5692.

<sup>680</sup> [REDACTED].

<sup>681</sup> Vasiljević, T.5696.

<sup>682</sup> Vasiljević, T.5696.

<sup>683</sup> Vasiljević, T.5696-5698.

<sup>684</sup> Stojanović, T.11790-11791.

<sup>685</sup> Stojanović, T.11977-11979.

<sup>686</sup> See Stojanović, T.11976-11979.

<sup>687</sup> See P885.

<sup>688</sup> It may also be observed that at the time of Stojanović’s testimony in *Milutinović*, from 6-12 December 2007, Đorđević was already in the detention unit in the Hague awaiting his trial, having been arrested and transferred on 17 June 2007, some six months earlier.

<sup>689</sup> Vasiljević, T.5930.

307. Stojanović also denied that any of the substantive and detailed discussions described by Vasiljević took place at the meeting, claiming instead that Šainović simply came into the room and announced to everyone that an agreement would be signed imminently that would entail the withdrawal of the VJ and MUP from Kosovo.<sup>690</sup> If this profoundly different version of events were true then Vasiljević surely would have remembered it – one would recall where he was for an event as significant as the end of the war. Far more likely is that Stojanović tailored this account in a specific attempt to contradict evidence about the continued functioning of the Joint Command.

ii. Đorđević's denials that the Joint Command continued to function

308. Đorđević's denials that he continued to participate in the Joint Command, and even that he knew about the continued existence of the Joint Command after October of 1998, were also not credible. Đorđević claimed unequivocally that he did not have any further involvement with Kosovo after 5 or 6 October 1998. Asked directly about whether he had attended the 28 October 1998 Joint Command meeting, Đorđević responded "No, I wasn't there then."<sup>691</sup> However, the notes of the meeting record Đorđević not only attending but even participating and discussing matters relevant to events after the October Agreements.<sup>692</sup> At the conclusion of this meeting, Minić announced, "I think that this command should remain unchanged and work until the end of the year".<sup>693</sup>

309. Đorđević also personally attended a large meeting the following day in Belgrade, in which the Joint Command was discussed at length and its continuation was endorsed by both Milutinović and Milošević.<sup>694</sup> Đorđević then attended a large MUP Staff meeting on 5 November, at which Milutinović announced that the Joint Command would continue to function in the same manner.<sup>695</sup> Nonetheless, Đorđević denied outright in his testimony that he had any knowledge of the Joint Command continuing after October of 1998.<sup>696</sup>

310. Đorđević's similar claims that he did not attend the Joint Command meeting of 1 June 1999, and that he in fact never attended any meetings with Vasiljević, are also not credible.<sup>697</sup> In contrast to Đorđević, Vasiljević provided a clear and detailed account of the 1 June meeting. Vasiljević

<sup>690</sup> Stojanović, T.11786-11787.

<sup>691</sup> Đorđević, T.9836.

<sup>692</sup> P886, pp.140-142; Đorđević, T.9836-9838.

<sup>693</sup> P886, p.142.

<sup>694</sup> P87, pp.12,15.

<sup>695</sup> P770, p.4.

<sup>696</sup> Đorđević, T.9893.

<sup>697</sup> Đorđević, T.9742.

recalled not only who attended the meeting, but also where each person sat.<sup>698</sup> He recalled the order in which each of the participants spoke. He provided a detailed recollection of what was said at the meeting, and by whom.<sup>699</sup> [REDACTED].<sup>700</sup> Vasiljević had no discernable motive not to tell the truth about Đorđević's attendance at this meeting.

311. Đorđević's evidence with respect to the Joint Command, however, was neither consistent nor credible from the outset. His testimony included statements denying his membership in the Joint Command<sup>701</sup> and denying not only that the Joint Command continued to operate in 1999, but stating that it had never even operated in 1998.<sup>702</sup> Đorđević's testimony about his knowledge and involvement in the Joint Command is fundamentally incompatible with the extensive evidence of the Joint Command's actual existence and operation.

(ii) MUP Staff

312. The Ministerial Staff for the Suppression of Terrorism (MUP Staff) was based in Priština and was in charge of co-ordinating and managing the work of MUP units engaged in combat actions in Kosovo. During the Indictment period, Lukić, a member of the JCE and an immediate subordinate of Đorđević, headed the MUP Staff.

313. The MUP Staff served as an intermediary command level between the MUP HQ in Belgrade and MUP organisational units in Kosovo, linking the Ministry with the lower ranks of the MUP command structure. Under Lukić's direction, the MUP Staff planned and co-ordinated the activities of MUP units in furtherance of the JCE. During joint actions with the VJ and attached units, MUP units committed the crimes charged in the Indictment.

a. Establishment and composition of the MUP Staff

i. Đorđević formed the MUP Staff to co-ordinate and manage the work of MUP units in the suppression of terrorism in Kosovo

<sup>698</sup> Vasiljević, T.5692.

<sup>699</sup> Vasiljević, T. 5696-5698.

<sup>700</sup> [REDACTED].

<sup>701</sup> Đorđević, T.9896-9897.

<sup>702</sup> Đorđević, T.9834-9835. *See also* T.9833,9850.

314. On 11 June 1997, Đorđević formed the Staff of the Ministry of Interior for Kosovo and Metohija (MUP Staff), based in Priština.<sup>703</sup> The duties of the MUP Staff were to “plan, organise, and undertake measures and activities to suppress armed rebellions; prevent and suppress civil disorder; prevent terrorism”, and to undertake other complex assignments and tasks related to the area of Kosovo and Metohija.<sup>704</sup>

315. In a decision of 15 January 1998, Đorđević expanded the mandate of the MUP Staff to include co-operation with the RDB, the VJ, other state organs and organs of local self-government.<sup>705</sup> Đorđević testified that “a system of co-operation and mutual exchange” between these organs was necessary given that the situation in Kosovo “had started to drastically deteriorate”.<sup>706</sup> The mandate of the Staff included the prevention and suppression of terrorism in KiM.<sup>707</sup> In a subsequent decision of 23 January 1998, Đorđević assigned the Staff the task of training PJP and SAJ units to perform security tasks.<sup>708</sup> Both decisions stated that the Staff was responsible for the performance of its work to the Minister, the Chief of the RJB and officials authorised by them.<sup>709</sup>

316. As the situation in the province continued to escalate, on 15 May 1998 Đorđević renewed the mandate of the MUP Staff for a year.<sup>710</sup> One of the main tasks of the Staff was “the suppression of civil disorder, terrorism and armed rebellion”.<sup>711</sup> The following month, on 11 June 1998, he appointed Lukić as Head of the MUP Staff<sup>712</sup> and expanded the MUP Staff to 14 members, all RJB personnel.<sup>713</sup> Đorđević testified that he proposed Lukić for the job because Lukić was a very experienced police officer. He had completed his military training, was familiar with the situation in Kosovo and had the experience in directing and managing police units.<sup>714</sup> At a MUP Staff meeting, Stevanović informed the Heads of SUPs that Lukić was replacing Vesović as Head of the Staff and that the Chief of the RJB had expanded the Staff in order to strengthen the command of PJP units in Kosovo.<sup>715</sup>

<sup>703</sup> D402. See also Đorđević, T.9466-9467, 9469. This decision superseded a previous decision of 15 April 1994 (D402, item 8). See P357, Art.10.

<sup>704</sup> Đorđević, T.9469-9470; D402, item 2.

<sup>705</sup> Đorđević, T.9473; D402, item 2.

<sup>706</sup> Đorđević, T.9473.

<sup>707</sup> D402, p. 1.

<sup>708</sup> P704, p. 2; Đorđević, T.9475.

<sup>709</sup> D404, para. 2; P704, p. 2, item 6.

<sup>710</sup> D100; Đorđević, T.9476.

<sup>711</sup> D100, para. 2(a).

<sup>712</sup> P760; Đorđević, T.9553-9554.

<sup>713</sup> P760; Đorđević, T.9476-9477.

<sup>714</sup> Đorđević, T.9552-9553, 10158.

<sup>715</sup> Cvetić, T.6623.



ii. On 16 June 1998, Stojiljković expanded the MUP Staff to include both the RJB and the RDB

317. In mid-June 1998, the MUP Staff created by Đorđević was expanded by the Minister to include both branches of the MUP in Kosovo—the RJB and the RDB. In a decision of 16 June 1998, Stojiljković superseded Đorđević’s 15 May 1998 decision to include in the MUP Staff “the chiefs of the secretariats for internal affairs, centres and branches of the RDB in the AP of Kosovo and Metohija.”<sup>716</sup> Lukić remained Head of the Staff and David Gajić (Head of the RDB in Kosovo) was appointed deputy.<sup>717</sup> Other members of the Staff included: the JSO commander Milorad Luković (Legija) as Assistant Head for Special Operations; Živko Trajković as Assistant Head for Special Anti-Terrorist Units, and Goran Radosavljević as Assistant Head for Special Police Units.<sup>718</sup>

318. This MUP Staff was a continuation of the earlier one established by Đorđević, and shared the same functions.<sup>719</sup> As in Đorđević’s previous decisions, the MUP Staff was tasked “to plan, organize and control the work and engagement of organizational units of the Ministry, and also sent and attached units, in suppressing terrorism” in Kosovo.<sup>720</sup> The Staff also had the task “to plan, organise, direct and coordinate the work of organisational units” of the MUP in carrying out complex security tasks.<sup>721</sup>

319. The 16 June 1998 decision was issued by Stojiljković, rather than by Đorđević again, because only the MUP Minister was empowered to give Lukić authority over both branches of the MUP in Kosovo.<sup>722</sup> Such authority allowed Lukić to coordinate the work of all special units, including the RDB’s JSO unit, during their engagement in combat actions in municipalities throughout Kosovo.

320. In his testimony, Đorđević claimed that Stojiljković’s 16 June 1998 decision effectively removed him from the chain of command, because Lukić became answerable directly to Stojiljković.<sup>723</sup> The evidence shows, however, that Stojiljković’s decision did not change the functioning of the MUP Staff as set up by Đorđević, nor did it replace the day-to-day command structures within the MUP. This decision did not divest Đorđević of his powers as Head of the RJB.

<sup>716</sup> P57,item 1.

<sup>717</sup> P57,item 1. See also Đorđević, T.9478, 9491-9493.

<sup>718</sup> P57,item 1; Đorđević, T.9480,9491-9493.

<sup>719</sup> Cf. D402,item 2; D100, para.2(a); P57,item 2.

<sup>720</sup> P57,item 2. See also Đorđević, T.9480.

<sup>721</sup> P57,item 2.

<sup>722</sup> Cvetić, T.6786-6787,6788-6789. See also Mišić, T.14037-14038, who said that the Minister was the only person who could form a staff which included RJB and RDB members.

<sup>723</sup> Đorđević, T.9481-9482; P57.

Lukić continued to report to Đorđević, as Lukić's role in the Staff included the management of RJB units

321. Indeed, far from being removed from anti-terrorist operations conducted by the MUP Staff after June 1998, Đorđević played a key role in their planning and implementation.<sup>724</sup> He was in Kosovo throughout the 1998 summer offensive.<sup>725</sup> He directly monitored MUP operations in the field.<sup>726</sup> He closely followed the work of the MUP Staff.<sup>727</sup> Đorđević continued to be part of the reporting system from the MUP Staff to Belgrade HQ, and, due to his presence on the ground, continued to be informed of activities and operations of the MUP Staff.

322. Đorđević also claimed that Stojiljković did not discuss the 16 June 1998 decision with him before issuing it,<sup>728</sup> that he was not involved in the process, and that Stojiljković simply decided that the MUP Staff "should probably be organised in a different manner".<sup>729</sup> Đorđević said that Stojiljković was better placed to decide on changes to the composition of the MUP Staff since he was better informed than Đorđević about the situation on the ground.<sup>730</sup> Đorđević's evidence on this point is not credible. By June 1998, Đorđević was fully involved in operations on the ground and had full knowledge of the security situation in Kosovo. The reasons Đorđević gave for renewing the mandate of the MUP Staff in May 1998 show that he, too, was fully aware of developments on the ground.<sup>731</sup> In addition, as Đorđević testified, he shared the Minister's decision: in response to a question from the Bench, Đorđević acknowledged that he thought that the expansion of the MUP Staff was a good idea because it allowed the MUP to deal more effectively with the complex tasks it was facing.<sup>732</sup> He also acknowledged that both he and Stojiljković shared the view that Lukić was the man needed to head the MUP Staff.<sup>733</sup> Đorđević's claims that he was not involved or took part into Stojiljković's 16 June 1998 decision are not credible.

323. The expansion of the MUP Staff in mid-June was required to deal with the increase in MUP activities in Kosovo. Only two days after expanding the MUP Staff, Stojiljković reinforced MUP units on the ground by forming the 124th PJP Intervention Detachment.<sup>734</sup> At the time, preparations

<sup>724</sup> See generally Part V, Section (C)(1)(e).

<sup>725</sup> Đorđević, T.10031.

<sup>726</sup> Đorđević, T.9853-9854.

<sup>727</sup> Đorđević, T.9637; D432.

<sup>728</sup> Đorđević, T.10158-10159.

<sup>729</sup> Đorđević, T.10157.

<sup>730</sup> Đorđević, T.10158-10159.

<sup>731</sup> D100; Đorđević, T.9476.

<sup>732</sup> Đorđević, T.10158. See Mišić, T.14035-14036.

<sup>733</sup> Đorđević, T.10158.

<sup>734</sup> P257.

were being made in Belgrade to involve the VJ in anti-terrorist operations in Kosovo and to launch a joint VJ/MUP offensive against the KLA in the summer.<sup>735</sup>

b. Role of the Head of the MUP Staff, Lukić

324. In 1998 and 1999, Lukić was a direct subordinate of Đorđević and reported to Đorđević, since his role in the MUP Staff included the management of RJB units. Lukić remained Head of the MUP Staff throughout the Indictment period.<sup>736</sup>

325. Lukić, as Head of the MUP Staff, was the overall commander of police forces in Kosovo.<sup>737</sup> K25, a PJP member, said that it was “common knowledge” that “[a]ll MUP units in Kosovo were commanded by the MUP HQ in Priština”, and that Lukić was the commander of all the MUP forces in Kosovo.<sup>738</sup>

326. Lukić acted as the bridge between the MUP leadership (Stojiljković, Đorđević, Stevanović) and MUP organisational units in Kosovo.<sup>739</sup> He was the operational man on the ground in charge of ensuring that the policies and plans adopted at the MUP HQ were implemented.

327. Lukić’s role as a link between the MUP HQ and units on the ground is apparent, for example, from the minutes of the MUP Staff meeting of 2 December 1998.<sup>740</sup> At this meeting, Lukić briefed SUP chiefs about a 27 November 1998 meeting in Belgrade chaired by Stojiljković and attended by Đorđević, Marković, the assistant ministers, and Nikola Šainović.<sup>741</sup> Lukić summarized conclusions and recommendations from the 27 November meeting for the attending SUP chiefs.<sup>742</sup> Cvetić testified that at meetings like the one of 27 November in Belgrade:

They simply analysed the situation, and then later on this was transformed into certain conclusions, and these conclusions were incorporated into certain plans for the engagement of units.<sup>743</sup>

328. Lukić briefed officials in Belgrade about the activities of the MUP Staff.<sup>744</sup> He participated in high-level meetings with senior MUP and VJ personnel, and other relevant political figures of the

<sup>735</sup> P683, pp.1-2, ;P682, pp.4-5,9-10;P87, p.3. See also P1226;P1227;P1228.

<sup>736</sup> P67, p.1; Cvetić, T.6790-6792; Đorđević, T.9490-9491. See also P57, item 2.

<sup>737</sup> Byrnes, P1214, p.19; Ciagliniski, P832, p.10; Phillips, T.8687; P1303, pp.4-5.

<sup>738</sup> K25, P340-A, p.20. When operations were conducted in Kosovo, “allocation of MUP units and assets was determined by [Lukić] and his HQ” (K25, P340-A, p.20).

<sup>739</sup> Cvetić, T.6645, 6597; Braković, P759, paras.2,31.

<sup>740</sup> P689.

<sup>741</sup> Cvetić, T.6648; P689, p.3.

<sup>742</sup> Cvetić, T.6648; P689, p.3.

<sup>743</sup> Cvetić, T.6660.

<sup>744</sup> See P1229, p.1; see Đorđević, T.9863-9864; P1229.

FRY and Serbia, where he reported on the activities of MUP units.<sup>745</sup> Lukić would also make weekly trips to Belgrade to report and meet with Stevanović and Đorđević.<sup>746</sup>

329. In Priština, Lukić chaired MUP Staff meetings.<sup>747</sup> He also represented the MUP before the KVM.<sup>748</sup> Phillips and Walker regularly met with Lukić to discuss issues of non-compliance with the October Agreements.<sup>749</sup>

c. The role of the MUP Staff was to plan, organise, co-ordinate and control the activities of MUP units engaged in combat actions in Kosovo

330. The MUP Staff co-ordinated and controlled SUPs, MUP units and attached units engaged in combat activities in Kosovo (PJP, SAJ, JSO).<sup>750</sup> As Cvetić testified: “the MUP staff served as an intermediate command which linked the ministry and lower ranks”.<sup>751</sup>

331. The MUP Staff had authority to issue orders and dispatches to SUP chiefs, PJP and SAJ commanders,<sup>752</sup> and would forward instructions and communications from MUP HQ in Belgrade to the SUPs in Kosovo.<sup>753</sup> For example, on 21 October 1998, Lukić sent a dispatch to the SUP chiefs in Kosovo with instructions on the implementation of the KVM Agreement, and on providing daily reports related to contacts with the KVM, actions, and police activities carried out;<sup>754</sup> the instructions communicated by Lukić had been issued by MUP HQ.<sup>755</sup>

332. Lukić frequently met with SUP chiefs and detachment commanders to discuss the security situation, current problems and measures to be taken.<sup>756</sup>

333. The MUP Staff approved the plans for the use of PJP units in Kosovo.<sup>757</sup> The engagement of the PJP would be decided at the level of the Ministry by either Stojiljković or Đorđević, and

<sup>745</sup> P764, pp.1,4. In addition to MUP Staff meetings, Lukić participated to a number of other meetings involving senior MUP, VJ and FRY representatives: see Đaković, T.7914-7915; P87; P689, p.3, where Lukić informed the participants about a previous meeting held in Belgrade on 27 November 1998 with senior MUP members and FRY representatives.

<sup>746</sup> Byrnes, T.8233; P1214, p.19.

<sup>747</sup> See e.g. P768; P688; P690; P770, pp.3, 7-8.

<sup>748</sup> Phillips, T.8686-8687; P1303, pp.4-5.

<sup>749</sup> Phillips, T.8691-8692.

<sup>750</sup> P57, item 2; P67. See also Đorđević, T.9480. Braković confirmed that all the PJP units that were in Kosovo in 1998 and 1999 would fall under the definition of item 2, which states “and also sent and attached units”. In fact, PJP units were not “organisational units” (see Braković, T.4282; P57, item 2).

<sup>751</sup> Cvetić, T.6645. See also Cvetić, T.6597.

<sup>752</sup> Cvetić, T.6702-6703. See e.g. P1052, p.2; P1046; D247; P1057; P1048. See also Simović, T.13734, 13575-13576, 13578-13579, 13610; Mitić, T.12641; Stalević, T.13772-13773, 13905.

<sup>753</sup> Cvetić, T.6645, 6702-6703; Mitić, T.12641. See e.g. P1458.

<sup>754</sup> P1041.

<sup>755</sup> Cvetić, T.6645. See also P762.

<sup>756</sup> Cvetić, T.6659-6661. See e.g. P768, p.1; P689; P85, p.1; P764, pp.3-4; P771, pp.11-12; P690, item.9. See also Braković, T.4165; P759, para.31; P769.

implemented through the MUP Staff.<sup>758</sup> PJPs would receive their tasks from the MUP Staff in Priština,<sup>759</sup> and Lukić would supervise and coordinate their operations on the ground.<sup>760</sup>

334. Requests for replacements or additional forces would also be processed by the MUP Staff. Lukić, or his assistants, would address the Police Administration if replacements, replenishments or the deployment of additional were needed.<sup>761</sup> Đorđević testified that in the staff of the Ministry in Priština:

...there was a man from the police administration, precisely from the department dealing with special police units and the reserve force, who monitored the overall situation regarding the forces necessary for the staff and regarding the replacement of the existing forces by new forces or the additional engagement of forces.<sup>762</sup>

335. In Belgrade, the MUP Minister's Collegium was responsible for approving requests on the deployment of units received from the MUP Staff through the Police Administration.<sup>763</sup>

336. The MUP Staff was responsible for the engagement of the SAJ in actions in the field. Cvetić testified that, once a decision had been taken (from Belgrade) to deploy the SAJ to Kosovo, the MUP Staff could issue specific tasks to such units, as "the body directly on the ground that had an insight into the overall security situation".<sup>764</sup> The SAJ commander would be in charge of commanding the unit in the field for the execution of tasks.<sup>765</sup>

337. The MUP Staff also had authority to assign tasks to RDB members and employ them for anti-terrorist operations.<sup>766</sup> For example, at the MUP Staff meeting of 2 December 1998, Lukić assigned the task of sending mixed patrols of policemen and plain clothed RDB and RJB members, to locations where there were "Šiptar terrorists".<sup>767</sup> Milan (or Milorad) Luković Ulemek, the commander of the JSO, a special formation within the RDB, was also the Assistant Head for

<sup>757</sup> P771,p.11;P345,p.7;P1043,p.10.

<sup>758</sup> P134;P135;P136;P137;P138;P139.

<sup>759</sup> Đorđević,T.9603;Cvetić,T.6650.

<sup>760</sup> K25,P340-A,pp.20-21;P85,p.2;Cvetić,T.6650.

<sup>761</sup> Đorđević,T.9588.

<sup>762</sup> Đorđević,T.9588.

<sup>763</sup> Mišić,T.14089-14090,14095.

<sup>764</sup> Cvetić,T.6650. *See also* P85,p.3, where Stojiljković discussed new measures to be taken by all attending personnel and units, including the more effective inclusion of SAJ units in planned operations.

<sup>765</sup> Cvetić,T.6650.

<sup>766</sup> P57.

<sup>767</sup> P689,p.7. At this MUP Staff meeting of 2 December 1998, Cvetić is recorded to say that he was not receiving "appropriate information from the RDB on findings and the activities of Šiptar terrorists in order for the service to plan and harmonise its activities pursuant to this information" (P689,p.4). Lukić then stated that, "If there are problems with regard to the exchange of information between the RDB and the RJB, notify me so that we can overcome it" (P689,p.6). This shows that the MUP Staff played a role in the communication and exchange of information between the forces of the RJB and the RDB.

Special Operations of the MUP Staff.<sup>768</sup> At a MUP Staff meeting of 4 April 1999, Lukić was briefed and issued tasks to SAJ and JSO commanders.<sup>769</sup>

338. The MUP Staff exercised authority over RPOs and was responsible for their work in conjunction with the MUP HQ in Belgrade.<sup>770</sup> The decision to arm the non-Albanian population and form RPOs was made at the level of MUP HQ in Serbia, and was then implemented in Kosovo through the MUP Staff.<sup>771</sup> The MUP Staff was involved in arming local non-Albanian villagers and in forming RPOs to defend villages.<sup>772</sup>

339. During the summer-offensive of 1998 and the war in 1999, the MUP Staff planned, organised and implemented anti-terrorist activities in Kosovo.<sup>773</sup> The Staff adopted plans on the use of special units in combat activities and laid down the basic tasks and locations at which those units would be engaged.<sup>774</sup>

340. MUP Staff minutes from 1998 and 1999 show its role in planning and co-ordinating anti-terrorist operations. In 1999, during the course of these anti-terrorist operations, the crimes charged in the Indictment were committed.<sup>775</sup> For example:

- At a meeting of 22 July 1998, attended by Đorđević and Stevanović,<sup>776</sup> Lukić proposed an agenda to discuss the security situation in Kosovo in the implementation of the summer offensive.<sup>777</sup>
- On 28 July 1998, Lukić reported that “the second phase of the Global Plan had been carried out “in co-ordination with the Yugoslav Army.”<sup>778</sup>
- On 2 November 1998, Lukić informed SUP chiefs and PJP commanders that the “MUP Staff will now take on the role of planning and the Secretariats will have greater independence in carrying out their regular duties.”<sup>779</sup>

<sup>768</sup> P57;Cvetić,T.6599,6863;P1037.

<sup>769</sup> P764,pp.3-4.

<sup>770</sup> See Part V,Section(C)(1)(d).

<sup>771</sup> Cvetić,T.6664,6713. See also P1052,p.2.

<sup>772</sup> Cvetić,T.6609,6634,6663-6664,6691;Đorđević,T.9901. See P1504,p.1;P1052;P688,p.8;P975;P690,item.8;P689,pp.6,8;P1043,p.5;P770,pp.4-5;P85,pp.1,3.

<sup>773</sup> Đaković,T.7913;Cvetić,T.6674;P85,p.3.

<sup>774</sup> Cvetić,T.6674;P768;P688;P85.

<sup>775</sup> See *infra* paras. 393-399.

<sup>776</sup> P768,p.1;Cvetić,T.6640.

<sup>777</sup> P768,p.1;Cvetić,T.6640.

<sup>778</sup> P688,p.3;Cvetić,T.6641.

<sup>779</sup> P690,para.10.

- On 2 December 1998, Lukić briefed those present about a prior meeting he had attended in Belgrade on 27 November 1998, with Minister Stojiljković, the Assistant Ministers, the heads of the RJB and RDB, and Nikola Šainović.<sup>780</sup> At that meeting, it was decided to continue with anti-terrorist actions in Kosovo.<sup>781</sup>
- On 21 December 1998, Stevanović instructed that: “Broader actions towards terrorist bases should be planned by the Ministry Staff, however the initiative should be with the Secretariats, who should made preparations and compile recommendations of the Activity Plan”.<sup>782</sup>
- On 17 February 1999, Lukić reported that a plan of the RJB has been worked out to prevent and thwart the entry of NATO troops in Kosovo. He said that the Staff planned, when it is ordered, to carry out three mop-up operations involving several thousand troops.<sup>783</sup> In addition, he informed participants that the Staff members held meetings with RPOs and that the Staff was planning a meeting with PJP commanders “for further consultations about their engagement.”<sup>784</sup>
- On 17 March 1999, Lukić instructed SUP chiefs and PJP commanders to begin mobilization of reserve police forces and to bring the ratio of active to reserve policemen to 1:1.<sup>785</sup> Lukić also said that in anticipation of NATO strikes it was necessary to begin the deployment of A and B formations of PJP detachments to Kosovo.<sup>786</sup>

341. As organisational units of the MUP, SUPs also played a role in the planning and organisation of anti-terrorist operations in their respective territories. The MUP Staff ordered SUPs to generate their own plans to prevent and combat terrorism within their jurisdictions.<sup>787</sup>

<sup>780</sup> P689,p.3.

<sup>781</sup> P689,p.3.

<sup>782</sup> P1043,pp.1,10.

<sup>783</sup> P85,p.1.The plan to carry out the three mop-up operations was to be executed “when it is ordered”. Cvetić explained that that meant “ordered” by the Joint Command (Cvetić,T.6674-6675;P85,p.1).

<sup>784</sup> P85,p.1.

<sup>785</sup> Cvetić,T.6609,6691.

<sup>786</sup> Cvetić,T.6692.

<sup>787</sup> For example, at a MUP Staff meeting on 2 December 1998, Lukić instructed SUP chiefs to submit a plan for the prevention of terrorism by 7 December 1998. *See* P689,p.8. In this regard, Cvetić testified that, in response to Lukić’s instructions, local SUPs submitted draft reports, such as P1042, the one prepared by OUP-Glogovač (a unit within the Priština SUP). Other SUP chiefs provided similar reports regarding their municipalities (P1043,pp.4-7). At a subsequent MUP Staff meeting held on 21 December 1998 (P1043), Obrad Stevanović indicated that the MUP Staff had received the reports prepared by the individual SUPs, and that it was the assessment of the Staff that the reports “are mostly being implemented.” (*See* Cvetić,T.6651-6652;P1042;P1043,p.9). *See also* P771,p.11.

342. SUPs also managed the organisation of PJP units. PJP detachments were assigned to each of the seven SUPs in Kosovo,<sup>788</sup> and detachment commanders were members of the SUP Collegiums.<sup>789</sup> SUP chiefs were responsible for PJP units in the areas of their SUPs and, in some instances, were responsible for MUP-only operations falling within the area of one SUP.<sup>790</sup>

343. When PJP units were not engaged in anti-terrorist operations, they operated as territorial units protecting vital infrastructure and commercial facilities and were subordinated to their territorial SUPs and to the MUP Staff.<sup>791</sup> All PJPs in Kosovo had to be subordinated to SUP chiefs.<sup>792</sup> Commanders of PJP detachments had to attend regular SUP staff meetings.<sup>793</sup> In addition, SUP chiefs and PJP commanders would discuss the execution of peacetime assignments handed down by MUP HQ.<sup>794</sup>

344. SUPs were also involved in the PJP deployment decided by the MUP HQ. Đorđević, in his position of Chief of the RJB, directly addressed SUP chiefs so that they would prepare their units and dispatch them as ordered. For example, Đorđević's dispatch of 28 July 1998 ordered SUPs to deploy PJP units to carry out special security tasks in Kosovo.<sup>795</sup>

345. SUP Chiefs commanded operations in their AOR.<sup>796</sup> A SUP Chief would submit requests for additional units to the MUP Staff.<sup>797</sup> K25, PJP member, testified that this was done in the case of the Mala Kruša operation, when the Niš PJP operating in the Prižren SUP's area, requested additional support which was provided through the deployment of elements of the 23<sup>rd</sup> PJP detachment.<sup>798</sup> The commander of 23<sup>rd</sup> PJP detachment would go to the Đakovica SUP for operational planning issues.<sup>799</sup> Four companies were taken from the Đakovica SUP and placed under the command of the Prižren SUP for the Kruša operation.<sup>800</sup> The local MUP were not under command of the 23<sup>rd</sup> PJP detachment, but they reported directly to the SUP Prižren.<sup>801</sup>

<sup>788</sup> P1045,p.36;P1041,item (c);P690,para.10.

<sup>789</sup> P689,p.8;P771,p.11;P345.p.8.

<sup>790</sup> K25,P340-A,pp.20-21.

<sup>791</sup> Čvetić,T.6696-6697;Pantelić,T.12056.

<sup>792</sup> P771,p.11.

<sup>793</sup> P771,p.11.

<sup>794</sup> Čvetić,T.6697.

<sup>795</sup> P133,p.1.

<sup>796</sup> K25,P340-A,p.20.

<sup>797</sup> K25,P340-A,p.20.

<sup>798</sup> K25,P340-A,p.21.

<sup>799</sup> K25,P340-A,p.21.

<sup>800</sup> K25,P340-A,p.21.

<sup>801</sup> K25,P340-A,p.21.



346. Defence witnesses claimed that SUPs were not involved in planning and conducting anti-terrorist actions.<sup>802</sup> Their claims are contradicted by the evidence discussed above and by Lukić and Stevanović's comments at MUP Staff meetings:

- On 2 December 1998,<sup>803</sup> Lukić instructed the attending SUP chiefs to prepare and submit a plan for the prevention of terrorism.<sup>804</sup> In response to Lukić's instruction, local SUPs submitted draft reports, such as the one prepared by the Glogovač OUP, a unit within the Priština SUP.<sup>805</sup>
- On 21 December 1998, Obrad Stevanović indicated that the MUP Staff had received the plans to combat terrorism prepared by the SUPs, and that it was the assessment of the Staff that those plans were "mostly being implemented."<sup>806</sup>
- On 7 May 1999, Stevanović is recorded to say that, "After the end of some of the larger actions such as the "Budakovo-Jezerce" one, each SUP will be expected to work independently on organising anti-terrorist actions in their own areas. The plan must be approved by the Staff and will be carried out together with manoeuvre detachments."<sup>807</sup>

d. The MUP Staff operated within a functional chain of command

347. The MUP Staff operated within a functional chain of command. MUP units in Kosovo had effective and well-established reporting procedures in place. The Serbian MUP's internal regulations dictated how units were to report information.<sup>808</sup>

348. The MUP leadership in Kosovo met regularly in 1998 and 1999. As a rule, MUP Staff meetings were held at least once a month, or more frequently, if required.<sup>809</sup> These meetings were usually attended by SUP chiefs and commanders of special units.<sup>810</sup> At times, senior MUP members

<sup>802</sup> Mirčić, T.13317,13324-13326,13394; Mitić, T.12829,12831.

<sup>803</sup> P689.

<sup>804</sup> P689. See Cvetić, T.6650-6651,6835.

<sup>805</sup> P1042; Cvetić, T.6651-6652.

<sup>806</sup> P1043, p.9.

<sup>807</sup> P771, p.11, item 2.

<sup>808</sup> P1056, p.3; D232. See also Mišić, T.14043. As Mišić put it: "The intent was to have every last police station or OUP provide information to the competent [SUP], which in turn was under an obligation to provide such operational information to the competent operational centre of the interior and to the staff for combating terrorism in Kosovo" (Mišić, T.14043).

<sup>809</sup> See P768; P688; P770; P689; P1043; P85; P764; P771; P345.

<sup>810</sup> See P345; P770; P768; P769; D1111; P689; P1043; P690; P771.

were also present: Stojiljković; Đorđević;<sup>811</sup> Stevanović; and Marković.<sup>812</sup> Other RDB representatives were also present.<sup>813</sup>

349. Lukić and his headquarters staff were kept well informed of MUP activities on the ground and, in turn, reported to the MUP Ministry in Belgrade.<sup>814</sup> As Head of the MUP Staff, Lukić also took measures to ensure that he and his staff in Priština received updated reports.<sup>815</sup>

350. Đorđević and Stojiljković also took measures to reinforce the reporting system. On 7 October 1998, Đorđević ordered the commanders of organisational units at the MUP HQ and in Kosovo to “[r]eport all events and incidents of security interest to the operations centre and the work lines at the Ministry headquarters immediately.”<sup>816</sup> On 18 February 1999, Đorđević issued a dispatch addressed to all SUP chiefs, MUP Staff and border police stations, requiring “intensified” gathering and reporting of information about the movement of NATO forces, security-related events and terrorist activities.<sup>817</sup> Đorđević instructed the addressees to “immediately inform the Operations Centre and lines of work at the Ministry headquarters, organisational units from Kosovo and Metohija and the Staff of the Ministry in Priština”.<sup>818</sup>

351. Once the state of war was declared, on 24 March 1999, Stojiljković issued a follow-up dispatch to order the intensified enforcement of the measures provided for in Đorđević’s dispatch of 18 February 1999, including the responsibility to collect, analyze, and report information from the ground to “the relevant lines of operation within the Ministry.”<sup>819</sup> Stojiljković referred to Đorđević’s dispatch as “our dispatch”.<sup>820</sup>

352. This reporting system in place within the MUP indicates the existence of a functional chain of command required to control the work and engagement of units of the Ministry in Kosovo.

i. Reporting to the MUP Staff by SUPs

353. MUP regulations dictated how its units were to report information up the chain-of-command, and indicated that all SUPs were to send dispatches to the MUP Staff and the MUP

<sup>811</sup> See e.g. Đorđević, T.9588-9589. Đorđević acknowledged that those times he attended MUP Staff meetings he took part in their work and contributed to it.

<sup>812</sup> P1043; P85; P764; P771; P345; P688.

<sup>813</sup> See e.g. P770; P85; P764.

<sup>814</sup> Cvetić, T.6723; Đorđević, T.9585-9586. See also P57, item 3.

<sup>815</sup> See e.g. P1041; P1346; P1057; P1459. See also Cvetić, T.6727; P1057.

<sup>816</sup> P1203.

<sup>817</sup> P356, p.1, item 2.

<sup>818</sup> P356, p.4, item 20.

<sup>819</sup> P702, para.1.

<sup>820</sup> Cvetić, T.6681; P702, p.1.

Ministry in Belgrade.<sup>821</sup> SUP chiefs and units commanders were frequently reminded of their duty to report to the MUP Staff during MUP Staff meetings.<sup>822</sup> These regulations were complied with.<sup>823</sup>

354. The MUP Staff was responsible for collating information on the security situation in Kosovo based on reports and dispatches received from the SUPs. Lukić issued guidelines to SUPs regarding their reporting obligations. For example:

- in October 1998, Lukić ordered police stations in Kosovo to send daily reports to the MUP Staff on any significant events in their areas of responsibility;<sup>824</sup>
- on 1 April 1999, Lukić issued a dispatch to SUPs with guidelines on reporting to the MUP Staff, instructing all SUPs to submit a daily summary of important incidents in their territories;<sup>825</sup>
- on 15 May 1999, Lukić sent a dispatch to SUP chiefs in Kosovo and chiefs of the Crime Police Departments, instructing them to send information to the MUP Staff on detentions and criminal proceedings in their areas of responsibility.<sup>826</sup>

355. The MUP Staff received reports from the Kosovo SUPs under its jurisdiction, and these SUPs at the same time also reported to the MUP HQ in Belgrade.<sup>827</sup>

356. All SUPs sent periodic dispatches, including daily reports, to the MUP Staff in Priština and to Belgrade.<sup>828</sup> Cvetić said: "...everything that happened in the territory of the Secretariat in the past 24 hours was reported to the Ministry and to the MUP Staff in Priština. The MUP Staff in

<sup>821</sup> P1056,p.3,item 5.

<sup>822</sup> See e.g. the MUP Staff meeting of 4 April 1999, where Lukić stated that "secretariat chiefs and unit commanders must report to the Staff" (P764, p.4). Cvetić testified that this meant that SUP chiefs had not only to submit daily bulletins on security-related events in their areas, but also had to call to communicate orally any updates that were not included in the bulletins to the MUP Staff (Cvetić, T.6726). See also P689, p.7, a MUP Staff meeting of 2 December 1998, where Lukić required the attendees that "information and reports should be submitted to the Ministry Staff on time and should be realistic, by way of immediately reporting the more important events by telephone and then sending a dispatch on the incident".

<sup>823</sup> See, e.g. Cvetić who confirmed that these reporting requirements remained in effect throughout his tenure as chief of the SUP-Kosovska Mitrovica (Cvetić, T.6722; P1056, p.3).

<sup>824</sup> P1041.

<sup>825</sup> P1057/D143. Mirčić said that he was informed of this dispatch at a SUP Collegium meeting. Mirčić commented that the information they were required to submit "was like the usual information. This would be sent to the secretariat and all the measures mentioned in these items would be registered, would be then sent to everyone. It was the duty service of the SUP Đakovica, then they would send it to the staff, and the staff would send it to the minister. That was the usual reporting line." (Mirčić, T.13288-13289; D143; D922; D923).

<sup>826</sup> P1459.

<sup>827</sup> Cvetić, T.6597-98.

<sup>828</sup> Cvetić, T.6703,6597-98,6723,6762-6763. See e.g. D275;D277;D280;D414;D415;D416;D922;P1367;P1060.

Priština as pertains all the events regarding the security situation in Kosovo and Metohija, it reported on that to the Ministry.”<sup>829</sup>

357. Communication between SUPs, MUP HQ and the MUP Staff was usually in writing, whether in the form of reports, dispatches or orders.<sup>830</sup> Before the war broke out in March 1999, reports were mainly sent via a dispatch.<sup>831</sup> During the NATO bombing, communications and reports were sent via couriers that operated on a daily basis.<sup>832</sup>

358. There was a direct phone connection between SUPs and the MUP Staff,<sup>833</sup> although during the NATO bombing most telephone communication was interrupted.<sup>834</sup>

359. SUP chiefs had a duty to call the MUP Staff Head every morning to report on the latest incidents that were not covered by the daily bulletin.<sup>835</sup> Special telephone lines and tele-printers existed to facilitate communication.<sup>836</sup> Pantelić testified that he had frequent contacts with the MUP Staff because he had to know to whom his three PJP companies would be subordinated, and to whom they would report.<sup>837</sup>

360. [REDACTED].<sup>838</sup>

361. Police stations reported to their SUPs.<sup>839</sup> OUP chiefs would liaise with their SUP chiefs for regular duties and the regular work of their departments.<sup>840</sup>

#### ii. Reporting to the MUP Staff by PJPs and the SAJ

362. MUP units engaged in combat operations had a duty to report to the MUP Staff. During MUP Staff meetings, the Head of the MUP Staff would reiterate the commanders' duty to report. For example:

<sup>829</sup> Cvetić, T.6723. See also Mišić, T.14044. See e.g., D407.

<sup>830</sup> Cvetić, T.6723.

<sup>831</sup> Mitić, T.12635.

<sup>832</sup> Mitić, T.12635-12636.

<sup>833</sup> Cvetić, T.6723.

<sup>834</sup> Cvetić, T.6723-6724; see also P764, p.1.

<sup>835</sup> Cvetić, T.6763.

<sup>836</sup> Cvetić, T.6723-6724.

<sup>837</sup> Pantelić, T.12129.

<sup>838</sup> [REDACTED].

<sup>839</sup> P1056, p.3; Mirčić, T.13229, 13393, 13306.

<sup>840</sup> Braković, T.4173; Mirčić, T.13229, 13295, 13306.

- On 2 December 1998, Lukić recalled: "Commanders of detachments are members of the Collegium of the chiefs of the SUP and should be linked up daily with the chief of the SUP for the purposes of work and control".<sup>841</sup>
- On 4 April 1999, Lukić reminded those present that "secretariat chiefs and unit commanders must report to the Staff".<sup>842</sup> The minutes of this meeting also record PJP commanders reporting to Lukić and Stevanović on the completion of the first phase of anti-terrorist actions.<sup>843</sup>
- Further, Lukić chaired a MUP Staff meeting on 11 May 1999, where he requested reports on completed operations and issued instructions to PJP commanders.<sup>844</sup>

363. According to Braković, PJP commanders informed the MUP Staff of events and activities on the ground.<sup>845</sup> For example, during anti-terrorist operations, a PJP command would provide updates to the MUP Staff on the progress of the operation, only "for information purposes".<sup>846</sup> Braković did not prepare written reports of operations. These were drafted by the commander of the VJ unit with whom the PJP was in the field.<sup>847</sup> When he reported on events on the ground, Braković mostly dealt with Duško Adamović and Miroslav Mijatović at the MUP Staff.<sup>848</sup>

364. Units in the field communicated via radio during manoeuvres.<sup>849</sup> A communications work-plan existed for each radio station. In each command, how communications were to be maintained and the manner of reporting to the Superior Command were specified.<sup>850</sup> Trajković testified that, when in the field, MUP personnel would also use mobile phones to communicate important information.<sup>851</sup>

365. A telegram dated 26 May 1999 addressed to the MUP Staff by Dragan Živaljević, the Commander of the PJP 122<sup>nd</sup> Intervention Brigade, illustrates the information that PJP commanders would relate to the MUP Staff.<sup>852</sup> The telegram contained a report on the "achieved lines" of the 122<sup>nd</sup> Intervention Brigade and the position of some "refugees", and requested from the MUP Staff

<sup>841</sup> P689, p.8.

<sup>842</sup> P764, p.4.

<sup>843</sup> P764, pp.2-4.

<sup>844</sup> P345, pp.2, 8.

<sup>845</sup> Braković, T.4094. *See also* P974.

<sup>846</sup> Braković, P759, para.21.

<sup>847</sup> Braković, T.4094.

<sup>848</sup> Braković, T.4094.

<sup>849</sup> Cvetić, T.6729.

<sup>850</sup> Cvetić, T.6729-6730.

<sup>851</sup> Trajković, T.9091.

<sup>852</sup> P974.

“further instructions and accommodation for refugees.”<sup>853</sup> As the handwritten note at the top right hand corner of the telegram shows, the telegram was sent to “General Lukić, for information and decision”.<sup>854</sup>

366. Commanders would also report on the fulfilment of the tasks assigned and on ongoing operations at MUP Staff meetings.<sup>855</sup>

367. The SAJ also reported to the MUP Staff.<sup>856</sup> Simović testified that, normally, Trajković would report to Đorđević, since the SAJ was part of the RJB.<sup>857</sup> During the anti-terrorist operations in the summer of 1998 and the war in 1999, Simović and Stalević did not submit written reports. Upon completion of each operation, they analysed the operation with Trajković, and Trajković then reported to the MUP Staff.<sup>858</sup> Stalević added that, while no written reports were created after the completion of an operation, “on such occasions we pointed out any problems we had in the course of the operations, and then he [Trajković] in turn informed the MUP Staff.”<sup>859</sup>

### iii. Reporting of the MUP Staff to the MUP HQ in Belgrade

368. Information was relayed up the MUP chain-of-command from the MUP Staff to MUP HQ in Belgrade.<sup>860</sup> The Head of the MUP Staff, Lukić, was directly answerable to the Minister and to Đorđević. He had a key role in collating information from MUP organisational units in Kosovo and reporting it to the Belgrade HQ.

369. Although Đorđević tried to distance himself from contacts with Lukić, by stressing that Lukić was in daily contact only with the Minister,<sup>861</sup> the evidence shows that, after the 16 June 1998 decision, Lukić continued to report also to Đorđević, and that Đorđević continued to be part of the reporting system from the MUP Staff to Belgrade HQ.<sup>862</sup>

370. During the implementation of the 1998 summer offensive, Đorđević was in Priština, and often on the ground for anti-terrorist operations.<sup>863</sup> He had an office in Priština in the same building

<sup>853</sup> P974,p.3.

<sup>854</sup> P974,p.3.

<sup>855</sup> See e.g. the MUP Staff meeting of 11 May 1999, during which Braković reported about the Jezerce operation and units that took part in it (P345, pp.1, 4; Braković, T.4181-4182).

<sup>856</sup> Simović,T.13736.

<sup>857</sup> Simović,T.13605,13607-13608.

<sup>858</sup> Simović,T.13579-13580,13608,13735-13736;Stalević,T.13773-13774.

<sup>859</sup> Stalević,T.13773-13774.

<sup>860</sup> P57, item 3.

<sup>861</sup> Đorđević,T.9586.

<sup>862</sup> See e.g. D283;D284;D285;D286;P718;P697;P719;P720; P721;P698;D297;D298;D299;D300;D301;D302.

<sup>863</sup> Đorđević,T.9585.

that housed the MUP Staff.<sup>864</sup> He testified that, before and after an operation, he would go back to his office to use the telephone to call the Minister.<sup>865</sup> Đorđević received information on the activities of the units related to the summer offensive, and on the developments in the area of Kosovo and Metohija.<sup>866</sup>

371. During the implementation of the summer offensive, Đorđević's primary duty was to monitor "the overall situation in Kosovo and the implementation of the global counter-terrorism plan".<sup>867</sup> Đorđević was directly involved in the implementation of the plan and was informed of all the security-related issues in Kosovo.

372. The MUP Staff sent daily reports to the MUP HQ in Belgrade.<sup>868</sup> Reports issued before 29 March 1999 were addressed to the MUP Minister, Heads of the RJB and RDB, other organs of the Ministry, and SUPs chiefs in Kosovo,<sup>869</sup> but as of 1 April 1999 reports were sent exclusively to Minister Stojiljković and the Chief of RJB, Đorđević.<sup>870</sup> From 24 April 1999, the Head of the RDB, Rade Marković, was also included in the list of recipients.<sup>871</sup>

373. These MUP Staff daily reports were compiled based on information sent by the SUPs to the MUP Staff.<sup>872</sup> These reports consisted of a "summary of security related events, developments, and information".<sup>873</sup> Following an order of 1 April 1999 by Lukić to SUPs,<sup>874</sup> the reports from 2 April 1999 onwards included information about the number of Albanians leaving Kosovo through the various border crossings.<sup>875</sup>

374. Reports also addressed ordinary crimes such as thefts, looting and taking vehicles, committed by VJ, SUPs members, or by civilians,<sup>876</sup> and further reported cases of unidentified bodies of civilians found at different locations (Srbica/Skenderaj, Mala Kruša/Krusha e Vogël, Mamuša/Mamusha village close to Prizren).<sup>877</sup>

<sup>864</sup> Đorđević, T.9585.

<sup>865</sup> Đorđević, T.9585.

<sup>866</sup> Đorđević, T.9585.

<sup>867</sup> Đorđević, T.9587.

<sup>868</sup> D283;D284;D285;D286;D287;D288;D289;D290;D291;D292;D293;P695;D294;D295;P696;D299;D300;D302;P700;D305;P701;P694.

<sup>869</sup> See e.g. D283;D284;D285;D286;D287;D292;P695;D295;P696;D296.

<sup>870</sup> See e.g. P718;P697;P719;P720;P721;P698;D297;D298;D299;D300;D301;D302.

<sup>871</sup> See e.g. D305;P701;P694.

<sup>872</sup> Cvetić, T.6723,6762-6763.

<sup>873</sup> See e.g. P719,p.1;D300,p.1;P723,p.1;P700,p.1;D304,p.1;P701,p.1;P694,p.1.

<sup>874</sup> P1057,p.2.

<sup>875</sup> See e.g. P718,p.5;P697,p.6;P719,p.6;P720,p.5;P721,pp.5-6;P698,p.4;P694,p.8.

<sup>876</sup> See e.g. P720,pp.3-5;D297,p.4.

<sup>877</sup> P697,pp.2-3.

375. The reporting on anti-terrorist operations and other actions carried out by MUP units was relayed up to MUP HQ from the MUP Staff through different channels.

376. For example, at the MUP Staff meeting of 28 July 1998, Lukić “gave a briefing on measures and activities of police units between 25 and 28 July 1998... as well as on which (concrete) actions had been undertaken and by which detachment”.<sup>878</sup> Lukić further reported that “[t]he second phase of the Global Plan has been carried out, in accordance with the established schedule, with ten detachments”.<sup>879</sup> He also reported on the actions carried out in co-ordination with the VJ, explaining locations, achievements and axes of action.<sup>880</sup> Thus, Lukić played a key role as the conduit. He collated the various reports he received by SUPs and units on the ground and relayed that to Belgrade, thus co-ordinating information exchange between MUP forces in Kosovo and MUP HQ in Belgrade.

377. In 1999, the MUP staff continued to operate just like it did in 1998.<sup>881</sup> In 1999, before during and after the NATO campaign, the reporting system continued to function in the same way as in 1998.

378. During MUP Staff meetings, Lukić would report to the Minister and Đorđević about the security situation in Kosovo and anti-terrorist plans and operations.<sup>882</sup>

379. This regular reporting shows that the MUP Staff was part of the system in place in Kosovo to control the work and engagement of the organisational units of the Ministry, and to function as an essential link between the MUP HQ in Belgrade and MUP organisational and other units on the ground in Kosovo.

380. Defence MUP expert Milašinović claimed that pursuant to Stojiljković’s decision of 16 June 1998, Lukić was responsible solely to the Minister, and not to Đorđević.<sup>883</sup> During cross-examination, Milašinović showed that he lacked even basic knowledge of MUP-related matters.<sup>884</sup> Milašinović was never an employee of the RJB,<sup>885</sup> and has no experience in the functioning of the MUP Staff.<sup>886</sup> He is thus not qualified to speak about the actual relation between Lukić and

<sup>878</sup> P688,p.3.

<sup>879</sup> P688,p.3.

<sup>880</sup> P688,p.3.

<sup>881</sup> Trajković,T.9072-9073.

<sup>882</sup> P85,p.1. The plan to carry out the three mop-up operations was to be executed “when it is ordered”. Cvetić explained that that meant “ordered” by the Joint Command (Cvetić,T.6674-6675;P85,p.1).

<sup>883</sup> Milašinović,T.14275;D933,pp.28-29.

<sup>884</sup> See e.g. Milašinović,T.14303-14305,14322-14324,14338-14340.

<sup>885</sup> Milašinović,T.14286;D931.

<sup>886</sup> Milašinović,T.14287-14288;D931.



Đorđević, and between the MUP Staff and MUP HQ. Milašinović's report amounts to no more than a summary of documents and is replete with unsupported statements<sup>887</sup> that merely adopt the Defence position. When questioned in court about the drafting of his report, he indicated that he had tasked "50 individuals" to research it. "They were the ones researching the subject, and these were researchers, scholars who were tasked with providing me with a detailed explanation of the workings of this".<sup>888</sup> He was, however, unable to explain who these individuals were and what methodology they followed to compile the report. Milašinović's expert evidence is of little value and should be disregarded.

381. Other Defence witnesses testified that after Stojiljković's 16 June 1998 decision was issued, Lukić no longer reported to Đorđević. Former MUP Assistant Minister Stojan Mišić<sup>889</sup> testified that Lukić had to report directly to the Minister about all anti-terrorist operations.<sup>890</sup> Mišić also added that, if Đorđević had received reports from Lukić concerning anti-terrorist operations in Kosovo, "in all likelihood, [he] would have known because we were frequently close by".<sup>891</sup> Mišić's evidence on this point is not reliable since his knowledge of Đorđević's contact and work with the MUP Staff was limited to Mišić's own area of work. For example, Mišić did not know about the MUP Staff meeting of 17 February 1999, which Đorđević attended,<sup>892</sup> nor did he know about anti-terrorist operations.<sup>893</sup>

382. Miloš Pantelić, Head of the Valjevo SUP in Serbia, claimed that in 1998, Lukić did not report to Đorđević and was directly responsible to the Minister.<sup>894</sup> Not only is Pantelić's claim contradicted by the evidence illustrated above, but Pantelić himself acknowledged that he was not familiar with the command relationship between Lukić and Đorđević in Kosovo.<sup>895</sup>

383. Similarly, Pantelić's claims that following the 16 June 1998 decision of the Minister, SUP chiefs in Kosovo were no longer subordinated to Đorđević<sup>896</sup> is not credible. His evidence is contradictory and he has no basis for this conclusion, since he was not familiar with the decision or the work of SUPs in Kosovo.<sup>897</sup>

<sup>887</sup> See e.g. discussion at T.14294-14297,14298-14300,14308-14310;D933.

<sup>888</sup> Milašinović,T.14302.

<sup>889</sup> Mišić,T.14008,14064. See also P263;Mišić,T.14010.

<sup>890</sup> Mišić,T.14039-14041.

<sup>891</sup> Mišić,T.14124.

<sup>892</sup> P85.

<sup>893</sup> Mišić,T.14126. See also Mišić,T.14100,14105,14121.

<sup>894</sup> Pantelić,T.12128.

<sup>895</sup> Pantelić,T.12131.

<sup>896</sup> Pantelić,T.12125-12126;P57.

<sup>897</sup> Pantelić,T.12129.

384. Milan Čanković, the Chief of Communications of the Staff, testified that, both before and during the NATO campaign, Lukić, reported exclusively to Stojiljković about anti-terrorist operations conducted by the MUP Staff.<sup>898</sup> His testimony is not credible or reliable. Čanković did not have sufficient knowledge or basis to make such statements.<sup>899</sup>

e. The MUP Staff co-ordinated, organised and managed the engagement of MUP units in joint combat actions with the VJ

385. In 1998 and 1999, the MUP and the VJ worked in close co-ordination. The MUP Staff had a key role in the implementation of joint operations decided by the MUP and VJ leadership.

386. When the Joint Command was established in June 1998, this also affected the way in which the MUP Staff operated in Kosovo.<sup>900</sup> Once authority to proceed was given by the Joint Command, the MUP and the VJ would each task their subordinates to provide the required units and to liaise with the respective counterparts to finalise the ground level details of the plan. The Head of the MUP Staff, Lukić, was a member of the Joint Command and met regularly with the other members of the Joint Command, such as Pavković, Šainović and Lazarević, to plan the details of joint VJ-MUP operations.

387. The MUP Staff ensured that Joint Command plans involving MUP units were carried out. It would determine units needed for specific actions and task subordinates to provide the required personnel.<sup>901</sup> Orders drafted by the PrK that involved joint actions were addressed to the MUP Staff for implementation.<sup>902</sup> When the MUP Staff ordered SUPs to generate plans for crushing terrorist groups within their jurisdictions,<sup>903</sup> the MUP Staff would review those plans,<sup>904</sup> but the ultimate approval of the plans would come from the Joint Command.<sup>905</sup> Upon approval of the plans, the MUP Staff would issue specific orders to PJP and SAJ units.<sup>906</sup>

388. Co-ordination with the VJ for operations in Kosovo was done at the level of the MUP Staff.<sup>907</sup> At MUP Staff meetings, topics on the agenda included recent and ongoing operations and

<sup>898</sup> Čanković, T.13954.

<sup>899</sup> Čanković, T.13976-13977.

<sup>900</sup> See Part III(A)(3)(b).

<sup>901</sup> Cvetić, T.6655-6657.

<sup>902</sup> See e.g., P960, which was sent "to the command of the MUP" and sets out tasks for the MUP. See also D206, p.2.

<sup>903</sup> See e.g., P1039, p.1; P689, p.8.

<sup>904</sup> See e.g., P1043, p.9.

<sup>905</sup> Cvetić, T.6655-6657.

<sup>906</sup> Cvetić, T.6650.

<sup>907</sup> K25, [REDACTED]; P340-A, p.21. See also Đorđević, T.9585: "The MUP staff had experts, qualified people who were perfectly able to plan, decide how each mission would be executed, and what needed to be asked from the Priština

co-operation between the MUP and the VJ.<sup>908</sup> To ensure co-ordination at the ground level, the MUP Staff instructed MUP units to co-operate and liaise with their counterparts in the VJ in carrying out joint combat operations.<sup>909</sup>

389. Đaković, the Head of the PrK Department for Operations, described the co-ordination of joint VJ-MUP actions, and the exchange of information at the level of the PrK and MUP Staff.<sup>910</sup> Orders were issued for various stages of the operations and it was at this level that the PrK and the MUP Staff in Priština would co-ordinate.<sup>911</sup> Detailed plans would be drawn up according to activities to be carried out.<sup>912</sup> Đaković explained that co-ordination was not only carried out at the level of the MUP Staff, but also at the level of SUPs, combat groups and detachments, all the way down to the lowest level units.<sup>913</sup>

390. Đorđević testified about co-ordination between MUP and VJ in the implementation of the first stage of the 1998 summer offensive. He confirmed that units of the PJP, SAJ and JSO were involved in the implementation of the plan.<sup>914</sup> He explained that all police and army commanders would gather together in one place where they would receive the orders in separate envelopes (for the police and for the military) containing their respective sections of the action to be undertaken.<sup>915</sup> Having received these sections,

every commander of one force would know with which commander of the other force to co-ordinate. ...before operations police and army commanders would be in touch because their units were executing the same task. For this to be successful, they had to be well informed minute by minute of the situation on the ground and the location of their units.<sup>916</sup>

391. Đorđević testified that, when on the ground, each unit would possess a coded map of the area where the unit was active, with numeric designations of places, villages, etc. The MUP Staff and

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Corps in terms of assistance in order to successfully carry out the police tasks. Orders and related activities and control over police units was executed exclusively through the Staff".

<sup>908</sup> P764, pp.3-4 (during this meeting of 4 April 1999, a JSO commander Milorad Janković reported about co-operation with the VJ); P345, p.8.

<sup>909</sup> See e.g. P764, p.4, where Stevanović is recorded to say: "Conduct co-operation with the VJ through the commander on the ground and inform the Staff of any problems"; P345, p.8, a MUP Staff meeting of 11 May 1999 where Stevanović so instructed: "Co-operation with the VJ is carried out based on a map of military zones of responsibility. If co-operation is disrupted, submit a written report on the problems to the Staff HQ."

<sup>910</sup> Đaković, T.7955-7956. See, for more detail, Part III(A)(3)(b).

<sup>911</sup> Đaković, T.7997.

<sup>912</sup> Đaković, T.7996-7997.

<sup>913</sup> Đaković, T.7959.

<sup>914</sup> Đorđević, T.9582. Also Đaković confirmed co-ordination with the MUP Staff in the activities to implement the 1998 Plan (Đaković, T.7913).

<sup>915</sup> Đorđević, T.9580.

<sup>916</sup> Đorđević, T.9583-9584. See also P1061, a Communications Centre plan showing that the VJ and the MUP were using the same communication nets (Cvetić, T.6730-6732, 6854; P1061).

the PrK would also have a map of the action.<sup>917</sup> In Đorđević's words, "that was a system of co-operation and co-ordination".<sup>918</sup>

392. The Trial Record is replete with examples of joint activities carried out by VJ and MUP units in 1998. For example, at a MUP Staff meeting of 28 July 1998, Lukić reported that the second phase of the Plan had been completed, and that actions had been carried out in co-ordination with the VJ.<sup>919</sup> Also illustrative are two PrK decisions of August 1998, which provided for the joint engagement of MUP and VJ forces in the implementation of several anti-terrorist actions.<sup>920</sup> Both decisions also contained in the end the clause stipulating that the combat operations were to be "commanded by the Joint Command for Kosovo and Metohija".<sup>921</sup>

393. In 1999, joint VJ-MUP operations and activities continued, and led to the commission of the crimes charged in the Indictment. Witnesses and documentary evidence confirm the continuous co-ordination between the VJ and the MUP throughout the war in 1999.<sup>922</sup> The MUP Staff kept exercising a fundamental role in the implementation and co-ordination of those joint operations.

394. In February 1999, the VJ and MUP leadership began planning a large-scale anti-terrorist operation in Kosovo. During the 17 February 1999 MUP Staff meeting, Lukić announced a plan "to carry out three mopping up operations in the Podujevo, Dragobilja and Drenica areas".<sup>923</sup> The areas identified for these operations correspond to those envisaged in Lazarević's order of 16 February 1999,<sup>924</sup> thereby confirming co-ordination.

395. Đaković also confirmed co-ordination with the MUP Staff regarding the preparation and implementation of these operations.<sup>925</sup> He testified that the "Order to break-up and destroy forces of the Albanian terrorists in the sector of Malo Kosovo, Drenica, and Mališevo", dated 19 February 1999 (P889),<sup>926</sup> was sent to MUP units "to enable them to use it" and to "provide assistance".<sup>927</sup>

<sup>917</sup> Đorđević, T.9580-9581.

<sup>918</sup> Đorđević, T.9584.

<sup>919</sup> P688, p.3: the minutes record that Lukić "gave a detailed explanation about the locations at which actions had been carried out and about had been achieved, showing axes of action and other things on a topographic map".

<sup>920</sup> P890; P1232.

<sup>921</sup> P890, p.3; P1232, p.3.

<sup>922</sup> See e.g. P771, p.3 (Sainović: "The relationship between the VJ and the police has been defined and settled and this is functioning well"). See also Part III(A)(3)(b).

<sup>923</sup> P85, p.1.

<sup>924</sup> P889, p.4. See also Đaković, T.7938-7939.

<sup>925</sup> Đaković, T.7941-7942; P1234.

<sup>926</sup> Đaković, T.7941; P1234; P889.

<sup>927</sup> Đaković, T.7942; P1234.

Đaković said that he prepared the document (P1234),<sup>928</sup> and passed this template on, through the duty service, to Dušan Adamović at the MUP Staff.<sup>929</sup>

396. This large-scale operation planned in February was implemented down both chains of command in late March 1999 through a series of Joint Command orders. Pursuant to these orders, and in furtherance of the goals of the JCE, VJ and MUP units carried out joint combat actions in late March and April 1999 in the areas such as Orahovać, Suva Reka, and Velika Kruša;<sup>930</sup> Kosmač;<sup>931</sup> Malo Kosovo (Vucitrn);<sup>932</sup> Jezerce and Čičavica;<sup>933</sup> Drenica (Srbica);<sup>934</sup> Orlane-Zlas;<sup>935</sup> Zastrić;<sup>936</sup> Rugovo;<sup>937</sup> and Bajgora-Bare (Vucitrn/Kosovska Mitrovica).<sup>938</sup> These actions led to the crimes alleged in the Indictment.

397. MUP Staff minutes and other documents from 1999 confirm continued co-operation between MUP units and the VJ in conducting large-scale combat operations across Kosovo. For example:

- On 4 April 1999, Stevanović instructed those present to: "Conduct co-operation with the VJ through the commander on the ground and inform the Staff of any problems".<sup>939</sup>
- A 15 April 1999 Joint Command order directed the VJ and MUP to conduct combat operations in the areas of Jezerce and Budakovo.<sup>940</sup> Preparations for this operation were discussed at the MUP Staff meeting of 7 May 1999, attended by Sainović, Stevanović, Ilić, Lukić, and all SUP chiefs.<sup>941</sup> At that meeting, Sainović is recorded to say: "After Operation *Jezerce*, there will no longer be a large terrorist stronghold, except for 30 to 40 smaller-scale strongholds numbering 500 to 700 terrorists in areas in which the Secretariats themselves will destroy and completely neutralise them."<sup>942</sup> He further stated:

<sup>928</sup> Đaković, T.7943; P1234.

<sup>929</sup> Đaković, T.8106; P1234.

<sup>930</sup> P350.

<sup>931</sup> P1382.

<sup>932</sup> D105.

<sup>933</sup> P767; P955, p.39.

<sup>934</sup> P971; P972; P1383.

<sup>935</sup> P1384.

<sup>936</sup> P1386.

<sup>937</sup> P1328; P1396.

<sup>938</sup> P969; P959, p.13; P955, p.51.

<sup>939</sup> P764, p.4. *See also* P764, pp.1-2.

<sup>940</sup> P767.

<sup>941</sup> P771.

<sup>942</sup> P771, p.2.

“After Operation *Jezerce*, all PJP detachments will return to their Secretariats and in cooperation with the VJ work on destroying the remaining terrorist groups.”<sup>943</sup>

- On 9 May 1999, the PrK reported joint combat activities with the MUP in Budakovo village (549<sup>th</sup> Mtbr) and other localities.<sup>944</sup> At a MUP Staff meeting of 11 May 1999, commanders of the 124<sup>th</sup> and 35<sup>th</sup> PJP detachments reported on the successful completion of the *Jezerce* operation.<sup>945</sup>
- On 4 May 1999, Lazarević issued an order to PrK units to conduct an operation in the Bajgora area with MUP units, including the 35<sup>th</sup> PJP Detachment.<sup>946</sup> At the 11 May 1999 MUP Staff meeting, Colonel Prljkević, the 35<sup>th</sup> PJP Detachment Commander, reported that “operation on Bajgora went well.”<sup>947</sup>

398. The MUP Staff forwarded VJ orders to unit commanders participating in operations. For example, on 20 April 1999, Lukić forwarded to SUP chiefs and PJP commanders an order from Pavković on the treatment of refugees, with instructions to establish contact with the VJ commanders in their territories.<sup>948</sup>

399. PrK orders show that VJ and MUP units were operating together, and that anti-terrorist actions were conducted. For example, on 9 April 1999, Lazarević informed his subordinates that the MUP Staff had issued an order to all SUPs to plan actions to crush terrorists.<sup>949</sup> He then ordered his subordinates to co-ordinate actions with MUP units and to establish contacts with SUP chiefs in this regard.<sup>950</sup>

400. The PrK AOR’s security regime confirms joint activities between the VJ and the MUP. When combat operations were carried out, checkpoints were set up in the area of deployment of the units, and many were joint checkpoints manned by both MUP and VJ.<sup>951</sup> In a joint checkpoint, the MUP would deal with the passage of civilians and civilian vehicles, while the VJ would control the

<sup>943</sup> P771,p.2 (see also p.3).

<sup>944</sup> P1388,p.2.

<sup>945</sup> P345,pp.4-5. See also K25,P340-A,p.6.

<sup>946</sup> P1040.

<sup>947</sup> P345,p.4.

<sup>948</sup> P1392.

<sup>949</sup> P1039,p.1.

<sup>950</sup> P1039,p.1.

<sup>951</sup> See e.g. D248, a MUP Staff dispatch dated 26 March 1999, and signed by Lukić. Cvetić testified that, in executing this dispatch, SUPs set up check-points that were jointly manned by MUP and VJ forces (Cvetić,T.6817;D248). See also Đaković,T.7925.

passage of soldiers, members of the army, and military vehicles.<sup>952</sup> These joint checkpoints were based on a VJ/MUP agreement.<sup>953</sup>

(c) Supreme Defence Council (SDC) and Supreme Command (SC)

(i) The SDC and SC were key entities in implementing the objectives of the JCE

401. The SDC was the highest strategic civilian body in Belgrade. It was responsible for national defence and deployment of the VJ, and interfaced directly with the VJ General Staff, the highest level in the military chain of command.<sup>954</sup> The SDC became the SC during wartime.<sup>955</sup> The SDC/SC took a number of crucial decisions in 1998 and 1999 regarding the deployment and use of the VJ and subordinated units. These units committed crimes during the Indictment period in furtherance of the goals of the JCE.

402. The SDC was composed of the top echelons of the state. Pursuant to Article 135 of the FRY Constitution, the SDC had three members: the President of the Republic (Milošević), the President of Serbia (Milutinović), and the President of Montenegro (Đukanović).<sup>956</sup> The President of the Republic presided over the SDC, and commanded the VJ in accordance with the decisions of the SDC.<sup>957</sup>

403. During wartime, the SDC became the Supreme Command,<sup>958</sup> and the President of the FRY was referred to as the "Supreme Commander."<sup>959</sup> Pursuant to the FRY Law on Defence, the FRY President was, "in accordance with the decisions of the Supreme Defence Council," to order the implementation of the country's defence plan; command the VJ in wartime and peace; and decide on the country's territorial division into military areas.<sup>960</sup>

404. As Chief of the VJ General Staff, Ojdanić attended SDC meetings.<sup>961</sup> At those sessions, he reported to those present and also offered his opinions on crucial matters.<sup>962</sup> On 23 March 1999, the eve of the NATO intervention, the SDC adopted new Rules of Procedure, which heightened

<sup>952</sup> P685.

<sup>953</sup> P685.

<sup>954</sup> P44, Art.41; P1440, p.93 ("The General Staff of the Army is the [...] staff organ of the Supreme Defence Council."); Vasiljević, T.5655.

<sup>955</sup> Vlajković, D602, pp.76-77.

<sup>956</sup> P129, Art.135; Vasiljević, T.5655; Vlajković, D602, pp.76-77.

<sup>957</sup> P44, Arts.40,41; P129, Art.135; P43, Art.4; Vasiljević, T.5655.

<sup>958</sup> Vlajković, D602, pp.76-77.

<sup>959</sup> Vasiljević, T.5654-5656; Vlajković, D602, p.78.

<sup>960</sup> P44, Art.40.

<sup>961</sup> P1343; P1364.

<sup>962</sup> P1343, pp.1-3; P1364, p.1.

Ojdanić's involvement in SDC meetings, among other things.<sup>963</sup> The Chief of the General Staff and the Federal Minister of Defence, or their representatives, were now required to be present at all sessions.<sup>964</sup> They could call a session, and could also propose agenda items.<sup>965</sup>

405. The SDC, and the SC during wartime, made crucial decisions regarding the use of the VJ and subordinated units in 1998 and 1999. For example, during the fifth session in June 1998, the SDC unanimously concluded that: "should terrorist activities of the Albanian separatist movement escalate, the Army of Yugoslavia will intervene in adequate measure."<sup>966</sup> This decision led to the Plan to Suppress Terrorism in Kosovo during the summer of 1998, which involved the use of excessive and indiscriminate force by the VJ and the MUP.<sup>967</sup> During the seventh session in November 1998, the SDC decided to increase the military budget by seventy percent, thus enabling the VJ to conduct extensive combat operations in 1999.<sup>968</sup> Further, session minutes demonstrate that the SDC was familiar with the situation in Kosovo, and discussed it.<sup>969</sup> The SDC also discussed VJ personnel decisions, which were then approved by Milošević, including the promotions of General Ojdanić, General Pavković, and General Lazarević.<sup>970</sup>

406. As the most powerful strategic civilian body that interfaced with the highest military level, the SDC and the SC played a key role in the commission of the crimes charged in the Indictment. By taking decisions relating to the defence of the country, the deployment of the VJ and the appointments of Ojdanić, Pavković and Lazarević to the respective positions that they held during the Indictment period, these entities played a significant role in implementing the goals of the JCE.

(d) VJ General Staff and SC Staff

(i) The VJ General Staff and its war-time equivalent, the SC Staff, were key entities in implementing the objectives of the JCE.

407. The VJ General Staff was the highest level in the military chain of command. At the level of the VJ General Staff, the military interfaced with the SDC, the civilian leadership in Belgrade.<sup>971</sup>

<sup>963</sup> P1468. The new rules also required that decisions be adopted by consensus. P1468, Art.4.

<sup>964</sup> P1468, Art.3.

<sup>965</sup> P1468, Arts.3,5.

<sup>966</sup> P683, pp.1-2.

<sup>967</sup> P87, p.3. The excessive and indiscriminate force used by the VJ and MUP during the 1998 summer offensive is discussed in Part III, Section (A)(2)(b).

<sup>968</sup> P1363, pp.1-3.

<sup>969</sup> See e.g. P1343, pp.1-4; P682, pp.3-7; P683, pp.1-2.

<sup>970</sup> P1363, pp.3-5 (replacing General Perišić with General Ojdanić, over the objection of President Đukanović); P1343, p.8 (promoting Generals Pavković and Lazarević).

<sup>971</sup> P1440, p.93.



It was the highest expert and staff organ for the preparation and engagement of the VJ.<sup>972</sup> The VJ General Staff developed plans, directives, orders and other instruments of command that were indispensable to the military operation.<sup>973</sup>

408. Dragoljub Ojdanić was the Chief of the VJ General Staff. As such, he was the highest ranking officer in the VJ.<sup>974</sup> He had authority over all VJ forces, and commanded them through the issuance of orders and other instruments of command.<sup>975</sup> He also determined matters such as recruitment, training regulations, education plans, and the organisation and establishment of commands, units and institutions within the VJ.<sup>976</sup>

409. During a state of war, the VJ General Staff became the SC Staff, and Ojdanić became Chief of the SC Staff.<sup>977</sup> Subordinate commands reported daily to the operations centre of the SC staff, which summarized the information in a combat report that was provided to the SC Staff each day.<sup>978</sup> Further, the SC Staff held daily evening briefings.<sup>979</sup> Meetings were chaired by Ojdanić, as Chief of the SC Staff, or a replacement officer.<sup>980</sup> In line with its position as the most authoritative VJ organ, at the evening meetings the SC Staff was briefed as to the situation on the ground during the past twenty-four hours, and addressed key military matters arising during the war.<sup>981</sup>

410. As Chief of the VJ General Staff and the SC Staff, Ojdanić planned, ordered, coordinated and commanded the VJ and subordinated units that committed the crimes charged in the Indictment. The large-scale combat operations that were conducted during the Indictment period by the VJ and subordinated units would have been impossible without the role played by the VJ General Staff and the SC Staff.

(e) Co-ordination of the VJ and the MUP

411. According to Article 17 of the FRY Law on Defence, during a state of war, MUP units and organs carrying out combat assignments shall be subordinated to the VJ officer commanding combat operations.<sup>982</sup>

<sup>972</sup> P1440,p.97;P43,Art.5.

<sup>973</sup> See e.g. D179;P1502;P1452.

<sup>974</sup> P43,Arts.5-6.

<sup>975</sup> P43,Art.6;D179,p.13;P1502,p.1.

<sup>976</sup> P43,Art.5.

<sup>977</sup> Vasiljević,T.5657-5658;Vlajković,T.11196.

<sup>978</sup> Ćurčin,T.10712-10715.

<sup>979</sup> Vlajković,T.11258,D600,paras.18, 21.

<sup>980</sup> Vlajković,T.11258,D600,paras.18, 21.

<sup>981</sup> Vlajković,T.11259.

<sup>982</sup> P44,Art.17.

412. Once the state of war was declared on 24 March 1999, the MUP did not submit to full subordination to the VJ for combat operations. Rather, MUP units engaged in joint combat actions on the basis of Joint Command decisions.<sup>983</sup> Between 18 and 20 April 1999, Ojdanić, Pavković and Lazarević issued orders on the subordination of the MUP to the VJ, indicating that up to that period, the subordination had not occurred.<sup>984</sup>

413. During Đorđević's visit to Priština on 18 April 1999, he met with Generals Pavković and Lazarević at the PrK HQ to discuss Ojdanić's order on re-subordination of the MUP to the VJ. Lukić, Stevanović and Đaković were also at that meeting.<sup>985</sup> Đaković testified that without explaining anything, Pavković handed Ojdanić's order (P1238) to Đorđević for him to read.<sup>986</sup> After taking a minute or so to read it, Đorđević gave the document back to Pavković and said, "What do you mean Ojdanić? Who does he think he is that he can command? There will be no re-subordination until we receive such an instruction, an order, from the Minister."<sup>987</sup>

414. Đaković was somewhat surprised because he had not expected this issue to be raised. Some informal conversation lasted for a couple of minutes, and after that the meeting ended without anything having been settled or defined.<sup>988</sup> Đaković explained that re-subordination did not take place because the Minister did not issue an order instructing the police to do so.<sup>989</sup>

415. Đorđević confirmed he attended this meeting.<sup>990</sup> He said he told Pavković that he had just arrived from Belgrade. "We hadn't received any dispatch to this effect and it was totally unclear to me how the Chief of General Staff was going to resubordination organs of the interior without the knowledge of the minister of the interior."<sup>991</sup> Đorđević returned to Belgrade that evening and discussed the matter with the Minister.<sup>992</sup> Some days later, the Minister told him that the matter had been resolved and it was not raised again.<sup>993</sup> Đorđević said that "the police kept doing their job in concert of the Yugoslav Army according to the regulations."<sup>994</sup>

416. Although the subordination of the MUP to the VJ was not strictly adhered to, the evidence conclusively demonstrates that the VJ and MUP acted in close coordination during the Indictment

<sup>983</sup> See *supra*, paras 294-307.

<sup>984</sup> P887;D204;P1238;Đaković,T.7962-7263 .

<sup>985</sup> Đaković,T.7964-7966.

<sup>986</sup> Đaković,T.7966;8090.

<sup>987</sup> Đaković,T.7966;8090-8091.

<sup>988</sup> Đaković,T.7966-7967.

<sup>989</sup> Đaković,T.7967.

<sup>990</sup> Đorđević,T. 9738-9740.

<sup>991</sup> Đorđević,T.9739.

<sup>992</sup> Đorđević,T.9740.

<sup>993</sup> Đorđević,T.9740

<sup>994</sup> Đorđević,T.9741

period. The VJ planned and drafted combat orders (including Joint Command orders) and liaised with members of the MUP Staff to carry out joint tasks.<sup>995</sup> As described elsewhere in the brief, the *modus operandi* of combat operations involved both VJ and MUP participation.

417. That coordination existed is further evidenced by the fact that, when combat actions were carried out, joint checkpoints were set up in the area of deployment of the units.<sup>996</sup> These checkpoints were set up on the basis of an agreement between the MUP and the VJ.<sup>997</sup> Coordination between the VJ and the MUP was essential to carry out the common plan.

### **B. The implementation of the JCE in 1999**

418. Following the pattern that emerged in 1998, the JCE members implemented the common criminal purpose to modify the ethnic composition of Kosovo through the commission of crimes charged in the Indictment. Instead of searching for a peaceful settlement, JCE members prepared for the Spring offensive, during which numerous crimes were committed by the forces of the FRY and Serbia.

#### **1. The leadership of the VJ and the MUP prepare to launch an offensive in the Spring**

419. In early 1999, the VJ and the MUP leadership in Belgrade began planning large-scale combat operations in Kosovo to be launched in the spring. Preparations for this extensive offensive were being finalised, even as authorities of the FRY and Serbia were supposed to be engaged in peace negotiations at Rambouillet and Paris.

420. The NATO bombardment provided the perfect window of opportunity to the members of the JCE to carry out their plans. On its face, the Spring offensive appeared to be a legitimate operation against NATO and the KLA. However, as evidenced by events on the ground, its purpose was the commission of crimes against Kosovo Albanians to further the common purpose of the JCE.

421. The deployment and engagement of large numbers of VJ and MUP units in complex operations required advance planning by the VJ (Ojdanić) and the MUP (Đorđević, Stojiljković, Marković, Stevanović) in Belgrade, and the Joint Command (Đorđević, Šainović, Pavković, Lazarević, and Lukić) in Priština. These operations resulted in the crimes alleged in the Indictment, in particular, the massive displacement of Kosovo Albanian civilians as VJ and MUP units swept

<sup>995</sup> See generally Part III, Section(A)(3)(b)(i).

<sup>996</sup> See generally Part III, Section(A)(3)(b)(ii).

<sup>997</sup> P685.

through large parts of the territory where many of the Indictment sites are located. The concerted nature of these joint operations demonstrated the existence of a plan.

(a) The VJ and MUP leadership planned the Spring offensive

422. Between January and early March 1999, joint VJ and MUP operations that were to be conducted in the spring of 1999 were planned. On 16 January, Ojdanić issued the *Grom 3* directive for the engagement of the VJ to prevent the introduction of the multinational NATO brigade into Kosovo. The directive sets out tasks to be implemented in two stages: the objective of the first stage was to prevent NATO from entering Kosovo, and the objective of the second stage was the elimination of NATO as well as “terrorist” forces.<sup>998</sup> VJ forces were to work in co-operation with MUP forces during the implementation of these tasks.<sup>999</sup>

423. During the VJ Collegium on 21 January, a plan of operation against NATO and the KLA during the spring was discussed in detail.<sup>1000</sup> Col-Gen Bojović spoke about a plan that would include “all forces in Kosovo and Mehtohija,” that had the following goal: “[...] to conduct emergency warfare in a specific way throughout the entire territory of Kosovo and Metohija on a massive scale, so that the terrorists have nowhere they can feel safe [...] and ultimately, prevent that spring from coming and not to wait for it.”<sup>1001</sup> The Spring offensive was planned as a joint operation. As noted by Bojović, the “MUP cannot do it on their own”.<sup>1002</sup>

424. Ojdanić’s *Grom 3* directive was implemented down the VJ chain of command by Pavković and then Lazarević.<sup>1003</sup> On 27 January, Pavković issued the 3<sup>rd</sup> Army’s *Grom 3* order specifying the two stages mentioned in Ojdanić’s directive.<sup>1004</sup> On 16 February, Lazarević issued a PrK Command order for the elimination of the Albanian “terrorist” forces in the sectors of Malo Kosovo, Drenica and Mališevo/Malishevë.<sup>1005</sup> The tasks listed in this order were to be carried out by the PrK in co-ordination with the MUP forces.<sup>1006</sup>

<sup>998</sup> D179,p.7. See also Čurčin,T.10686-10688.

<sup>999</sup> D179.

<sup>1000</sup> P902,pp.24-26.

<sup>1001</sup> P902,pp.24-25.

<sup>1002</sup> P902,p.28.

<sup>1003</sup> Đaković,T.8063. See D179,D343,P889. See also Čurčin, commenting that D343 was an example of the implementation of *Grom 3* directive where “the army command copies, literally, the assignment which they were issued by the General Staff.” (T.10690).

<sup>1004</sup> D343,pp.3, 5-7;Đaković,T.8063.

<sup>1005</sup> P889,p.4, item 2. See also D179,D343 which precede P889. Đaković,T.7939-7940,8063-8064.

<sup>1006</sup> P889,p.4. See also P1234 that is nearly identical to P889 in format and contains orders for the MUP. Đaković, testified that this was not an order but a template. That is why his initials are on the template which was provided to the MUP. (Đaković,T.7941-7943,8106).

425. On 17 February, the day after Lazarević issued his order implementing *Grom 3*, the most senior MUP leaders, namely, Đorđević, Stojiljković, Marković and Stevanović met with the MUP Staff in Priština.<sup>1007</sup> Stojiljković said: "Within two or three days of an attack, we have to put our plans in motion and use the time to clear the territory of terrorists."<sup>1008</sup> Lukić outlined the MUP Staff plans on three mopping up operations in the Podujevo/Podujevë, Dragobilja and Drenica areas.<sup>1009</sup> The areas identified for these actions broadly correspond to those envisaged in Lazarević's order of 16 February.<sup>1010</sup> In that order, the PrK instructed its subordinate units to act in co-ordination with certain MUP units (22<sup>nd</sup> PJP, 35<sup>th</sup> PJP, 37<sup>th</sup> PJP, the SAJ and the JSO),<sup>1011</sup> thus demonstrating that the VJ and the MUP cooperated in order to plan the major operations in Malo Kosovo, Drenica and Mališevo/Malisheva.

426. After they planned the Spring offensive, the VJ and MUP leadership took steps to implement the offensive. Their concrete actions set out below evidence the existence of a well-planned offensive that was implemented across Kosovo:<sup>1012</sup>

- The VJ and the MUP fortified their units in Kosovo and incorporated armed non-Albanian civilians into their ranks.
- The VJ and the MUP amassed weaponry in Kosovo.

(i) The VJ and the MUP fortified their units in Kosovo and incorporated armed non-Albanian civilians into their ranks

427. In violation of the October Agreements, the VJ fortified its units in Kosovo. From February 1999 onwards, the VJ followed the practice of leaving a platoon-sized group of soldiers in Kosovo after each military operation.<sup>1013</sup> The VJ also brought a number of units into Kosovo to augment its forces. These included the 37<sup>th</sup> Motorised Brigade,<sup>1014</sup> the 72<sup>nd</sup> Special Brigade, the 211<sup>th</sup> Armoured

<sup>1007</sup> Đorđević, T.6976; P85.

<sup>1008</sup> P85, p.3.

<sup>1009</sup> P85, p.1.

<sup>1010</sup> P889, p.4, item 2.

<sup>1011</sup> P889, p.6, item 5.

<sup>1012</sup> P833, pp.40-41. Ciaglinski testified that the KVM saw a number of indicators which revealed that an operation was being planned for the spring. These indicators included the deployment of troops from their barracks into winter exercise areas and an increase in the number of conscripts and ammunition columns coming into Kosovo.

<sup>1013</sup> Drewienkiewicz, P996, para.187.

<sup>1014</sup> P1369, p.22, entry 181 for 10 March 1999. On the authenticity of P1369, Philip Coo stated that the contents of the operations log and the war diary tended to match the contents of documents acquired independently, such as that of daily combat reports (Coo, T.8556). P1369 is also consistent with known events established by witnesses (See, e.g., Ciaglinski, T.5267; Drewienkiewicz, T.6373-6374, 6380-6381; P1010 and other documents provided independently (P934 and P1341, pp.16, 24-25).

Brigade and the 252<sup>nd</sup> Armoured Brigade.<sup>1015</sup> In April 1999, the 37<sup>th</sup> Motorised Brigade was re-subordinated to the PrK and remained in Kosovo until June 1999.<sup>1016</sup>

428. In February 1999, the VJ also began augmenting its troops on the Kosovo border. At the VJ Collegium of 18 February, Ojdanić stated: "Do not take units into Kosovo but deploy them in the border area," so that they could intervene rapidly in the province.<sup>1017</sup> Nevertheless, in contravention of this order to keep units at the border, Pavković brought the 72<sup>nd</sup> Special Brigade unit into the interior of Kosovo.<sup>1018</sup>

429. In February, as the Rambouillet peace talks continued, the Serb forces took the opportunity to amass more troops and equipment in Kosovo while intensifying their operations on the ground.<sup>1019</sup> While at Rambouillet, Veton Surroi received reports from his associates in Priština that the police were intensifying their activities in Kosovo.<sup>1020</sup> During the three weeks between the Rambouillet and Paris negotiations, Merovci estimated around 30,000 troops entered Kosovo.<sup>1021</sup> He said, "At the time we are talking about, this three-week period, the arrival of Serb troops from Serbia to Kosova was a matter of day. It was a transparent issue, everybody could see that. Now, the Serbs no longer took pains to cover-up their activities under the guise of expected air-strikes. So they brought their troops in broad daylight."<sup>1022</sup>

430. A number of other witnesses also made similar observations. Drewienkiewicz described this new strategy as, "reinforcing overtly".<sup>1023</sup> Michael Phillips and Knut Vollebaek also saw an increase in MUP and VJ strength.<sup>1024</sup> KDOM reports document this observation:<sup>1025</sup>

- On 12 February, KDOM reported that extensive VJ troop and equipment movement the day before had caused villagers to flee their homes in Lapusnik/Lapušnik.<sup>1026</sup>

<sup>1015</sup> P1452, items 4-5; P1341, pp.12,24. See also Čurčin, T.10706.

<sup>1016</sup> P1530; Novaković, T.11175.

<sup>1017</sup> P1338, pp.4, 16. See also P1333, pp.20-21. Ojdanić pointed out that "one group" of the VJ forces in Kosovo was in contravention of the Clark-Naumann Agreement.

<sup>1018</sup> P1341, pp.16.

<sup>1019</sup> Surroi, T.288; Rugova, P285, p. 8; Merovci, P416 paras.32,38; T.2207; P417, pp.18-19.

<sup>1020</sup> Surroi, T.288.

<sup>1021</sup> Merovci, P417, pp.19-21.

<sup>1022</sup> Merovci, T.2209. In contrast, in his statement Merovci said that "the introduction of troops was done quietly and discreetly, usually at night. Priština was a relatively small town, though, so everyone was aware of the additional tanks and trucks that were coming in." (P416, para.38.) This apparent contradiction is explained by the marked change in the attitude of the Serbian authorities during the three week period between the conclusion of the Rambouillet and Paris Conferences (Merovci, T.2208-2209). Given the backdrop of the failing talks, they made less of an effort to conceal their actions in reinforcing their troops in Kosovo.

<sup>1023</sup> Drewienkiewicz, P1010; T.6381.

<sup>1024</sup> Phillips, T.8697 (Phillips saw a rise in the number of armoured vehicles and convoy size); Vollebaek, P1072, pp.29-30; P1073, p.9 (Vollebaek noticed a large number of tanks, gunfire and an overall large military build-up).

<sup>1025</sup> Phillips, T.8699-8700. Phillips confirmed these reports to be generally accurate and consistent with his personal observations or awareness of the activities described therein.

- On 19 February, KDOM reported on “a visible increase in the movement of FRY VJ and police units and their equipment has been noted in the past 24 hours.”<sup>1027</sup> The report describes “unusually heavy concentrations of FRY armour and heavy artillery deployed in that sector of Serbia just north of Kosovo. These forces seem to be poised along a road leading directly to Podujevo/Podujevë.”<sup>1028</sup>
- On 22 February, KDOM reported on “extensive movements of VJ and MUP personnel and equipment. Several small convoys of armoured vehicles and trucks were seen near Podujevo/Podujevë and Stimlje/Shtime.”<sup>1029</sup>

431. In Uroševac municipality, Bedri Hyseni saw a build-up of Serb forces about a month before the NATO bombing.<sup>1030</sup> These forces comprised primarily of police reservists, who worked in co-operation with the regular VJ and MUP forces.<sup>1031</sup> The VJ forces arrived about one month before the bombing, using tanks and pinzgauer jeeps.<sup>1032</sup> Similarly, at the end of February, Antonio Russo saw the VJ deploying large numbers of troops, tanks, and APCs surrounding Priština.<sup>1033</sup>

432. In early March, the KVM observed in the vicinity of Palivodenica and Kotlina/Kotlinë, a large VJ convoy comprised of 13 artillery pieces and armoured vehicles.<sup>1034</sup> This was the largest number of artillery pieces seen in one convoy.<sup>1035</sup> In the Prizren area, on 8 March, the KVM observed a VJ convoy believed to consist of military police/special forces.<sup>1036</sup>

433. By mid-March, the KDOM reported that:

Reports from the field today indicate that the Serbs continue to move sizeable reinforcements in and around Kosovo. As of yesterday, there were some 18,000-21,000 troops poised just outside the province. Over the past 3 days, there have been significant troop movements along the Albanian border and near Priština. The KVM reported yesterday two VJ convoys in the Gnjilane region including 80 armed Serb civilians (presumably reservists).

<sup>1026</sup> Phillips, T.8699-8700; P1304, p.1.

<sup>1027</sup> P1305, p.1. *See also* Phillips, T.8700.

<sup>1028</sup> P1305, p.1.

<sup>1029</sup> P1306, p.1; Phillips, T.8701.

<sup>1030</sup> T.4483,4908; P809, p.4, paras.1-3; P810, pp.3-4.

<sup>1031</sup> Hyseni, T.4908; P809, p.4, paras.1-3; P810, pp.3-4.

<sup>1032</sup> Hyseni, P809, p.4, para.1; P810, p.3.

<sup>1033</sup> Russo, P1213, p.3.

<sup>1034</sup> P1077, p.2, item 4; P1029, p.40. For an explanation about the “Blue Book”, *see* Drewienkiewicz, P997, pp.35-

42; T.6400-6402, 6418, 6446.

<sup>1035</sup> P1077, p.2, item 4; P1029, p.40.

<sup>1036</sup> P1029, p.48.

The Serb troop movements as well as their attacks on ethnic Albanian villages appear to be designed to further destabilize the situation during the peace talks in Paris. The number of FRY and Serbian troops now out of barracks and in Kosovo and the introduction of new battle tanks puts Belgrade grossly out of compliance with the obligation it undertook last October.<sup>1037</sup>

434. Increases in the number of VJ units devoted to the PrK were reported by Čurčin at VJ Collegium meetings on 25 February and 11 March.<sup>1038</sup>

435. Another factor that contributed to the troop build-up was the extension of the period of service for the VJ conscripts serving in Kosovo which resulted in an increase in the number of VJ personnel in Kosovo. At the VJ Collegium on 25 February, Samardžić, made a proposal to extend the period of service of VJ conscripts in Kosovo.<sup>1039</sup> In mid-March, the FRY had adopted legislation that implemented this.<sup>1040</sup> Both Ciaglinski and Drewienkiewicz confirmed that VJ conscripts were retained beyond their normal service term.<sup>1041</sup> Around this time, the KVM also sighted probable VJ reservists in the Prizren and Orahovac area and noted that reservists had been mobilised, most likely in preparation for actions following the conclusion of the peace talks.<sup>1042</sup>

436. The VJ and the MUP leadership also increased the size of their units by engaging armed non-Albanian civilians to participate in joint operations.<sup>1043</sup> At the VJ Collegium on 30 December 1998, Dimitrijević reported that there were 60,000 Serb armed civilians, "that can be mobilised outside the control of the official organs."<sup>1044</sup> At the VJ Collegium on 21 January 1999, Dimitrijević highlighted the "realistic possibility" of Serbian population becoming radicalised and organising themselves into resistance groups, based on the "number of people owning or having been distributed weapons".<sup>1045</sup>

437. The discussions during the VJ Collegium on 2 February, underline the VJ's role in distributing weapons to non-Albanian civilians.<sup>1046</sup> During this Collegium, Ojdanić stated, "I've

<sup>1037</sup> P1310,p.1; Phillips,T.8704. See also P1029,p.92. KVM reporting seeing two buses with 80 armed civilians headed from Gnjilane towards Priština; the armed civilians were believed to be reservists called up for active duty.

<sup>1038</sup> P1341,pp.11-12;P965,pp.11-12. At T.10706, Čurčin said that the peacetime composition of the 37<sup>th</sup> Motorized Brigade of the 2<sup>nd</sup> Army from Raška Garrison was to be relocated to Kosovska Mitrovica and the 21<sup>st</sup> Combat Group from Niš was to be subordinated to 234<sup>th</sup> Motorized Brigade of the PrK, stationed in Uroševac.

<sup>1039</sup> P1341,pp.18-19.

<sup>1040</sup> Drewienkiewicz,P996,paras.168,188.

<sup>1041</sup> Ciaglinski,P833,pp.44-45;P844,p.7 ("16 March 1999, Extension of VJ conscript service by 30 days"); Drewienkiewicz,P996,paras.168,188.

<sup>1042</sup> P1029,p.75. See also P1029,p.48. Sighting of new and professional VJ units (possibly military police/special forces) in black berets.

<sup>1043</sup> See Part III(A)(2)(a).

<sup>1044</sup> P1330,p.9.

<sup>1045</sup> P902,p.16.

<sup>1046</sup> P1333,p.23;P688,p.7 (The MUP was also distributing weapons to civilians).



heard that there were around 50,000 armed Serbs.”<sup>1047</sup> Samardžić reported that 47,000 weapons had been issued and several thousands had already left with the weapons.<sup>1048</sup> In preparation for the spring offensive, at a MUP Staff meeting of 17 February 1999, Stojiljković gave instructions for the use of RPOs in case of conflict.<sup>1049</sup>

438. Like the VJ, the MUP fortified its units in Kosovo. In late February/March 1999, special MUP forces arrived from outside Kosovo in large numbers.<sup>1050</sup> Ciaglini testified about a particular feature of the MUP in Kosovo — they behaved like soldiers and played mainly a military role,<sup>1051</sup> fighting like infantry soldiers.<sup>1052</sup> Ciaglini also witnessed qualitative improvements as regards the “new” MUP forces in Kosovo in 1999, testifying that these MUP were: “much more highly motivated, more disciplined, almost like elite Special Forces [...] the final echelon of MUP.”<sup>1053</sup> The “new” MUP was equipped with better, deadlier equipment.<sup>1054</sup> In the field, they were armed with assault rifles and wore combat gear and modern Kevlar helmets.<sup>1055</sup>

439. Drewienkiewicz made a similar observation during the joint operation in Vučitrn/Vushtrri in March 1999. He noted the arrival of a company-sized MUP unit which appeared better trained and equipped than the regular MUP.<sup>1056</sup> The members of this unit were fitter and exhibited higher morale.<sup>1057</sup> Instead of the standard blue camouflage uniform, they wore green camouflage uniforms with the word “Milicija” printed on the webbing of the back.<sup>1058</sup> Their equipment was also different. They carried rifle-launched grenades on their backs.<sup>1059</sup> Drewienkiewicz saw this unit for the first time in Vučitrn/Vushtrri.<sup>1060</sup> A similar unit had been observed in the Kačanik/Kaçanik area around the same time.<sup>1061</sup>

440. In addition to the regular MUP, PJP units were also involved in joint operations. For example, in mid March, during heavy fighting in Klina, PJP units were observed.<sup>1062</sup> PJP units were

<sup>1047</sup> P1333,p.23.

<sup>1048</sup> P1333,p.23. *See also* P975;P901.

<sup>1049</sup> P85,p.3.

<sup>1050</sup> Ciaglini,P832,p.12,para.6,p.13,para.1;T.5274-5275,5279.

<sup>1051</sup> P833,pp.41,46. Ciaglini said that 99% of the MUP he saw in Kosovo were performing a military function and carried out typical military tasks. P832,p.12, para.3. *See also* P1400,para.13.

<sup>1052</sup> T.5274.

<sup>1053</sup> T.5274-5275.

<sup>1054</sup> Ciaglini,P833,p. 41.

<sup>1055</sup> Ciaglini,P833,p. 41, 46.

<sup>1056</sup> T.6376,6378;P996,para.190.

<sup>1057</sup> Drewienkiewicz,T.6376;P996,para.190.

<sup>1058</sup> Drewienkiewicz,T.6376;P996,para.190;P997,p.89. Drewienkiewicz identified the webbing of the police uniform in P316 as similar to that worn by the special forces in question. (P997,pp.88-89).

<sup>1059</sup> Drewienkiewicz,T.6376;P996,para.190.

<sup>1060</sup> T.6376.

<sup>1061</sup> Drewienkiewicz,T.6376;P996,para.190.

<sup>1062</sup> Drewienkiewicz,T.6408;P1029,p.84.

also involved in operation in the Ješkovo operation in March.<sup>1063</sup> According to Drewienkiewicz, PJP presence was significant because these units were more competent and better trained.<sup>1064</sup> Moreover, PJP were more mobile as the units could be deployed to various areas based on need and were not tied to a particular location.<sup>1065</sup>

(ii) The VJ and the MUP amassed weaponry in Kosovo

441. In addition to an increase in the number of units, there was also a huge influx of more modern and powerful equipment to Kosovo.<sup>1066</sup> For example:

- On 27 February, a large VJ convoy that stretched for over 50 kilometres was seen travelling from Belgrade towards Niš and presumably towards Kosovo.<sup>1067</sup> The convoy that included 15 Pragas, 15 BOV-3s and 40-50 troop carrying trucks was never seen returning to Belgrade.<sup>1068</sup>
- In mid-March, the KVM reported that a large VJ armoured group had arrived into Mitrovica/Mitrovicë by train from outside Kosovo.<sup>1069</sup> The convoy headed towards Srbica/Skenderaj and had, among other things, seven M-84 tanks<sup>1070</sup> and other equipment that was far more advanced than previously used in Kosovo.
- On 16 March, over 50 vehicles were brought to an airfield south of Podujevo/Podujevë including two M-84s.<sup>1071</sup>
- On 17 March, KDOM reported that the FRY was actively reinforcing its military and police troops with new equipment, including T-72 tanks which are larger than those previously used in Kosovo.<sup>1072</sup>

442. This change from a 1950s tank (T-55) to a newer model from the 1980s (T-84) was significant.<sup>1073</sup> In terms of equipment, the VJ brought in new T-84 tanks while the MUP brought in new APCs.<sup>1074</sup>

<sup>1063</sup> Drewienkiewicz, P1009.

<sup>1064</sup> T.6408.

<sup>1065</sup> Drewienkiewicz, T.6408.

<sup>1066</sup> Ciaglinski, T.5267.

<sup>1067</sup> Drewienkiewicz, P1029, p.39. Twelve additional trucks were spotted along the road undergoing repairs.

<sup>1068</sup> Drewienkiewicz, T.6405-6406; P1029, p.39.

<sup>1069</sup> Ciaglinski, T.5268, P833, pp.40-41; P1029, p.91.

<sup>1070</sup> P1029, p.91.

<sup>1071</sup> P1029, p.93.

<sup>1072</sup> P1309; Phillips, T.8703-8704; Drewienkiewicz, T.6374, 6381; P996, para.188; P844, p.7; *See also* P1029, p.41;

Drewienkiewicz, P997, pp.89-92.

<sup>1073</sup> Ciaglinski, T.5268.

<sup>1074</sup> Ciaglinski, T.5267.

443. By the spring of 1999, the VJ and the MUP had amassed the troops and armaments required to launch an offensive. As reported by KDOM on 12 March 1999:

Serb force levels have been augmented and remain poised throughout Kosovo for what may be a wider offensive against the ethnic Albanians.<sup>1075</sup>

## 2. Launching the Spring offensive

444. After building up their forces and weapons in Kosovo, the VJ and MUP intensified their joint actions there. By late February/early March 1999, large scale operations targeting civilians were conducted jointly.<sup>1076</sup> The *modus operandi* of these operations mirrored that of the 1998 summer offensive. Specifically, the VJ usually provided outer cordon and heavy artillery support, while the ground forces were almost exclusively the MUP. According to Ciaglinski the MUP were responsible for the burning and the attacks on villages.<sup>1077</sup>

445. From late February/mid-March 1999, the VJ and the MUP were “definitely on the offensive [...]”.<sup>1078</sup> A number of witnesses testified about these joint VJ/MUP operations in several areas of Kosovo conducted during this period. K82 and K54, two VJ soldiers, testified about a large scale joint operation in Ješkovo.<sup>1079</sup> Approximately 1,000 VJ and 300 MUP personnel (including PJP) participated in the operation which involved completely surrounding the village.<sup>1080</sup>

446. Heavy military equipment such as three-barrel anti-aircraft guns and Pragas was used in this operation.<sup>1081</sup> Delić, the Commander of the 549<sup>th</sup> Motorised Brigade, ordered over the radio for firing to start as soon as the first shell hit the village.<sup>1082</sup> [REDACTED].<sup>1083</sup> The soldiers were told to “clean up the village” (“očistiti”), which K82 understood to mean that no one should remain alive in the village.<sup>1084</sup> They were also told that only KLA soldiers were in the village.<sup>1085</sup> PJP units

<sup>1075</sup> P1308,p.1;Phillips,T.8703.

<sup>1076</sup> Drewienkiewicz,P1009.

<sup>1077</sup> Ciaglinski,T.5259-5260.

<sup>1078</sup> Drewienkiewicz,P996,para.190.

<sup>1079</sup> K82,P1315,para.6;T.8859; [REDACTED]. See also P1029,p.64 (joint VJ/MUP operation in villages near Prizren which was believed to be aimed at clearing the KLA from Ješkovo) and p.68 (The KVM reported the sighting of 20-25 PJP members wearing VJ type camouflage uniforms with the PJP flash on the right shoulder, without rank insignia, and armed with AK weapons. The unit was thought to have been involved in the Ješkovo operation the day before). See also D791.

<sup>1080</sup> K82,P1315,para.6;T.8860. See also K82,P1321; [REDACTED].

<sup>1081</sup> K82,P1315,para.6.

<sup>1082</sup> K54,T.4373.

<sup>1083</sup> [REDACTED].

<sup>1084</sup> K82,P1315,para.6;T.8861.

<sup>1085</sup> K82,P1315,para.6;T.8861.

participated in this operation.<sup>1086</sup> The village was then “cleared” and both K54 and K82 saw several bodies in civilian clothes.<sup>1087</sup> In late February, the 549<sup>th</sup> Motorised Brigade conducted another joint operation with the MUP (this included a PJP unit from Prizren SUP), this time in the Suva Reka/Suharekë area.<sup>1088</sup> Delić reported that “cooperation with MUP was exemplary.”<sup>1089</sup>

447. In late February/early March, following a large operation in Vučitrn/Vushtrri villages located to the southwest of Vučitrn were shelled and burnt.<sup>1090</sup> Drewienkiewicz observed “large amounts of black smoke rising from burning villages.”<sup>1091</sup> On 13 March, heavy fire was reported throughout the day in the Vučitrn/Vushtrri area and houses were seen burning in some of the villages.<sup>1092</sup> The KVM patrol found the village of Salce completely destroyed, while prior to this incident, only a few houses had been damaged.<sup>1093</sup> As was usually the case, the MUP led this operation with the VJ acting in support.<sup>1094</sup>

448. Also in late February/early March, an operation was conducted in Kačanik/Kaçanik.<sup>1095</sup> On 11 March, KDOM reported about the VJ’s vast sweep operations that week in the area west of the Kačanik/Kaçanik to Đeneral Janković highway that had forced hundreds of villagers from their homes.<sup>1096</sup> After the Kačanik operation, the VJ left platoon or section sized units at key locations along the road to Đeneral Jankovic.<sup>1097</sup>

449. Both the Vučitrn and Kačanik operations were ordered and planned at least at the PrK level since they occurred in areas under the responsibility of at least two different brigades.<sup>1098</sup> Leif Windmar (Head of KVM Regional Centre 2, Kosovska Mitrovica) wrote to Drewienkiewicz on 12 March that in the Vučitrn area: the “VJ/MUP are now co-ordinating their activities in a much better

<sup>1086</sup> K82,T.8861;P1321,pp.16-17; [REDACTED].

<sup>1087</sup> K82,T.8862;P1315,para.6.

<sup>1088</sup> P1387.

<sup>1089</sup> P1387,p.2.

<sup>1090</sup> Drewienkiewicz, T.6407,P996,para.192;P844,p.7;P1029(A1),pp.51,67. On 11 March 1999, there were houses burning in village of Donje Stanovce near Vučitrn and a KVM patrol established that 7 houses were burnt in the village; See also Ciaglinski, T.5259-5260.

<sup>1091</sup> Drewienkiewicz,T. 6375,6376;P996,para.190.

<sup>1092</sup> P1029,p.74.

<sup>1093</sup> P1029,p.74.

<sup>1094</sup> CiaglinskiT.5259-5260,5278;Drewienkiewicz,P996,para.190;

<sup>1095</sup> Drewienkiewicz,T.6374-6375;P996,paras.190-191;P844,p.7;P1029,p.52.

<sup>1096</sup> P1307,p.1;Phillips,T.8703.

<sup>1097</sup> Drewienkiewicz, P996,para.191; See also P1029,p.59. See also P1029(A2),p.62. On 11 March, the village of Osljane to the south of Mitrovica municipality was shelled by T-55 tanks and mortars; burning houses were observed after the attack.

<sup>1098</sup> Drewienkiewicz,P996,para.190.

way than before and it is very obvious that they are performing a planned operation against the Albanian population".<sup>1099</sup>

450. At the VJ Collegiums, the VJ leadership discussed these large-scale joint operations in March 1999.<sup>1100</sup> At the VJ Collegium on 18 March, Dimitrijević reported that the number of KLA attacks against the VJ had intensified.<sup>1101</sup> Dimitrijević further stated: "There have been 16 attacks on our army units in one week. [...] a mopping-up of the terrain had been launched. Hence, it was presumably giving support to the MUP."<sup>1102</sup> He also referred to receiving information from the media that "the VJ is launching operations, destroying this or that."<sup>1103</sup> Pantelić referred to the large expenditure of ammunition of the Third Army.<sup>1104</sup>

451. As a result of these planned operations against the Albanian population conducted across Kosovo during the spring of 1999, the province suffered civilian casualties and property damage. In March 1999, Vollebaek saw fleeing civilians and the destruction of villages in neighbourhoods surrounding Podujevo/Podujevë.<sup>1105</sup> Most of the houses had their roofs blown off and there were signs of shelling.<sup>1106</sup> Vollebaek believed the increase in the number of civilians being harassed was partly related to the increase in military personnel in Kosovo.<sup>1107</sup> For example, in early March, following a firing exercise in the south of Mitrovica/Mitrovicë and the Bukoš/Bukosh area, local villagers reported that VJ soldiers were involved in looting and expulsions.<sup>1108</sup>

452. Following the commencement of the NATO bombing, the VJ and the MUP leadership retained its role in planning these large-scale combat operations across Kosovo. Once the bombing began, the Spring offensive was implemented down both the VJ and MUP chains of command through a series of Joint Command orders. Pursuant to these orders, and in furtherance of the goal of the JCE, VJ and MUP units carried out joint combat actions in late March 1999 in the areas of Donja Drenica;<sup>1109</sup> Malo Kosovo;<sup>1110</sup> Drenica sector;<sup>1111</sup> and Rahovec/Orahovać, Suva

<sup>1099</sup> P1009.

<sup>1100</sup> P1334, pp.9,15.

<sup>1101</sup> P1339, p.11.

<sup>1102</sup> P1339, p.21.

<sup>1103</sup> P1339, p.21.

<sup>1104</sup> P1339, p.22.

<sup>1105</sup> T.7284-7285, T.7216-7218; P844, pp.6-7.

<sup>1106</sup> Vollebaek, T.7216, 7273; P1072, p.38; P1071, p.7.

<sup>1107</sup> T.7228.

<sup>1108</sup> P1077, p.2, item 4. KVM monitors heard artillery and heavy gun fire during the night.

<sup>1109</sup> P954, pp.1-9; At p.3, expenditure on ammunition is noted at 4000 rounds of 20 mm bullets. When testifying about events in 1998, Crosland explained traditional police operations would not require the use of "anti-aircraft and heavy anti-aircraft guns, machine-guns of 20-30 and 40 millimeters (emphasis added). These machines were used to blow up or blow down... villages in... stand-off attacks." (T.9164.). P972; P936, para.8 (the use of 30 rounds of 120 mm shells, 20 of 122 mm shells, 20 of 100 mm shells).

Reka/Suharekë and Velika Kruša,<sup>1112</sup> among other localities. Joint Command orders issued on 22, 24, and 28 March evidence the implementation of this plan.<sup>1113</sup> The operations occurred in areas where the majority of ethnic Albanians were concentrated. Many of the crimes alleged in the Indictment were committed during these actions. The VJ and MUP continued to employ their usual tactics — the VJ shelled and cordoned off villages while the MUP provided the “feet on the ground.” Confirmation that those operations were carried out can be found in the war diaries and reports of the PrK brigades involved in the combat actions.<sup>1114</sup>

453. The minutes of the MUP Staff for 4 April 1999 record comments on widespread combat operations.<sup>1115</sup> Stevanović and Šainović identified these operations as the first stage of anti-terrorist operations which was to end 4 April 1999.<sup>1116</sup> During the Collegium of 9 April 1999, Čurčin confirmed that a PrK operation with reinforcements to crush the KLA had been executed.<sup>1117</sup>

454. The offensive continued throughout the spring. A 15 April 1999 Joint Command order directed the VJ and MUP to conduct combat operations in the areas of Jezerce and Budakovo.<sup>1118</sup> On 7 May, preparations for this operation were discussed at a MUP Staff meeting.<sup>1119</sup> On 9 May, the PrK reported joint combat activities with the 549<sup>th</sup> Motorised Brigade and the MUP in Budakovo/Budakovë village and other localities.<sup>1120</sup> On 11 May, at a MUP Staff meeting, commanders of the 124<sup>th</sup> and 35<sup>th</sup> PJP detachments reported on the successful completion of the Jezerce operation.<sup>1121</sup>

455. On 4 May, Lazarević issued an order to PrK units to conduct an operation in the Bajgora area with MUP units, including the 35<sup>th</sup> PJP Detachment.<sup>1122</sup> At the 7 May MUP Staff meeting, Lt.-Colonel Bogunović, the Deputy-Chief of Kosovksa Mitrovica reported on the Bajgora operation.<sup>1123</sup>

<sup>1110</sup> D104;D105;Đaković,T.8066-8067. D105 is signed by Lazarević as it is an amendment to what had been agreed with the MUP Staff (Đaković, T.8068).

<sup>1111</sup> P971;P938,p.1;P940,p.1.

<sup>1112</sup> P350;P1316;P1317. These documents also illustrate a massive operation. In P1316, Delić orders the allocation of a tank platoon, 30-mm anti-aircraft guns, self-propelled 90 mm guns, 120-128- mm canons (P1316,p.3), and refers to the 128-mm artillery support (P1316, p.5). Following the operation, Delić reported that 21 T-55 tanks, 6 122-mm howitzers, 14 30-mm anti-aircraft guns, 4 120-mm mortars, 4 128-mm self-propelled multiple rocket launchers were used along other fire power in the operation (P1317,p.3).

<sup>1113</sup> Đaković,T.8067;D104;D105;P970;P972;P971.

<sup>1114</sup> P936;P954,pp.1-9;P938,p.1;P940,p.1;P942,pp.1-2.

<sup>1115</sup> P764,pp.1-2.

<sup>1116</sup> P764,p.4.

<sup>1117</sup> P1331,p.11.

<sup>1118</sup> P767.

<sup>1119</sup> P771,p.2.

<sup>1120</sup> P1388,p.2.

<sup>1121</sup> P345,pp.4-5. K25,T.1589.

<sup>1122</sup> P1040,p.4.

<sup>1123</sup> P771,p.5.

At the MUP Staff meeting on 11 May, Colonel Prijkević, the 35<sup>th</sup> PJP Detachment Commander, reported that the "operation on Bajgora went well".<sup>1124</sup>

456. On 12 May, the 37<sup>th</sup> Motorised Brigade was conducting mopping-up operations in the Srbica/Skenderaj area.<sup>1125</sup> Around the same time, at the MUP Staff, PJP unit commanders were reporting on operations to mop-up KLA in Đakovica/Gjakovo, Dulje/Duhël, Srbica/Skenderaj, Bajgora and other parts of Kosovo.<sup>1126</sup>

457. From early 1999, the VJ and the MUP leadership planned the Spring offensive. To this end, the VJ and the MUP fortified their units in Kosovo, amassed weapons and armaments and engaged in highly coordinated joint operations that intensified during the spring. The VJ and MUP leadership took advantage of the NATO bombardment to undertake these large scale joint operations, which targeted the Albanian civilian population and resulted in the crimes charged in the Indictment. As noted by Colonel Diković, Commander of the 37<sup>th</sup> Motorised Brigade, the VJ tactics in Kosovo were like "using an elephant to kill a fly".<sup>1127</sup>

### 3. Pattern of crimes

458. Under the cover of the NATO bombs, Serb and FRY forces launched a violent campaign to drive Albanians out of Kosovo. During this campaign, they expelled hundreds of thousands of Albanians, murdered thousands, destroyed Albanian cultural and religious sites, and burned Albanian homes to the ground. The scale of the crimes, their repetition in village after village throughout Kosovo, and the sheer number of victims demonstrate that there was an organised, high-level plan to persecute and expel Kosovo Albanians and discourage them from ever returning.

#### (a) The scope and scale of crimes

459. In less than three months,<sup>1128</sup> FRY and Serb forces forcibly expelled approximately 800,000 Albanians from Kosovo. This is tantamount to half of the Kosovo Albanian population.<sup>1129</sup> Beyond this number, many Albanians were forced from their homes and displaced within Kosovo.<sup>1130</sup> Further, Serb forces murdered thousands of Albanians throughout Kosovo during the expulsion campaign.

<sup>1124</sup> P345,p.4.

<sup>1125</sup> P1389,p.3.

<sup>1126</sup> P345,p.5.

<sup>1127</sup> P1450,p.2.

<sup>1128</sup> From 24 March to 10 June 1999.

<sup>1129</sup> Wright,P734,p.4. See Brunborg,T.6113;P983,p.1.

<sup>1130</sup> See P1029,p.174.

460. The mass exodus of Albanians from Kosovo between 24 March and 10 June is beyond dispute. Statistics from the UNHCR show that during that period, an estimated 860,000 Kosovars left the province – some 444,600 fled to Albania, 345,500 to Macedonia, and 69,000 to Montenegro.<sup>1131</sup> Almost half of these, some 400,000 Kosovars, left between 24 March and 6 April; that is, in less than two weeks.<sup>1132</sup> The vast majority were Kosovo Albanians.<sup>1133</sup>

461. MUP reporting for this period supports these statistics. MUP Staff daily situation reports to MUP HQ in Belgrade from 24 March to 1 May recorded the large number of “Šiptars” leaving at specific border crossings.<sup>1134</sup> For instance, 2/3 April, a mere nine days after the expulsion campaign had begun, the MUP Staff reported that over 300,000 Kosovo Albanians had crossed into Albania and Macedonia.<sup>1135</sup> Four days later the MUP Staff reported that over 600,000 “Šiptars” had left Kosovo.<sup>1136</sup> By 1 May, the MUP reported that over 700,000 “Šiptars” had left Kosovo.<sup>1137</sup>

462. Defence witnesses conceded they were aware of the massive departure of Albanians from Kosovo. Rade Čučak, Head of the VJ Department for Border Service Affairs, stated that 837,166 people left Kosovo for Albania and Macedonia.<sup>1138</sup> Stojan Mišić, an Assistant Minister in the RJB,<sup>1139</sup> stated that by the end of April 1999, 700,000 Kosovo Albanians had left Kosovo.<sup>1140</sup>

463. Beyond statistics, the enormity of the number of people leaving Kosovo was readily apparent. Vollebaek, from the OSCE, described, “looking in to Kosovo ... there was a narrow winding road with the largest number of tractors I [had] ever seen in my life”.<sup>1141</sup>

464. Ciaglinski observed, “I just saw a long thin line of people carrying suitcases which is very reminiscent of what you might have seen if you were in the Holocaust”.<sup>1142</sup>

465. The refugees came from municipalities and villages throughout Kosovo: from Pec/Pejë<sup>1143</sup> and Đakovica/Gjakovë<sup>1144</sup> in the west to Gnjilane/Gjilan<sup>1145</sup> in the east; from Kosovska

<sup>1131</sup> Wright, P734, p.4. For a more detailed explanation of the UNHCR’s methodology see Wright, P734.

<sup>1132</sup> Wright, P734, p.4. See also P736, p.1

<sup>1133</sup> Wright, P734, p.4.

<sup>1134</sup> P695, p.5; P696, p.6; P718, p.5; P697, p.6; P719, p.6; P720, p.5; P721, pp.5-6; P698, p.4; P722, p.4; P723, p.3; P699, p.5; P700, p.4; D304, p.4; D305, p.4; P694, p.8.

<sup>1135</sup> P718, p.5.

<sup>1136</sup> P721, p.6.

<sup>1137</sup> P694, p.8.

<sup>1138</sup> Čučak, D569, para.11; T.10974, 10984-10986.

<sup>1139</sup> Mišić, T.14008; P263.

<sup>1140</sup> Mišić, T.14134-14135.

<sup>1141</sup> Vollebaek, T.7228-7229.

<sup>1142</sup> Ciaglinski, T.5289; P840.

<sup>1143</sup> See e.g. Zatriqi, T.3809; Konaj, P670, p.3; T.3751, 3761; Kelmendi, T.4733-4735; Abrahams, T.3980; P756, pp.41, 49.



Mitrovica/Mitrovica<sup>1146</sup> in the north to Prizren<sup>1147</sup> in the south; from urban centres such as Priština/Priştinë<sup>1148</sup> to small villages like Korenica/Korenicë and Meja/Mejë.<sup>1149</sup>

466. The refugees were from all walks of life: young and elderly, rich and poor, healthy and infirm, male and female. [REDACTED].<sup>1150</sup>

467. K74, a refugee who left Đakovica/Gjakovë town on 2 April 1999, recounted: “We all had to walk, elder, children, disabled persons. You can imagine what the conditions were. They were disastrous”.<sup>1151</sup>

468. Forces of the FRY and Serbia killed thousands of Kosovo Albanians during the 1999 campaign. The killings in the Indictment are examples of the widespread murders that took place all over Kosovo.<sup>1152</sup>

(b) Forcible Expulsion

469. The evidence clearly shows that hundreds of thousands of Albanians left Kosovo because they were forced to do so by the MUP, VJ, paramilitaries and armed Serb civilians. Heavily armed Serb forces created a climate of terror through shelling, murder, rape, threats, looting and burning Albanian homes. They went from house to house and ordered civilians to leave at gunpoint, their orders bolstered by violence, threats and harassment. Serb forces made life intolerable for Kosovo Albanians, and were the clear reason that over 800,000 of them fled Kosovo.

470. Throughout Kosovo, Serb forces forced Albanian residents to leave their homes in minutes, or be killed.<sup>1153</sup> [REDACTED].<sup>1154</sup> In Suva Reka/Suharekë, the Berisha family was told that they had 15 minutes to leave, and would “never see this land again”.<sup>1155</sup> The same brutal scene was

<sup>1144</sup> See e.g. Dula, T.8335,8349,8376-8377,8393,8399;P1268,pp.3-4;Haxhibeqiri,T.6937,6995-6998;Abrahams,T.3973-3974; P756,p.14;Hoxha,P879,p.8;P881,p.15;Čaka,T.8649;P1296,p.25;Parashumti,T5968,5977;Vejsa,T.6087-6092;K74, P1095,p.6;Pnishi,P1033,p.4;Peraj,T.1206-1207;Deda,T.6542;P1030,p.5; Malaj,T.818-828;P295.

<sup>1145</sup> See e.g. Shabani,P786,pp.3-4;Shaqiri,P729,pp. 8-11;K81,P792,pp. 6-7.

<sup>1146</sup> See e.g. Hajrizi,P773,p.11;T.4309;Sadiku,T.2967.

<sup>1147</sup> See e.g. Beqiraj,P806,p.3;T.4800;R.Krasniqi,T.5428;P848,p.2;Kryeziu,P876,p.3.

<sup>1148</sup> See e.g. [REDACTED];Bala,P420,p.7;T.2291-2294.

<sup>1149</sup> See e.g. Peraj,T.1215;Pnishi,P1033,p.3;Abrahams,T.3969-3970;P756,p.25;Deda,P1030,p.6;P1031,pp.5-6,17,34;K90, T.1344;P321, para.48;Malaj,T.818.

<sup>1150</sup> [REDACTED].

<sup>1151</sup> K74,T.7439-7440.

<sup>1152</sup> Indictment, Schedules B,C,D,F,G,H,I,K,L.

<sup>1153</sup> See e.g. Konaj,P670,p.3;T.3751,3761;Zatriqi,T.3809,3829;P672,pp.5-6;Kelmendi,T.4734;Abrahams,T.3973-3974, 3980;P756,pp.14,41,49;Pnishi,P1033,pp.2-3;Haxhibeqiri,P1068,p.9;T.6988-6989;Halit Berisha,T.3406.

<sup>1154</sup> [REDACTED].

<sup>1155</sup> Halit Berisha,T.3410;P599,pp.20-21. See also Part IV,Section(C)(4).

repeated across Kosovo, including in Pec/Pejë,<sup>1156</sup> Priština/Prishtinë,<sup>1157</sup> Đakovica/Gjakovë,<sup>1158</sup> Kosovska Mitrovica/Mitrovica<sup>1159</sup> and Gnjilane/Gjilan.<sup>1160</sup> When residents abandoned their homes as ordered, they often found the streets full of other Albanians who had also been forcibly expelled.<sup>1161</sup>

471. The consistent evidence of crime-base witnesses was corroborated by international observers and human rights workers assisting at the border. Over and over, they were told by refugees that they had left Kosovo because the police or military had forced them out. Byrnes, the head of US-KDOM, was told by refugees at the Albanian and Macedonian borders that “the Serbian police had begun systematically moving through Albanian neighbourhoods” and ejecting people, or giving them a very short amount of time to leave their homes.<sup>1162</sup>

472. Ciaglinski and Drewienkiewicz, both from KVM, were told by refugees from Priština/Prishtinë that “the police entered their locality, banged on all the doors, told everybody that they had 5 minutes to get out, and then herded everybody down to the station [where they were loaded onto the train].”<sup>1163</sup> They noted that “it was largely described as a police operation”.<sup>1164</sup>

473. The refugees Vollebaek spoke to at the Albanian border “were all in unison . . . that they were forced to leave and they had been told that they were not wanted in Kosovo any longer”.<sup>1165</sup>

474. Refugees “uniformly” told Abrahams from HRW that they left Kosovo because they had been forcibly expelled by the police or the VJ, or because they feared expulsion by these forces.<sup>1166</sup>

475. These forcible expulsions were not the acts of rogue criminals. While the sheer number and systematic nature of these expulsions make it clear that this could only have been the product of a co-ordinated plan, the testimony of insider witnesses confirms that this was the case.

476. Witness K73 testified that the VJ deliberately expelled “hundreds” of Albanians and set their homes on fire during the Meja/Mejë operation in late April 1999.<sup>1167</sup> Witness K90 testified

<sup>1156</sup> See Part IV, Section(C)(5).

<sup>1157</sup> See Part IV, Section(C)(7).

<sup>1158</sup> See Part IV, Section(C)(8).

<sup>1159</sup> See Part IV, Section(C)(6).

<sup>1160</sup> See Part IV, Section(C)(9).

<sup>1161</sup> See e.g. Konaj, T.3754; P670, p.4; Vejsa, T.6093; Deda, T.6537-6538; [REDACTED]; Morina, P283, p.4; P284, pp.34-36.

<sup>1162</sup> Byrnes, T.8209-8210.

<sup>1163</sup> Drewienkiewicz, T.6396-6397. See also Ciaglinski, P833, p.78

<sup>1164</sup> Drewienkiewicz, T.6397.

<sup>1165</sup> Vollebaek, T.7229-7230.

<sup>1166</sup> Abrahams, T.3967.

<sup>1167</sup> K73, P330-A, para.42.

that in April 1999 his VJ unit told Albanians to leave nine or 10 villages in Đakovica/Gjakovë municipality.<sup>1168</sup> Witness K79 testified that his PJP unit received an order to move Albanians out of Ljubižda/Lubizhdë in Prizren municipality. The unit went from house to house and told the Albanians that they had to leave and go towards Prizren.<sup>1169</sup>

477. In some cases, FRY and Serb forces drove out Kosovo Albanians by creating a climate of fear. They would surround or enter a village, and then terrorize villagers through shelling, murder, threats, looting, burning, and brandishing weapons.<sup>1170</sup> One frequent practice of Serb forces was for the VJ to shell a village, followed by the police and ground forces entering the village and terrorizing the population.<sup>1171</sup> This made conditions intolerable for Albanians, and caused them to flee.

478. Serb forces deliberately created this climate of terror. Witness K82 explained how his VJ unit shelled the village of Trnje/Tërm, Suva Reka/Suharekë at the end of March 1999.<sup>1172</sup> When the shelling was over, two groups of villagers began running away in different directions.<sup>1173</sup> The villagers were unarmed and offered no resistance.<sup>1174</sup> The unit [REDACTED]<sup>1175</sup> searched homes and set them on fire.<sup>1176</sup> This was done pursuant to orders from the unit's sergeant.<sup>1177</sup>

479. Another consistent tactic used by Serb forces during the expulsion campaign was the deliberate burning of Albanian homes. Witnesses consistently testified that they saw Serb forces burning Albanian homes during the expulsion campaign,<sup>1178</sup> or that when they returned home after the war they found their homes and their Albanian neighbours' homes burned to the ground.<sup>1179</sup>

<sup>1168</sup> K90,P321,paras.41,43-44;T.1366.

<sup>1169</sup> K79,P1260,pp.70-71.

<sup>1170</sup> See e.g. Hyseni,T.4866-4868;Dula,T.8335,8349,8393,8399;P1268,p.4;Hoxha,P879,pp.6-7;Parashumti,T.6015-6016;K74,P1095,pp.2-3,5;P1096,pp.4-5,31;K82,P1315,para.7-8,10,13;Bucaliu,T.5058;P824,p.2;Raka,P664,paras.8-27.

<sup>1171</sup> See e.g. Jemini,P635,p.6;P637,p.4;Salihi,T.3482-3483,3486-3487;K90,P321,para.48;T.1344-1345;Latifi,T.4348;778,p.2.

<sup>1172</sup> K82,P1315,para.7-8,10,13.

<sup>1173</sup> K82,P1315,para.13.

<sup>1174</sup> K82,P1315,paras.8,23.

<sup>1175</sup> [REDACTED].

<sup>1176</sup> K82,P1315,paras.15-16.

<sup>1177</sup> K82,P1315,para.15.

<sup>1178</sup> See e.g. K74,P1095,pp.2-3;Peraj,T.1202-1203;Dula,P1268,pp.3-4;T.8336,8370,8372-8373;Haxhibeqiri,T.6940-6943,7030;P1068,pp.9-11;Parashumti,P903,pp.5-6;Vejsa,T.6089;Puishi,T.6582;Malaj,T.818-820.

<sup>1179</sup> See e.g. Zatriqi,T.3830;P672,p.6;Konaj,T.3758;Dula,P1268,p.4;T.8342-8344;P1270,p.3;Haxhibeqiri,T.6941;Malaj,T.873-874; [REDACTED].

480. The torching of homes was ethnically based: Albanian homes were destroyed while Serbian homes remained untouched.<sup>1180</sup> Some witnesses reported that their Serb neighbours marked their homes so they would not be targeted by Serb forces.<sup>1181</sup> Further, Albanian homes next to Serbian houses were left alone because they “could not be destroyed without destroying the Serb’s house”.<sup>1182</sup>

481. The torching was intended to both drive Albanians away and prevent their return. Stoparić testified that after the Skorpions took a village, they would withdraw and the PJP would enter and set fire to the houses.<sup>1183</sup> He explained,

This was a deliberate tactic in order to deprive any Albanians or terrorist of shelter if they returned. It was the intention that no Albanians returned to their houses. The livestock were driven away. A PJP member told me that in burning a house, curtains and settees were set alight first. This was because they were set alight more easily and burnt well spreading the fire. Gasoline was used to start the fire.<sup>1184</sup>

Stoparić added: “I presume if you set somebody’s house on fire that they have no place to go to or to go back to. I think that’s the only reasonable conclusion”.<sup>1185</sup>

482. Many defence witnesses testified that Serb forces were not responsible for forcibly expelling Kosovo Albanians from their homes.<sup>1186</sup> These witnesses claimed that people left Kosovo because of NATO bombs,<sup>1187</sup> depleted uranium,<sup>1188</sup> KLA terrorist action<sup>1189</sup> or KLA propaganda.<sup>1190</sup>

483. Their claims should be given very little weight for several reasons. First, these witnesses had an insufficient basis for making such claims. At trial, the Prosecution called witnesses who were actually refugees from Kosovo. They gave first-hand accounts of why they and those travelling with them left Kosovo. In contrast, the defence witnesses who claimed to know why people left Kosovo were not part of this mass exodus themselves. Rather, they were generally members of the MUP or VJ who claimed to know what was in the minds of refugees.

484. They had very little basis for their assumptions and opinions. For example, Miloš Došan, Commander of the 52nd ARB and Commander of the Đakovica/Gjakovë Garrison,<sup>1191</sup> admitted that

<sup>1180</sup> See e.g. Zatriqi, P673, p.7; Parashumti, T.5977; Vejsa, T.6098; P978, p.3; K74, P1095, pp.1-2, 4; T.7457; Hazir Berisha, P796, para.10; T.4605-4606; Shabani, P787, para.19; K81, P792, p.8; M.Krasniqi, T.991.

<sup>1181</sup> See e.g. Bucaliu, T.5070; P824, p.2; Shabani, P786, p.2; P788, pp.22-25.

<sup>1182</sup> K74, P1095, p.2; Parashumti, P907; T.5980-5982; Vejsa, T.6096-6097; P980.

<sup>1183</sup> Stoparić, P493, para.68.

<sup>1184</sup> Stoparić, P493, para.68.

<sup>1185</sup> Stoparić, T.2889.

<sup>1186</sup> See e.g. Došan, D685, pp.29,80; Stojanović, T.11933; Mitić, T.12734-12735.

<sup>1187</sup> See e.g. Došan, T.11424, 11469-11470; Mišić, T.14043; Stojanović, T.11757; Mitić, T.12731-12733.

<sup>1188</sup> See e.g. Petković, T.10510; Došan, T.11424, 11469-11470; Filipović, T.11595, 11598.

<sup>1189</sup> See e.g. Došan, T.11424; Mišić, T.14043; Filipović, T.11590; Stojanović, T.11756.

<sup>1190</sup> See e.g. Došan, T.11514; S.Mišić, T.14043; Filipović, T.11566; Mitić, T.12713.

he “personally did not talk to a single refugee”.<sup>1192</sup> Instead, he just claimed to know people’s reasons for leaving because he “was there all the time”<sup>1193</sup> and heard about people’s reasons from his soldiers.<sup>1194</sup>

485. Mišić claimed that Albanians left because of NATO bombs, clashes between security forces and terrorists and KLA propaganda.<sup>1195</sup> However, he had no first-hand knowledge that this was actually the case.<sup>1196</sup>

486. Slobodan Petković, Chief of the VJ Atomic, Biological and Chemical Defence Administration,<sup>1197</sup> claimed to know that Albanians left Kosovo because of depleted uranium,<sup>1198</sup> even though he had not spoken to one Albanian refugee about why they left Kosovo.<sup>1199</sup> When asked by the Trial Chamber if he had had any contact with the civilian population in Kosovo, Petković answered, “I did not have any time to spend on any . . . issues of the civilian population”.<sup>1200</sup>

487. There were a few instances where defence witnesses claimed to have asked refugees in columns why they were leaving. For example, Milutin Filipović, a former VJ colonel who held positions with the PrK,<sup>1201</sup> said he knew “Šiptars” left due to NATO bombings<sup>1202</sup> because “I spoke to many citizens. I also could feel that myself”.<sup>1203</sup> This second-hand, hearsay evidence is in direct conflict with the numerous first-hand accounts received by the Court and should be given little weight.

488. Moreover, these defence witnesses had an interest to not be truthful about why Albanians left Kosovo. Almost all of them were members of the very forces, the MUP and VJ, that crime-base witnesses consistently said forced them from their homes. They had an interest in shifting the blame.

<sup>1191</sup> Došan, T.11338.

<sup>1192</sup> Došan, T.11469-11470.

<sup>1193</sup> Došan, T.11424.

<sup>1194</sup> Došan, T.11469-11470, 11472.

<sup>1195</sup> Mišić, T.14043.

<sup>1196</sup> Mišić, T.14133-14134.

<sup>1197</sup> Petković, D513, p.2.

<sup>1198</sup> Petković, T.10510.

<sup>1199</sup> Petković, T.10524.

<sup>1200</sup> Petković, T.10524.

<sup>1201</sup> Filipović, T.11522.

<sup>1202</sup> Filipović, T.11587, 11590.

<sup>1203</sup> Filipović, T.11563.

489. Some defence witnesses testified about leaflets purported to have come from the KLA telling Albanians to leave.<sup>1204</sup> These pamphlets should be disregarded. Fundamentally, it is illogical and unlikely that the KLA, a group fighting for an independent Kosovo for Albanians, would tell Albanians to leave the land they were trying to claim. Further, defence witnesses could not authenticate these leaflets at all, merely guessing at where they came from and how widely they were distributed.<sup>1205</sup> There were signs that the leaflets were not authentic. One leaflet's contents and insignia related to the KLA, but the person who signed it, Ibrahim Rugova, led the LDK, not the KLA.<sup>1206</sup> Also, it used grammatically incorrect Albanian.<sup>1207</sup> This suggests that the leaflets were made only for propaganda purposes, likely by Serb forces.<sup>1208</sup> When presented with these anomalies, defence witnesses were unable to sufficiently respond.<sup>1209</sup>

490. In contrast to the unsupported, hearsay testimony of defence witnesses; the testimony of prosecution witnesses about why they left Kosovo was clear, consistent and based on first-hand knowledge. Consistently, witnesses said they did not leave Kosovo because of NATO bombs.<sup>1210</sup> Notably, the defence did not ask any crime-base witnesses during cross-examination whether they left Kosovo due to depleted uranium, so they had no opportunity to answer that question. Certainly, none of them offered that as a reason for their departure. When witnesses were asked why they left Kosovo, they did not say it was because of NATO or the KLA. Consistently, witnesses said that they left Kosovo because they were ordered to by Serb forces and because they feared for their lives. Witnesses made it clear they would not have left Kosovo had it not been for the actions of Serb forces.

491. These witnesses were from different parts of Kosovo, and had different backgrounds. In most cases they did not know one another. The only thing they had in common was their expulsion. The only explanation for their independent, consistent testimony is that they are telling the truth about what happened to them, and the thousands of others who were expelled along with them.

<sup>1204</sup> D698;P419;Filipović,T.11565-11566;Đošan,T.11378-11379; Mladenović, T.12535,12575; Mirčić, T.13350.

<sup>1205</sup> Đošan,T.11379;Filipović,T.11566,11603-11605;Mirčić,T.13358.

<sup>1206</sup> Merovci,T.2233.

<sup>1207</sup> Merovci,T.2233,2235.

<sup>1208</sup> Merovci,T.2233,2235,2271

<sup>1209</sup> Filipović,T.11609,11614.

<sup>1210</sup> See e.g. Dula,P1268,p.4;T.8375;Hoxha,P880,p.25;K74,P1095,p.6;Bucaliu,P825,p.5;Vollebaek,P1073,p.13;T.7230-7231;K58,T.7312-7313; [REDACTED];F.Krasniqi,P630,p.15;Hyseni,P809,p.8.

(c) Murder

492. During the expulsion campaign, Serb forces deliberately killed Albanian civilians. This was not accidental, nor an unfortunate consequence of the highly-charged environment. Rather, it was intentional and widespread.

493. One consistent practice was for Serb forces to separate the men from the women and children, and then kill the men.<sup>1211</sup> This horrific scene was repeated throughout Kosovo. In Pusto Selo/Pustaselë,<sup>1212</sup> Meja/Mejë and Korenica/Korenicë,<sup>1213</sup> Izbica/Izbicë,<sup>1214</sup> Bela Crvka/Bellacërkë,<sup>1215</sup> and Mała Kruša/Krushë e Vogël,<sup>1216</sup> police and soldiers systematically separated men from women, expelled the women, and executed the men.

494. Serb forces killed thousands of Albanians during the expulsion campaign.<sup>1217</sup> The hundreds of killings listed in the Indictment<sup>1218</sup> are examples of the widespread murders that took place all over Kosovo.

(d) Rape

495. During the Serb forces' campaign of fear, they persecuted and terrorized Albanian women through rape. [REDACTED].<sup>1219</sup> [REDACTED].<sup>1220</sup> [REDACTED].<sup>1221</sup> [REDACTED].<sup>1222</sup> In Beleg in Decani/Deçan, soldiers and a policeman selected young girls from a room and repeatedly raped them.<sup>1223</sup>

496. It is no accident that in each case, the perpetrators were Serb forces, and the victims were Albanian women who were at their mercy. Through sexual assault, Serb forces persecuted and traumatized these women because they were Albanian.

<sup>1211</sup> See Abrahams, T.3967.

<sup>1212</sup> See Part IV, Section(C)(15)(b).

<sup>1213</sup> See Part IV, Section(C)(8)(d).

<sup>1214</sup> See Part IV, Section(C)(3)(a).

<sup>1215</sup> See Part IV, Section(C)(1)(b).

<sup>1216</sup> See Part IV, Section(C)(1)(d).

<sup>1217</sup> P477.

<sup>1218</sup> Indictment, Schedules B,C,D,F,G,H,I,K,L. See also Annex C.

<sup>1219</sup> [REDACTED].

<sup>1220</sup> [REDACTED].

<sup>1221</sup> [REDACTED].

<sup>1222</sup> [REDACTED].

<sup>1223</sup> K20,P1280,pp.5-6; [REDACTED];K58,P1080,p.9;P1081,p.9.

(e) Seizure of Identification Documents

497. In addition to forcing Albanians out of Kosovo, FRY and Serb forces took deliberate measures to prevent them from returning. Witnesses who fled Kosovo consistently testified that at the borders or other points during their expulsion, police, VJ and paramilitaries seized their identification cards, passports, driver's licences, car registration and licence plates.<sup>1224</sup>

498. International observers who assisted at the borders were repeatedly told by refugees that their IDs had been taken by Serb forces. Refugees told Ciaglinski that prior to boarding trains at the Priština/Prishtinë station, they had all of their IDs removed.<sup>1225</sup>

499. Internationals saw more evidence of the deliberate destruction of IDs after the war ended. Upon returning to Kosovo in June 1999, Drewienkiewicz saw a burning bonfire in front of the police headquarters in town. He picked out about a dozen documents from the fire and they all belonged to Kosovo Albanians.<sup>1226</sup>

500. Ciaglinski re-entered Kosovo on 13 June 1999.<sup>1227</sup> In the courtyard opposite a MUP building, Ciaglinski saw a MUP officer burning thousands of documents. MUP officers were throwing documents from the windows of the upper floors.<sup>1228</sup> He went to the fire and examined the documents, and found passports, documents and applications for passports belonging to Albanians. The pile of ashes was large and burning all day.<sup>1229</sup> Ciaglinski took a photo of the pile of burning papers.<sup>1230</sup>

501. Serb forces seized and destroyed IDs based on orders from above, to prevent Albanians from returning. K54 stated that "[i]t was ... common knowledge" that the police and VJ had orders to seize IDs from Albanians at the border and to burn them in order to prevent them from claiming they were from Kosovo.<sup>1231</sup>

502. Defence witnesses denied that FRY and Serb forces took away people's identity papers.<sup>1232</sup> However, while the IDs of some witnesses were not taken,<sup>1233</sup> the consistent testimony of numerous

<sup>1224</sup> See e.g. Konaj, T.3757; P670, p.5; Dula, P1268, p.4; T.8347-8349; Čaka, T.8649; Hoxha, P879, p.8; P881, p.15-16, 30-31; P880, p.34; Parashumti, T.5978; Vejsa, P978, p.3; Pnishi, P1033, p.4; Malaj, T.828; Halit.Berisha, T.3412; S.Berisha, T.493; Bala, T.2299, 2344; Hoti, P628, p.20.

<sup>1225</sup> Ciaglinski, P833, p.78.

<sup>1226</sup> Drewienkiewicz, T.6399; P997, p.263.

<sup>1227</sup> Ciaglinski, P832, p.13.

<sup>1228</sup> Ciaglinski, P832, p.13; T.5290-5292.

<sup>1229</sup> Ciaglinski, P832, p.13; P834, p.42.

<sup>1230</sup> Ciaglinski, T.5292-5293; P841.

<sup>1231</sup> K54, P784, p.2.

<sup>1232</sup> See e.g. Došan, D685, p.62; Čučak, T.10977.



independent witnesses who experienced the seizure of IDs first-hand, corroborated by the testimony of international witnesses and insiders, shows this was indeed a widespread practice.

(f) Destruction of Religious and Cultural Sites

503. FRY and Serb forces targeted and destroyed Albanian cultural and religious buildings. The damage was not due to random acts of violence. It was deliberate and widespread.

504. András Riedlmayer, an art documentation specialist,<sup>1234</sup> undertook a post-war survey of cultural heritage in Kosovo.<sup>1235</sup> He found that all types of Islamic architectural heritage in Kosovo were attacked during 1998 and 1999, particularly mosques.<sup>1236</sup> Prior to the war, there were 568 functioning mosques. Almost half of these were destroyed in 1998 and 1999, with the bulk of the damage occurring from March to June 1999.<sup>1237</sup> Virtually every mosque that Riedlmayer was aware of between Prizren, Đakovica/Gjakovë, and Suva Reka/Suharekë had been damaged or destroyed. There was one exception: a mosque in the ethnically Turkish village of Mamuša/Mamushë.<sup>1238</sup>

505. Additionally, three of the four historic urban centres in Kosovo suffered severe devastation: Pec/Pejë, Đakovica/Gjakovë and Vucitrn/Vushtrri.<sup>1239</sup> Witnesses described the destruction they found upon returning to their cities after being expelled: mosques damaged or burned in Pec/Pejë;<sup>1240</sup> the historic neighbourhood destroyed, a minaret lying on the ground, and bazaar shops still smoking in Đakovica/Gjakovë town.<sup>1241</sup>

506. Riedlmayer's findings and the observations of witnesses on the ground demonstrate that Serb forces deliberately destroyed Albanian cultural and religious sights.<sup>1242</sup> With regard to mosques, he found that the far reaching damage was not a consequence of air strikes, but ground attacks directly targeting the mosque itself, such as "explosive devices planted in the mosque or inside the minaret, artillery aimed at the minaret, or fires started in the mosque".<sup>1243</sup> In some cases, attacks on mosques involved anti-Albanian or pro-Serbian graffiti and vandalism of religious

<sup>1233</sup> See e.g. Bucaliu, P824, p.5; Hyseni, P808, p.4; F. Krasniqi, P631, p.7.

<sup>1234</sup> Riedlmayer, T.7483.

<sup>1235</sup> Riedlmayer, T.7488; P1099, pp.5, 7.

<sup>1236</sup> Riedlmayer, P1098, p.7.

<sup>1237</sup> Riedlmayer, T.7497; P1098, p.13; P1099, p.25.

<sup>1238</sup> Riedlmayer, P1098, p.14; P1099, p.99.

<sup>1239</sup> Riedlmayer, P1098, p.6. See also Abrahams, P756, p.13; Dula, P1268, pp.2-4; T.8336-8337, 8372-8375; Haxhibeqiri, P1068, p.9; P1069; T.6947-6949.

<sup>1240</sup> Zatriqi, T.3830; P673, p.7; Konaj, P671, pp.6-7.

<sup>1241</sup> Dula, P1268, p.4; T.8336-8337, 8339-8341; Haxhibeqiri, T.6942; P1069.

<sup>1242</sup> See Part IV, Section(C)(4),(8),(9),(11),(13).

<sup>1243</sup> Riedlmayer, P1098, p.8.

scriptures and mosque furnishings.<sup>1244</sup> With the exception of one mosque and one church, none of the damage to religious sites visited by Riedlmayer after the 1999 conflict demonstrated any evidence of being a result of NATO strikes.<sup>1245</sup>

507. With regard to the destruction of historical urban centres, Riedlmayer found that it was “evident from the nature of the damage that this destruction was not the result of aerial bombardment, but of fires set on the ground in individual buildings.”<sup>1246</sup>

508. Further, the targeted nature of the damage demonstrates that it was the result of deliberate acts by Serb forces, not NATO air strikes. As with homes, Albanian religious sights were destroyed, while the religious and cultural sights of Serbs and other ethnicities were spared. Prior to the war, there were at least 500 *kullas* – indigenous stone houses, symbolic of Albanian culture.<sup>1247</sup> They were attacked and burned, while the few Serb *kullas* remained untouched.<sup>1248</sup> “In many cases, a *kulla* was burned while all surrounding buildings were left unscathed.”<sup>1249</sup> Likewise, most non-Albanian mosques were undamaged: in the area around the primarily Serb area of Štrpce/Shtërpçë, there was virtually no damage;<sup>1250</sup> and the mosques in the Muslim Slav villages of Brod and Dragaš/Dragash were not damaged.<sup>1251</sup> Further, in destroyed urban centres where Ottoman-era buildings were mixed with modern ones, the historical buildings were destroyed, while the modern buildings were left “largely untouched”.<sup>1252</sup> Maps charting the destruction of cultural sights in Riedlmayer’s report demonstrate the disproportionately large number of damaged and destroyed Islamic monuments.<sup>1253</sup> The widespread, systematic, and targeted nature of the damage to Albanian cultural and religious sights can only be explained by a deliberate Serb campaign to target and destroy them.

(g) The Existence of a Plan

509. Many defence witnesses testified that “there was no plan to expel Kosovo Albanians”.<sup>1254</sup> They willingly made this claim even when they had no basis to know whether there had been a plan or not. For example, Milan Čanković, Chief of Communications of the MUP Staff in

<sup>1244</sup> Riedlmayer, P1098, p.8.

<sup>1245</sup> Riedlmayer, P1098, p.5-6.

<sup>1246</sup> Riedlmayer, P1098, p.6.

<sup>1247</sup> Riedlmayer, P1098, p.6; P1099, pp.28–29; T.7600–7601.

<sup>1248</sup> Riedlmayer, P1098, pp.6–7.

<sup>1249</sup> Riedlmayer, P1098, p.6.

<sup>1250</sup> Riedlmayer, T.7498; P1098, p.13.

<sup>1251</sup> Riedlmayer, T.7498-7499; P1098, p.13; P1099, p.98.

<sup>1252</sup> Riedlmayer, P1098, p.6.

<sup>1253</sup> Riedlmayer, P1099, pp.99-100; P1098, pp.12-14.

<sup>1254</sup> See e.g. Došan, T.11434; Stojanović, T.11758-11759, 11917; Čučak, T.10924; Čanković, T.13962; Filipović, T.11567, 11576.

Priština/Prishtinë,<sup>1255</sup> testified that he knew of no plan to expel Kosovo Albanians within the MUP.<sup>1256</sup> However, he was primarily involved with setting up, repairing, and taking down radio equipment.<sup>1257</sup> He conceded that he attended only one MUP staff meeting,<sup>1258</sup> did not participate in planning MUP combat actions, and indeed, “wasn't interested in any such thing”.<sup>1259</sup>

510. Similarly, Milan Radoičić, the Deputy Chief of Office of the Chief of the General Staff,<sup>1260</sup> testified to the same effect.<sup>1261</sup> However, Radoičić, who described himself as “only involved in processing documentation”,<sup>1262</sup> conceded that he would have known of such a plan only if it had been archived in a log-book.<sup>1263</sup>

511. Contrary to the often unfounded denials of these witnesses, the evidence adduced at trial shows that there was a high-level, co-ordinated plan to expel Albanians. First, the fact that the MUP and VJ followed a similar mode of operation in different municipalities throughout Kosovo demonstrates planning and co-ordination. The sheer scope and volume of the crimes shows that these were not random acts of violence.

512. There is significant evidence of pre-planning and co-ordination. In addition to the evidence of systematic and widespread expulsions, it is clear that Serb forces methodically channelled Albanian refugees toward the borders and transit points. The testimony of Nazalie Bala is illustrative. Bala, a human rights observer and Priština/Prishtinë resident,<sup>1264</sup> saw on 26 March that Serb forces had blocked every entry and exit point in Priština/Prishtinë, using barbed wire blockades manned by VJ, MUP and Serb civilians.<sup>1265</sup> There were checkpoints throughout Priština/Prishtinë, including one leading to the train station.<sup>1266</sup>

513. She was ordered to leave her house on 29 March,<sup>1267</sup> and joined a group of thousands. Serb forces directed them to the main checkpoint in the centre of Priština/Prishtinë,<sup>1268</sup> and from there to the train station.<sup>1269</sup> Other convoys from Priština/Prishtinë joined her convoy.<sup>1270</sup> At the station,

<sup>1255</sup> Čanković, T.13928–13929.

<sup>1256</sup> Čanković, T.13962.

<sup>1257</sup> Čanković, T.13964–13966.

<sup>1258</sup> Čanković, T.13981.

<sup>1259</sup> See Čanković, T.13976–13977.

<sup>1260</sup> Radoičić, D581, p.2.

<sup>1261</sup> Radoičić, D581, p.4.

<sup>1262</sup> Radoičić, T.11073.

<sup>1263</sup> Radoičić, T.11073.

<sup>1264</sup> Bala, T.2283.

<sup>1265</sup> Bala, T.2290, 2334–2338.

<sup>1266</sup> Bala, T.2336–2337.

<sup>1267</sup> Bala, T.2291–2292; P420, p.7.

<sup>1268</sup> Bala, T.2293–2294; P420, p.7.

<sup>1269</sup> Bala, T.2349.

thousands of people were waiting to get on the train.<sup>1271</sup> Policemen surrounded the refugees<sup>1272</sup> and controlled the area.<sup>1273</sup> They were ordered to board a train.<sup>1274</sup> The train carriages were so crowded that there was no room at all to move and it was hard to breathe.<sup>1275</sup> The train went to the Đeneral Janković/Han i Elezit border crossing.<sup>1276</sup>

514. Further, leading up to and during the expulsions, the MUP, VJ and Serb civilians organised trains and buses to transport all the Albanians they were pushing toward transit points.<sup>1277</sup> The trains ran on "irregular" schedules<sup>1278</sup> and had passengers packed into many more carriages than usual.<sup>1279</sup> Albanian passengers were even stuffed into freight cars.<sup>1280</sup> Many trains had either a police or military escort travelling with them,<sup>1281</sup> which was not usual.<sup>1282</sup>

515. Serbs also arranged for buses and trucks to transport Albanians to the border.<sup>1283</sup> The drivers of the buses were Serbs and all the passengers were Kosovo Albanians. Buses ran that were non-existent during peacetime.<sup>1284</sup>

516. Additionally, police and soldiers directed and ordered civilian convoys toward the borders. As Albanian civilians walked or drove to the borders after expulsion, they were subjected to orders, threats and harassment from policemen and soldiers to make them continue their journey.<sup>1285</sup>

517. Further, police controlled the borders into Albania and Macedonia, and thereby controlled refugee flows. Čučak confirmed that the MUP controlled the border crossings.<sup>1286</sup> Refugees

<sup>1270</sup> Bala, T.2349.

<sup>1271</sup> Bala, P420, p.7; 2296.

<sup>1272</sup> Bala, P420, p.7.

<sup>1273</sup> Bala, T.2296.

<sup>1274</sup> Bala, T.2296; P420, p.7.

<sup>1275</sup> Bala, P420, p.7; T.2296.

<sup>1276</sup> Bala, T.2298; P423.

<sup>1277</sup> Bucaliu, P825, pp.3-4; Zatriqi, T.8319; P672, pp.5-6, 10.

<sup>1278</sup> Bucaliu, P826, pp.17-18, 51, 78.

<sup>1279</sup> Bucaliu, P826, pp.16-17; T.5059.

<sup>1280</sup> Bucaliu, P826, p.17.

<sup>1281</sup> Bucaliu, P826, p.20.

<sup>1282</sup> Bucaliu, P827, p.63.

<sup>1283</sup> See Bucaliu, P826, p.19; Halit Berisha, P598, p.4; Hysni Berisha, P584, pp 5-6; K25, P340-A, p.11; Morina, P283, p.5; Mazrekaj, T.3847; P675, pp.12-13.

<sup>1284</sup> Hyseni, T.4870.

<sup>1285</sup> See e.g. Zatriqi, T.3809-3811; P673, pp.6, 13; Konaj, P671, pp.6, 10, 26-29; P670, pp.3-5; T.3751-3752, 3756-3757, 3761; Dula, P1268, p.4; T.8229, 8347-8349; Hoxha, P880, pp.34-35; Salih, P632, p.4; Beqiraj, T.4806-

4810; Kryeziu, P877, p.9.

<sup>1286</sup> Čučak, D570, pp.63, 74.

testified about the police presence at borders, with police ordering them across the border and confiscating IDs.<sup>1287</sup>

518. Finally, the consistent and widespread practice of the MUP seizing Albanians' IDs as described above is also strong evidence that there was a co-ordinated plan to expel Albanians and prevent their return.

519. The sheer scope of the crimes and number of victims; the channelling of refugees toward the border and transit points; the organization of trains, buses, and trucks to transport Albanians to the border; and the systematic seizure of IDs show that VJ and MUP units on the ground were following a larger plan. These were not random or spontaneous crimes. The VJ and MUP's consistent mode of operation throughout Kosovo was nothing less than the execution of a plan to rid Kosovo of its Albanian population.

4. Steps were not taken to punish those responsible for crimes committed in Kosovo.

520. There were very few investigations and prosecutions for crimes against civilians during the Indictment period. The VJ military justice system focused on crimes committed against the VJ by its members.<sup>1288</sup> Similarly there were very few MUP investigations and prosecutions for MUP crimes against Kosovo Albanian civilians. The limited prosecutions reflected an atmosphere of impunity which encouraged and instigated crimes against Kosovo Albanians. Given the scale of the crimes alleged in the Indictment, this manifestly inadequate prosecution of crimes against ethnic Albanians during that period is linked to the MUP's failure to properly investigate them.

521. The few investigations conducted against police for serious crimes were initiated only because information on the crimes became public and the police had no choice but to conduct investigations.<sup>1289</sup> The investigations into the massacres in Izbica/Izbicë,<sup>1290</sup> [REDACTED]<sup>1291</sup> and Račak/Recak illustrate this point.<sup>1292</sup> Drewienkiewicz had observed a certain *modus operandi* for the manner in which investigations were conducted in Kosovo. He said:

I'm very very familiar with the way on-site investigations are carried out in the FRY. Certainly in Kosovo. People went in, looked around, took a very short time, and walked out declaring it all to

<sup>1287</sup> See e.g. Konaj, T.3757;P670,p.5;Čaka,T.8668;K74,P1095,p.6.

<sup>1288</sup> See e.g., Gojović, T.10434-10438; D496, pp. 80-83,107-108;D508;D509;D510; P1521.

<sup>1289</sup> P726,p.13.

<sup>1290</sup> See Loshi, T.720-721; Stojanovic, T.11934-T.11935. Stojanović said the incident in Izbica/Izbicë was investigated due to "bad international press" See also D510, p.73, item 1; Gojović, T.10458-10462.

<sup>1291</sup> [REDACTED].

<sup>1292</sup> See Part III,Section (A)(2)(c)(ii)(c).

be legitimate. That is not a proper investigation. You do not need to be a policeman in order to see a bad investigation. Bad is bad.<sup>1293</sup>

522. In 1999, this was the prevailing judicial and police practice when faced with crimes committed against Kosovo Albanians.

523. The massacre of the Berisha family in Suva Reka/Suharekë perhaps best illustrates the climate of impunity that prevailed in 1999. [REDACTED].<sup>1294</sup> The Berisha family were murdered in broad daylight in the centre of Suva Reka/Suharekë, at locations close to the police station. PJP units arrived from outside Suva Reka/Suharekë to execute the killings together with local policemen. The bodies of the victims were then collected by policemen and loaded onto trucks by civilians who had been brought to the crime scene for this purpose.<sup>1295</sup> Nevertheless, this incident was not even recorded, let alone investigated by the MUP at that time. As was the case with the Podujevo/Podujevë massacre that occurred a few days later, the murders in Suva Reka/Suharekë were not reported in the relevant MUP Staff Daily Bulletin. Instead, two incidences of aggravated theft were reported.<sup>1296</sup>

524. This was a highly visible crime committed by the police against a prominent family.<sup>1297</sup> The shocking failure to investigate the murder of the Berisha family highlights the impunity with which the police committed crimes against Kosovo Albanians. The policemen involved in the Berisha massacre remained in the police force during the war.<sup>1298</sup> The pervasiveness of crimes in Kosovo was well-described by Drewienkiewicz who characterized all of Kosovo as a crime scene.<sup>1299</sup>

<sup>1293</sup> Drewienkiewicz made a similar point in relation to the investigation into the Rogovo incident on the 29 January 1999, when Serbian forces stormed an Albanian farm that they suspected was a KLA safe house. He said, "There was a so-called investigation by the judge. It appeared to take about two hours. And in two hours you cannot investigate a scene of crime about 100 metres by 200 metres, much of which is up to your ankles in mud and water, and involving 25 corpses. So there was not a proper investigation carried out by that judge under the terms of an investigation as I understand it." (T.6477-6479)

<sup>1294</sup> [REDACTED].

<sup>1295</sup> K83, T.390-391. See also Part IV Section (C) (4).

<sup>1296</sup> P1059, p.5. See also Đorđević, T.10079-10081, 12279, [REDACTED]; [REDACTED] Shyrete Berisha, T.491; [REDACTED]; P1514.

<sup>1297</sup> P1514; Đorđević, T.10079-10081.

<sup>1298</sup> K83, T.405-406.

<sup>1299</sup> In response to a question on the KVM's role at the Račak/Recak crime scene he said, "What was it we were supposed to do? We weren't equipped with, sort of, scene-of-crime tape. And if we had attempted to put scene-of-crime tape down anywhere, I'm sure that the MUP would have come along and told us not to. We might have put it all the way around the whole border of Kosovo, mind you. (T.6520-6521). See also P888, paras.3-4; Vasiljević, T.5746-5747; P1505, paras.1-2.

## 5. Investigations obstructed and crimes concealed

### *Overview*

525. Throughout the Indictment period, the MUP systematically concealed the bodies of Kosovo Albanian civilians who had been massacred by Serb forces in furtherance of the JCE. These bodies were frequently transported away from the sites in which they were killed, temporarily hidden in local mass graves, and then subsequently exhumed. These bodies and body parts, taken from throughout Kosovo, were then loaded into trucks and driven hundreds of kilometres across Serbia to be reburied in large mass gravesites, and thus concealed from the eyes of the international community and the local population. During this operation, two refrigerator trucks full of bodies were found in rivers on opposite sides of Serbia and were subsequently re-concealed. Hundreds of bodies of Kosovo Albanians were later found in mass graves at the SAJ's training centre in Batajnica, and approximately 77 bodies were found by the SAJ base in Petrovo Selo. The proof of death charts set out in Annex C show that Albanians killed in crimes throughout Kosovo had their remains transferred and concealed elsewhere.

526. This systematic concealment of bodies, and the extensive cover-up of the serious crimes they evidenced, proves there was a JCE in this case. Đorđević was extensively involved in the direction and co-ordination of this concealment operation, and his specific participation is addressed in detail in the section dealing with his individual responsibility under Article 7(1).<sup>1300</sup>

### (a) Evidence of the Systemic Removal and Transport of Bodies

#### (i) Bodies from the Berisha Massacre

527. On 26 March 1999, members of the MUP massacred 47 members of the Berisha family in a pizzeria in Suva Reka/Suharekë.<sup>1301</sup> Following these killings, members of the Civilian Protection Unit (CPU) were made to organize trucks to transport the bodies. The men were told by a police officer named Sladjan Čukarić that they would be killed if they did not cooperate. The bodies were loaded into two trucks that drove off in the direction of Prizren. Three survivors who had been loaded onto these trucks managed to escape mid-transit.<sup>1302</sup>

<sup>1300</sup> See Part V, Section C(1)(g).

<sup>1301</sup> The evidence of this crime is addressed in detail below, in Part IV, Section C(4)(a).

<sup>1302</sup> K83, T.390-393; S.Berisha, T.490-491.

528. Some of these bodies were hidden in the Suva Reka/Suharekë cemetery, while the majority were buried in a mass grave at the VJ firing range in Korisha/Korishë. These bodies were subsequently disinterred once again and transported and reburied at the *13 Maj* Centre in Batajnica.

*Initial Concealment at the Suva Reka/Suharekë cemetery*

529. The remains of at least 18 individuals, most of them male and elderly, were found at the Suva Reka/Suharekë cemetery in September 1999 by a British forensic team. The bodies of Faton Berisha, Fatime Berisha and Sedat Berisha, who were killed on 26 March 1999 during the massacre, were among them.<sup>1303</sup>

*Mass grave at the firing range in Korisha/Korishë*

530. The majority of bodies from the Suva Reka/Suharekë massacre were transported to a VJ firing range in Korisha/Korishë, south of Suva Reka/Suharekë in the direction of Prizren, where they were buried in a mass grave. Ali Gjogaj, a cleaner who worked for the Public Hygiene Company, was tasked in early April 1999 with exhuming bodies from two mass graves at this firing range.<sup>1304</sup> Police officers both stood guard and participated alongside Public Hygiene employees in removing bodies, which were loaded into a refrigerator truck.<sup>1305</sup> Gjogaj personally helped to remove 80-90 bodies, dressed in civilian clothes, and load them onto a truck.<sup>1306</sup> No tests were performed on the bodies, and no blankets or body bags were used.<sup>1307</sup>

531. Police accompanied the Hygiene workers while they unearthed more bodies at a garbage dump near Korisha/Korishë, where another mass grave was located.<sup>1308</sup> Thirty to forty bodies, clad in civilian clothes, were exhumed and loaded onto another truck. Police escorted the workers from the garbage dump back to Prizren. Again, no tests were performed and no blankets or body bags were used.<sup>1309</sup>

532. In late summer/early fall of 1999, a British Forensic team opened the mass graves at the firing range in Korisha/Korishë, labelled mass grave 1 and mass grave 2.<sup>1310</sup> Hysni Berisha assisted and was able to identify many of the victims, along with their clothing and personal effects. He

<sup>1303</sup> Baccard, P1139, pp.74-78; P1175; P1179; P1180; P1177, p.1. The remains referenced in these reports are: Faton Berisha, SCG/27/SR; Fatime Berisha, SCG/28/SR; and Sedat Berisha, SCG/33c/SR. *And see:* S. Berisha, T.460; P272.

<sup>1304</sup> Gjogaj, T.596-597, Though the witness and counsel used several names ("Korište", "Streliste", "Firing range" or "shooting range") the two mass graves were at the same location.

<sup>1305</sup> Gjogaj, T.545-548, 550, 552-553, 568-569, 589-590, P278. For the presence of police and the uniforms worn, see: T.593-594, 546.

<sup>1306</sup> Gjogaj, T.553-555, 587.

<sup>1307</sup> Gjogaj, T.555, 597-598.

<sup>1308</sup> Gjogaj, #2 on P279.

<sup>1309</sup> Gjogaj, T.556-559, 597.

<sup>1310</sup> P589, p.3; Hysni Berisha, T.3345-3346; P597, P584, p.11.



composed a list of those murdered.<sup>1311</sup> Halit Berisha also attended the exhumations and identified the clothing and remains of his brother, Jashar Berisha. On the day Jashar was murdered he was wearing a blue "Beopetrol" jacket and jeans over red tracksuit trousers and striped long underwear. During exhumations, Halit Berisha found fragments of these clothes attached to a part of his brother's leg. The rest of Jashar's body, however, was later discovered in a mass grave in Batajnica, hundreds of kilometres away. The body was identified using a blood sample provided by family members. His arms and legs had been burnt and he had been shot in the back and in the head.<sup>1312</sup> Further evidence with respect to the victims found buried at the *13 Maj* Centre in Batajnica is addressed further below.

(ii) Bodies from the Izbica/Izbičë Massacre

533. Serb forces massacred over one hundred people in the town of Izbica/Izbičë at the end of March 1999.<sup>1313</sup> Dr. Liri Loshi witnessed the bodies of over 100 people lying where they had been executed and video-recorded them.<sup>1314</sup> A burial council was formed, victims were identified and the bodies were buried. The graves were marked and a list was compiled of who was buried and where.<sup>1315</sup>

534. When Loshi returned to Izbica/Izbičë on 23 June 1999, however, the local villagers told him that they had seen Serb forces enter the area, exhume the bodies and take them away. Loshi went to the exact location where the bodies had been buried and recorded another video. The bodies were gone and there remained only "bits and pieces" of the graves. Gloves that had been used to exhume the bodies had been left at the scene.<sup>1316</sup>

535. The bodies of many of the victims of the Izbica/Izbičë massacre were subsequently found in mass graves in Petrovo Selo, Serbia, hundreds of kilometres away. This is addressed further below.

(iii) Bodies from Đakovića/Gjakove Municipality

536. Evidence from a variety of sources outlines a large MUP operation that took place during the same time period that Đorđević was overseeing the various shipments and burials at Batajnica. Beginning at the end of April, members of the MUP took the bodies of civilians who had been

<sup>1311</sup> Hysni Berisha, T.3346-3349;P593,P595,P597,P584,pp.11-12;P590,P591,P592. Berisha pointed out 3 members on the list as former members of the KLA: 106, Lulzim Shaip Guta; 107, Bahri Hajrush Gollopeni; and 110, Naser Hazir Kelmendi.

<sup>1312</sup> Halit Berisha, T.3384-3387;P599, pp.13-15,38,90.P587; pp:5-8,P591,P594.

<sup>1313</sup> See Part IV, Section(C)(3)(a).

<sup>1314</sup> Loshi, T.699,702-711;P288.

<sup>1315</sup> Loshi, T.708-710,718;P292. And see Schedule F of the Indictment.

<sup>1316</sup> Loshi, T.721-726;P293.

murdered in and around the Municipality of Đakovića/Gjakove, loaded them into trucks, and transported them to new locations where they were buried. From late April and through May and June of 1999, these bodies were exhumed once again, loaded into trucks, and then transported out of Kosovo. They were driven to the *13 Maj* Centre in Batajnica, where Đorđević arranged for their concealment in mass graves.

*Evidence of the Initial Removal and Burial of Bodies*

537. On 27 April 1999, Martin Pnishi observed five Serb policemen march seven young men to a bridge in Meja/Mejë and then kill them with a machine-gun.<sup>1317</sup> On 2 May 1999, the bodies of these seven men were collected by a Roma man named Hamdi and his three sons, using a tractor. A truck then came from Đakovića/Gjakove to Meja/Mejë to collect the bodies, met up with the tractor, and then the two vehicles headed to the Đakovića/Gjakove cemetery.<sup>1318</sup>

538. On 27 April 1999, when she was between Korenica/Korenicë and Meja/Mejë on the outskirts of Đakovića/Gjakove, Merita Deda saw VJ soldiers load two bodies covered with blankets onto a truck and then heard one of the soldiers tell the driver to go to Đakovića/Gjakove.<sup>1319</sup>

539. On 29 April 1999, following extensive killings in Meja/Mejë,<sup>1320</sup> Nike Peraj saw two trucks containing human bodies driving from Meja/Mejë towards Đakovića/Gjakove. Although the trucks were covered by tarpaulins, Peraj could see the body parts when the wind lifted the covers. He estimated that each truck held about 20 bodies. The trucks were escorted by a Lada Niva, with a policeman driving the car and two or three men wearing police uniforms seated in the passenger seats. Peraj also described that the MUP and VJ had been looking for bulldozers/excavators after the killings in Meja/Mejë. Although this was ostensibly for the repair of roads, he suspected that they needed them to remove bodies.<sup>1321</sup>

540. Human Rights Watch researcher Fred Abrahams also interviewed the Head of the Đakovica/Gjakove Public Works Department, Faton Polloshka, who explained how he and his team of ethnic Roma had been ordered by the police to remove the dead from the city and bury them in the Đakovica/Gjakove cemetery.<sup>1322</sup>

<sup>1317</sup> See Part IV, Section(C)(8), *infra*.

<sup>1318</sup> Pnishi, P1033, pp.4-5.

<sup>1319</sup> Deda, P1030, pp.6,10.

<sup>1320</sup> See Part IV, Section(C)(8)(d), *infra*.

<sup>1321</sup> Peraj, T.1228; P313, paras.86,88.

<sup>1322</sup> Abrahams, T.3975; P756, p.10.

*The Bodies were Exhumed and Transported Once Again*

541. Civilian excavator driver K72 testified that beginning in April 1999 he was directed by the MUP to systematically unearth large numbers of bodies from three distinct locations in Đakovića/Gjakove Municipality: near the Bistražin Bridge, at Brekovac/Brekoc Cemetery, and in Guska.<sup>1323</sup> The corpses at all of the sites were adult males wearing civilian clothing<sup>1324</sup> and the bodies did not appear to be in an advanced state of decomposition.<sup>1325</sup> Under the cover of darkness, these bodies were loaded onto trucks and driven out of the region, where they could be more effectively concealed.<sup>1326</sup>

542. The scale and organization of these exhumations indicates that they were ordered and coordinated at a high level within the MUP.<sup>1327</sup> For each of these three operations, a police officer came to K72's house, took him to pick up his excavator at the police station and then led him to the site where bodies were to be exhumed.<sup>1328</sup> Each of the exhumation locations was secured by a significant police presence, and police typically set up roadblocks and patrolled access points.<sup>1329</sup> The police also told K87 where to dig, and in cases where graves were more dispersed or difficult to identify, a policeman would show K72 where to exhume by using a flashlight.<sup>1330</sup>

543. Each of these operations required the acquisition of trucks into which the bodies could be loaded, personnel to assist in loading the trucks, and drivers to transport them. The trucks were then driven and unloaded hundreds of kilometres away, which required that sites in disparate jurisdictions be identified and secured ahead of time, and that all the necessary clearances be provided.

544. These exhumation operations were conducted in a deliberately clandestine manner. K72 noted the unusual way in which he was informed of these tasks and the fact that he was made to conduct the exhumations after nightfall, observing that "these were jobs that would, of course, have

<sup>1323</sup> See K72, T.8951-8952; P1323.

<sup>1324</sup> K72, T.8927-8928; 8933-8934, 8936-8938; 8941, 8943.

<sup>1325</sup> K72, T.8928, 8934-8935 (in the case of Brekovac, K72 testified that the graves were recent and the soil was fresh).

<sup>1326</sup> Abrahams also provided corroboration for these operations. Poloshka described to him in an interview that over seventy bodies were removed from the Brekovac/Brekoc cemetery in May (Abrahams, T.3975-3976; P756, p.11) and Abrahams separately interviewed another member of the Public Works Department who confirmed this. In July 1999, Abrahams visited the cemetery himself and observed clear track marks from heavy machinery in the area (See Abrahams, T.3975).

<sup>1327</sup> K72 himself expressed this view, noting that "since this was a considerable job, it must have been ordered from a high level." (T.8949-8950).

<sup>1328</sup> K72, T.8925-8927, 8931-8933, 8936, 8939, 8950, 8978, 8981.

<sup>1329</sup> K72, T.8929-8930, 8950, 8979; 8936, 8981, 8942.

<sup>1330</sup> K72, T.8942.

been much easier in daylight.”<sup>1331</sup> He rejected the Defence suggestion that the exhumations were carried out at night because of safety concerns from air strikes, noting that the operation could equally have been a target while digging at night.<sup>1332</sup> After completing his final exhumations, K72 was approached by a uniformed MUP officer who directly threatened that he could lose his head if he talked too much, causing K72 to fear that he would be “eliminated”.<sup>1333</sup>

545. The MUP paid K72 in cash for his services.<sup>1334</sup> He received daily allowances for each working day on a bi-weekly basis and was paid by a uniformed official he called a “treasurer” who carried money in a suitcase.<sup>1335</sup>

546. These bodies were brought to Batajnica, where Đorđević co-ordinated their burial in mass graves.<sup>1336</sup>

(iv) Other Evidence of the Systematic Removal and Transportation of Bodies

547. The evidence of various witnesses suggests the broad ambit of the operation to hide the evidence of civilian massacres by transporting and concealing bodies.

548. After the Trnje operation at the end of March, in which the MUP and VJ killed civilians, K54 was ordered to collect a truck from the Higijena Cleaning Company. Escorted by two truckloads of soldiers, he returned to the murder scene, where the Battalion Commander ordered him to collect the bodies of the women and children. K54 saw that the bodies of the children and most of the women who had been killed were already gone from the scene when he arrived. The Battalion Commander told him that the PJP had already removed them. K54 and the others opened a box containing gloves and body bags, collected the bodies of 5 women, and loaded them into the truck. They found a new location, dug a grave and buried the bodies.<sup>1337</sup> K54’s evidence was extensively corroborated by K82.<sup>1338</sup>

549. Agim Jemini, the former Mayor of Celina/Celine, fled the town when Serb forces entered at the end of March 1999. Hiding nearby and sneaking into the town after nightfall, Jemini observed uniformed policemen, along with Roma, who were gathering bodies. He estimated that they collected at least 20 to 30 bodies. Having observed the police practice of removing bodies from the

<sup>1331</sup> K72, T.8944, 8981.

<sup>1332</sup> K72, T.8974, 8981.

<sup>1333</sup> K72, T.8944-8945.

<sup>1334</sup> K72, T.8923.

<sup>1335</sup> K72, T.8966-8968.

<sup>1336</sup> See *infra* para.587.

<sup>1337</sup> K54, T.4384-4385, 4416; [REDACTED].

<sup>1338</sup> K82, [REDACTED]; P1315, para.13, 15, 19, 26, 31-32; [REDACTED]; [REDACTED]; P1321, pp.22-23:66-67.

scene of massacres, Jemini and his group attempted to collect and bury bodies that had been killed by Serb forces.<sup>1339</sup>

550. In mid-April 1999, in Kosovo Polje/Fushë Kosovë, Goran Stoparić observed uniformed police driving two open-backed trucks that were loaded with bodies in civilian clothing, driving in the direction of Priština/Prishtinë.<sup>1340</sup>

551. In late April, Rahim Latifi saw two police trucks containing bodies on the road from Krusa to Pirane/Piranë (roughly between Prizren, Orahovac and Đakovića).<sup>1341</sup>

(b) The Refrigerator Truck in Bor/Kladovo

*Discovery of a Truck in the Danube*

552. On 5 April 1999, a truck was found floating in the Danube River, near the village of Tekija.<sup>1342</sup> Boško Radojković, a crime technician in the Kladovo police station in North-Eastern Serbia, went to the scene with a diver, who discovered nobody in the passenger booth and a large stone on the accelerator pedal.<sup>1343</sup>

553. Early the next day, Radojković returned to the scene with a team. There were various officials present, including the Chief of the Crime Prevention Squad in Kladovo, the Deputy Municipal Prosecutor, an investigative judge from the Kladovo Municipal Court, and a coroner from Kladovo. By noon, the workers had managed to lift the freight box out of the water. The truck had no licence plates, the back door of the freight box was cracked and broken, and a human leg and arm were protruding.<sup>1344</sup> When the door was finally opened, Radojković saw a number of corpses piled up in the freight box.<sup>1345</sup>

554. The persons inside the refrigerator truck were thought to be Kosovo Albanians from the outset. An inscription on the door of the truck stated "Pik Progres, Exportna-Klanica Prizren",

<sup>1339</sup> Jemini, T.3625-3627,3535,3539-3540;P635,p.9;P637,p.38.

<sup>1340</sup> Stoparić, P493, para.81.

<sup>1341</sup> Latifi, P778, p.3.

<sup>1342</sup> Radojković, T.1764-1765.

<sup>1343</sup> Radojković, P359, pp.2-3; T.1812-1814; Golubović, T.1737; P353, p.5. In *Milutinović*, Radojković testified that this happened on 4 April 1999; P359, p.3. However, his statement to the MUP working group stated that the truck surfaced on 5 April and was observed by policemen on the road late on 4 April. Golubović testified in *Milutinović et al.* that this happened on 5 April; P353, pp.4-5.

<sup>1344</sup> Radojković, T.1765-1766, 1812-1813, 1822-1829; P361; P359, pp.5-8; D40; D41; D42; D43; D44; Golubović, T.1738.

<sup>1345</sup> Radojković, T.1828-1829; Golubović, T.1738; P353, p.5.

indicating that it was from Prizren, Kosovo.<sup>1346</sup> The clothing on the bodies inside the truck also appeared to be Albanian in origin.<sup>1347</sup>

555. The door was shut again and the on-site investigation was stopped.<sup>1348</sup> The municipal prosecutor and investigating judge left the scene, stating that the presence of the bodies made this a responsibility of the District Prosecutor and the District Investigating Judge.<sup>1349</sup> Radojković sent a dispatch to the Bor SUP regarding the events and informed Vukašin Sperlić, Chief of the Kladovo police station.<sup>1350</sup> Shortly thereafter, Radojković received a message from Sperlić to suspend all activities and secure the area.<sup>1351</sup>

556. At a meeting that night at the Kladovo police station, it was agreed that the inscription on the truck should be painted over and that Bor licence plates should be attached to conceal that the truck was from Prizren, Kosovo.<sup>1352</sup>

557. The next day, at around 18:30, the Chief of the Bor SUP, Caslav Golubović, was contacted and briefed that a refrigerator truck containing 20-30 corpses had been found in the Danube.<sup>1353</sup> Golubović was told that both male and female bodies had been found, and there was mention of one or more children.<sup>1354</sup>

558. Golubović contacted Đorđević in Belgrade at approximately 21:00 that night, 7 April 1999, seeking further instructions on how to proceed.<sup>1355</sup> Golubović briefed Đorđević, informing him of everything he had been apprised of.<sup>1356</sup> Ten or fifteen minutes after this initial conversation, Đorđević called Golubović back and instructed him that the bodies should be retrieved and buried in Kladovo, noting that this incident was to remain confidential.<sup>1357</sup>

#### *Attempts to Bury the Bodies Onsite*

559. Pursuant to Đorđević's instructions, Golubović organized for the bodies to be removed and buried. The task was to be done at night.<sup>1358</sup> At around 9 p.m., Golubović met with Miladinović,

<sup>1346</sup> Radojković, T.1766-1767; P362; Golubović, T.1661-1662; T.1735; P353, pp.14-15.

<sup>1347</sup> P352, p.3; Golubović, T.1735-1736; P353, p.14.

<sup>1348</sup> Golubović, T.1738-1739.

<sup>1349</sup> Golubović, T.1709, 1738-1740; P353, pp.5-6, 9, 23; P352, p.2; Radojković, T.1829, 1831, 1834-1835; P359, pp.8-9.

<sup>1350</sup> Radojković, T.1837; P359, pp.9-10.

<sup>1351</sup> Radojković, T.1834-1835; P359, pp.13-16.

<sup>1352</sup> Radojković, T.1837-1838.

<sup>1353</sup> Golubović, T.1734; P353, p.3; P354.

<sup>1354</sup> Golubović, T.1735-1736; P353, p.14.

<sup>1355</sup> Golubović, P353, p.8.

<sup>1356</sup> Golubović, T.1662, 1740; P353, p.8.

<sup>1357</sup> Golubović, T.1725; P353, p.10; Đorđević, T.9721-9722.

<sup>1358</sup> Golubović, T.1742, 1713; P352, p.3.

Sperlić and MUP employees, as well as the municipal investigating judge and the public prosecutor from Kladovo. Having received the order from Đorđević, the men discussed “how we should go about this, how we should carry out the task.” They decided that Sperlić and other Kladovo personnel would arrange for the removal and burial of the bodies by acquiring a truck, workers, blankets and gloves.<sup>1359</sup>

560. Golubović went to Tekija with Miladinović, where they stayed in an office and maintained communications with the workers.<sup>1360</sup> At the scene, people started pulling bodies out of the truck and taking them to another truck.<sup>1361</sup> Radojković saw two children and about ten women among the retrieved bodies. All of the bodies wore civilian clothes. Radojković estimated that the bodies were of people who had been dead not longer than three to four days, and observed injuries mainly from objects such as large blades. He observed a gunshot wound on one of the bodies, a male, whose hands were tied with wire.<sup>1362</sup>

#### *Loading the Bodies into New Trucks*

561. As they worked, it became apparent that there were approximately 50 more bodies in the truck than they had anticipated. At about 22:30, after about 30 bodies had been moved into the first truck, Golubović phoned Đorđević to explain that they would not be able to finish by morning.<sup>1363</sup> Đorđević ordered Golubović to instead load the bodies into a new truck and to have them transported to Belgrade. When Golubović told Đorđević that one truck would not be enough to transport all of the bodies, Đorđević told him to send the truck with as many bodies as they were able to put into it, and that he would see what could be done about arranging for another truck.<sup>1364</sup> Đorđević told Golubović that this first shipment would be transported in the direction of Belgrade. Golubović persuaded his driver, Ljubinko Ursuljanović, to drive this first lorry.<sup>1365</sup>

562. After this first truck had driven off, Golubović asked Đorđević to secure a vehicle so they could transport the rest of the bodies to Belgrade.<sup>1366</sup> Meanwhile, Radojković and his men

<sup>1359</sup> Radojković, T.1837; Golubović, T.1741,1746; P352, pp.2-3, P353, pp.4,11,30.

<sup>1360</sup> Golubović, T.1743; P353, p.12,15.

<sup>1361</sup> Golubović, P353, pp.15-16.

<sup>1362</sup> Radojković, T.1776, P359, pp.19-22; And see: Golubović, P353, p.7416. [REDACTED]. Radojković testified that there must have been a mistake in writing the report, because he did provide information that some bodies were found wearing UCK uniforms, but that this was *not* with respect to the refrigerator truck incident. He had informed the author of the communiqué about this mistake [Radojković, T.1778; [REDACTED]]. [REDACTED].

<sup>1363</sup> Golubović, T.1663,1735,1743-1744,1747; P352, p.4; P353, p.12-13;15-16.

<sup>1364</sup> Đorđević, T.9726-9727.

<sup>1365</sup> Golubović, T.1744,1747,1758-1759; P352, p.4; P353, pp.15-16.

<sup>1366</sup> Golubović, P353, pp.18-19.

unloaded a further 53 corpses and three decapitated heads. Golubović was told that there had been a total of 82-83 corpses in the truck.<sup>1367</sup>

[REDACTED]

563. [REDACTED].<sup>1368</sup>

564. [REDACTED].<sup>1369</sup>

565. Đorđević ordered Golubović to have the original refrigerator lorry destroyed after the bodies had been transported to Belgradē. Golubović thus left instructions with the personnel in Kladovo to destroy the truck.<sup>1370</sup> Around 8 or 9 April 1999, the refrigerated truck was transported to Petrovo Selo, where it was destroyed by Radojković, on the instructions of Toma Miladinović, the Chief of the Crime Police in Bor.<sup>1371</sup> After an unsuccessful attempt to destroy the truck by setting it on fire, it was destroyed with explosives.<sup>1372</sup> Golubović acknowledged that “most probably” the truck should instead have been the subject of an official investigation.<sup>1373</sup>

566. Golubović told Sperlić that everything concerning the refrigerator lorry was to be kept “closed” and that all the dispatches regarding the incident should be destroyed.<sup>1374</sup>

(c) The Refrigerator Truck Incident at Lake Perućac

567. In mid-April of 1999, another refrigerator truck full of bodies was found floating in Lake Perućac. Under Đorđević’s supervision, these bodies were gathered together and concealed by burying them in a mass grave onsite. Thirty-five to 37 corpses were later exhumed and identified as having originated from Kosovo.<sup>1375</sup> They exhibited a pattern of direct gunshots to the cranium, and fire damage suggested that previous attempts had been made to burn the bodies.<sup>1376</sup> This operation is addressed in detail in Part V, Section (C)(1)(f)(ii), below.

<sup>1367</sup> Golubović,P353,p.19. The Working Group later determined that there were a total of 86 bodies: [REDACTED];P387;P389,p.1.

<sup>1368</sup> [REDACTED].

<sup>1369</sup> [REDACTED].

<sup>1370</sup> Golubović,T.1715;1755-1756;P353,pp.19-20;Đorđević,T.9726.

<sup>1371</sup> Golubović,T.1715,1755-1756;P353,pp.19-20.

<sup>1372</sup> Radojković,P359,pp.23-24;T.1783;Golubović,T.1755-1756;P352,p.4;P353,p.20.

<sup>1373</sup> Golubović,T.1757.

<sup>1374</sup> [REDACTED];P386,p.1-3.

<sup>1375</sup> Baraybar,P453,paras.16-17.

<sup>1376</sup> Sterenberg,P815,pp.36-41.



(d) The Concealment of Bodies at the 13 Maj Centre in Batajnica

568. The 13 Maj Centre in Batajnica, located about 20 kilometres from central Belgrade, was the SAJ's only training centre. Three or four days after the war began, the remaining SAJ members [REDACTED] were relocated to a temporary establishment [REDACTED].<sup>1377</sup> Although the Centre was not itself bombed during the NATO air strikes, the NATO attacks had targeted and destroyed the neighbouring VJ barracks.<sup>1378</sup>

569. [REDACTED].<sup>1379</sup> [REDACTED].<sup>1380</sup>

*The Initial Burials*

570. Đorđević contacted K87 and instructed him to report to his office the following day at 9 a.m. When K87 arrived as instructed, Đorđević told him that there were two trucks at the 13 Maj Centre containing bodies and instructed him to bury the bodies onsite.<sup>1381</sup> [REDACTED].<sup>1382</sup>

571. [REDACTED].<sup>1383</sup> [REDACTED].<sup>1384</sup>

572. K87 provided a similar description, although he described two trucks being unloaded in this manner, one immediately after the other.<sup>1385</sup> The smell from the bodies was so strong that they had to wear gas masks. The trucks left the Centre immediately after the bodies were unloaded. Once the bodies were in the hole, [REDACTED] covered them with earth.<sup>1386</sup> K87 then called Đorđević and told him "that the thing was finished, that is, that the bodies had been buried."<sup>1387</sup>

*Additional Trucks and Burials of Bodies*

573. Shortly after these first bodies were buried, more trucks containing bodies were driven to the Centre, and Đorđević arranged for their burial as well.<sup>1388</sup> K87 testified that in the 10 days following the first burials, two or three trucks arrived at the Centre. [REDACTED]. K87 personally

<sup>1377</sup> [REDACTED];Đorđević,T.9731; [REDACTED].

<sup>1378</sup> K87,P1416.1,p.5; P1415,paras.8-9;K88,P370-A,para.11; [REDACTED].

<sup>1379</sup> [REDACTED].

<sup>1380</sup> [REDACTED].

<sup>1381</sup> K87, P1415,para.13;Đorđević, [REDACTED];T.9978.

<sup>1382</sup> [REDACTED].

<sup>1383</sup> [REDACTED].

<sup>1384</sup> [REDACTED].

<sup>1385</sup> K87,P1415,para.19. It may be noted that Đorđević also stated that there were two trucks in the first shipment – see T.9978.

<sup>1386</sup> K87,P1415,para.19-20; [REDACTED].

<sup>1387</sup> Đorđević,T.9731

<sup>1388</sup> Đorđević,T.9732-9733;T.9978;K87,T.14174-14175; P1415,paras.21,23;P1416.1,p. 6.

observed as these bodies were dumped into the holes. The trucks were generally parked in the same location when they arrived at the Centre.<sup>1389</sup>

574. K88 provided more specific detail with respect to the arrivals of additional trucks and the subsequent burials of the bodies they contained. Three to five days after the first burial, an old yellow truck arrived with a trailer attached. The truck did not have a license plate and was driven by two men with Montenegrin accents wearing blue camouflage uniforms. The drivers told K88 that while they were en route to Belgrade, between Belgrade and Niš, the doors of the truck had opened accidentally and 50 bodies had fallen out. They had to stop and were assisted by locals to get the bodies back into the truck.<sup>1390</sup>

575. The bodies from this second truck were buried in grave 2 behind the firing range.<sup>1391</sup> [REDACTED].<sup>1392</sup> In the midst of the burial, part of the trailer fell into the grave. K88 purposely jerked the truck several times so that the bodies would fall out and then detached the cab from the trailer so the driver could drive away. He was able to pull the trailer from the hole and then parked it close to the grave, where it remained until the bodies were exhumed years later.<sup>1393</sup>

576. While the bodies were being buried, the two drivers of the truck were put up in a police hotel in town. While they stayed there, over a period of two or three days, their truck was repaired and re-fueled.<sup>1394</sup> [REDACTED].<sup>1395</sup>

577. After this burial, K88 also had to go to Kosovo. He was therefore unsure about what may have happened during the period when he was away.<sup>1396</sup> Nonetheless, when he returned to the Centre he took part in a number of additional burials.

578. Altogether, K88 was aware of 6 deliveries of bodies. They were brought to the base over a period of 20 days.<sup>1397</sup> A new Mercedes truck was driven by an old man in civilian clothes. The man told them that the truck was his own and that it contained 35 bodies.<sup>1398</sup> They buried these

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<sup>1389</sup> K87,P1415,paras.21-22.

<sup>1390</sup> K88,P370A,paras.22,30;T.1985; [REDACTED]. The truck is 4V on P370A,p.14.

<sup>1391</sup> K88,P370A,para.22; Grave n. 2 on Map p.14.

<sup>1392</sup> [REDACTED].

<sup>1393</sup> K88,P370A,para.23.

<sup>1394</sup> K88,T.1985.

<sup>1395</sup> [REDACTED].

<sup>1396</sup> K88,P370A,para.26.

<sup>1397</sup> K88,P370A,para.31.

<sup>1398</sup> K88,P370A,para.27,29;T.1981;T.1986.

bodies in grave 3. During the burial process, the ramp door fell off of the truck and was found during the exhumations.<sup>1399</sup>

579. A refrigerated thirty-ton truck also arrived at the Centre. K88 had to break it open at the side to empty it. He did not initially see any bodies, but observed that the truck was full of earth, smelled bad, and had part of a coffin with a cross in the earth. The driver wore a camouflage police uniform. The truck was emptied into grave 4 or 5.<sup>1400</sup>

[REDACTED]

580. [REDACTED].<sup>1401</sup> [REDACTED].<sup>1402</sup>

*Dordević Ceased Operations at Batajnica*

581. Following a conversation in which K87 expressed his dissatisfaction to Dordević with the ongoing concealment of bodies at the Centre, the trucks containing bodies stopped arriving.<sup>1403</sup>

[REDACTED].<sup>1404</sup>

(e) Forensic Evidence from Batajnica

*Involvement of the Working Group*

582. [REDACTED].<sup>1405</sup> [REDACTED].<sup>1406</sup> [REDACTED].<sup>1407</sup>

583. The Working Group found the first grave just outside of the training centre compound, behind a slope of the firing range, and it was subsequently ordered that the bodies be exhumed and autopsied.<sup>1408</sup> [REDACTED].<sup>1409</sup> [REDACTED].<sup>1410</sup>

<sup>1399</sup> K88, [REDACTED]; Map P370A, p.14.

<sup>1400</sup> K88, [REDACTED], P370A, p.14 (map); T.1986-1988. He identified the uniform worn by the driver as #4 on P325.

<sup>1401</sup> [REDACTED].

<sup>1402</sup> [REDACTED].

<sup>1403</sup> [REDACTED]; Dordević, T.10000.

<sup>1404</sup> [REDACTED].

<sup>1405</sup> [REDACTED].

<sup>1406</sup> [REDACTED].

<sup>1407</sup> [REDACTED].

<sup>1408</sup> D49; [REDACTED].

<sup>1409</sup> [REDACTED].

<sup>1410</sup> [REDACTED].

*Further Forensic Evidence - Suva Reka/Suharekë*

584. The victims of the Suva Reka/Suharekë massacre were discovered at the *13 Maj* Centre in a mass grave referred to as “Batajnica -1” (BA01). At least 36 bodies were exhumed from this grave.<sup>1411</sup> The small amount of remains recovered suggested that one vehicle, most probably a covered truck, had been used to transport the remains to this location. A timber grill found at the base of the body mass, which would have taken some time to construct, suggests that BA01 was likely the first grave to be constructed.<sup>1412</sup>

585. The bodies found were of both genders and varying age groups. Nine of the bodies were younger than seven years-old. One was an unborn child, as one of the victims from Suva Reka/Suharekë had been pregnant.<sup>1413</sup> No military clothing was found.<sup>1414</sup>

586. The DNA was analysed in Madrid, Spain.<sup>1415</sup> Antonio Alonso, an expert in genetic identification, analysed samples from 56 skeletal remains and 13 blood reference samples of family members of people allegedly killed in Suva Reka/Suharekë. After analysis, Alonso produced four reports. Genetic identification tests were performed on the skeletal remains. Forty-one unique individuals were distinguished, and twenty-one people were specifically identified.<sup>1416</sup> When the DNA results were received, this information was used to identify the bodily remains.<sup>1417</sup> UNMIK collected blood samples and other information from the relatives of the missing persons in Kosovo and provided it to the ICMP.<sup>1418</sup> A family tree provided by the ICTY and a table from the ICMP linking family members of the Suva Reka/Suharekë massacre helped to determine parent/child/sibling relationships.<sup>1419</sup> Further evidence is available in Annex C, Schedule D.

<sup>1411</sup> Dunjić, P527, p.9. For additional bones not related to any of these 36 bodies see P580 and P581.

<sup>1412</sup> Sterenberg, P815, p.27.

<sup>1413</sup> Dunjić, T.3229; P93; P579. *See also* P580; P581. The forensic reports of persons later identified by DNA analysis have also been admitted separately from P93 as P528; P534; P563; P571; P529; P566; P567; P572; P568; P532; P530; P569; P570; P531; P533.

<sup>1414</sup> Dunjić, T.3259.

<sup>1415</sup> Dunjić, T.3242.

<sup>1416</sup> Alonso, T.4679; P799; P801, pp.5-6, 17. Many of the twenty-one victims positively identified are named in Schedule D of the Indictment: Sofije Berisha, Vesel Berisha, Hava Berisha, Drilon Berisha, Redon Berisha, Melinda and/or Herolinda Berisha, Musli Berisha, Fatmire Berisha, Besim Berisha, Granit and/or Genc Berisha, Nexhmedin Berisha, Lirije Berisha (who was pregnant), Afrim Berisha, Hamdi Berisha, one of Hamdi Berisha's four daughters, and Jashar Berisha. S.Berisha identified all but one of the victims, Afrim Berisha, listed as persons she saw murdered on 26 March 1999 in Suva Reka/Suhareka.

<sup>1417</sup> Dunjić, T.3240, P527, pp.19-20, 22.

<sup>1418</sup> Dunjić, T.3240, 3242, P527, p.22.

<sup>1419</sup> Alonso, T.4685-4687, 4696; P802; P800, p.9; P801, pp.9-11, 15; P272. These documents were only used after the Institute conducted a blind comparative analysis (P802, p.3).

*Đakovića/Gjakove and Meja/Meje*

587. The Office of Missing Persons and Forensics (OMPF) was established in June 2002 by UNMIK, with a mandate to determine the whereabouts of missing persons from Kosovo, identify their remains, and return them to the families of the missing.<sup>1420</sup> The OMPF list of missing persons records that over 300 people went missing from the Meja/Meje area on 27 April 1999.<sup>1421</sup> The remains of 287 of these people, listed in Schedule H of the Indictment, were found in graves in Batajnica. These remains were identified through DNA testing and comparison with surviving family members.<sup>1422</sup> OMPF also consulted with members of the community from where the victims went missing.<sup>1423</sup> For example, Merita Deda described the murder of a group of men including her father, uncle and cousin by Serb forces in Meja/Meje on 27 April 1999.<sup>1424</sup> Their bodies were found buried in Batajnica.<sup>1425</sup>

(f) Bodies Concealed near the SAJ Training Grounds at Petrovo Selo

588. [REDACTED].<sup>1426</sup>

[REDACTED]

589. [REDACTED].<sup>1427</sup>

590. [REDACTED].<sup>1428</sup>

591. [REDACTED].<sup>1429</sup> [REDACTED].<sup>1430</sup> [REDACTED].<sup>1431</sup> [REDACTED].<sup>1432</sup>  
[REDACTED].<sup>1433</sup>

[REDACTED].

592. [REDACTED].<sup>1434</sup> [REDACTED].<sup>1435</sup> [REDACTED].

<sup>1420</sup> Baraybar, P453, para 3.

<sup>1421</sup> See P477.

<sup>1422</sup> See Annex C, Schedule H. See also: P99, pp.24-29; P472; P474; P576; P473; P456 [REDACTED].

<sup>1423</sup> Baraybar, P453, paras.29,31.

<sup>1424</sup> Deda, P1030, pp.6-7; P1031, p.6-7.

<sup>1425</sup> Deda, P1031, p.7.

<sup>1426</sup> [REDACTED].

<sup>1427</sup> [REDACTED].

<sup>1428</sup> [REDACTED].

<sup>1429</sup> [REDACTED].

<sup>1430</sup> [REDACTED].

<sup>1431</sup> [REDACTED].

<sup>1432</sup> [REDACTED].

<sup>1433</sup> [REDACTED].

593. [REDACTED].<sup>1436</sup> [REDACTED].<sup>1437</sup> [REDACTED].<sup>1438</sup>

594. [REDACTED].<sup>1439</sup>

*Discovery of the Petrovo Selo Graves – May 2001*

595. [REDACTED].<sup>1440</sup> [REDACTED].<sup>1441</sup> Radojković, who had previously assisted in hiding the bodies from the truck in the Danube, assisted with the exhumations.<sup>1442</sup>

*Forensic Evidence*

596. Sterenberg produced a report on the Petrovo Selo graves, which labels the two pits as PS/I and PS/II.<sup>1443</sup> At both sites, it appears that after the bodies had been buried, other holes were dug around the pits and dirt was dumped on top of the mass graves. The newly created holes were filled with garbage. These additional pits may have been created deliberately to mislead any potential investigations. There was also garbage found on top of the bodies within the graves themselves.<sup>1444</sup>

597. The remains of 75 persons were found at these sites, with evidence of gunshot wounds.<sup>1445</sup> At both pits there were strong indicators that prior to burial the bodies had lain decomposing for several days to a week prior to their burial. There were many indicators that the bodies had been collected from different areas at different times.<sup>1446</sup>

598. Although the majority of the bodies appeared to be civilians, one body was dressed in a KLA uniform, two were dressed in partial uniforms, and one was wearing the “special policeman” uniform. Seven of the bodies were female.<sup>1447</sup>

599. The PS/I pit was lined with a large plastic sheet similar to the one found at BA-05 in Batajnica.<sup>1448</sup> It contained sixteen male bodies.<sup>1449</sup> The three uppermost bodies appeared to have

<sup>1434</sup> [REDACTED].

<sup>1435</sup> [REDACTED].

<sup>1436</sup> [REDACTED].

<sup>1437</sup> [REDACTED].

<sup>1438</sup> [REDACTED].

<sup>1439</sup> [REDACTED].

<sup>1440</sup> [REDACTED].

<sup>1441</sup> [REDACTED];P395, marking #3 indicates Petrovo Selo.

<sup>1442</sup> Radojković,T.1800-1801;P358,p.3; P359,p.25;T.1785-1786,1801.

<sup>1443</sup> P815,pp.31-35.

<sup>1444</sup> P815,p.33.

<sup>1445</sup> P815,p.31.

<sup>1446</sup> P815,p.34.

<sup>1447</sup> P815,pp.31-32.

been executed on site, having been blindfolded and shot in the head. These bodies were later identified as the Bytyqi brothers.<sup>1450</sup> Dorđević had instructed a policeman to collect the brothers, who were serving sentences for misdemeanors in Prokuple, and transport them to the SAJ training centre in Petrovo Selo.<sup>1451</sup> The pit also contained ligatures, blindfolds and ballistic evidence, along with surgical gloves and clothing that appeared to belong to persons handling the remains.<sup>1452</sup>

600. PS/II contained fifty-nine individual bodies, seven of which were female.<sup>1453</sup> Many were wrapped in clear plastic sheets with the ends taped, similar to wrappings found at BA-05 in Batajnica.<sup>1454</sup> Bodies were found on different levels, suggesting that more bodies were deposited on top of the original 50. Bodies at the higher level were in open black or blue body bags.<sup>1455</sup> Amongst the bodies in the lower level were more than 20 victims of the killings in Izbica/Izbicë.<sup>1456</sup> Death certificates and autopsy reports prepared by the Niš Institute of Forensic Medicine confirm the identity of many of the victims named in Schedule F.<sup>1457</sup>

#### *DNA Analysis and Identification*

601. Hard tissue samples were taken for DNA analysis from all of the bodies discovered at Petrovo Selo.<sup>1458</sup> OMPF experts were able to establish the cause of death for 53 of the 61 bodies, concluding that all 53 of those individuals died as a result of gunshot wounds. Twenty individuals sustained at least one gunshot wound through the head, 21 through the chest, five through the upper limbs, and 13 through the lower limbs.<sup>1459</sup>

#### 6. The rewards for those supportive of the objectives of the JCE

602. Far from being punished for their criminal behaviour, members of the JCE were rewarded by Milošević for carrying out the goals of the JCE. Many commanders and senior officers of the MUP and the VJ, as well as those whose units implemented the goals of the JCE, were promoted and/or commended for their actions in Kosovo and their loyalty to Milošević's political aims.

<sup>1448</sup> P815,pp.33-34.

<sup>1449</sup> P815,pp.33-34.

<sup>1450</sup> P815,pp.31-32,34-35.

<sup>1451</sup> Dorđević, T. 9974-9975.

<sup>1452</sup> P815,pp.30,33,34.

<sup>1453</sup> P815,p.34.

<sup>1454</sup> P815,p.34.

<sup>1455</sup> P815,p.34.

<sup>1456</sup> See Annex C, Schedule F.

<sup>1457</sup> See P457-P470.

<sup>1458</sup> P815,p.32.

<sup>1459</sup> Baraybar,P454,p.11-12,14-15;P455.

603. As the Heads of the RJB and MUP Staff, respectively, Đorđević and Lukić played a crucial role in Kosovo, as did Stevanović. According to Đorđević, Stevanović was in Kosovo throughout most of the war until the signing of the Kumanovo Agreement.<sup>1460</sup>

604. In July 1999, pursuant to a Presidential Decree, Đorđević, Lukić and Stevanović received from Milošević the Order of the Yugoslav Flag of the First Degree, "*for the exceptional results achieved in commanding police units, for the courage, determination and discipline exhibited in discharging security tasks of combating terrorism in Kosovo and Metohija and in defending the country from aggression, serving as examples to other units and police members*".<sup>1461</sup>

605. Lukić had already been promoted to the rank of Lieutenant General in May 1999.<sup>1462</sup> Stojiljković praised Lukić for excelling "in successful command and control of the MUP units engaged in the prevention of terrorism in Kosovo" when recommending him for promotion in May 1999.<sup>1463</sup> In January 2001, Lukić replaced Đorđević as Assistant Minister and Head of the RJB.<sup>1464</sup>

606. Pursuant to the same Presidential Decree, Milošević also decorated senior members of the MUP, such as commanders of the PJP, SAJ and JSO units who had furthered the goals of the JCE in Kosovo.<sup>1465</sup> The 124<sup>th</sup> Intervention Brigade of the PJPs received the award of national hero.<sup>1466</sup>

607. These MUP members and units were active in Kosovo and were decorated for discharging security duties in Kosovo.<sup>1467</sup>

608. As was the case with the MUP, key VJ officials were rewarded for their support for the JCE. In December 1998, JCE members Lazarević and Pavković were appointed to new positions to facilitate the furtherance of the common purpose of the JCE. Pavković (then Commander of the PrK), was promoted to Commander of the Third Army,<sup>1468</sup> while Lazarević (then Chief of Staff of the PrK), replaced Pavković and was appointed Commander of the PrK.<sup>1469</sup>

609. In addition to rewarding those who supported the JCE, those who opposed it were removed and replaced by more compliant individuals. One such area of contention was the proper or constitutional use of the VJ in Kosovo. Some senior VJ officers opposed the use of the VJ outside

<sup>1460</sup> Đorđević, T. 9780.

<sup>1461</sup> P1506, pp.1-2; Order on Agreed Facts, p. 25. Đorđević, T.9791. *See also* T.9783.

<sup>1462</sup> Đorđević, T. 9535-9536; D423.

<sup>1463</sup> D423.

<sup>1464</sup> P1495; Order on Agreed Facts, Annex B, No. 31, p. 25.

<sup>1465</sup> Đorđević, T.9780-9782; P1506, p.2.

<sup>1466</sup> Đorđević, T.9779; P1506, p.1. *See also* pp.2-3

<sup>1467</sup> Đorđević, T.9779-9782; P1506, p.1.

<sup>1468</sup> P1343, p.8; P1493.

<sup>1469</sup> P1343, p.8; P1494.



of the established chain of command in combat operations in Kosovo and the attempts to centralize command of the VJ and MUP.<sup>1470</sup> This resistance was led by the then Chief of the VJ General Staff Momčilo Perišić.<sup>1471</sup> In November 1998, he was removed from his position as Chief of the VJ General Staff and replaced by Ojdanić.<sup>1472</sup> Ojdanić was intentionally positioned by Milošević, as a member of the JCE, in order to facilitate the implementation of the common purpose. As a reward for his contribution to the JCE, Ojdanić was appointed Federal Minister of Defence on 15 February 2000.<sup>1473</sup>

610. Moreover, the removals of senior members of the VJ were not carried out in accordance with military procedure. Momčilo Perišić in a public statement of 27 November 1998, complained that he was removed “in an inappropriate and illegal manner”.<sup>1474</sup> At a meeting of the VJ Collegium, it was reported that Perišić, upon handing over his duties to Ojdanić on 27 November 1998, made and signed a statement for the public, stating: “The current regime does not like leaders of high integrity and those who use their own heads to think. I was removed from the position of Chief of General Staff of the Yugoslav Army without consultations in an inappropriate and illegal manner. I do not accept the invented position in the current Federal Government that has been offered to me. I remain at the disposal to my Army, state and people.”<sup>1475</sup>

611. Many participants in the JCE, whether members of the VJ or the MUP, received awards and recognition, and attained, retained or improved the positions they held during the Indictment period as a result of their demonstrated loyalty to Milošević and their willingness to implement measures to achieve objectives of the JCE.

<sup>1470</sup> Under Article 4(4) of the 1994 FRY Law on the VJ (P43), it was the responsibility of the President of the FRY to “regulate and order readiness of the Army in case of an imminent threat of war, state of war, or state of emergency,” none of which were declared in Kosovo in 1998. Perišić complained about this unconstitutional use of the VJ in a letter to Milošević dated 23 July 1998 (P1329, pp.2-3).

<sup>1471</sup> P1329.

<sup>1472</sup> P1363, p.3

<sup>1473</sup> Order on Agreed Facts, Annex B, No. 27, p. 25

<sup>1474</sup> P965, p.27.

<sup>1475</sup> P965, p.27.

## IV. THE CRIMES

### A. General Requirements of Article 3 of the Statute

#### 1. Existence of an armed conflict

612. An armed conflict between the KLA and forces of the FRY and Serbia existed in the territory of Kosovo during the Indictment period. In addition, from 24 March 1999 to 20 June 1999, a state of armed conflict existed between the forces of the FRY and Serbia and NATO.

613. The KLA was established to conduct an armed struggle to achieve the independence of Kosovo.<sup>1476</sup> In 1997 and 1998, the KLA trained in Albania and smuggled weapons from Albania across the state border into Kosovo.<sup>1477</sup>

614. While it began as individual groups of lightly-armed guerrillas, by the spring of 1998 the KLA had become a well-organised military force.<sup>1478</sup> By April 1998, a conflict existed between the KLA and the forces of the FRY and Serbia in Kosovo.<sup>1479</sup> By mid-July 1998, the KLA controlled about half of the territory of Kosovo.<sup>1480</sup> The conflict escalated in 1999.

615. At least from the spring of 1998 onwards, the KLA was a well-organised military force.<sup>1481</sup> The KLA had a General Staff,<sup>1482</sup> a formal structure with a clear chain of command where commanders were able to issue orders,<sup>1483</sup> rules setting out the military code of conduct,<sup>1484</sup> and distinctive insignia.<sup>1485</sup> The KLA also possessed uniforms, KLA emblems, logos and its own flag,<sup>1486</sup> and had developed a communication system.<sup>1487</sup>

616. The KLA was organized into seven zones of responsibility and had commanders and deputy commanders in charge of each of these zones.<sup>1488</sup> KLA Zone Commanders had a duty to report to the KLA General Staff.<sup>1489</sup>

<sup>1476</sup> Abrahams,P738,p.16;Vasiljević,T.5791;Rugova,P286,p.64;Zyrapi,P427,pp.167-168.

<sup>1477</sup> D320;Zyrapi,P428,pp.8-10,56-57.

<sup>1478</sup> P436;Zyrapi,P428,pp.10-11. See also Crosland,P1400,para.23;P1401,p.31.

<sup>1479</sup> Zyrapi,P428,p.93. See also Crosland,P1401,p.170 for the quasi-front line in May 1998.

<sup>1480</sup> Zyrapi,P428,pp.93-94. Crosland,P1400,para.36;T.9168

<sup>1481</sup> P436;Zyrapi,P428,pp.10-11. See also Crosland,P1400,para.3.

<sup>1482</sup> D152;Zyrapi,P428, pp.9-10,17-18. See also Zyrapi, T.2403-2404,2460,2503.

<sup>1483</sup> P444;P440;D792;P452;Zyrapi,P428,p.45. See also Zyrapi,T.2402-2410.P431,P432

<sup>1484</sup> P436.

<sup>1485</sup> Zyrapi,T.2401,P428,pp.51-52,265-266. See also P325,p.10.

<sup>1486</sup> P436;Zyrapi,T.2401,P428,pp.51-52,265-266;P1347,p.2.

<sup>1487</sup> Zyrapi,T.2466,P428,pp.57-58.

<sup>1488</sup> Zyrapi,T.2462,P428,p.43;P430.

<sup>1489</sup> P436;P437;Zyrapi,T.2456,P428,pp.22-23.

617. Forces of the FRY and Serbia consisted principally of the VJ and the MUP. Section III(A)(3)(a) provides further detail as to the VJ and MUP units and other armed organisations deployed in Kosovo during the Indictment period.

2. Nexus between the armed conflict and the crimes

618. The nexus existed in relation to the crimes charged under Article 3 of the Statute. The perpetrators were members of the forces of the FRY and Serbia acting in furtherance of a criminal purpose to modify the ethnic balance of Kosovo through criminal means. The victims were not taking active part in hostilities at the time of the crimes.

**B. General Requirements of Article 5 of the Statute**

619. As required under Article 5 of the Statute, each of the crimes against humanity charged formed part of a widespread or systematic attack against a civilian population.

1. The attack

620. During the Indictment period, forces of the FRY and Serbia conducted an attack directed against the Kosovo Albanian population of Kosovo province. The purpose of this attack was to modify the ethnic balance in Kosovo in order to ensure continued Serbian control over the province through criminal means. This attack is described in detail in Section IV(C) of this brief.

2. The widespread and/or systematic nature of the attack

621. Each of the crimes against humanity charged formed part of a widespread and/or systematic attack directed against a civilian population. Forces of FRY and Serbia attacked ethnic Albanian villages throughout the province of Kosovo during the Indictment period. The Kosovo Albanian civilian population was targeted. The evidence establishes the widespread mistreatment, killings and expulsions of Kosovo Albanian civilians, resulting in a large number of victims.

622. The attack on the villages throughout the province of Kosovo was conducted in a systematic way. Forces of FRY and Serbia shelled village after village, burnt houses, killed livestock, mistreated, expelled and killed ethnic Albanians civilians. These attacks followed a pattern of crime. The repetition of similar criminal conduct during the Indictment period was not accidental. It was the direct result of high-level planning by members of the JCE.

### 3. Civilian population

623. The attack was directed against the Kosovo Albanian civilian population. Kosovo Albanian civilians, including women, children and elderly villagers, were systematically mistreated, killed and expelled from their villages. The Kosovo Albanian civilian population, and not the KLA, was the primary, and by no means incidental, target of this attack.

#### 4. The acts of the accused formed part of the attack and the accused were aware that their acts formed part of the attack

624. The Accused planned and implemented the attack on the Kosovo Albanian population and was among the main participants in the JCE, the purpose of which involved carrying out this attack. As a result, his acts, by their nature and consequences, formed part of this attack. The Accused was clearly aware of the attack on the civilian population and that he was carrying out the crimes against humanity charged in furtherance of it.

#### 5. Discriminatory intent for persecutions

625. The crimes charged in the Indictment were carried out with the intent to discriminate on racial, religious and/or political grounds within the meaning of Article 5(h) of the Statute. The general pattern of crime described below establishes the persecutory and discriminatory nature of these crimes. The Accused, together with other JCE members, headed this campaign of persecutions. He had the intent to discriminate against Kosovo Albanians because of their racial, political or religious affiliations during the relevant time. This is the only reasonable inference to be drawn from the evidence.

## C. The crimes charged

### 1. Orahovac/Rahovec municipality

#### (a) Celina/Celinë

626. On the early morning of 25 March 1999, Serb military and police surrounded the village of Celina/Celinë with tanks and armoured vehicles, and started shelling. The shelling continued throughout the day.<sup>1490</sup> Agim Jemini, mayor of Celina/Celinë, climbed into the roof cavity of a

<sup>1490</sup> Jemini, P635, p.6; P637, p.4; Salihi, T.3482-3483, 3486, 3460; P632, pp.2-3.

house under construction and hid there with his cousin.<sup>1491</sup> The next morning, from a window,<sup>1492</sup> Jemini saw about 500 soldiers enter the village from four directions: Bela Crkva/Bellacërka, Velika Kruša/Krusha e Madhe, Orahovac/Rahovec, and from the direction of the main Đakovica/Gjakova–Prizren road.<sup>1493</sup> Most of the villagers fled to a nearby forest before the army and police arrived.<sup>1494</sup> At the time of the attack, there was no KLA presence in the village.<sup>1495</sup>

627. Throughout the day on 26 March 1999, these forces looted objects of value, loaded them onto their vehicles,<sup>1496</sup> and set fire to houses and the local school.<sup>1497</sup> They also stole cars and tractors.<sup>1498</sup> Soldiers took up positions around the village and stayed for about two days, shooting at random at night in order to scare villagers.<sup>1499</sup>

628. From his hiding place, Jemini saw around 35 soldiers break the gate of his family compound and loot the five houses in the compound.<sup>1500</sup> The two commanders of the unit took their position on the balcony of a house in the compound and supervised what was going on in the village.<sup>1501</sup>

629. Later that morning, Jemini saw a group of policemen and paramilitaries enter his house, question and rob his family, and then shoot and kill five members.<sup>1502</sup> A short time later, a truck arrived and the men loaded what they had stolen from Jemini's house onto the truck.<sup>1503</sup>

630. Throughout the day, Jemini heard the two commanders giving orders over the radio to their men in the village.<sup>1504</sup> He heard the radio call for "Commander 444" and one of the Commanders answered. The voice on the radio then asked, "What is the situation in Celina?" The Commander answered, "All is good." The person on the radio then said, "Is it the same as in Račak." The commander then answered, "Twice as much as in Račak."<sup>1505</sup> At about 7:00 pm, Jemini heard a radio call for "Commander 444" and the same commander answered. The voice on the radio said something like, "Stop the offensive on Celina." The Commander answered, "Yes, we will stop."<sup>1506</sup>

<sup>1491</sup> Jemini, T. 3588-3589; P635, p.6; *see also* P642; P641; Jemini, P637, pp.8-9; D76.

<sup>1492</sup> Jemini, T. 3580, 3603-3604; D75.

<sup>1493</sup> Jemini, T. 3593; P635, p.6; P637, p.4; P636, p.23.

<sup>1494</sup> Salihi, P632, pp.2-3; T. 3493-3494. *See also* Jemini, P635, p.6.

<sup>1495</sup> Jemini, P635, p.6.

<sup>1496</sup> Salihi, T. 3460-3461, 3492, 3498; P632, pp.2-3.

<sup>1497</sup> Jemini, P635, pp.8-9; Salihi, T. 3460-3461, 3464, 3492, 3498; P632, pp.2-3; P633, pp.4-5, 8.

<sup>1498</sup> Salihi, P632, p.3.

<sup>1499</sup> Jemini, P635, pp.6-8.

<sup>1500</sup> Jemini, P635, p.6.

<sup>1501</sup> Jemini, P635, p.6.

<sup>1502</sup> Jemini, T. 3533-3534, 3602, 3616; P635, p.8; P636, pp.31-32; P637, pp.9, 53. *See also* P644, P639 and P643.

<sup>1503</sup> Jemini, P635, pp.8-9.

<sup>1504</sup> Jemini, P635, p.7.

<sup>1505</sup> Jemini, T. 3608; P636, pp.6-7.

<sup>1506</sup> Jemini, P635, p.7; P636, pp.6-7; T. 3607-3608.

631. Reshit Salihi, a local resident, was hiding in his family farm and saw policemen enter nearby houses and set them alight.<sup>1507</sup> His brother Bajram stood on a wall of the farm to observe the movements of the police, and was shot and killed.<sup>1508</sup> Salihi ran to a hill beyond the houses where he hid in a deep hole.<sup>1509</sup> A “very short while later”, Salihi heard bursts of automatic gunfire and then women and children screaming from the direction of his compound.<sup>1510</sup> The shooting continued for about 15 minutes.<sup>1511</sup> A total of eight members of Salihi’s family were killed in the shooting, as well as all of the members of the Zeqiri family.<sup>1512</sup> That evening, Salihi and his remaining family members fled into the woods.<sup>1513</sup> The “whole village” along with refugees from nearby villages also hid in the woods.<sup>1514</sup>

632. Salihi and his family remained in the woods for the next three days,<sup>1515</sup> during which time they heard shots and saw smoke billowing from the village.<sup>1516</sup> On the fourth day, approximately 40 policemen in blue camouflage uniforms and armed with assault rifles arrived on foot to the edge of the woods and started firing in the air.<sup>1517</sup> They rounded up the villagers, and separated women and children from men.<sup>1518</sup> The police searched the men and at gunpoint ordered them to hand over money and identity documents.<sup>1519</sup> Salihi handed over his identity card and saw that the police put all the identification documents in a pile and set them on fire.<sup>1520</sup> Three policemen searched and stripped a local villager, Agim Ramadani, to the waist.<sup>1521</sup> They shot him in the head, killing him on the spot.<sup>1522</sup>

633. The police then forced both groups to march at gunpoint back through the village.<sup>1523</sup> Along the way, the police assaulted people “with rifle butts” and beat some villagers.<sup>1524</sup> While passing through the village, Salihi noticed that the village was on fire.<sup>1525</sup>

<sup>1507</sup> Salihi, P632, p.3.

<sup>1508</sup> Salihi, P632, p.3; P633, p.14.

<sup>1509</sup> Salihi, P632, p.3; T.3503-3504, 3520.

<sup>1510</sup> Salihi, P632, p.3.

<sup>1511</sup> Salihi, P632, p.3.

<sup>1512</sup> Salihi, T.3465-3468.

<sup>1513</sup> Salihi, P632, p.3; T.3461.

<sup>1514</sup> Salihi, P633, p.6; T.3461-3462, 3469.

<sup>1515</sup> Salihi, P632, p.3.

<sup>1516</sup> Salihi, T.3462.

<sup>1517</sup> Salihi, P632, p.3.

<sup>1518</sup> Salihi, T.3510; P632, p.3; P633, pp.6, 20.

<sup>1519</sup> Salihi, T.3510; P632, pp.3-4; P633, p.6.

<sup>1520</sup> Salihi, P632, p.4.

<sup>1521</sup> Salihi, P632, p.4.

<sup>1522</sup> Salihi, T.3510, 3512-3513, 3519-3520; P632, p.4.

<sup>1523</sup> Salihi, P632, p.4.

<sup>1524</sup> Salihi, T.3462; P632, p.4.

<sup>1525</sup> Salihi, T.3462-3463.

634. In Celina/Celinë, the villagers were handed over to another group of policemen dressed in blue camouflage uniforms,<sup>1526</sup> who marched them out to the main road towards Prizren.<sup>1527</sup> The police beat and harassed the villagers for money at gunpoint.<sup>1528</sup> A large number of trucks arrived, and the police ordered them to board the trucks,<sup>1529</sup> which transported them to Žur/Zhur.<sup>1530</sup> Before crossing the Albanian border, they were ordered to hand over identity documents.<sup>1531</sup>

635. On or about 29 March 1999, several villagers returned to Celina/Celinë and saw that the village had been burned, and many villagers killed.<sup>1532</sup> Jemini buried approximately 78 bodies.<sup>1533</sup> Jemini kept detailed lists of the names and burial sites of all the victims.<sup>1534</sup> Sabri Popaj and Nazim Rexhepi found and buried approximately 85 bodies. All had been shot, and some of them burnt.<sup>1535</sup> The victims wore civilian clothes.<sup>1536</sup>

636. Three months after being deported to Albania, Salihi returned to Celina/Celinë and found that the village had been burnt.<sup>1537</sup>

(b) Bela Crkva/Bellacërkvë

637. In the early hours of 25 March 1999, Isuf Zhuniqi, a local farmer, and Sabri Popaj, also from the village, saw five VJ tanks enter Bela Crkva/Bellacërkvë from the direction of Đakovica and Prizren.<sup>1538</sup> Two tanks drove towards the schoolyard, while the other three moved past the mosque and up a hill above the village of Celina/Celinë, where they took up positions.<sup>1539</sup> At around 4:00am, police and army started shooting towards the village from their positions on the hill.<sup>1540</sup> Popaj understood the shooting as a warning to leave their houses and the village.<sup>1541</sup> He saw Serb police in light blue uniforms enter the outskirts of the village and set fire to houses using petrol and flame-throwers.<sup>1542</sup> In response, the villagers began to flee.<sup>1543</sup>

<sup>1526</sup> Salihi, P632, p.4.

<sup>1527</sup> Salihi, P632, p.4.

<sup>1528</sup> Salihi, P632, p.4.

<sup>1529</sup> Salihi, P632, p.4; P633, p.22.

<sup>1530</sup> Salihi, P632, p.4; P633, p.22.

<sup>1531</sup> Salihi, T.3463.

<sup>1532</sup> Popaj, P1082, p.12; P1083, p.32; Jemini, P635, p.9.

<sup>1533</sup> Jemini, T.3535; P635, p.9. *See also* P648; P649; Jemini, T.3539-3540.

<sup>1534</sup> Jemini, P635, p.9; Popaj, P1082, p.14; T.7418, 7422.

<sup>1535</sup> Popaj, P1082, pp.12-14; P1083, p.32.

<sup>1536</sup> Popaj, P1082, p.14; P1083, p.32.

<sup>1537</sup> Salihi, T.3463-3464; P633, p.8.

<sup>1538</sup> Popaj, P1082, p.7; P1083, p.7; Zhuniqi, P1251, p.5; P1253, pp.6-7; P1252, p.12; P1254.

<sup>1539</sup> Popaj, P1083, pp.7, 8, 46-48, 64, 67-68; P1084; P1091. *See also* Zhuniqi, P1251, p.5; P1253, p.7; P1254.

<sup>1540</sup> Popaj, P1082, p.7; P1083, pp.9, 90.

<sup>1541</sup> Popaj, P1082, p.7; P1083, pp.9, 90.

<sup>1542</sup> Popaj, P1082, p.7; P1083, pp.9, 48, 90, 127; P1092. *See* Zhuniqi, P1251, p.5; P1252, p.13.

<sup>1543</sup> Popaj, P1082, p.7; P1083, pp.9, 48; Zhuniqi, P1251, p.5.

638. The population fled along the Belaja stream and sought shelter near a railway bridge over the stream.<sup>1544</sup> Zhuniqi took his family to the Belaja stream, which had steep, high banks that could conceal them.<sup>1545</sup> As they walked, they could hear the sounds of automatic gunfire and explosions coming from the village.<sup>1546</sup>

639. When Zhuniqis reached the railway bridge that connects the village of Zrze/Xërxa and Prizren, they took shelter in an irrigation canal for a few hours with another 700 other villagers.<sup>1547</sup> At about 9:30 a.m. Isuf Zhuniqi saw a squad of policemen heading towards the bridge along both sides of the stream.<sup>1548</sup> All the policemen were dressed in greenish blue camouflage uniforms and armed with rifles and long knives attached to their belts.<sup>1549</sup> Zhuniqi recognised one of them as a local policeman from Orahovac/Rahovec.<sup>1550</sup>

640. From his home, Popaj heard children's cries coming from the Belaja stream.<sup>1551</sup> He went to the stream to investigate and found 14 members of the Zhuniqi and Spahiu families trying to cross the water.<sup>1552</sup> Popaj helped them across.<sup>1553</sup> On his way back home, Popaj heard shooting from snipers in the hills. He lay down, crawled about 100 metres and hid in a hole.<sup>1554</sup>

641. From his hiding place, Popaj saw a dozen policemen in camouflage "green" uniforms approach the Zhuniqi and Spahiu families and shout insults like, "Ask NATO for help now."<sup>1555</sup> One policeman shouted "Shoot!" and two others opened fire with their assault rifles.<sup>1556</sup> Other policemen on the other side of the stream joined in as well.<sup>1557</sup> At least 12 members of Zhuniqi and Spahiu families were killed, including 10 women and children.<sup>1558</sup> Only a two-year old child survived.<sup>1559</sup>

642. The policemen then proceeded along the stream, near the railway bridge.<sup>1560</sup> Once there, they ordered the remaining villagers out of the streambed, and separated the men and older boys

<sup>1544</sup> Zhuniqi, P1251, pp.5-6; P1253, pp.8-9; Popaj, P1082, pp.7-8. *See also* P1255.

<sup>1545</sup> Zhuniqi, P1251, pp.5-6; P1253, pp.8-9; P1255.

<sup>1546</sup> Zhuniqi, P1251, p.6; P1253, p.19.

<sup>1547</sup> Zhuniqi, P1251, p.6; P1252, p.14; P1253, pp.8-9, 20; P1255.

<sup>1548</sup> Zhuniqi, P1251, p.6; P1253, pp.8-9; P1255.

<sup>1549</sup> Zhuniqi, P1251, p.6; P1253, pp.32-33; P1252, pp.15-16.

<sup>1550</sup> Zhuniqi, P1251, p.6; P1253, pp.11-13.

<sup>1551</sup> Popaj, P1082, p.7; P1083, p.90.

<sup>1552</sup> Popaj, P1082, p.7.

<sup>1553</sup> Popaj, P1082, p.7.

<sup>1554</sup> Popaj, P1082, p.7; P1083, p.91.

<sup>1555</sup> Popaj, P1082, pp.7-8; P1083, pp.10, 12, 82, 121; P1084.

<sup>1556</sup> Popaj, T.7397; P1082, pp.7-8; Zhuniqi, P1251, p.6.

<sup>1557</sup> Popaj, P1082, p.8.

<sup>1558</sup> Zhuniqi, P1251, p.6; Popaj, P1082, pp.7-8. *See Annex C, Schedule B.*

<sup>1559</sup> Zhuniqi, P1251, p.6; P1252, pp.15, 18; Popaj, P1082, pp.4, 9-10; P1083, pp.4-5.

<sup>1560</sup> Popaj, P1082, p.8; P1083, p.17; *see also* P1085.



from the elderly men, women and children.<sup>1561</sup> The men were ordered to strip to their underwear, and the policemen robbed them of all documents and valuables.<sup>1562</sup>

643. The women and children were ordered to follow the railway tracks to the adjacent village of Zrze/Xërxë.<sup>1563</sup> A doctor from Bela Crkva/Bellacërkë tried to speak with the police commander, but was shot and killed, as was his nephew.<sup>1564</sup> The police forces then ordered the remaining men and older boys to go back into the streambed, and opened fire on them, killing approximately 65 people.<sup>1565</sup>

644. After this incident, the police moved off in the direction of Celina/Celinë.<sup>1566</sup> These police forces also killed six men hiding in an irrigation ditch in the vicinity.<sup>1567</sup>

645. After the police had left, Popaj then learned that five members of his family had been among those executed.<sup>1568</sup>

646. Agim Jemini corroborates these accounts of the killings. On the morning of 27 March 1999, he and his cousin passed the murder scene on their way to Zrze/Xërxa.<sup>1569</sup> They saw around 40 bodies there, all in civilian clothes.<sup>1570</sup>

647. In the following days, Popaj returned to the stream and, with the help of other villagers, collected a total of 38 bodies and buried them.<sup>1571</sup> Popaj made a list of the names of the victims before burying them.<sup>1572</sup>

648. Serb police killed more than 60 people on 25 March 1999 in Bela Crkva/Bellacërkë.<sup>1573</sup> A British forensic team conducted exhumations from late June to early July 1999 and recovered 54 bodies. Relatives identified the victims. The cause of death of the victims was determined to be gunshot wounds.<sup>1574</sup>

<sup>1561</sup> Zhuniqi, P1251, p. 7; P1252, pp. 15, 18; Popaj, P1083, p. 83.

<sup>1562</sup> Zhuniqi, P1251, p. 7; P1253, p. 9; Popaj, P1082, p. 8; P1083, p. 19. Zhuniqi identified the policemen commander as Nenad Matic on a photograph shown to him by KFOR representatives. Zhuniqi, P1252, pp. 15, 17, 23; P1251, p. 6.

<sup>1563</sup> Zhuniqi, P1251, p. 7.

<sup>1564</sup> See Annex C, Schedule B. See Zhuniqi, P1251, p. 7; P1252, p. 19; Popaj, P1082, p. 8.

<sup>1565</sup> Zhuniqi, P1251, pp. 7, 8-9; P1252, p. 19; Popaj, P1082, pp. 8-9. See also P1085; P1086. See Annex C, Schedule B.

<sup>1566</sup> Popaj, P1082, p. 8.

<sup>1567</sup> Popaj, P1082, p. 8. Popaj found those 6 bodies on a side of the railway track in an irrigation canal near the Belaja bridge. Popaj, P1083, p. 16.

<sup>1568</sup> Popaj, P1082, p. 9; T. 7362, 7363, 7411, 7421. Other survivors are listed on p. 9 of P1082.

<sup>1569</sup> Jemini, P635, p. 9; P637, pp. 11-12; see also P645, mark nn. "1"-"2"; Jemini, P637, pp. 12, 13.

<sup>1570</sup> Jemini, T. 3535-3536; P637, pp. 11, 12. See also P646; P647; Jemini, T. 3538-3539.

<sup>1571</sup> Popaj, P1082, p. 10; P1083, pp. 28-29, 103.

<sup>1572</sup> Popaj, P1082, pp. 10-11.

<sup>1573</sup> See Annex C, Schedule B.

<sup>1574</sup> P1151, pp. 3-5, 48-49; P1139, p. 27; Baccard, P1140, pp. 15-16, 64. See also Popaj, P1083, pp. 31-32.

(c) Velika Kruša/Krusha e Madhe

649. The same day, 25 March 1999, police and VJ surrounded the neighbouring village of Velika Kruša/Krusha e Madhe.<sup>1575</sup> Ali Hoti, a doctor from that village, saw VJ tanks, APCs, and Pragas moving along the main road of the village that connects Prizren, Đakovica/Gjakova, and Orahovac/Rahovec.<sup>1576</sup> The population fled and sought shelter in the hills above the village.<sup>1577</sup> Some villagers fled in the direction of Nogavac/Nagavc, in the valley of Cili, where tens of thousands of people from the villages of Brestovc, Zorqisht, Opterusha, Reti, and Celina/Celinë had gathered.<sup>1578</sup> The refugees spent the night in the valley, from where they saw Velika Kruša/Krusha e Madhe burning, and Serb forces heading towards Nogavac/Nagavc.<sup>1579</sup>

(d) Mala Kruša/Krusë e Vogel

650. Mehmet Krasniqi, a local villager, testified that on the morning of 25 March 1999, he was woken up by the noise of heavy artillery, tanks and APC's moving along the Prizren-Đakovica road.<sup>1580</sup> All Kosovo Albanian villagers fled into the woods in the mountain.<sup>1581</sup> At day break, the forces began firing above the villagers' heads in the direction of the woods. This lasted for about an hour.<sup>1582</sup> Police entered the village and started looting and burning houses.<sup>1583</sup>

651. Local Serbs from the village participated in the attack with the police. They assisted in setting fire to houses and gave information to the police on where the houses of the Kosovo Albanians were.<sup>1584</sup>

652. At night fall, most of the villagers came out of the woods and took refuge in the house of Sejdi Batusha on the outskirts of the village, where they spent the night.<sup>1585</sup>

653. In the morning of 26 March 1999, Serbs from the village together with police started to open fire, loot and set fire to houses.<sup>1586</sup> A group of policemen forced those villagers who were still

<sup>1575</sup> Hoti, P628, pp.4-5.

<sup>1576</sup> Hoti, P628, p.5.

<sup>1577</sup> Hoti, P628, pp.4-6.

<sup>1578</sup> Hoti, P628, pp.5-7; P629; Zhuniqi, P1251, p.6.

<sup>1579</sup> Hoti, P628, p.7.

<sup>1580</sup> M.Krasniqi, T.979-980, 1024-1025, 1039; P305, pp.4, 11. See Ramadan, T.1109; P306, pp.2-3, 35.

<sup>1581</sup> Ramadan, T.1109-1112; P306, pp.4, 6; M.Krasniqi, T.979-980, 1024-1025, 1039; P305, p.11.

<sup>1582</sup> M.Krasniqi, T.980-983.

<sup>1583</sup> Ramadan, T.1110; P306, pp.3-4; M.Krasniqi, P305, p.11. (Ramadan used the expression "militia" to refer to the MUP, Ramadan, P306, pp.61-63).

<sup>1584</sup> Ramadan, P306, pp.4-5, 43.

<sup>1585</sup> Ramadan, T.1082, 1112; P306, pp.6-7; P307 (a circle indicates the house of Sejdi Batusha; Ramadan, T.1087); P308 (a circle marks the house of Sejdi Batusha; Ramadan, T.1091). See also M.Krasniqi, T.983; P302, mark n.2.

<sup>1586</sup> Ramadan, T.1082-1083; P306, pp.8-9.

hiding in the woods to come out.<sup>1587</sup> They also located the villagers in the house of Sejdi Batusha, and ordered everyone to gather in the courtyard of the house. The police separated the men from the women and children.<sup>1588</sup> The boys aged 13 and above were ordered to join the men. The group also included elderly men, two mentally disabled and two paralysed men.<sup>1589</sup> The police ordered the women to either “drown themselves in the river Drin” or to leave and “to go to Albania”.<sup>1590</sup>

654. After the women left, the men were forced to kneel with their hands at the back of their heads.<sup>1591</sup> The police then ordered the men to stand up and to line up in three rows.<sup>1592</sup> They took the men’s wallets and identity cards and insulted them, asking why NATO did not come to rescue them.<sup>1593</sup>

655. Krasniqi described the uniforms of the police as dark blue uniforms with ribbons on their upper arm, and yellow and white bands.<sup>1594</sup> Outside the courtyard of Sejdi Batusha’s house, Krasniqi recognized three Serbs from his village: Dimitrije Nikolić, Zvezdan Nikolić and Sava Nikolić. They were dressed in police uniforms and armed.<sup>1595</sup>

656. After beating the men and confiscating their IDs and valuables,<sup>1596</sup> the police escorted the group of men to the Batusha barn.<sup>1597</sup> Approximately 109 men were forced into the barn. The barn had two rooms and a corridor, which the men filled.<sup>1598</sup> One of them, Sait Hajdari, was in a wheelchair and was left at the door.<sup>1599</sup> The policemen remained outside the barn.<sup>1600</sup>

657. The police then opened fire on the men. When the shooting stopped, the police set the barn alight.<sup>1601</sup> Approximately 103 Kosovo Albanian men and boys were killed.<sup>1602</sup> Seven or eight men

<sup>1587</sup> M.Krasniqi,T.983-984,1039-1041.

<sup>1588</sup> Ramadanani,T.1082,1085;P306,pp.10-11;M.Krasniqi,T.983-984,1039-1041;P305,p.11;P302, mark n.2. *See also* Sweeney,T.883.

<sup>1589</sup> Ramadanani,T.1082,1085;P306,pp.10-11;M.Krasniqi,T.983-984,1039-1041;P305,p.11;P302, mark n.2. *See also* Sweeney,T.883.

<sup>1590</sup> Ramadanani,T.1085;P306,p.12;M.Krasniqi,T.984,1044-1045;P305,p.11. *See also* P302, mark n.3; M.Krasniqi,T.985.

<sup>1591</sup> Ramadanani,T.1086;P306,p.13.

<sup>1592</sup> Ramadanani,T.1086.

<sup>1593</sup> M.Krasniqi,T.984-985,1044-1046;P305,p.11;P302.

<sup>1594</sup> M.Krasniqi,T.985,1045-1049;P305,p.5.

<sup>1595</sup> M.Krasniqi,T.994-996.P302 n.5 marks the place where Krasniqi saw Sava, Zvezdan and Dimitrije Nikolić (*see* M.Krasniqi,T.994-995). *See also* Sweeney,T.904,911,916;P299.

<sup>1596</sup> Ramadanani,T.1086;P306,p.13;M.Krasniqi,P305,p.11.

<sup>1597</sup> Ramadanani,T.1086;P306,p.13,17. *See also* P308;P309;Ramadani,T.1091,1093.

<sup>1598</sup> M.Krasniqi,T.986;P305p.12;P302;P310 (mark n.3 indicates the second room of the barn; n.4 indicates the position where Ramadanani was standing in the corridor of the barn; Ramadanani,T.1096). *See also* Sweeney,T.886.

<sup>1599</sup> Ramadanani,T.1091,1097;P311.

<sup>1600</sup> Ramadanani,P306,pp.18,45.

<sup>1601</sup> Ramadanani,T.1091-1092;P306,p.18; M.Krasniqi,T.987-989,1053-1055; P305,pp.11-12;P304. *See also*, Sweeney, T.883-887.

survived this massacre,<sup>1603</sup> including Lufti Ramadani<sup>1604</sup> and Mehmet Krasniqi.<sup>1605</sup> Ramadani managed to escape through the entrance and fled with other survivors towards Velika Kruša/Krusha e Madhe.<sup>1606</sup>

658. Krasniqi escaped the fire by jumping through a window. He ran to his uncle's house, where he hid in the cellar. From his hiding place, Krasniqi saw local Serbs throw dried maize into the barn to fuel the fire. He heard a policeman say to the men: "If you see anyone move, don't feel sorry for him. Kill everyone you see".<sup>1607</sup> He also saw that all the houses belonging to Kosovo Albanians were burning, while those belonging to Serbs remained untouched.<sup>1608</sup>

659. After two or three days, VJ vehicles left Mala Kruša/Krusë e Vogel.<sup>1609</sup> Krasniqi remained in the forest for three days, and then went to Nogavac/Nagavc, where his wounds were treated by doctor Ali Hoti.<sup>1610</sup> On 2 April 1999, Krasniqi left the village of Nogavac/Nagavc and later crossed into Albania.<sup>1611</sup>

660. A large number of refugees from other villages passed through the Mala Kruša/Krusë e Vogel railway station from 25 March to 27 March 1999.<sup>1612</sup> During the entire day of 26 March 1999, refugees were coming out of the areas of operation of Mala Kruša/Krusë e Vogel and Velika Kruša/Krusha e Madhe.<sup>1613</sup> PJP units took women and children to the Mala Kruša/Krusë e Vogel railway station, from where they were taken away on buses.<sup>1614</sup>

<sup>1602</sup> Ramadani made a list of the persons killed in the Batusha barn (Ramadani, T.1130; P306, p.24; P312). He compiled this list before going to Albania during the weeks following the massacre (Ramadani, T.1098-1099). See P312, pp.1-3. See also M.Krasniqi, T.916,986,1070-1071; P305, pp.13-15; P306, p.20. See Annex C, Schedule C. See also P1139; P1158.

<sup>1603</sup> Krasniqi explained that Sefer Batusha was in Germany at the time, however Krasniqi didn't know that when he made his list of victims (see T.1014). M.Krasniqi, T.998,1004,1008-1017,1071; P305, pp.13-15. See also Ramadani, P306, pp.17; P312, p.4.

<sup>1604</sup> See P312, p.4; Ramadani, T.1092; P306, pp.17-18,25,29-30; P311, p.1.

<sup>1605</sup> M.Krasniqi, T.989,996-997; P305, p.12; P302, mark n.4; P303. See also Sweeney, who interviewed Mehmet Krasniqi, Lufti Ramadani and other survivors (Sweeney, T.883,886-887,895,912). P297 and P298 are two documentaries produced by Sweeney that contain statements by and images of survivors and of the site of the Batusha barn (see Sweeney, T.880-882,890-894,961,975).

<sup>1606</sup> Ramadani, P306, pp.20-21.

<sup>1607</sup> M.Krasniqi, T.990-991; P305, p.12.

<sup>1608</sup> M.Krasniqi, T.991.

<sup>1609</sup> Ramadani, P306, p.22.

<sup>1610</sup> M.Krasniqi, P305, pp.12,19.

<sup>1611</sup> M.Krasniqi, T.992-993; P305, p.12.

<sup>1612</sup> K25, P340-A, p.11.

<sup>1613</sup> K25, P340-A, p.11.

<sup>1614</sup> K25, P340-A, p.11.

661. During the operations in Mala Kruša/Krusë e Vogel and Velika Kruša/Krusha e Madhe, PJP units handed over refugees to the local police, and the police then separated the men from the women and children.<sup>1615</sup> [REDACTED].<sup>1616</sup>

662. Those who survived the various attacks in Orahovac/Rahovec municipality left for the Albanian border. Military forces in camouflage uniforms were on the roads.<sup>1617</sup> When the refugees arrived at the border, policemen took away all their identification documents, telling them that they would live in Albania, and that "Kosovo is Serbian land".<sup>1618</sup>

(e) Nogavac/Nagavc

663. Ali Hoti testified that on 25 March 1999 he fled his village after it was encircled by "Serb military forces". He saw VJ vehicles, tanks, APCs and Pragas moving along the main road to the village.<sup>1619</sup> Hoti and his family joined a group of around 20,000 refugees in a valley in the area of Nogavac/Nagavc.<sup>1620</sup>

664. On the morning of 26 March 1999, the refugees in the valley began to move away in the direction of Nogavac/Nagavc and Velika Kruša/Krusha e Madhe with the intention of heading to Albania.<sup>1621</sup> They were led by an old man who carried a stick with a piece of white cloth attached to it, as a sign of surrender.<sup>1622</sup> At the entrance to Nogavac/Nagavc, the convoy of refugees met Serb forces who redirected the group to a school yard in the centre of Nogavac.<sup>1623</sup> The refugees remained in the schoolyard for two hours. When nothing happened, the people began to take shelter in empty houses.<sup>1624</sup>

665. Hoti testified that on 28 March, he was stopped on the street by three men in camouflage uniform who demanded money from him.<sup>1625</sup> Some of the other refugees recognized the three men as former neighbours.<sup>1626</sup> Hoti was forced to take the three men to the house where he was

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<sup>1615</sup> K25,P340-A,p.9.

<sup>1616</sup> [REDACTED].

<sup>1617</sup> Hoti,P628,p.20.

<sup>1618</sup> Popaj,P1082,p.16;P1083.p.108;Hoti,P628,p.20;M.Krasniqi,T.994.

<sup>1619</sup> Hoti,P628,pp.4-6.

<sup>1620</sup> Hoti,P628,pp.5-7;P629.

<sup>1621</sup> Hoti,P628,pp.7-8.

<sup>1622</sup> Hoti,P628,p.7.

<sup>1623</sup> Hoti,P628,p.8.

<sup>1624</sup> Hoti,P628,pp.8-9.

<sup>1625</sup> Hoti,P628,p.21.

<sup>1626</sup> Hoti,P628,p.33.

staying.<sup>1627</sup> At the house, he was ordered to collect money from the male refugees, while one of the uniformed men collected money from the women and children.<sup>1628</sup>

666. Hoti and his family stayed in Nogovac until 2 April 1999.<sup>1629</sup> During that time, Hoti was frequently called on to help the wounded and the elderly.<sup>1630</sup> On or about 27 March 1999, Hoti administered first aid to Mehmet Krasniqi, who had sustained severe burns on his hands and face.<sup>1631</sup> Krasniqi told Hoti about the execution of 112 men at the Batusha barn in Mala Kruša/Krusha e Vogel.<sup>1632</sup> Krasniqi told Hoti that he survived only because some bodies fell on top of him and shielded him from the bullets and the fire.<sup>1633</sup>

667. In the early hours of 2 April 1999, Hoti was awakened by the sound of a low-flying aircraft.<sup>1634</sup> The aircraft bombed and set Nogovac/Nagavc to fire.<sup>1635</sup> After the attack, the refugees left Nogovac in the direction of Velika Kruša/Krusha e Madhe, Prizren, and then on to Albania.<sup>1636</sup> As they passed through Velika Kruša/Krusha e Madhe, they saw that the village was “completely burnt”.<sup>1637</sup>

668. On the road to the border, Hoti saw military forces in camouflage uniforms.<sup>1638</sup> The refugees reached the border late on 2 April 1999 and spent the night there.<sup>1639</sup> Before crossing into Albania the next day, policemen in blue uniforms seized all their identification documents and forced them to take off the license plates from their vehicles. The policemen told them that they did not need them anymore because they would never come back to Kosovo and would live in Albania.<sup>1640</sup> They also told the refugees that this act was a “present from NATO and Clinton. Kosova is Serbian land.”<sup>1641</sup>

#### *Destruction of cultural or religious property*

669. In the course of the forcible expulsions and deportation of Kosovo Albanians from the Orahovac/Rahovec municipality, forces of the FRY and Serbia systematically burned and looted

<sup>1627</sup> Hoti, P628, p.21.

<sup>1628</sup> Hoti, P628, pp.21-22.

<sup>1629</sup> Hoti, P628, p.9.

<sup>1630</sup> Hoti, P628, pp.9-11.

<sup>1631</sup> Hoti, P628, p.11.

<sup>1632</sup> Hoti, P628, pp.11-12, 14. See M.Krasniqi, P305, pp.12,19.

<sup>1633</sup> Hoti, P628, pp.11-14.

<sup>1634</sup> Hoti, P628, p.16.

<sup>1635</sup> Hoti, P628, p.16.

<sup>1636</sup> Hoti, P628, pp.18-19; M.Krasniqi T.992-993; P305, p.12.

<sup>1637</sup> Hoti, P628, p.19.

<sup>1638</sup> Hoti, P628, p.20.

<sup>1639</sup> Hoti, P628, p.20.

<sup>1640</sup> Hoti, P628, p.20.

<sup>1641</sup> Hoti, P628, p.20.

houses, shops, cultural monuments and religious sites belonging to Kosovo Albanians.<sup>1642</sup> Several mosques were destroyed, including the mosques of Bela Crkva/Bellacërkvë,<sup>1643</sup> Brestovac/Brestovc,<sup>1644</sup> Velika Kruša/Krushë e Madhe,<sup>1645</sup> and Celina/Celinë.<sup>1646</sup>

670. Popaj testified that the mosques of Celina/Celinë, Bela Crkva/Bellacërkvë and Rogova were blown up on or around 28 March 1999, Bajram day.<sup>1647</sup>

671. The police blew up the mosque of Celina/Celinë with explosives during the offensive against the village.<sup>1648</sup> Policemen in blue camouflaged uniforms<sup>1649</sup> drove in an armoured vehicle to the centre of the village and stopped at the mosque. They went inside and remained there for about an hour.<sup>1650</sup> Shortly after they left, there was a loud explosion and the mosque was completely blown up.<sup>1651</sup> Popaj was in the hills between Bela Crkva/Bellacërka and Celina/Celinë, and was able to hear the explosions.<sup>1652</sup> From his position in the hills, Popaj then heard a second explosion.<sup>1653</sup> He looked in the direction of Bela Crkva/Bellacërka and saw that the mosque had collapsed.<sup>1654</sup> A third explosion followed, which damaged the minaret of the mosque in Rogovo/Rogova.<sup>1655</sup>

*Forces of the FRY and Serbia were responsible for the crimes in Orahovac/Rahovec municipality*

672. Witnesses identified VJ and MUP units and armed local Serbs as perpetrators of the crimes committed in the Orahovac/Rahovec municipality, both through the uniforms they wore and the fact that some of the soldiers and policemen who committed crimes were known to them.

673. Police and army attacked Bela Crkva/Bellacërkvë on 25 March 1999, and set houses on fire. Local policemen were responsible for the killings along the Belaja stream.<sup>1656</sup>

<sup>1642</sup> See e.g. Salih, T.3460-3461,3464;P632,pp.2,3;P633,p.8.

<sup>1643</sup> See e.g. P1119;P1118;P1120;Riedlmayer,T.7528-7531.

<sup>1644</sup> See P1130;P1129;Riedlmayer,T.7541-7542.

<sup>1645</sup> See P1127;P1128; Riedlmayer,T.7540. [REDACTED].

<sup>1646</sup> See P1112,P1114;P638;P634;P1113;Riedlmayer,T.7522-7524. See also P1115.

<sup>1647</sup> Popaj,T.7417;P1082,p.15;P1083,pp.5,33-35. See also P1119;P638.

<sup>1648</sup> Jemini,P637,pp.13-14;Popaj,P1083,p.35;P638;P634.

<sup>1649</sup> Popaj,P1083pp.36,41.

<sup>1650</sup> Popaj,P1082,p.15;P1083,p.36.

<sup>1651</sup> Popaj,T.7417;P1082,p.15;P1083,p.35;P638.

<sup>1652</sup> Popaj,T.7417;P1082,p.15;P1083,p.34.

<sup>1653</sup> Popaj,P1083,pp.5,34.

<sup>1654</sup> Popaj,P182,p.15;P1083pp.33-34. See also P1119;P1089; Riedlmayer,T.7528-7529;P1118.

<sup>1655</sup> Popaj,P1083,p.34;P1090.

<sup>1656</sup> Zhunijqi,P1251,p.6;P1253,pp.13,32-33;Popaj,P1082,p.7,11;P1083,pp.8-9,12,107,120-122;P1288.

674. The forces that attacked the village of Celina/Celinë on 25 March 1999 were identified as soldiers and policemen.<sup>1657</sup> Jemini recognised two commanders as soldiers from Orahovac/Rahovec.<sup>1658</sup>

675. The forces that surrounded and looted the village of Mala Kruša/Krusë e Vogel were identified as Serb army and police.<sup>1659</sup> Local Serbs participated in the attack on Mala Kruša/Krusë e Vogel.<sup>1660</sup> Some wore uniforms, others wore civilian clothes.<sup>1661</sup>

676. Serbian military forces were responsible for the attack on Velika Kruša/Krusha e Madhe.<sup>1662</sup>

677. K25, a PJP member, testified that his company conducted an operation north of Orahovac/Rahovec in late March/early April 1999.<sup>1663</sup> K25 showed the deployment of VJ, police and PJP units in the Orahovac/Prizren area, including the villages of Bela Crkva/Bellacërkvë, Celina/Celinë, Mala Kruša/Krusë e Vogel and Nogavac/Nagavc.<sup>1664</sup> On 25 March 1999, sub-units of the 23<sup>rd</sup> PJP Detachment received oral orders to hold the blockade line from Rogovo to Mala Kruša/Krusë e Vogel, while the mop-up operation was conducted from "the other direction".<sup>1665</sup> The VJ provided mortar fire support to the 23<sup>rd</sup> PJP detachment from Krošavina.<sup>1666</sup> Members of the 23<sup>rd</sup> PJP detachment wore green camouflage uniforms, while the local MUP and local PJP wore blue camouflage uniforms.<sup>1667</sup>

678. There is overwhelming evidence showing that the crimes committed in the Orahovac/Rahovec municipality by forces of the FRY and Serbia were part of an organised operation and that there was co-ordination between these forces.<sup>1668</sup>

679. VJ units operating in Orahovac/Rahovec municipality during the operations in late March/April 1999 included the 549<sup>th</sup> Motorised Brigade commanded by General Božidar Delić, and

<sup>1657</sup> Salih, P632, pp.2-3; Jemini, P635, pp.6,8; P637, pp.5,37,41,43-45. *See also* P327.

<sup>1658</sup> Jemini, P635, p.8; P637, pp.6-7,49. *See also*: P639, P641; P640; P642.

<sup>1659</sup> Ramadani, P306, pp.2-4,35; T.1115,1165; M.Krasniqi, P305, p.5.

<sup>1660</sup> Ramadani, P306, pp.4-5,18-19,38,43; T.1085,1103; M.Krasniqi, T.986-988,1057-1058; P305, p.12. *See also* P1288, p.2; P1289, p.3; P1293.

<sup>1661</sup> Ramadani, P306, pp.4-5,39-40,53,81-83.

<sup>1662</sup> Hoti, P628, pp.4-5, 7.

<sup>1663</sup> K25, P340-A, p.6.

<sup>1664</sup> P349.

<sup>1665</sup> K25, P340-A, p.7.

<sup>1666</sup> K25, P340-A, p.6; [REDACTED].

<sup>1667</sup> K25, P340-A, p.20; [REDACTED]. *See also* P325.

<sup>1668</sup> *See* Abrahams, P738, pp.26,33. *See also* P1285.



the 243<sup>rd</sup> Mechanised Brigade, commanded by Krsman Jelić.<sup>1669</sup> Delić and Jelić were direct subordinates of Lazarević.

680. The 5<sup>th</sup> company of the Prizren PJP, 37<sup>th</sup> and 23<sup>rd</sup> Detachments, and the 4<sup>th</sup> company of the Đakovica PJP were operating in the area.<sup>1670</sup> Members of the 4<sup>th</sup> company of the 37<sup>th</sup> and 87<sup>th</sup> PJP Detachments were also sent to Orahovac.<sup>1671</sup> Four companies from the SUP Đakovica were placed under the command of SUP Prizren for this action.<sup>1672</sup> Lukić co-ordinated the PJP through the MUP Staff.

681. On 23 March 1999, the Joint Command issued an order to “provide assistance to MUP in crushing and destroying terrorist forces in the Orahovac, Suva Reka and Velika Kruša sector”.<sup>1673</sup> The order explicitly assigned tasks to units of the 549<sup>th</sup> Motorised Brigade for the villages of Bela Crkva/Bellacërkvë, Celina/Celinë, Velika Kruša/Krusha e Madhe, and Mala Kruša/Krusë e Vogel.<sup>1674</sup>

682. This Joint Command order was implemented at the brigade level, through joint actions of the VJ, MUP and PJP in the villages of Bela Crkva, Celina, Velika Kruša and Mala Kruša.<sup>1675</sup> The tasks for VJ units in co-operation with the MUP included “destroy the ŠTS in Mala Kruša”, “carry out an energetic attack and search the village of Bela Crkva [...] destroy ŠTS in the village of Celina and the village of Nogovac. Seal off Velika Kruša”.<sup>1676</sup> The entry for 25 March 1999 of the War Diary of the 549th Motorized Brigade (2Mtrb) stated that the villages of Bela Crkva, Celina, Nogovac, and a part of Velika Kruša were blocked and “cleansed”.<sup>1677</sup>

683. Pursuant to another Joint Command order, another action was carried out in Orahovac/Rahovec municipality between 30 March and 3 April 1999.<sup>1678</sup> The PrK, with the support of the “armed non-Šiptar population”, was ordered to provide support to MUP forces in an action in the general area of Mališevo/Malisheva.<sup>1679</sup> This Joint Command order was implemented down the chain of command. On 29 March 1999, Delić ordered his units to support the MUP forces on the axes of Mali Grab–Pagaruša/Pagarusha village, Velika Hoča/Hoça e Madhe village–Milanović

<sup>1669</sup> P350,p.3, items 5.1,5.2;P1317,p.3. See also K89,T.8407,8435,8440, [REDACTED];P1274,pp.85-86;P1276.

<sup>1670</sup> P1316, items 5.4, 5.5;P1317,p.3.

<sup>1671</sup> P1483, which refers to Đorđević's dispatch n.218: P134.

<sup>1672</sup> K25,P340-A,p.21.

<sup>1673</sup> Cf. P350,pp.1-2.

<sup>1674</sup> P350,p.3.

<sup>1675</sup> P1316,pp.2,4-5.

<sup>1676</sup> P1316,items 5.4, 5.5.

<sup>1677</sup> D37,p.3.

<sup>1678</sup> P970,p.1.

<sup>1679</sup> P970,p.2.

village, Jančište/Jancishte village and Orahovac/Rahovec–Ostrozub village.<sup>1680</sup> Delić's post-combat report stated that complete control was established over the territory.<sup>1681</sup>

684. [REDACTED].<sup>1682</sup> [REDACTED].<sup>1683</sup> [REDACTED] during these operations, co-ordination between MUP and VJ forces functioned well.<sup>1684</sup>

685. K54, a former VJ member, testified that on or about 22 March 1999 his battalion was deployed in Novake, near Orahovac.<sup>1685</sup> On 24 March 1999, all units moved from the barracks in anticipation of the NATO bombing.<sup>1686</sup> [REDACTED].<sup>1687</sup>

686. K89 testified that VJ, MUP and paramilitary forces, including forces he identified as Arkan's men, were involved in searching the Albanian villages in Orahovac/Rahovec municipality.<sup>1688</sup>

687. Other documentary evidence in the Trial Record confirms that VJ and MUP forces had full control of the area of Prizren/Orahovac,<sup>1689</sup> that the operations in the relevant area continued from 25 March until at least 29 March 1999,<sup>1690</sup> that the co-ordinated actions between the VJ and the MUP forces were functioning well,<sup>1691</sup> and that the command over the forces was under the "joint command of the MUP and the VJ forces".<sup>1692</sup>

688. Delić's post-combat report of 30 March 1999 stated that the objectives of the action were met and that approximately 1000 VJ and 1020 MUP had taken part in the action.<sup>1693</sup>

## 2. Prizren

689. Beginning on 25 March 1999, numerous villages in Prizren municipality were attacked by Serb police and military forces. They shelled villages, burned down homes and cultural sights,<sup>1694</sup>

<sup>1680</sup> P898,p.2.

<sup>1681</sup> P944,p.1.

<sup>1682</sup> [REDACTED]. See also P109.

<sup>1683</sup> [REDACTED].

<sup>1684</sup> [REDACTED]. See also P1317,p.3.

<sup>1685</sup> K54,T.4438-4439; [REDACTED].

<sup>1686</sup> K54,T.4439-4441; [REDACTED]. See also D112.

<sup>1687</sup> [REDACTED].

<sup>1688</sup> K89,T.8407,8410-8411, [REDACTED],8468.

<sup>1689</sup> P1317,p.1.

<sup>1690</sup> P1317,p.1.

<sup>1691</sup> P1317,p.3, para.2.

<sup>1692</sup> P1317,p.5.

<sup>1693</sup> P1317,pp.1,3,para.2.

<sup>1694</sup> Riedlmayer,P1099,p.99;P1098,p.12.

and expelled and killed villagers. The villages of Pirane, Srbica, Landovica, Dušanovo, Reti e Ulet, Reti, and Randobrava were all attacked.

690. In the days after the NATO airstrikes began, Xhafer Beqiraj, a resident of Prizren town, saw a "continuous column" of people walking south from Dakovica. They were escorted by mixed forces of police, paramilitaries, and VJ.<sup>1695</sup> In Prizren town there was heavy presence of Serb police manning checkpoints and patrolling the streets.<sup>1696</sup> There were also paramilitaries based in the nearby village of Nashec.<sup>1697</sup>

691. On 28 March, police forces came to the home where Beqiraj and his family had been staying and ordered everyone to leave in five minutes or be shot.<sup>1698</sup> The same ultimatum was given to people sheltering in neighbouring houses.<sup>1699</sup>

692. Beqiraj and his group boarded a tractor-trailer and left in a long convoy of expelled Albanians.<sup>1700</sup> During their 12-hour trip to the border, they were directed and ordered by police, and threatened that if they got off the tractor, they would be killed.<sup>1701</sup> Police and paramilitaries cursed at and threatened them, taunting, "Where is NATO?" and "Go to Albania."<sup>1702</sup>

693. Beqiraj recognized police special forces wearing blue camouflage uniforms and bullet proof vests.<sup>1703</sup> Other men had black masks or painted faces with black and red bandanas on their heads.<sup>1704</sup> During the journey he also saw the VJ with mortars and APCs.<sup>1705</sup> The soldiers were wearing green uniforms, and drove green tanks and armoured vehicles.<sup>1706</sup>

694. At the Morina border-crossing,<sup>1707</sup> Beqiraj's tractor was stopped by five policemen, who asked for the identification papers of all the people on the tractor.<sup>1708</sup> A policeman in a plain blue police uniform also took the license plate off the tractor and threw it to the side of the road.<sup>1709</sup> The

<sup>1695</sup> Beqiraj, P806, p.3.

<sup>1696</sup> Beqiraj, T.4797-4798. Beqiraj described the policemen as wearing "blue uniforms, camouflage blue". See Beqiraj, T.4797-4798.

<sup>1697</sup> Beqiraj, P806, p.3; T.4798. Beqiraj described the paramilitaries as wearing green and green camouflage uniforms; they were generally older (40 and above) than regular soldiers, and drove cars that were painted in different colours. See Beqiraj, P806, p.3; T.4798.

<sup>1698</sup> Beqiraj, P806, p.3; T.4800; P805, pp.23-24.

<sup>1699</sup> Beqiraj, T.4800.

<sup>1700</sup> Beqiraj, P806, p.4.

<sup>1701</sup> Beqiraj, P806, p.4; T.4802.

<sup>1702</sup> Beqiraj, P806, pp.4-5; T.4803-4807.

<sup>1703</sup> Beqiraj, P806, p.4; T.4801, 4803.

<sup>1704</sup> Beqiraj, P806, p.4; T.4803.

<sup>1705</sup> Beqiraj, P806, p.4; T.4803.

<sup>1706</sup> Beqiraj, P806, p.4; T.4804-4805; P318, nn.2,6,7.

<sup>1707</sup> Beqiraj, T.4809-4810; P807.

<sup>1708</sup> Beqiraj, P806, p.5; T.4807.

<sup>1709</sup> Beqiraj, P806, p.5.

identification papers were either torn up or thrown in a huge pile of other documents.<sup>1710</sup> "Everyone was subjected to the same procedure."<sup>1711</sup>

(a) Pirane

695. On 25 March, in the early morning hours, forces of the FRY and Serbia surrounded and shelled Pirane.<sup>1712</sup> The police shot and set houses on fire until they burned down almost the whole village.<sup>1713</sup> Through a free corridor, the majority of the residents started fleeing towards the village of Mamusha, while another part of the villagers moved towards Srbica.<sup>1714</sup>

(b) Srbica

696. On 25 March, refugees fleeing from other villages of Prizren municipality arrived in Srbica.<sup>1715</sup> The next day, about 70 policemen entered the village of Srbica and started shooting at the tractors of refugees.<sup>1716</sup>

697. On 8 April, Serb soldiers and paramilitary re-entered Srbica.<sup>1717</sup> They called the local Serbs "traitors" because they were sheltering Albanian refugees in their village, and ordered them to expel their Albanian neighbours within twenty-four hours.<sup>1718</sup> The next day, local Serbs arranged buses on which all the refugees were driven in the direction of Zhur, on the Albanian border.<sup>1719</sup> Police escorted the refugees.<sup>1720</sup> From Zhur, they had to walk for about 6 kilometres to reach the border.<sup>1721</sup> Before crossing the border into Albania, police confiscated the IDs from the refugees and threw them on a pile of similar documents.<sup>1722</sup>

698. On 25 April, Serb forces started a major offensive in the area of Srbica, and from there began shelling the villages of Pirana, Reti e Ulet, Reti and Randobrava.<sup>1723</sup> At the border-crossing in Morine, refugees had their personal documents taken away.<sup>1724</sup>

<sup>1710</sup> Beqiraj, P806, p.5; T.4808.

<sup>1711</sup> Beqiraj, T.4808.

<sup>1712</sup> Latifi, T.4348, 4351-4352; P778, p.2; P779, pp.5-6.

<sup>1713</sup> Latifi, T.4348; P778, p.2; P779, pp.7-8; *See also*, Morina, P284, pp.4,39.

<sup>1714</sup> Latifi, T.4350, 4352-4353; P778, p.3.

<sup>1715</sup> Latifi, P778, p.3; P779, p.9.

<sup>1716</sup> Latifi, P778, p.3.

<sup>1717</sup> Morina, P283, p.4.

<sup>1718</sup> Morina, P283, p.4; P284, pp.34-36, 61, 77.

<sup>1719</sup> Morina, P283, p.5; P284, p.34. *See also* Latifi, P779, pp.9,38; P778, p.3.

<sup>1720</sup> Morina, P283, p.5; P284, p.34.

<sup>1721</sup> Morina, P284, p.35.

<sup>1722</sup> Morina, P283, p.5; P284, pp.36-37.

<sup>1723</sup> Latifi, P778, p.3; P779, p.39.

<sup>1724</sup> Latifi, T.4358; P778, p.3.

(c) Landovica

699. On 26 March, MUP, VJ, and paramilitary forces arrived to Landovica in tanks, APCs, and Pragas.<sup>1725</sup> They shelled the village, injuring and killing civilians, and burned houses at the outskirts of town.<sup>1726</sup> Serb soldiers and police then entered the village and went from house to house, causing villagers to flee in different directions.<sup>1727</sup>

700. The next day, VJ soldiers went back to Landovica, entered the mosque and blew it up.<sup>1728</sup> The minaret fell down, and the roof of the mosque was destroyed.<sup>1729</sup> Those soldiers were wearing regular Serb army uniforms and had white ribbons on their arms.<sup>1730</sup>

(d) Dušanovo

701. On 28 March, forces of the FRY and Serbia attacked the Prizren suburb of Dušanovo<sup>1731</sup> with tanks and armoured vehicles, firing at houses.<sup>1732</sup> They sealed off the main streets.<sup>1733</sup>

702. Police broke into Rexhep Krasniqi's house, and told everyone to leave for Albania.<sup>1734</sup> Police then threatened, beat and robbed them.<sup>1735</sup> Then a mixed group of police and military personnel set the houses of the neighbourhood on fire.<sup>1736</sup>

703. The same thing happened in almost every house in the neighbourhood: around 4,000 to 5,000 people were forced out of Dušanovo, and a convoy was formed that moved towards the border.<sup>1737</sup>

704. At the Albanian border in Kukes, policemen asked people for money, stole cars, and took identification documents and license plates.<sup>1738</sup> Two witnesses recognised a policeman called Nebojsa, a Serb living in the village of Dušanovo.<sup>1739</sup>

<sup>1725</sup> Morina,P283,p.2;P284,pp.2,8,11-13.

<sup>1726</sup> Morina,P283,p.2;P284,p.15.

<sup>1727</sup> Morina,P283,p.3;P284,pp.15-17,22,24.

<sup>1728</sup> Morina,P283,p.4.

<sup>1729</sup> Morina,P283,p.4;P284,pp.27-28,59;P1123;P1124; Riedlmayer,T.7536-7539;P1099,pp.79-80. *See also* P1124.

<sup>1730</sup> Morina,P284,pp.27,29.

<sup>1731</sup> Kryeziu,P878,p.3; R.Krasniqi,P850,p.3.

<sup>1732</sup> Kryeziu,P877,p.9;P878,p.7;P318.

<sup>1733</sup> R.Krasniqi,P849,p.13.

<sup>1734</sup> R.Krasniqi,T.5418-5419,5428;P849,p.13;P850,pp.30-31;P848,p.2.

<sup>1735</sup> R.Krasniqi,P849,p.13;P850,p.9;P848,p.2.

<sup>1736</sup> R.Krasniqi,P849,p.14;P850,p.10.

<sup>1737</sup> R.Krasniqi,P848,p.2;Kryeziu,T.5569-5570,5593-5594,5601-5603;P878,p.7;P876,p.3;P318.

<sup>1738</sup> Kryeziu,T.5571;P877,p.10;P876,p.4;R.Krasniqi,T.5400-5401,5438-5439;P849,p.14;P848,p.3.

<sup>1739</sup> Kryeziu,P877,p.10;R.Krasniqi,P849,p.14.

*Forces of the FRY and Serbia were responsible for the crimes in Prizren municipality*

705. As described above, several witnesses identified VJ, MUP and paramilitary forces as perpetrators of these crimes, either through the uniforms they wore, or because they knew some of the policemen committing the crimes.<sup>1740</sup>

706. Documentary and insider evidence corroborates their observations. The 549<sup>th</sup> Motorised Brigade operated in Prizren, commanded by General Bozidar Delić, a direct subordinate of Lazarević.<sup>1741</sup> MUP units in the area included the 5<sup>th</sup> PJP company from Prizren,<sup>1742</sup> the 4<sup>th</sup> PJP company from Đakovica, the 87<sup>th</sup> PJP Detachment and the 37<sup>th</sup> PJP Detachment of Niš.<sup>1743</sup> The 37<sup>th</sup> and the 87<sup>th</sup> PJP Detachment was dispatched to the area of the SUP Prizren by Đorđević.<sup>1744</sup> VJ and MUP units carried out joint combat actions in late March 1999 in the Prizren/Orahovac areas.<sup>1745</sup>

### 3. Srbica/Skenderaj

707. Beginning on 25 March 1999, the MUP and the VJ shelled several ethnic Albanian villages in Srbica/Skenderaj municipality,<sup>1746</sup> including Vojnike/Vocnjak, Leocina/Lecine,<sup>1747</sup> Kladernica/Klladernicë,<sup>1748</sup> Turicevac/Turiceç,<sup>1749</sup> Tusilje/Tushile<sup>1750</sup> and Izbica/Izbicë.<sup>1751</sup> Houses, shops and mosques were destroyed, including the mosque in the village of Cirez/Qirez.<sup>1752</sup>

#### (a) Izbica/Izbicë

708. As a result of the attacks throughout Srbica/Skenderaj municipality, on or about 26 March 1999, thousands of civilians fled to the village of Izbica/Izbicë, where they gathered in a meadow.<sup>1753</sup> They remained out in the open for a few days.<sup>1754</sup>

<sup>1740</sup> See also Kryeziu, who recognised one of the perpetrators as Miloš Scekić, a local Serb police commander. P877, p.9; P878 p.4.

<sup>1741</sup> P1316, p.2; P1317, p.3; P1445, pp.2-4. See also [REDACTED]; K54, P782, p.5.

<sup>1742</sup> P1316, p.2; P1317, pp.3,4.

<sup>1743</sup> P1316, pp.2-4, paras.2,5,4,5,5; P1317, p.3; P711; P713.

<sup>1744</sup> P711; P713; P134; P1183; P1197; P1485.

<sup>1745</sup> See P1285; P350, pp.1-2; P1316.

<sup>1746</sup> Loshi, T.763.

<sup>1747</sup> Draga, T.604, 620, 654; Januzi, P282, p.6.

<sup>1748</sup> Januzi, P282, p.7; P281, p.2.

<sup>1749</sup> Fazliu, P621, p.10; P623, p.6.

<sup>1750</sup> Fazliu, P623, pp.5-6; P621, pp.3-5, 12-13; P622; P823, p.11.

<sup>1751</sup> Loshi, T.691-692.

<sup>1752</sup> Riedlmayer, T.7544-7546, 7630-7631; P1132; P1133; P1134.

<sup>1753</sup> Januzi, P282, p.6; Thaqi, T.4944, 4948, 4950-4953, 4956; P819; Loshi, T.690; Draga, T.605.

<sup>1754</sup> Thaqi, T.4948.

709. By 27 March 1999, a mixed group of about 200-300 MUP and VJ encircled Izbica/Izbičë. They heavily shelled the village and set fire to many of the houses.<sup>1755</sup> Many civilians fled to Tusilje/Tushile, however a few thousand people remained.<sup>1756</sup>

710. On 28 March 1999, MUP and VJ forces approached the group of refugees in the meadow.<sup>1757</sup> After stealing their valuables, the soldiers separated the men from the women and children.<sup>1758</sup> The women and children were ordered to go to Albania.<sup>1759</sup>

711. Over 100 men were ordered to sit in rows along the road. The police and the army harassed the men, telling them: "Where is NATO now? Where is Clinton?" The men were forced to throw their traditional caps (*plis*) in the mud and put them back on.<sup>1760</sup> The commander issued orders to the police and soldiers,<sup>1761</sup> including "[e]verybody knows their own duty"<sup>1762</sup> and not to leave any man alive.<sup>1763</sup> Approximately 150 elderly men were divided into two groups and taken in different directions: around 30 men were taken to a stream and a larger group was led up a hill.<sup>1764</sup> Police shot both groups of men, killing at least 116.<sup>1765</sup> Only a few survived.<sup>1766</sup> One of the survivors, Sadik Januzi, heard soldiers checking whether anyone was still alive, firing some additional shots and then he heard one of them saying: "Let's go, our work is over".<sup>1767</sup>

712. In total, approximately 147 civilians, mainly elderly men, were killed on 28 March 1999 in Izbica/Izbičë.<sup>1768</sup> Several women were burned alive while on tractors.<sup>1769</sup>

713. MUP and VJ forces remained in Izbica/Izbičë until 30 March 1999.<sup>1770</sup> On 31 March 1999, civilians and KLA members buried the victims of the Izbica/Izbičë massacre.<sup>1771</sup> A list of 127 victims and their grave locations was compiled,<sup>1772</sup> 111 of which are named victims in Schedule F.

<sup>1755</sup> Draga, T.606-607; Loshi, T.691-692; Januzi, P282, p.6.

<sup>1756</sup> Loshi, T.691-693, 707; P288.

<sup>1757</sup> Draga, T.605, 607, 610, 663; Thaqi, T.4948, 4953, 4956; Loshi, T.690-691; P288, clip 4.

Januzi, P282, p.6; Draga, T.607-608.

<sup>1758</sup> Januzi, P282, pp.6-7; Draga, T.607.

<sup>1759</sup> Draga, T.609.

<sup>1760</sup> Draga, T.607; Januzi, P282, pp.6-7; Thaqi, T.4962.

<sup>1761</sup> Januzi, P282, p.7; Thaqi, T.4962.

<sup>1762</sup> Thaqi, T.49623

<sup>1763</sup> Januzi, P282, p.7.

<sup>1764</sup> Loshi, T.707; P288; Draga, T.608.-609; Januzi, P282, p.7.

<sup>1765</sup> Draga, T.610.

<sup>1766</sup> Januzi, P282, p.7; Draga, T.610-611.

<sup>1767</sup> Januzi, P282, p.7.

<sup>1768</sup> See Schedule F; Draga, T.607-608, 612, 616, 678; Loshi, T.704-706; Draga, T.607-608.

<sup>1769</sup> Draga, T.615; Loshi, T.703; T.707-708.

<sup>1770</sup> Draga, T.613.

<sup>1771</sup> Draga, T.613-614, 616; Thaqi, T.4980.

<sup>1772</sup> Loshi, T.709-710, 717-718; P292; Draga, T.617, 673; Loshi, T.708; P288. See Annex C, Proof of Death Chart for Schedule F.

Survivors of the massacre, Mustafa Draga and Milazim Thaqi, testified that they buried about 147 bodies, with some bodies taken by family members to be buried elsewhere.<sup>1773</sup>

714. Liri Loshi, a local doctor, filmed the massacre sites and burials.<sup>1774</sup> Loshi smuggled his video into Albania and provided it to ICTY investigators in Tirana and the press.<sup>1775</sup>

715. After news of the massacre came out in the media, authorities were obliged to carry out an investigation. VJ forces went to Izbica/Izbicë and exhumed the bodies of the victims in late May 1999.<sup>1776</sup> A team from the Belgrade Forensic Institute carried out an external examination of the bodies.<sup>1777</sup>

716. Remains of 20 victims were found in a clandestine mass grave in Petrovo Selo in 2001.<sup>1778</sup> Once the victims were identified through DNA analysis, the OMPF conducted forensic examinations to establish the cause of death. Based on the pattern of injuries observed on skeleton fragments, Jose-Pablo Baraybar, the head of OMPF, concluded that the victims had died from gunshot wounds.<sup>1779</sup>

717. Defence expert Stanković made a number of baseless claims in relation to the Izbica/Izbicë massacre.<sup>1780</sup> For example, he claimed that it was impossible for approximately 150 victims to have been killed by gunfire, since only 84 military bullet fragments were collected from the site by the French forensic team in June 1999.<sup>1781</sup> Given that the massacre site was disturbed in May when the VJ exhumed the bodies of the victims, the absence of cartridges on site in June is not sufficient basis to conclude that fewer victims were killed. Stanković also claimed that the bodies shown in Loshi's video had been brought from elsewhere, because they had mud on their shoes.<sup>1782</sup> However, in cross-examination he conceded that this was a mere assumption from his part and that there were other possible explanations.<sup>1783</sup> Stanković's conclusions in relation to this site should be disregarded.

<sup>1773</sup> Draga, T.616; Thaqi, T.5020-2021.

<sup>1774</sup> Loshi, T.699-701, 801.

<sup>1775</sup> Loshi, T.719-721.

<sup>1776</sup> Draga, T.618-620; Thaqi, T.4983, 4984; Loshi, T.721-726; P293.

<sup>1777</sup> P1344, pp.156-157; Stanković, T.13514-13515.

<sup>1778</sup> See supra para.600.

<sup>1779</sup> Baraybar, P453, pp.5-6, 33-40.

<sup>1780</sup> D926, pp.10-11.

<sup>1781</sup> D926, p.10, para.1; Stanković, T.13449-13450, 13511-13516.

<sup>1782</sup> Stanković, T.13522-13523; P288.

<sup>1783</sup> Stanković, T.13524-13525.



*Forces of the FRY and Serbia were responsible for the crimes in Izbica/Izbičë*

718. Joint Command orders and VJ reports indicate that VJ and MUP units conducted joint operations in Srbica/Skenderaj municipality in the period of the Izbica/Izbičë massacre.<sup>1784</sup>

- On 22 March 1999, the Joint Command ordered the 125<sup>th</sup> Motorised Brigade, 37<sup>th</sup> Motorised Brigade and seven PJP companies to conduct a joint action along the eastern side of Srbica/Skenderaj.<sup>1785</sup> On 24 March 1999, the Joint Command issued an order for an attack on villages near Izbica/Izbičë, including Kladernica/Klladernicë and Vocnjak/Vojnik.<sup>1786</sup>
- In an operations report of 27 March 1999, the 37<sup>th</sup> Infantry Brigade Commander, Điković, reported to Lazarević that the brigade was to “[c]ontinue with the planned activities in line with the decision to smash and destroy ŠTS in the Drenica sector”.<sup>1787</sup>
- In combat report of 28 March, Điković asked Lazarević for instructions on what to do with the thousands of civilian refugees that his brigade was expecting to encounter in the Vocnjak/Vojnik village sector, outside Izbica/Izbičë.<sup>1788</sup>
- That same day, the Joint Command ordered the 37<sup>th</sup> Motorised Brigade that “[u]pon completion of the task in Drenica [...] take control of Srbica ...”.<sup>1789</sup> Lazarević issued an order to the 37<sup>th</sup> Motorised Brigade, implementing the Joint Command’s order.<sup>1790</sup>
- The 125<sup>th</sup> Motorised Brigade recorded that three combat groups were involved in coordinated combat operations in the Srbica sector.<sup>1791</sup>
- On 29 March, the 37<sup>th</sup> Motorised Brigade reported that the KLA did not carry out any operations against its unit members while they carried out their scheduled activities.<sup>1792</sup> The report contained no mention of the thousands of refugees referred to in the combat report of 28 March.

<sup>1784</sup> See P970;P897;P972;P971;P940. See also P1029,p.141.

<sup>1785</sup> P972,pp.2-3;P823,p.6.

<sup>1786</sup> P971,pp.3,5,7;P823,p.5.

<sup>1787</sup> P940,p.2.

<sup>1788</sup> P942,p.2;P823,p.5.

<sup>1789</sup> P970,p.8.

<sup>1790</sup> P897.

<sup>1791</sup> P954,pp.8-9.

<sup>1792</sup> P915,p.1.

- On 29 March 1999, units of the 125<sup>th</sup> Motorised Brigade reported that it had successfully completed combat operations and were “regrouping” and preparing for its next tasks.<sup>1793</sup>

719. Survivors of the massacre identified the perpetrators as police and soldiers. Thaqi found it very difficult to describe colours with their names, but could identify them in a picture.<sup>1794</sup> He said that about 25 “policemen” in the meadow wore “police clothes”.<sup>1795</sup> Thaqi identified the camouflage pattern of these men’s uniforms.<sup>1796</sup> The pattern identified is blue camouflage. Thaqi said that he thought that all men in the field had the “milicija” insignia on their uniform’s shoulder”.<sup>1797</sup> This insignia belonged to the “police forces of Serbia”.<sup>1798</sup>

720. Thaqi described the commander as a “soldier”,<sup>1799</sup> and identified his uniform’s camouflage pattern.<sup>1800</sup> The pattern identified is green, black, and light and dark brown.<sup>1801</sup>

721. Thaqi said that his shooter “looked like a policeman”.<sup>1802</sup> He identified the camouflage pattern on the shooter’s uniform.<sup>1803</sup> The pattern identified is green, black and brown.

722. Thaqi saw “soldiers” or “policemen” who wore “the army uniform” which was “the colour of grass”.<sup>1804</sup> These “soldiers” or “policemen” participated in the separations and harassment of the civilians.<sup>1805</sup> Thaqi also saw paramilitaries with black scarves, hats with a “five-pointed star”/“Petokraka”, knives and weapons.<sup>1806</sup> Their uniforms were “the same colour as the army’s”.<sup>1807</sup>

723. Draga said that the Serb police and the army arrived in Izbica/Izbicë on 28 March 1999, separated the men and women and escorted the men to be killed.<sup>1808</sup> Only police shot at his group.<sup>1809</sup> Draga said that men were wearing uniforms in “[b]oth police and military colours”,<sup>1810</sup>

<sup>1793</sup> P954, p.11.

<sup>1794</sup> Thaqi, T.5044.

<sup>1795</sup> Thaqi, T.4956–4958, 4987, 5029–5030, 5033–5034, 5044; P318; D126, p.4.

<sup>1796</sup> P822, nbr.2; Thaqi, T.4986. *See also* P318; Thaqi, T.4958, 4987, 4991–4993; D121. *But see* Thaqi, D126, p.3; T.5028–5029.

<sup>1797</sup> Thaqi, T.4989–4990, 5044; P318.

<sup>1798</sup> Thaqi, T.4989–4990; P318.

<sup>1799</sup> Thaqi, T.5034–5035. *See also* Thaqi, D125, pp.26–29.

<sup>1800</sup> P822, no.1; Thaqi, T.4986; D126, p.4.

<sup>1801</sup> Thaqi, T.4963, 5010; D125, p.9.

<sup>1802</sup> Thaqi, T.4966, 5035–5036. *But see* D225, p.31, 47.

<sup>1803</sup> P822, no.3; Thaqi, T.4986, 4988. *See also* Thaqi, T.4966, 5035–5036; D126, p.5.

<sup>1804</sup> Thaqi, T.4958–4959; D125, p.8.

<sup>1805</sup> Thaqi, T.4962.

<sup>1806</sup> Thaqi, T.4958–4959, 5036, 5041. *See also* Thaqi, D125, pp.7–8.

<sup>1807</sup> Thaqi, T.5037.

<sup>1808</sup> Draga, T.607, 610.

<sup>1809</sup> Draga, T.664.

<sup>1810</sup> Draga, T.610.

but did not dare to look at the forces because he was afraid of being shot.<sup>1811</sup> In his witness statement, Januzi referred to "soldiers" as engaging in the activities described above.<sup>1812</sup>

(b) Turicevac/Turiçec

724. On 29 March 1999, a number of Turicevac/Turiçec residents returned to their village believing that since the houses in the village had already been burnt, Serbian forces would not return. However, on 1 April 1999, uniformed forces driving civilian cars returned.<sup>1813</sup> They shot at and harassed the civilians, who were primarily women and children.<sup>1814</sup> After being questioned about the whereabouts of any men, the civilians were ordered to join a convoy to Klinë/Klina.<sup>1815</sup> On her way out of the village Fazliu saw the bodies of three men.<sup>1816</sup>

725. On the way to Klinë/Klina, Fazliu saw Serbian forces looting and burning houses and livestock as they passed through villages.<sup>1817</sup> She also saw a lot of dead bodies of men along the road,<sup>1818</sup> multiple checkpoints manned by Serb forces,<sup>1819</sup> and many soldiers with tanks and armoured vehicles.<sup>1820</sup> The forces continually directed the convoy to Klinë/Klina.<sup>1821</sup>

726. Klinë/Klina was full of MUP and VJ.<sup>1822</sup> The refugees were put onto trucks and transported to Volujak/Volljake.<sup>1823</sup> There were soldiers and tanks all along the road to Volujak/Volljake.<sup>1824</sup> They were then forced to walk on foot to Đakovica/Gjakove.<sup>1825</sup> When the convoy reached Đakovica/Gjakovë the next day, they found the town in flames.<sup>1826</sup>

727. Convoys of civilians were then directed to the Albanian border.<sup>1827</sup> There was a large presence of Serbian forces between Đakovica/Gjakovë and the border crossing of Čafa Prušit/Qafa

<sup>1811</sup> Draga, T.623.

<sup>1812</sup> P282, pp.6-7.

<sup>1813</sup> Fazliu, P623, p.6.

<sup>1814</sup> Fazliu, P623, pp.6-7; P621, pp.10-11.

<sup>1815</sup> Fazliu, P623, p.6; P621, pp.12-13; P622.

<sup>1816</sup> Fazliu, P623, p.6; P621, pp.11-12.

<sup>1817</sup> Fazliu, P623, p.7.

<sup>1818</sup> Fazliu, P623, p.7.

<sup>1819</sup> Fazliu, P623, p.7.

<sup>1820</sup> Fazliu, P623, p.6.

<sup>1821</sup> Fazliu, P623, p.7.

<sup>1822</sup> Fazliu, P623, p.7.

<sup>1823</sup> Fazliu, P623, p.7.

<sup>1824</sup> Fazliu, P623, p.7.

<sup>1825</sup> Fazliu, P623, p.7.

<sup>1826</sup> Fazliu, P623, p.7.

<sup>1827</sup> Fazliu, P623, p.7.

e Prushit.<sup>1828</sup> The forces warned the civilians to walk on the road because there were mines on the sides.<sup>1829</sup>

728. At the Čafa Prushit/Qafa e Prushit checkpoint, Fazliu saw parked tractors and vehicles in the area with no license plates.<sup>1830</sup> Fazliu and her family crossed the Albanian border on 4 April 1999.<sup>1831</sup>

(c) Kladernica/Klladernicë

729. Shortly after the Izbica/Izbicë massacre, Serb forces shelled the village of Kladernica/Klladernicë.<sup>1832</sup> Joint forces of MUP, VJ and paramilitaries forced approximately 400-500 young men to accompany them, and then ordered the women, children and elderly men to head towards Albania, telling them that Kosovo was not their place.<sup>1833</sup> Serb forces composed mainly of MUP escorted them all the way to the border, first on foot and then in buses.<sup>1834</sup>

730. On the road to the border, Januzi saw soldiers pointing their weapons at his convoy and burning villages.<sup>1835</sup> In Žur/Zhur, many refugees were ordered to hand over money to be taken closer to the border.<sup>1836</sup> At the Albanian border, Serb policemen took the refugees' ID cards and threw them into a garbage bin.<sup>1837</sup>

4. Suva Reka/Suharekë municipality

731. In the 1990s, the majority of 50,000 to 60,000 inhabitants of Suva Reka/Suharekë municipality were Kosovo Albanians.<sup>1838</sup> Suva Reka/Suharekë town, with some 8,000 residents, was the biggest town.<sup>1839</sup>

732. On 20 March 1999, VJ and MUP forces launched an attack on several villages in Suva Reka/Suharekë municipality, including Reštane/Reshtan, Slapuzhane/Sllapuzhan, Pecane/Peqan, Semetište/Semetisht, Studencane/Studenčan, Samodraž/Samadrexhë, Dobredoljane/Dobërdolan, Bllacë, Grejcevice/Grejçec, Budakovo/Budakovë, and Kruščica/Krushicë. These attacks were not

<sup>1828</sup> Fazliu, P623, p.8.

<sup>1829</sup> Fazliu, P623, p.8.

<sup>1830</sup> Fazliu, P623, p.8.

<sup>1831</sup> Fazliu, P623, p.8.

<sup>1832</sup> Januzi, P282, p.7; P281, p.2.

<sup>1833</sup> Januzi, P281, p.2. See P282, p.7-8.

<sup>1834</sup> Januzi, P281, pp.2-4; P282, p.8.

<sup>1835</sup> Januzi, P282, p.8.

<sup>1836</sup> Januzi, P281, p.4.

<sup>1837</sup> Januzi, P282, p.8; P281, p.4.

<sup>1838</sup> Halit Berisha, P599, p.7.

<sup>1839</sup> Halit Berisha, T.3396; P599, p.7.

only directed at KLA positions but also targeted ordinary civilians and resulted in considerable civilian casualties. Following these attacks, thousands of civilians fled to Pagaruša/Pagarushë and Belanica/Bellanicë.<sup>1840</sup>

733. When the NATO bombing started, MUP and VJ presence increased in Suva Reka/Suharekë town.<sup>1841</sup> They were heavily armed and set up sniper and mortar positions around town.<sup>1842</sup> The MUP wore blue camouflage uniforms while the VJ wore green camouflage uniforms.<sup>1843</sup> They were joined by armed local Serbs.<sup>1844</sup>

734. During the following days, policemen went from house to house, threatening, assaulting and killing Kosovo Albanian residents, and expelling many of them from their homes at gunpoint.<sup>1845</sup> Halit Berisha's neighbour, a policeman, told him to go to Albania or he would be killed.<sup>1846</sup> Houses belonging to Kosovo Albanians were looted and burnt.<sup>1847</sup>

735. By 31 March 1999, thousands of Kosovo Albanians displaced from different villages in Suva Reka/Suharekë and other municipalities had gathered in Bellanica/Bellanicë.<sup>1848</sup> The KLA had left the village at the end of March 1999.<sup>1849</sup>

736. On 1 or 2 April 1999, VJ, MUP and paramilitaries arrived outside Bellanica/Bellanicë and shelled the village and neighbouring villages.<sup>1850</sup> The heavily armed forces wore blue police uniforms, green army uniforms, and black paramilitary uniforms.<sup>1851</sup> They killed and robbed the refugees and set fire to houses.<sup>1852</sup>

737. The refugees were directed by these forces towards Albania.<sup>1853</sup> Along the way, they were maltreated, robbed and taunted by the same forces, who said that they "will never come back to Kosovo," and that "Kosovo has been and will be Serbian soil."<sup>1854</sup> At Mališevo/Malishevë, Fondaj

<sup>1840</sup> Zogaj, P615, pp. 5-6; P616, p. 6; Fondaj, P627, p. 6; P626, pp. 4-6. *See also* P944.

<sup>1841</sup> Hysni Berisha, P584, p. 5.

<sup>1842</sup> Halit Berisha, P598, p. 2; P600, pp. 11-13; P599, pp. 8-11, 48-49, 56-57; T.3393, 3418. Halit Berisha made the following markings on P613: A(post office building); B(police station); C(tower); D(the pizzeria or café where the Berisha family massacre occurred), E (old post office); F(Balkan Hotel); G(Halit Berisha's house); H(mosque).

<sup>1843</sup> Halit Berisha, P598, p. 2; P599, pp. 48-49, 56-58; T.3393-3394, 3418. *See also* Hysni Berisha, P584, p. 5.

<sup>1844</sup> Halit Berisha, P599, pp. 56-58; P600, p. 13. T.3392-3393, 3418. *See also* Halit Berisha, P598, p. 2.

<sup>1845</sup> Halit Berisha, T.3379; 3405-3406; P599, pp. 50-54; P598, p. 3; P600, pp. 18-19. *See also* T.3415.

<sup>1846</sup> Halit Berisha, P598, p. 3.

<sup>1847</sup> Veljković, T.7063; Hysni Berisha, P584, pp. 5-6.

<sup>1848</sup> Zogaj, P615, pp. 5-6; P616, p. 6; Fondaj, P627, p. 6; P626, pp. 4-6. *See also* P944.

<sup>1849</sup> Zyrapi, P428, p. 72-82; P452; Fondaj, P626, p. 5.

<sup>1850</sup> Zogaj, T.3424; P615, p. 7; P616, p. 5, 7; P617, pp. 92-93.

<sup>1851</sup> Zogaj, T.3439; P617, pp. 19, 24, 48, 60-62. Fondaj, P627, p. 6; P626, pp. 6-7. *See also* P615, p. 7.

<sup>1852</sup> Zogaj, T.3424-3425; P.615, pp. 7-9; P616, pp. 7-8; Fondaj, p.626, pp. 6-9; P627, p. 7.

<sup>1853</sup> Zogaj, T.3425-3426; P617, pp. 22-23; P615, p. 10; Fondaj, P627, p. 7; P626, p. 9.

<sup>1854</sup> Zogaj, T.3426; P615, pp. 8-9, 11-12; P617, pp. 20-21, 84-85; Fondaj, P626, p. 8; P627, p. 7.

saw thousands waiting for buses to take them to the border.<sup>1855</sup> At the Albanian border, Serb policemen took the refugees' identity cards.<sup>1856</sup> Zogaj was told, "Don't even look at Kosova anymore. Kosova is Albania -- Kosova is Serbia. Go to Albania."<sup>1857</sup>

738. On 21 May 1999, armed paramilitaries and policemen in blue camouflage uniforms expelled the residents remaining in Suva Reka/Suharekë.<sup>1858</sup> One of them said, they would "never see this land again".<sup>1859</sup> This expulsion had clearly been organised in advance as transport was arranged for those who did not have their own transport.<sup>1860</sup> At Kukeš and Morina border crossings, the police confiscated the refugees' ID cards and the licence plates of their cars.<sup>1861</sup>

*Destruction of cultural property and religious sites*

739. On 28 March 1999, soldiers dynamited the minaret of the Suva Reka/Suharekë mosque.<sup>1862</sup> [REDACTED].<sup>1863</sup> His testimony is thus unreliable and is contradicted by Riedlmayer who testified that the damage to the mosque was inconsistent with an outside projectile.<sup>1864</sup>

(a) Murder of the Berisha family

740. On 25 March 1999, Shyhrete Berisha, a Kosovo Albanian woman who lived in Suva Reka/Suharekë saw a "tank with wheels" facing her house.<sup>1865</sup> The police looted her home and forced her family to leave.<sup>1866</sup> They beat her husband Nexhat Berisha, and said: "Now the Americans should come and defend you. You asked them for help so Father Clinton should come and help you now".<sup>1867</sup>

741. On 26 March 1999, VJ and MUP forces started shelling.<sup>1868</sup> There were two tanks with gun/cannons pointing at the Berisha houses.<sup>1869</sup>

<sup>1855</sup> Fondaj, P626, p.10; P627, p.7.

<sup>1856</sup> Zogaj, T.3426; P615, p.11; P616, p.10; Fondaj, P626, pp.36-37, P627, p.8.

<sup>1857</sup> Zogaj, T.3426; P615, p.11; P616, pp.9-10; P617, p.55.

<sup>1858</sup> Hysni Berisha, P584, pp.8-9; Halit Berisha, P.598, p.4.

<sup>1859</sup> Halit Berisha, T.3410, P599, pp.20-21; P598, p.4.

<sup>1860</sup> Hysni Berisha, P584, p.9; P598, p.4.

<sup>1861</sup> Halit Berisha, T.3411-3414, P598, p.4.

<sup>1862</sup> Halit Berisha, T.3387-3389; 3420; P598, p.3; P599, pp.16-17, 76-79; P600, p.15; P614, p.1; *See also* T.3416; P614, p. 2.

<sup>1863</sup> [REDACTED].

<sup>1864</sup> Riedlmayer, T.7643-7644. *See also*, T.7519-7521; P1111; P1099, pp.51-53; P614.

<sup>1865</sup> S.Berisha, T.470; P274. S.Berisha marked her house (number 3), Agron's house (number 1), and the tank (number 2).

<sup>1866</sup> S.Berisha, T.464-474; P271. *See also* Halit Berisha, P599, pp.11-12; P598, pp.2-3.

<sup>1867</sup> S.Berisha, T.471-472.

<sup>1868</sup> Hysni Berisha, P584, p.5.

<sup>1869</sup> S.Berisha, T.476-477.

742. That morning, two camouflage military coloured lorries arrived.<sup>1870</sup> Policemen exited and set out to the houses opposite the police station.<sup>1871</sup> They were led by “Čegar 1,”<sup>1872</sup> which is the code name<sup>1873</sup> for Radomir Mitrović, commander of the 37<sup>th</sup> PJP (Niš) Detachment.<sup>1874</sup> “Čegar 1,” started yelling at Assistant Commander Jovanović. He said, “What are you waiting for? Go after these men who came to assist.”<sup>1875</sup> Jovanović ordered K83, Radovan Tanović, Slađan Čukarić (“Jajce”) and Miki Petković to head to the former OSCE house (Shyhrete Berisha’s home).<sup>1876</sup> Čukarić and Tanović (duty policemen) ordered K83 and Petković (reserve policemen) to provide cover for them.<sup>1877</sup> K83 heard Čegar 1’s unit shooting at the houses.<sup>1878</sup>

743. Amongst the men who came to the house, Shyhrete Berisha recognised “Zoran,” as did Drilon and Sedat Berisha.<sup>1879</sup> She knew Zoran well because he was a Serb who lived and worked in Suva Reka/Suharekë and spoke Albanian well.<sup>1880</sup> She also recognised Zoran’s voice.<sup>1881</sup> Shyhrete Berisha recognised “Mišković,” a policemen from Suva Reka/Suharekë whom she knew well.<sup>1882</sup> “Mišković” shot her husband, Nexhat.<sup>1883</sup> Bujar, Faton, Fatime, Nexhmedin and Lirija Berisha were also killed by the policemen.<sup>1884</sup>

744. Shyhrete Berisha and her family fled and gathered near the shopping centre.<sup>1885</sup> The policemen herded them into the café and shouted that they would kill all Albanians, and fired their automatic weapons at the family.<sup>1886</sup> The police later threw explosives into the shop.<sup>1887</sup> K83, who

<sup>1870</sup> K83,T.378,381. For the position of the lorries, see “A” on P270.

<sup>1871</sup> K83,T.378. For the position of the police station, refer to marking C on P270. S.Berisha,T.477; *See also* Hysni Berisha,P584,p.5.

<sup>1872</sup> K83,T.380. For the position of Cegar 1, see “B” on P270.

<sup>1873</sup> K83,T.379-382;P270 indicates the positions of the trucks (A), K83 (X), Čegar 1 next to a Jeep, facing the police station (B) and police station (C)

<sup>1874</sup> K83,T.405-406.

<sup>1875</sup> K83,T.381.

<sup>1876</sup> For the position of OSCE building, see “D” on P270. K83,T.382; Hysni Berisha,P584,pp.5-6.

<sup>1877</sup> K83,T.377,383; Veljković,T.7042,7075. For K83’s position behind a house by the OSCE building and Petković, see “E” and “L” respectively on P270.

<sup>1878</sup> K83,T.383;Veljković,T.7046, [REDACTED],7049.

<sup>1879</sup> S.Berisha, T.478. S.Berisha accepted that she was unable to identify Zoran Petković during the proceedings in Belgrade in a line-up because his physical appearance had changed since the incident (T.540) However, she was adamant that she recognised Zoran’s voice, when he called for Bujar on 26 March because it was the loudest voice among the perpetrators, and he spoke Albanian well (T.480,485,538-540). The lack of clarity about recognising Zoran’s voice seems to be caused by S.Berisha saying that she had never spoken to Zoran before; this appears to have led to the assumption that she could not recognise his voice. However, as clarified in re-examination, even though S.Berisha had not personally spoken to Zoran, she recognised his voice as she had heard him speak before and knew him from around town.

<sup>1880</sup> S.Berisha,T.480.

<sup>1881</sup> S.Berisha,T.480. *See also* S.Berisha,T.485,538-540.

<sup>1882</sup> S.Berisha,T.481.

<sup>1883</sup> S.Berisha,T.481.

<sup>1884</sup> S.Berisha,T.481-483;P272. *See also* K83,T.385, 404-405; Veljković,T.7046,7049,7079-7080.

<sup>1885</sup> S.Berisha,T.483; K83,T.384. For the position of the pizzeria, see P270, mark “G”. Veljković,T.7046,7126-7128;P1070;D309. Note: witnesses used “pizzeria” or “café” interchangeably when referring to the massacre site.

<sup>1886</sup> S.Berisha,T.484,486,488;P275, mark “I”; K83,T.386-387.

was at the café with Petković, said that Čukarić and Tanović were throwing hand grenades and were shooting.<sup>1888</sup> Shyhrete Berisha recognised Zoran's voice.<sup>1889</sup> When the policemen saw someone alive, they would shoot to kill.<sup>1890</sup> Jashar Berisha was also murdered on 26 March.<sup>1891</sup>

745. At least 47 members of the Berisha family were killed on 26 March 1999.<sup>1892</sup> Those shot in the pizzeria were predominantly women and children.<sup>1893</sup>

746. Two trucks then arrived from the direction of Prizren and were loaded with bodies from the pizzeria and driven back in that direction.<sup>1894</sup> Shyhrete Berisha and the two other survivors were loaded with the other bodies.<sup>1895</sup> They managed to jump off the truck *en route* to Prizren.<sup>1896</sup>

747. After the murders, Veljković learnt from a colleague that orders had come from the MUP in Belgrade that the killings should stop and that the Albanian population should leave town.<sup>1897</sup> Local Albanians began departing and heading towards Albania.<sup>1898</sup> Having fled Suva Reka following the massacre, Shyhrete Berisha crossed into Albania at Kukës in early May 1999.<sup>1899</sup> Policemen there took money and identity documents.<sup>1900</sup>

748. The human remains of the Berisha family members were later exhumed from two locations. Bodies were originally buried close to Prizren and then later moved to Batajnica. Parts of Jashar Berisha's body were found at both locations.<sup>1901</sup>

749. Veljkovic said he saw Čukarić, Tanović and Petković at the OUP prior to the massacre.<sup>1902</sup> [REDACTED].<sup>1903</sup> Veljković's denial of K83's presence at the OUP and insistence that K83 was with him collecting the bodies is not credible. K83 was a reliable witness and his willingness to

<sup>1887</sup> S.Berisha, T.485;K83,T.389. Veljković heard gunshots and an explosion from the direction of Reštanski Put between the area of the Metohija Vino winery and the Municipal Hall. *See* Veljković, T.7051-7052,7135;7059-7060, 7132,7136;P1070.

<sup>1888</sup> K83,T.388-389.

<sup>1889</sup> S.Berisha,T.485.

<sup>1890</sup> S.Berisha,T.485-486;Veljković,T.7053-7055,7139.

<sup>1891</sup> K83,T.392-393,399,426-427; Halit Berisha,P598,p.3; T.3383.

<sup>1892</sup> S.Berisha,T.460,474. *See also* Indictment, Schedule D.

<sup>1893</sup> S.Berisha,T.459-460;P272.

<sup>1894</sup> K83,T.390-393;Veljković,T.7055,7132. *See also* Veljković,T.7046,7050-7051.

<sup>1895</sup> S.Berisha,T.486-488. S.Berisha testified that amongst the names in blue that represented those present at the café only herself and two others survived. *See also* Halit Berisha,P598,p.3.

<sup>1896</sup> S.Berisha,T.490-491.

<sup>1897</sup> Veljković,T.7062-7063.

<sup>1898</sup> Veljković,T.7063.

<sup>1899</sup> S.Berisha,T.491-492.

<sup>1900</sup> S.Berisha,T.492-493.

<sup>1901</sup> *See* Part III, Section(B),(5)(a)(i). *See also* Annex C, Schedule D.

<sup>1902</sup> Veljković,T.7042,7075.

<sup>1903</sup> [REDACTED].



admit having witnessed the Berisha massacre is good indication of his honesty. [REDACTED],<sup>1904</sup> [REDACTED].

*Forces of the FRY and Serbia were responsible for the crimes in Suva Reka/Suharekë*

750. Various VJ and MUP units were stationed in Suva Reka/Suharekë town.<sup>1905</sup> They conducted joint patrols.<sup>1906</sup> [REDACTED].<sup>1907</sup> The VJ had a base at Birać outside the town.<sup>1908</sup> On 24 March, Halit and Shyhrete Berisha saw the VJ and the MUP passing through Suva Reka/Suharekë.<sup>1909</sup>

751. On 23 March 1999, the Joint Command ordered the 549<sup>th</sup> Mtbr to support the MUP in an operation to take place on 25 March in the Orahovac, Suva Reka/Suharekë, and Velika Kruša sectors.<sup>1910</sup> That day, Delić, Lazarević's direct subordinate, issued an order implementing the Joint Command order,<sup>1911</sup> and instructed the 5<sup>th</sup> combat group of his brigade to deploy to Reštane/Reshtan, outside Suva Reka/Suharekë town, with two companies from the 37<sup>th</sup> PJP (Niš) Detachment.<sup>1912</sup> The crimes took place during the course of this joint action. K83 said that the operation was set in motion when "Čegar 1" or Mitrović, Commander of the 37<sup>th</sup> PJP (Niš) Detachment, came to the police station in Suva Reka/Suharekë.<sup>1913</sup> Đorđević ordered the deployment of the 37<sup>th</sup> PJP (Niš) Detachment to Kosovo in 1999.<sup>1914</sup> Lukić co-ordinated the work of PJPs through the MUP Staff.

752. The massacre of the members of the Berisha family was not a random killing:

- Tanks were parked outside behind the Berishas' houses hours before the assault, which clearly indicates that the operation was planned.<sup>1915</sup>
- The perpetrators of the massacre were policemen.<sup>1916</sup> They and their superiors remained in the police force during the war.<sup>1917</sup>

<sup>1904</sup> Veljković, T. [REDACTED], 7052,7059-7060,7132,7136;P1070.

<sup>1905</sup> Hysni Berisha,P584,p.6;Halit Berisha,T.3393;P598,p.2;P599,pp.48-49,56-57.

<sup>1906</sup> Halit Berisha,P598,p.2.

<sup>1907</sup> [REDACTED].

<sup>1908</sup> Halit Berisha,P599,p.61.

<sup>1909</sup> Halit Berisha,P599,p.63;S.Berisha,T.463-465.

<sup>1910</sup> P350.

<sup>1911</sup> P1316.

<sup>1912</sup> P1316,p.3, item 5.1.

<sup>1913</sup> K83,T.381-382;[REDACTED].See also Cvetić,T.6731-6732;P1061.

<sup>1914</sup> P711.

<sup>1915</sup> S.Berisha,T.470,476-477;P274.

<sup>1916</sup> S.Berisha,T.484-486;K83,T.385,387-390,393.

<sup>1917</sup> K83,T.405-406. [REDACTED].

- On 26 and 27 March, Jovanović, a crime policeman took photographs of the corpses of the Berisha family at the café and of the other corpses that were on the road in the vicinity of the OSCE house.<sup>1918</sup>
- Before the murders, Repanović, OUP Commander, stopped Veljković and gave him an order.<sup>1919</sup> Veljković realized that he was being asked to commit murder, “the gravest breach of work duty.”<sup>1920</sup>
- The police ordered the Berisha family to enter the café.<sup>1921</sup>
- Policemen brought Jashar Berisha to the café and shot him dead.<sup>1922</sup>
- Following the massacre, Cukarić, a perpetrator was in radio communication.<sup>1923</sup>
- Shortly after the massacre occurred, Boban Vuksanović, mayor of Suva Reka/Suharekë, arrived with a truck to remove the bodies, indicating that he must have known in advance about the massacre.<sup>1924</sup>
- The massacre took place only a short distance from the OUP, so the explosions and shooting must have been audible there. Numerous people saw and participated in loading the bodies.<sup>1925</sup> People talked about the massacre.<sup>1926</sup>

753. The destruction of the mosque in Suva Reka/Suharekë was also part of a plan to intimidate and harass the Kosovo Albanian population in Suva Reka/Suharekë. The mosque was damaged on 28 March, Bajram day, when the police were still forcing Kosovo Albanians out of Suva Reka/Suharekë.<sup>1927</sup> There was no legitimate military purpose in the destruction of the minaret.

754. The crimes in Bellanica/Bellanicë took part during the course of a VJ-MUP operation in that area. The post-operation report of the 549<sup>th</sup> Mibr of 3 April 1999 refers to a joint operation of the PJP and the 15<sup>th</sup> Armoured Brigade in Bellanica/Bellanicë village on 1 April.<sup>1928</sup> The KLA had left the village by this time.<sup>1929</sup>

<sup>1918</sup> K83,T.402.

<sup>1919</sup> Veljković,T.7042-7043.

<sup>1920</sup> Veljković,T.7042-7043,7068-7069,7074; *See also* Veljković,T.7062-7063.

<sup>1921</sup> S.Berisha,T.530.

<sup>1922</sup> K83,T.392-393,399.

<sup>1923</sup> K83,T.406-407.

<sup>1924</sup> P598,p.2;K83,T.390-392;Veljković,T.7055,7132.

<sup>1925</sup> K83,T.391-392;Veljković,T.7055-7065.

<sup>1926</sup> Veljković,T.7063,7055-7056,7132; S.Berisha,T.491;K83,T.391-393. *See also* P1514.

<sup>1927</sup> Halit Berisha,P598,p.3.

<sup>1928</sup> P944,p.3.

<sup>1929</sup> Zyrapi,P428,p.72-82;P452;Fondaj,P626,p.5.

5. Peć/Pejë

755. On 27 and 28 March 1999, VJ, MUP, and armed Serb civilians attacked the town of Peć and forcibly expelled its Kosovo Albanian population. Preparations for the mass expulsion began several days earlier when local Serb police illegally requisitioned buses from Edison Zatriqi, a coach company owner.<sup>1930</sup>

756. In the morning of 27 March 1999, Serb military used their tanks to shell the ethnic Albanian neighbourhood of Kapeshnica from the hospital yard and the secondary school.<sup>1931</sup> The firing lasted for several hours. There was no outgoing fire from Kapeshnica.<sup>1932</sup> In the evening a very powerful searchlight went over the town and there was occasional shooting.<sup>1933</sup>

757. On 27 March 1999, some 20 fully-armed and masked paramilitary troops entered the neighbourhood of Karagaq, shot at Albanian houses and gave residents a five-minute ultimatum to leave their homes and go to Montenegro.<sup>1934</sup> The paramilitaries yelled “[y]ou asked for Clinton call them now let them rescue you.”<sup>1935</sup> Police and military uniforms were on the streets of the town during these expulsions.<sup>1936</sup>

758. On the morning of 28 March 1999, Konaj, a local resident, observed large crowds of people gathered in the streets.<sup>1937</sup> MUP, VJ, and paramilitaries were stationed at the entrance of every street, blocking access to the town.<sup>1938</sup> MUP and armed Serb civilians at various junctions directed the convoys towards Montenegro or Albania.<sup>1939</sup> Those on foot were ordered to go to the centre of town.<sup>1940</sup>

759. Thousands gathered in the town centre.<sup>1941</sup> MUP officers and VJ soldiers pointed their guns at the residents.<sup>1942</sup> A policeman ordered the crowds to divide into two groups.<sup>1943</sup> However, the

<sup>1930</sup> Zatriqi, T.3819; P672, p.5, 10; P673, pp.11-12.

<sup>1931</sup> Zatriqi, P672, p.5; T.3803, 3806, 3825. *See also* P674.

<sup>1932</sup> Zatriqi, T.3819-3820.

<sup>1933</sup> Zatriqi, P672, p.6; T.3809.

<sup>1934</sup> Konaj, P670, p.3; T.3751, 3761.

<sup>1935</sup> Konaj, P670, p.3.

<sup>1936</sup> Konaj, T.3753; P671, p.6; P670, p.3.

<sup>1937</sup> Konaj, T.3754; P670, p.4.

<sup>1938</sup> Konaj, P671, p.6; P670, p.4.

<sup>1939</sup> Konaj, P670, p.4.

<sup>1940</sup> Konaj, P670, p.4; P671, pp.10, 26.

<sup>1941</sup> Konaj, P670, p.4.

<sup>1942</sup> Konaj, P670, p.4.

<sup>1943</sup> Konaj, P670, p.4; P671, p.29.

separation did not happen due to the panic that ensued among the crowds.<sup>1944</sup> That evening, three army tanks entered the centre of town.<sup>1945</sup>

760. Konaj's family was forced to board a bus going to Albania.<sup>1946</sup> The bus that Konaj and his family were travelling on stopped at a police station checkpoint in Đakovica/Gjakove,<sup>1947</sup> where Konaj saw a large group of MUP, paramilitary and civilians,<sup>1948</sup> and saw MUP officers brutally beating refugees.<sup>1949</sup> Konaj's bus reached the junction at Vermica (Vrbnica) and the bus driver ordered everyone off the bus.<sup>1950</sup> He also told them to "go to Albania, this is not your place, this is greater Serbia".<sup>1951</sup> Konaj saw "police and military" on the other side of the road where they were dropped off.<sup>1952</sup>

761. At the border, MUP officers and "people dressed in military uniforms" ordered the refugees to throw their identification cards, passports, driver's licences and registration plates in a big wooden box.<sup>1953</sup>

762. Zatriqi corroborated Konaj's account of the forcible expulsion of the Kosovo Albanian population of Peć/Pejë town. On 28 March 1999, a police car stopped at the entrance of Zatriqi's street. Policemen got out of the car and ordered Zatriqi and his family to leave the house in five minutes.<sup>1954</sup> Police cars were stationed at the two entrances of the road, and a police officer went from home to home ordering people out.<sup>1955</sup> Additional policemen could be seen coming down a hill near the villagers' houses, so Zatriqi and other people in the neighbourhood moved on to a safer place.<sup>1956</sup>

763. Zatriqi and his family got in their car and drove to the main road where they met a long convoy of vehicles going in the direction of Rožaje, Montenegro. They drove their car to Rožaje in a long convoy consisting of vehicles and people.<sup>1957</sup> The convoy of Albanians who had been evicted

<sup>1944</sup> Konaj, P670, p.4.

<sup>1945</sup> Konaj, P670, p.4.

<sup>1946</sup> Konaj, P670, p.4.

<sup>1947</sup> Konaj, P670, p.5.

<sup>1948</sup> Konaj, P670, p.5; T.3756, 3763.

<sup>1949</sup> Konaj, P670, p.5; T.3756.

<sup>1950</sup> Konaj, P670, p.5.

<sup>1951</sup> Konaj, P670, p.5; *See also* T.3756.

<sup>1952</sup> Konaj, P670, p.5.

<sup>1953</sup> Konaj, T.3757; P670, p.5.

<sup>1954</sup> Zatriqi, T.3809; P673, p.10.

<sup>1955</sup> Zatriqi, P673, pp.4-6,8.

<sup>1956</sup> Zatriqi, P673, pp.9-10.

<sup>1957</sup> Zatriqi, P672, p.6; T.3810; P673, pp.6,13.

from their homes was so long that Zatriqi could not see its end.<sup>1958</sup> There were armed civilians and MUP officers at various road junctions directing the convoy towards Montenegro.<sup>1959</sup>

764. While in the convoy, Zatriqi saw one of his buses full of refugees.<sup>1960</sup> The driver of the bus was a policeman dressed in a blue camouflage uniform.<sup>1961</sup> In addition, there were other buses that belonged to his colleagues that were also packed with people.<sup>1962</sup>

765. Zatriqi said that the residents from Peć/Pejë left unwillingly and in fear for their lives.<sup>1963</sup> The police had expelled the residents from their houses and forced them to leave town.<sup>1964</sup>

766. The convoy moved on towards Ulqin after reaching Rožaje, Montenegro.<sup>1965</sup>

767. Kosovo Albanians who returned in July 1999 found many Albanian houses completely burnt, while Serb properties remained undamaged.<sup>1966</sup> Zatriqi testified that eighty per cent of the houses and many religious facilities were damaged or burned.<sup>1967</sup> The old mosque in the Sahat Kulla neighborhood was damaged, and the Qarshia Xhamia mosque in the old bazaar of Peć/Pejë was completely burned.<sup>1968</sup>

*Forces of the FRY and Serbia were responsible for the crimes in Peć/Pejë*

768. The area of Peć/Peja fell within the AOR of the 125<sup>th</sup> Motorised Brigade of the PrK, commanded by Dragan Živanović.<sup>1969</sup> Živanović was Lazarević's direct subordinate. The Armoured Battalion of this Brigade was stationed in the municipality and had its command post in the village of Raušić/Raushiq, south of Peć/Peja town, until 26–27 March 1999, when it was relocated to Peć/Peja town.<sup>1970</sup> The Brigade remained in the town until at least 11 April 1999.<sup>1971</sup> The War Diary of the Armoured Battalion of the 125<sup>th</sup> Motorised Brigade also noted the presence of units of the Brigade in Peć/Peja town as of 27 March 1999.<sup>1972</sup>

<sup>1958</sup> Zatriqi, T.3810-3811.

<sup>1959</sup> Zatriqi, P672, p.6; T.3810; P673, p.6.

<sup>1960</sup> Zatriqi, T.3830; P672, p.6, 10; P673, p.6.

<sup>1961</sup> Zatriqi, T.3830; P673, p.6.

<sup>1962</sup> Zatriqi, P673, p.6.

<sup>1963</sup> Zatriqi, P672, p.6; T.3829.

<sup>1964</sup> Zatriqi, T.3826; P673, p.4.

<sup>1965</sup> Zatriqi, T.3826.

<sup>1966</sup> Zatriqi, P672, pp.6-7; Konaj, T.3758; P671, p.6.

<sup>1967</sup> Zatriqi, T.3830; P673, p.7.

<sup>1968</sup> Zatriqi, T.3831; P673, p.7; Konaj, P671, pp.6-7.

<sup>1969</sup> P1366; P929, p.2; P929, p.2; also P957, pp.1-2.

<sup>1970</sup> P957, pp.1-2.

<sup>1971</sup> P957; see also P954, p.4.

<sup>1972</sup> P957.

769. Đorđević deployed members of the 21<sup>st</sup>, 22<sup>nd</sup> and 72<sup>nd</sup> PJP Detachments from the Belgrade SUP to Peć/Pejë municipality in early March 1999.<sup>1973</sup> Lukić co-ordinated the PJPs through the MUP Staff.

770. Police and armed civilians were involved throughout the series of events in Peć/Pejë and during the deportation process:

- Policemen confiscated Zatriqi's buses;<sup>1974</sup>
- Police shot in the direction of Zatriqi's house on 26 March 1999;<sup>1975</sup>
- The police again entered Peć/Pejë on 27 March 1999, and brought in a police pinzgauer;<sup>1976</sup>
- The police and armed Serb civilians deported Albanians from Peć/Pejë on 27 and 28 March 1999;
- Konaj saw MUP officers brutally beating refugees at one of the checkpoints along the way to Montenegro;<sup>1977</sup> and
- Konaj encountered the MUP and the VJ at the Albanian border, where they ordered the refugees to throw their identification cards, passports, driver's licences and registration plates in a big wooden box.<sup>1978</sup>

#### 6. Kosovska Mitrovica/Mitrovica

771. Beginning in February 1999, VJ forces increased their presence in Kosovska Mitrovica/Mitrovica municipality. The forces included elements of the 37<sup>th</sup> Infantry Brigade, the 125<sup>th</sup> Motorized Brigade, and the 211<sup>th</sup> and 252<sup>nd</sup> Armoured Brigades.<sup>1979</sup> In mid-March 1999 a large number of MUP forces, including PJP units from outside Kosovo, were also mobilized in the area.<sup>1980</sup> After KVM withdrew, the Serbian MUP increased their presence, set up checkpoints and began conducting mobile patrols in Žabare/Zhabar village.<sup>1981</sup>

772. On 24 March 1999, MUP forces began targeting and killing prominent Albanians in Kosovska Mitrovica/Mitrovica. MUP officers from the Mitrovica SUP broke into the home of Agim Hajrizi, a prominent human rights activist.<sup>1982</sup> They shot and killed him, his son, and his

<sup>1973</sup> P1189.

<sup>1974</sup> Zatriqi, T.3819; P672, pp.5,10; P673, p.11.

<sup>1975</sup> Zatriqi, T.3808.

<sup>1976</sup> Konaj, P670, p.3; P671, p.5.

<sup>1977</sup> Konaj, P671, p.6; P670, p.4.

<sup>1978</sup> Konaj, T.3757; P670, p.5.

<sup>1979</sup> Cvetić, T.6636-6637; P965, p.11; P1366; P1443; P1029, p.53.

<sup>1980</sup> Cvetić, T.6609-6610, 6691; P711; P1191; P139.

<sup>1981</sup> Sadiku, P502, paras.2, 7-8; T.2967.

<sup>1982</sup> Halimi, P499, pp.4, 27; T.2897-2898.

mother.<sup>1983</sup> Latif Berisha, the local Chairman of the LDK, was murdered that same evening.<sup>1984</sup> The homes of Mahmut Halimi, a judge, and Halit Barani, a local activist, were burned.<sup>1985</sup>

773. From late March and into April 1999, MUP, VJ, and paramilitary forces expelled tens of thousands of ethnic Albanians from Kosovska Mitrovica/Mitrovica. There were two major waves of expulsions: the first from late March to early April, and the second in mid-April.

774. In the morning of 28 March 1999, the MUP, VJ, and paramilitary started to burn houses and expel residents of the primarily Albanian neighbourhood of Tamnik/Tavnik.<sup>1986</sup> They told people to go immediately to Albania.<sup>1987</sup> The forces yelled phrases such as “You wanted NATO and call NATO now to come and help you. We will kill you all,”<sup>1988</sup> “Go to Albania, this is not your place.”<sup>1989</sup>

775. Thousands of people were routed to Žabare/Zhabar, a village in the outskirts of Kosovska Mitrovica/Mitrovica town, where refugees from other villages had gathered.<sup>1990</sup>

776. On 1 April 1999, the refugees in Žabare/Zhabar were ordered to return to Kosovska Mitrovica/Mitrovica town.<sup>1991</sup> There, Serb forces arranged buses for the Kosovo Albanian population to be transported to Montenegro.<sup>1992</sup> Serb forces surrounded the bus station.<sup>1993</sup> The buses left for Montenegro on 4 April.<sup>1994</sup> A Serb driver drove each bus.<sup>1995</sup> Just before crossing the Montenegrin border, many men were forced off the buses, mistreated, interrogated, and forced to shout “Serbia, Serbia”.<sup>1996</sup> Montenegrin border police seized their identity documents and told them that they would “never come back to this country again.”<sup>1997</sup>

777. A second wave of expulsions took place in mid-April 1999. Mahmut Halimi and Sadije Sadiku were both expelled from the village of Žabare/Zhabar during this time.

<sup>1983</sup> Hajrizi, T.4305-4308,4314; P773, pp.9-10; P775, pp.6,11; P776, pp.5,9,10; P1288. See P777.

<sup>1984</sup> Halimi, T.2898; P499, p.4; Hajrizi, P773, p.11; P775, p.21; P776, p.4

<sup>1985</sup> Hajrizi, P774, p.7, para.5; Halimi, P499, p.18.

<sup>1986</sup> Hajrizi, P774, p.7; P776, pp.13,28-30.

<sup>1987</sup> Hajrizi, P774, p.7.

<sup>1988</sup> Hajrizi, P774, p.7.

<sup>1989</sup> Hajrizi, T.4309; P774, p.7.

<sup>1990</sup> Hajrizi, T.4310; P773, p.11; P774, p.7.

<sup>1991</sup> Hajrizi, P774, p.8; P773, p.11.

<sup>1992</sup> Hajrizi, P774, p.9; T.4332.

<sup>1993</sup> Hajrizi, P774, p.9.

<sup>1994</sup> Hajrizi, P774, p.9.

<sup>1995</sup> Hajrizi, P774, p.9. The buses were from the State Transport Company called “Kosova Trans”.

<sup>1996</sup> Hajrizi, P774, p.9; P776, p.20.

<sup>1997</sup> Hajrizi, T.4335; P774, p.9; P773, p.12.

778. On or around 14 April 1999, Serb forces fired some rounds in the direction of Žabare/Zhabar from Kosovska Mitrovica/Mitrovica town.<sup>1998</sup> Halimi saw the population from Suhadol, Tavnik and Shipol neighbourhoods moving *en masse* to Žabare/Zhabar.<sup>1999</sup> He heard from the refugees that soldiers, police and paramilitaries had expelled them from their homes.<sup>2000</sup> These forces looted and set fire to houses at one end of the village.<sup>2001</sup>

779. Over the next few days, the MUP ordered civilians to form convoys leaving the village.<sup>2002</sup> Halimi was part of a first column of about 25,000 Albanians ordered to head down the Peć/Pejë road.<sup>2003</sup> People were on foot and also in vehicles.<sup>2004</sup> As Halimi drove out of Žabare/Zhabar with his family, two VJ soldiers forced them to get out of their car and continue on foot.<sup>2005</sup> He saw regular MUP units securing the road and VJ and reservists along the road.<sup>2006</sup> At the border, the police ordered the refugees to discard their identification documents and car registration plates.<sup>2007</sup> Halimi and his family handed over their registration plates and IDs, after which they were allowed to cross the border.<sup>2008</sup>

780. Sadiku joined another column of approximately 8,000-9,000 people heading towards Albania under MUP escort.<sup>2009</sup> The refugees passed multiple police and military checkpoints on the road.<sup>2010</sup> At each checkpoint, the forces told the refugees which way to go.<sup>2011</sup> At one checkpoint, Sadiku heard police say "go quickly, disappear from Kosovo and go to Albania."<sup>2012</sup>

781. Sadiku's convoy walked without rest for two days under MUP escort. Many refugees were barefoot and lacked food and water.<sup>2013</sup> When the column reached Klina e Perme, a MUP officer split the convoy into two groups. He ordered one group of about 2,000 people to head back towards

<sup>1998</sup> Halimi, P499, pp.6-7; T.2901. On P500, Halimi identified Gornje (Upper) Žabare/Zhabar with the number "1", and Donje (Lower) Žabare/Zhabar with the number "2".

<sup>1999</sup> Halimi, P499, p.8; T.2901-2902; P500.

<sup>2000</sup> Halimi, P499, p.8, 39, 40.

<sup>2001</sup> Halimi, P499, p.11; Sadiku, T.2967.

<sup>2002</sup> Sadiku, T.2967-2969; P502, paras.13-14; P504. Halimi, P499, pp.14, 53.

<sup>2003</sup> Halimi, P499, pp.9, 14; T.2901-2902. On P500, Halimi identified the Kosovska Mitrovica-Peć road with the number "5".

<sup>2004</sup> Halimi, P499, p.10; T.2902-2903.

<sup>2005</sup> Halimi, P499, pp.7, 12-13, 22, 41-42.

<sup>2006</sup> Halimi, T.2895, 2905; P499, pp.14-15, 68.

<sup>2007</sup> Halimi, P499, pp.16-17.

<sup>2008</sup> Halimi, P499, pp.16-17.

<sup>2009</sup> Sadiku, T.2970; P502, paras.15-16.

<sup>2010</sup> Sadiku, T.2971; P505.

<sup>2011</sup> Sadiku, P502, para.17.

<sup>2012</sup> Sadiku, P502, para.16.

<sup>2013</sup> Sadiku, P502, paras.18-19.



Kosovska Mitrovica/Mitrovica.<sup>2014</sup> The other group of about 6,000 people was instructed to continue on to Peć/Peja.<sup>2015</sup>

782. On the third night, Sadiku's convoy was permitted to rest in a field beside the road, somewhere near Srbica/Skenderaj.<sup>2016</sup> The next morning they continued to walk through the Istok/Istog and Klina municipalities.<sup>2017</sup> The police ordered them to return to Zablacë/Zabllaq village.<sup>2018</sup>

783. Zablacë/Zabllaq was deserted and the homes were in ruins due to shelling.<sup>2019</sup> The police were positioned at the entrance of the village.<sup>2020</sup> They ordered the refugees to stay in the abandoned homes. The refugees remained there for three weeks.<sup>2021</sup>

784. On 6 May 1999, Sadiku and some friends left the home in which they were staying to collect some potatoes, their only sustenance at the time.<sup>2022</sup> She noticed that police were stationed in the courtyard of a church.<sup>2023</sup> On the return to the house, Sadiku was shot in the back.<sup>2024</sup> She attempted to drag herself into the house, but the gunmen continued firing for approximately 30 minutes.<sup>2025</sup> Eventually her sisters were able to pull her back into the house.<sup>2026</sup> Sadiku believes she was shot by the police stationed in the church.<sup>2027</sup> The only people in the village who had guns were the police who controlled the village.<sup>2028</sup>

785. Some men carried Sadiku to the village of Zahać/Zahaq in Peć/Peja municipality to seek medical attention.<sup>2029</sup> Sadiku stayed in Zahać/Zahaq for a few days until police expelled the residents of that village.<sup>2030</sup> The refugees formed a convoy of tractors and cars and headed towards Peć/Peja.<sup>2031</sup> Sadiku rode in a tractor with other women and children.<sup>2032</sup> Police at numerous

<sup>2014</sup> Sadiku,P502,para.20.

<sup>2015</sup> Sadiku,P502,para.20.

<sup>2016</sup> Sadiku,P502,para.21.

<sup>2017</sup> Sadiku,P502,para.22.

<sup>2018</sup> Sadiku,P502,para.23.

<sup>2019</sup> Sadiku,T.2973-2974;P506.

<sup>2020</sup> Sadiku,P502,para.23.

<sup>2021</sup> Sadiku,T.2972-2973;P502,para.24.

<sup>2022</sup> Sadiku,P502,para.25.

<sup>2023</sup> Sadiku,T.2973;P502,para.28.

<sup>2024</sup> Sadiku,P502,paras.25-26;T.2973.

<sup>2025</sup> Sadiku,P502,para.27.

<sup>2026</sup> Sadiku,P502,para.30.

<sup>2027</sup> Sadiku,T.2996-2999;P503,pp.38-53.

<sup>2028</sup> Sadiku,P503,pp.60-61.

<sup>2029</sup> Sadiku,P502,para.32.

<sup>2030</sup> Sadiku,T.2974;P502,para.34;P506.

<sup>2031</sup> Sadiku,T.2974;P502,para.34.

<sup>2032</sup> Sadiku,P502,paras.34-35.

checkpoints demanded money from the refugees.<sup>2033</sup> At a police checkpoint in Peć/Peja, police seized and burned their identification documents.<sup>2034</sup> When the convoy finally reached the Albanian border, again police demanded money, jewellery, and seized remaining identification documents.<sup>2035</sup>

786. Upon reaching Albania, Sadiku received medical attention from KFOR. She was then taken to a hospital in Tirana and later to Germany. After many surgeries, Sadiku remains paralyzed and confined to a wheelchair.<sup>2036</sup>

787. Halimi returned to Kosovska Mitrovica/Mitrovica on 11 July 1999, after the war was over.<sup>2037</sup> He found that his house had been completely burned down, along with several other houses in Gornje Žabare/Zhabar.<sup>2038</sup>

#### *Destruction of cultural or religious sites*

788. There were four mosques in Kosovska Mitrovica/Mitrovica town prior to the war.<sup>2039</sup> All four mosques were damaged or destroyed sometime after 25 March 1999.<sup>2040</sup> The mosque located next to the Ibar River had been razed to the ground and covered with dirt.<sup>2041</sup> A number of people explained to Halimi that Serb forces had set fire to the mosques<sup>2042</sup>

#### *The forces of the FRY and Serbia committed the crimes in Kosovska Mitrovica/Mitrovica municipality*

789. Witnesses identified the perpetrators as members of the MUP, VJ, and paramilitaries. They were able to identify them by their uniforms and the fact that some of the police committing crimes were known to the victims.

790. Hajrizi identified the perpetrators of the murder of her husband as local policemen.<sup>2043</sup> She described the forces responsible for the expulsions in Kosovska Mitrovica/Mitrovica town as police, paramilitary and VJ.<sup>2044</sup> The police wore regular blue uniforms, whereas the military wore green

<sup>2033</sup> Sadiku, P502, para. 36.

<sup>2034</sup> Sadiku, T.2975.

<sup>2035</sup> Sadiku, T.2975; P502, para. 38.

<sup>2036</sup> Sadiku, T.2976; P502, paras. 5, 39-41.

<sup>2037</sup> Halimi, P499, p. 18.

<sup>2038</sup> Halimi, P499, p. 18.

<sup>2039</sup> Halimi, T.2907.

<sup>2040</sup> Halimi, P499, p. 19; T.2907-2908.

<sup>2041</sup> Halimi, P499, p. 19; T.2907.

<sup>2042</sup> Halimi, T.2907-2908; P499, p. 19.

<sup>2043</sup> Hajrizi, T.4307; P773, p. 9; P775, p. 6; P776, p. 7.

<sup>2044</sup> Hajrizi, P774, p. 7; P776, p. 29.

uniforms.<sup>2045</sup> Paramilitaries wore dark blue/black camouflage uniforms and black masks, and were armed with large knives.<sup>2046</sup>

791. Halimi described the police as wearing dark blue camouflage uniforms with the words "MUP Serbia."<sup>2047</sup> Halimi said paramilitaries wore black bandanas and dark uniforms. Many of them had beards and shaved heads. They were armed with knives and long-barrelled weapons.<sup>2048</sup>

792. Sadiku stated that the uniforms worn by the police who expelled her from her home and who manned the checkpoints along the road were "blue camouflage"<sup>2049</sup> or "blue and black".<sup>2050</sup> In court, she identified a photograph of the camouflage pattern worn by the police.<sup>2051</sup>

793. Documentary evidence shows that MUP and VJ forces were engaged in actions in Kosovska Mitrovica/Mitrovica at the times of the crimes:

- From 24 to 31 March 1999, the 125<sup>th</sup> Mtb war diary recorded that BG-4 was engaged in a blockade in Stari Trg.<sup>2052</sup>
- On 29 March 1999, the PrK Command ordered the 125<sup>th</sup> Mtb to let the refugees go anywhere, so long as it was towards the south.
- The next day, the 125<sup>th</sup> Mtb reported seeing a large number of civilian refugees moving out of Kosovska Mitrovica/Mitrovica.<sup>2053</sup>
- On 2 April 1999, Lazarević tasked the 37<sup>th</sup> Infantry Brigade to engage in combat actions with the 252<sup>nd</sup> Armoured Brigade, the 15<sup>th</sup> Armoured Brigade and the MUP in a zone near Kosovska Mitrovica/Mitrovica.<sup>2054</sup>

#### 7. Priština/Prishtinë municipality

794. Beginning on or about 24 March 1999, the MUP and the VJ, along with armed Serb civilians and paramilitary units, forcibly and systematically expelled the Kosovo Albanian residents of the Priština/Prishtinë municipality.<sup>2055</sup> The speed, scale and extent of the expulsions were

<sup>2045</sup> Hajrizi, P776, pp.28-30.

<sup>2046</sup> Hajrizi, P774, p.8.

<sup>2047</sup> Halimi, P499, p.54.

<sup>2048</sup> Halimi, P499, pp.10-11, 13.

<sup>2049</sup> Sadiku, P502, para. 14; P504.

<sup>2050</sup> Sadiku, T.2968; P504.

<sup>2051</sup> Sadiku, T.2968-2969; P504.

<sup>2052</sup> P954.

<sup>2053</sup> P954.

<sup>2054</sup> P912.

<sup>2055</sup> See e.g. Bala, P420, pp.6-8; T.2286-2301; Kabashi, P424, pp.2-5; P425, pp.3-12; T.2356-2364; Russo, P1213, pp.4-7; Haxhiu, P994, p.22-29; P1028, pp.848, 855-856, 863, 868, 883, 914, 942.

dramatic. Large-scale forced expulsions were carried out in the town of Priština/Prishtinë itself,<sup>2056</sup> and also throughout Dragodan,<sup>2057</sup> Vranjevac/Kodra e Trimave,<sup>2058</sup> Kodra e Diellit,<sup>2059</sup> Velanija/Velania,<sup>2060</sup> the villages of Maticane/Matiqan<sup>2061</sup> and Kojlovica/Kolovicë,<sup>2062</sup> and the town of Kosovo Polje/Fushë Kosovë.<sup>2063</sup>

795. Preparations for the mass expulsion began weeks in advance.<sup>2064</sup> The presence of VJ and MUP units increased significantly in and around Priština/Prishtinë.<sup>2065</sup> The VJ deployed large numbers of tanks, trucks, APCs, and troops.<sup>2066</sup> The MUP mobilised and armed Serb civilians.<sup>2067</sup>

796. NATO commenced bombing Kosovo, including Priština, on 24 March 1999.<sup>2068</sup> Beginning on the eve of the bombing, Serb forces commenced an initial thrust around the perimeter of Priština/Prishtinë, pushing Albanians from these surrounding areas towards the centre of town. Civilians came to Priština from the surrounding areas and nearby villages: places like Dragodan, Vranjevac/Kodra e Trimave, Kojlovica/Kolovicë, Sofali, and Taslixhe. Nazlie Bala testified, for example, that beginning on 24 March, people kept arriving at her house from surrounding areas until there were approximately 100 people staying there. The VJ, the MUP and Serb civilians had been giving the Kosovo Albanians ultimatums to leave their homes, and told that they had minutes to leave or they would be killed.<sup>2069</sup> By 26 March 1999, Serb forces had blocked all roads in and out of Priština and had set up barbed wire blockades manned by VJ, MUP and Serb civilians.<sup>2070</sup>

797. From the outset of the NATO bombing, MUP, VJ and Serb civilians began looting and burning Kosovo Albanian homes and shops, driving around town firing their weapons, and committing more direct acts of violence.<sup>2071</sup> Serb forces also undertook a number of symbolic and violent actions against the Albanian community in Priština/Prishtinë. Leading human rights lawyer Bajram Kelmendi was targeted and killed, along with two of his sons.<sup>2072</sup> The office of the

<sup>2056</sup> Bala, T.2286-2301; P420, p.7.

<sup>2057</sup> Kabashi, P424, pp.3-4; P425, pp.4-6; Bala, T.2291; P420, p.6; P422.

<sup>2058</sup> Kabashi, P424, p.4; Bala, P422.

<sup>2059</sup> Haxhiu, P994, pp.22-24.

<sup>2060</sup> Russo, P1213, pp.5-6.

<sup>2061</sup> Russo, P1213, p.5.

<sup>2062</sup> [REDACTED]; Bala, T.2287-2289; P420, pp.5-6; P422.

<sup>2063</sup> Kabashi, P424, p.2.

<sup>2064</sup> Merovci, P416, paras.38-39; Russo, P1213, pp.3-4; Bucaliu, P825, p.3.

<sup>2065</sup> Bala, P420, pp.5-6; T.2287; P1028, pp.820,848,868; Russo, P1213, p.3; Merovci, P416, paras.38-39,44,75.

<sup>2066</sup> Russo, P1213, p.3; Merovci, P416, para.38.

<sup>2067</sup> Merovci, T.2215-2216; P416, para.49; P417, pp.27-28.

<sup>2068</sup> Bala, P420, p.5.

<sup>2069</sup> Bala, T.2287, P420, pp.5-6.

<sup>2070</sup> Bala, T.2290,2334-2338; P420, p.6; D52.

<sup>2071</sup> See e.g. Bala, T.2333, P420, pp.5-6; Kabashi, P424, pp.2-3; Russo, P1213, pp.4-5.

<sup>2072</sup> Surroi, T.292-293; Haxhiu, T.6237-6239; P994, p.19; Rugova, P285, p.9; P286, p.36. Later, Ibrahim Rugova, his Chief of Cabinet Adnan Merovci, and their families were found and held at gunpoint by VJ and MUP forces, and kept under

newspaper Koha Ditore was broken into, the Albanian night guard was killed, the computers and equipment were removed and the printing offices were burnt down; when Baton Haxhiu arrived at the scene on 25 March 1999, he found MUP officers still there, smelling of alcohol and with traces of blood on them.<sup>2073</sup> Prominent Albanians like Haxhiu went into hiding.<sup>2074</sup>

(a) Priština/Prishtinë town

798. From 24 March to early April 1999, MUP, VJ, paramilitary and armed Serb civilians systematically expelled and deported the ethnic Albanian residents in Priština/Prishtinë.<sup>2075</sup> Mixed Serb forces (VJ, MUP, and Serb civilians) went from door to door and ordered Albanians to leave their homes, threatening to kill any residents who refused to leave.<sup>2076</sup>

799. Several witnesses related similar accounts of expulsions from Priština/Prishtinë. On 29 March 1999, Bala watched from her terrace as VJ, MUP, Serb civilians and “gypsies” went to Albanian homes and forced them to leave. Later that day, an armed VJ officer and a gypsy she recognized as a traffic police officer came to her house and told Bala and the others that they had five minutes to leave. Bala had observed that the procedure was for the VJ officer and gypsy to go first to tell people to leave, and that they would be followed later by a group of mobilized personnel, consisting of armed police and armed civilians, who would beat or kill anyone remaining in the house. Bala thus left her house, along with the others, and joined a group of people in the thousands who were directed by Serb forces towards the centre of Priština.<sup>2077</sup>

800. On 31 March 1999, journalist Antonio Russo also witnessed the MUP and VJ advance into the city and conduct house-to-house searches, expelling the occupants. Hundreds of these civilians were directed into a nearby park, and subsequently directed by a soldier with a radio to start moving. Serb forces directed the crowds of Albanians in the streets to combine and start heading *en masse* towards the railway station.<sup>2078</sup>

801. Veton Surroi also observed the police directing the Albanians to leave Priština/Prishtinë. He noted that they were not given time to collect their things and had been expelled rapidly from their

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house arrest from 31 March 1999 to 4 May 1999: Merovci, T.2219-2222; P416, paras.52-53,73; P417, pp.29-35; Rugova, P285, pp.9-10; P286, pp.38-41, 117.

<sup>2073</sup> Haxhiu, T.6228-6230; P992, p.6; P994, p.21; P995, n.3.

<sup>2074</sup> Haxhiu, T.6230-6231, 6237, 6287-6288; P994, p.25.

<sup>2075</sup> Bala, T.2291-2295, P420, p.7; Russo, P1213, pp.4-5; Kabashi, T.2358-2361, P424, pp.3-5; P425, pp.4-9; Haxhiu, T.6241-6243, P994, pp.22-27, 32; Drewienkiewicz, T.6396-6397.

<sup>2076</sup> Russo, P1213, p.5; Bala, T.2291-2295, P420, p.7; Kabashi, T.2358-2361, P424, pp.3-5; P425, pp.4-9;

Drewienkiewicz, T.6396-6397.

<sup>2077</sup> Bala, T.2291-2294, P420, p.7; P421, pp.19, 50.

<sup>2078</sup> Russo, P1213, pp.5-6.