

homes. Surroi described finding the houses of his friends empty, with all the family members expelled, even on one occasion finding a pie on the stove that was still warm and a teapot boiling on the stove.²⁰⁷⁹

802. [REDACTED].²⁰⁸⁰ [REDACTED].²⁰⁸¹

803. Haxhiu witnessed the residents of the Bregu e Diellit/Kodra e Diellit neighbourhood being expelled on 2 April 1999. Armed and masked paramilitaries evicted the residents from their homes, while VJ and MUP directed people on the streets and ordered the displaced persons to proceed in specific directions. Car owners were ordered to leave for Macedonia, while those without cars were ordered to go to the Kosovo Polje/Fushë Kosove train station.²⁰⁸² The convoy of cars leaving the city was many kilometres long.²⁰⁸³

804. Witness accounts from Priština/Prishtinë establish that Serb forces and armed civilians methodically channeled thousands of ethnic Albanians towards the train station. Bala described that as she walked there were armed MUP and VJ on one side and Serb civilians on the other, with their weapons pointing at the Albanians. Her group was funneled towards the main checkpoint and then directed to the train station.²⁰⁸⁴ En route, it was apparent that Albanian shops had been destroyed by fire and by demolition.²⁰⁸⁵ Russo similarly described walking in a convoy, comprised primarily of women, children and the elderly, for approximately two kilometres to the train station. He noted that the various crossroads and road junctions had been blocked off and that armed groups of MUP, "militia personnel" and occasionally armed civilians were guarding the road every 10-15 metres to keep people on course. As the convoy passed certain junctions, large numbers of refugees from other areas would join. Consistent with the haste of their forced departure, the majority of people did not even seem to be carrying suitcases or bags of personal effects.²⁰⁸⁶ Along the way, Serb civilians standing at the roadsides or looking out of their windows were making derogatory gestures, throwing things or yelling threats and insults at the Albanians, while the police made no efforts to stop them.²⁰⁸⁷

²⁰⁷⁹ Surroi, T.294-295.

²⁰⁸⁰ [REDACTED].

²⁰⁸¹ [REDACTED].

²⁰⁸² Haxhiu, T.6241; P994, pp.22--28,32; P992,p.6;P993,pp.44-45.

²⁰⁸³ Haxhiu, T.6243

²⁰⁸⁴ Bala, T.2294, P420, p.7.

²⁰⁸⁵ Bala, P420, p.7.

²⁰⁸⁶ Russo, P1213, p.6.

²⁰⁸⁷ See: Bala, T.2295, P421, p.83; Russo, P1213; p.6.

805. Emin Kabashi also described walking to the Priština/Prishtinë railway station with “a very long column of people”. Police were escorting the column all along the way.²⁰⁸⁸ There was a tank stopped on the Vranjevac/Vranjevc Bridge that divided the convoy in two: police sent one section to the Islamic seminary and the other to the railway station.²⁰⁸⁹ There was a Serbian police patrol checkpoint on the way to the railway station, where police had a computer and a list of names and were asking people about the names on the list. Kabashi saw his name on the list and so did not give his real name to the police.²⁰⁹⁰ At one point, Kabashi saw four snipers watching them from atop buildings.²⁰⁹¹

806. On 1 April, Surroi similarly observed “a very big wave, a river of people” heading towards the railway station in Kosovo Polje/Fushë Kosova while “escorted by the Serbian police”. On 2 April 1999, he saw Albanians being stripped of their personal documents and observed a large mass of identity cards that had been piled on the street.²⁰⁹²

807. Thousands of Albanians were arriving at the train station each day.²⁰⁹³ Armed MUP, paramilitaries and armed Serb civilians guarded the exits of the station and killed those who attempted to flee.²⁰⁹⁴ Bala, for example, observed MUP wearing blue camouflage uniforms surrounding the Albanians and amongst them recognized particular traffic policemen from Dragodan. There were thousands of people, primarily children, youth, women and the elderly, who were waiting to get on the train. It seemed “as if the entire population of Prishtina was there”, and they were tired, scared and traumatized.²⁰⁹⁵ Some people were put onto trains relatively quickly, while others waited days and nights outside.²⁰⁹⁶ People were also loaded into buses outside the station.²⁰⁹⁷

808. The MUP forced hundreds of Albanians into each train carriage. The compartments were so crowded that there was no room to move, it was hard to breathe, and the children were pushed into the overhead luggage compartments for their own safety.²⁰⁹⁸ Several trains left each day to Đeneral Janković/Hani I Elezit, a village near the Macedonian border.²⁰⁹⁹ The Uroševac/Ferizaj railway station logbook shows that after 24 March 1999, trains were running on exceptional schedules to

²⁰⁸⁸ Kabashi, T.2379, P424, p.4.

²⁰⁸⁹ Kabashi, T.2360, 2377, P424, p.4; P425, p.9.

²⁰⁹⁰ Kabashi, T.2378; P424, p.4; P425, pp.16-17, 73.

²⁰⁹¹ Kabashi, P424, p.5.

²⁰⁹² Surroi, T.296.

²⁰⁹³ Bala, T.2296, P420, p.7.

²⁰⁹⁴ Kabashi, P424, p.5; Russo, P1213, p.7; Bala, P420, p.7.

²⁰⁹⁵ Bala, T.2295-2296; P420, p.7.

²⁰⁹⁶ Kabashi, T.2380, P424, p.5; Russo, P1213, p.7; Bala, T.2295-2296; P420, p.7.

²⁰⁹⁷ Kabashi, P424, p.5; Bucaliu, P826, pp.52-54.

²⁰⁹⁸ Bala, T.2296-2297; P420, p.7; Kabashi, P424, p.5.

²⁰⁹⁹ Russo, P1213, p.7; P829; Kabashi, P424, p.5; P425, p.10; Bucaliu, P826, p.17.

and from Priština, and both the number of trains and the number of carriages was increased.²¹⁰⁰ These trains would go towards the border full of people and return empty.²¹⁰¹ Serb soldiers and police were onboard the trains.²¹⁰² When the trains finally stopped, police and VJ soldiers ordered the refugees at gunpoint to walk along the train tracks to the border with Macedonia.²¹⁰³ The border area – a “no man’s land” between Macedonia and Kosovo” – was full of thousands upon thousands of displaced Albanians.²¹⁰⁴

809. Throughout the deportation process, police sought to take any identification documents from the Albanians and destroy them. IDs were demanded and destroyed along the convoy routes,²¹⁰⁵ as Albanians walked along the train tracks to the border,²¹⁰⁶ and/or upon arrival at the border zone.²¹⁰⁷

Sexual Assault

810. [REDACTED].²¹⁰⁸ [REDACTED].²¹⁰⁹

811. [REDACTED].²¹¹⁰ [REDACTED].²¹¹¹ [REDACTED].²¹¹²

Forces of the FRY and Serbia were responsible for the crimes in Priština

812. The forces that participated in the expulsions in Priština/Prishtinë were identified by witnesses as Serb police, soldiers, local civilians and “paramilitaries”, based on the clothing they wore. There was extensive evidence that these forces worked together.

813. Despite defence witness Milutin Filipović’s claims that there were no tanks or combat units in Priština/Prishtinë following the outbreak of the war,²¹¹³ orders make clear that forces were actively deployed to the area. A 27 March 1999 order from the Priština Military District, for example, tasked units “To protect the Serbian population” and “To guard roads, military installations, and other features”. Under the heading “Neighbours”, the order also identified

²¹⁰⁰ Bucaliu, P826, pp.12-16, 51, 76-77; P829, pp.108-122.

²¹⁰¹ Bucaliu, P826, p.92.

²¹⁰² Bucaliu, P826, p.20; P829, pp.5-6; Bala, P420, pp.7-8.

²¹⁰³ Bala, T.2300, 2347-2348; P420, p.8; P421, p.52; Kabashi, P424, pp.5-6; Drewienkiewicz, T.6396.

²¹⁰⁴ See e.g. P840, Drewienkiewicz, T.6394-6397; Bala, P420, p.8.

²¹⁰⁵ Surroi, T.296. And note the similar observation of Drewienkiewicz at a later stage: T.6399.

²¹⁰⁶ Bala, T.2299; P420, p.8; P421, p.70.

²¹⁰⁷ Kabashi, T.2363; Drewienkiewicz, T.6396-6397.

²¹⁰⁸ [REDACTED].

²¹⁰⁹ [REDACTED].

²¹¹⁰ [REDACTED].

²¹¹¹ [REDACTED].

²¹¹² [REDACTED].

²¹¹³ Filipović, T.11619-11624.

“Commands and units of the PrK and MUP deployed in the area”.²¹¹⁴ The order also tasked the 50th Military Territorial Detachment to “protect features of importance” in “co-ordination with forces of the MUP and internal security”, and to “protect the Serbian population in the southern part of the town of Pristina”.²¹¹⁵ On 1 April 1999, the PrK Command also directed the 15th Armoured Brigade to “establish control of the territory and law and order in the general area of Priština.”²¹¹⁶ More generally, Filipović was a manifestly untrustworthy witness across a broad range of topics, and in particular with respect to events in Priština/Prishtinë.²¹¹⁷

814. At the time these crimes were committed, the MUP and the VJ had full combat control over Priština/Prishtinë and the surrounding areas. Priština/Prishtinë was the location of the Third Army Command Post, the PrK Command Post and the MUP Staff.²¹¹⁸ The MUP Staff continued to issue orders and dispatches from Priština/Prishtinë while these extensive deportations were being conducted,²¹¹⁹ and Lukić issued many MUP Staff daily reports from Priština over this period that expressly referred to the number of Albanians leaving Kosovo. These reports went directly to Đorđević and to the Minister.²¹²⁰

815. Đorđević himself visited the MUP Staff HQ in Priština/Prishtinë in mid-April 1999, and then met with Pavković and Lazarević at the PrK Headquarters, along with Lukić, Stevanović and Đaković.²¹²¹

816. The Priština SUP was fully operative during these massive deportation operations and was responsible to Đorđević. Đorđević in fact personally visited the Priština SUP and met with the SUP Chief in the midst of the deportation campaign.²¹²²

8. Đakovica/Gjakovë Municipality

817. Đakovica/Gjakovë municipality, located in the western part of Kosovo,²¹²³ was primarily ethnic Albanian.²¹²⁴

²¹¹⁴ P896, pp.1-2.

²¹¹⁵ P896, p.3(item 5.4). *See also*: Filipović, T.11624-11627.

²¹¹⁶ P928, pp.1-2. *See also*: Filipović, T.11621-11622.

²¹¹⁷ Filipović, T.11578-11673.

²¹¹⁸ *See e.g.* Drewienkiewicz, P1012 and P996, para.23; Đaković, T.7878-7879: “we arrived on the MUP premises, which was about 100 metres from our command headquarters”.

²¹¹⁹ *See e.g.* P1057, P718, P1459.

²¹²⁰ *See e.g.* P719, P720, P721, P694, P697, P698 (Đorđević is directly named as a recipient at the top of the documents).

²¹²¹ Đaković, T.7964-7966; Đorđević, T.9738-9740.

²¹²² Đaković, T.9737-9738.

²¹²³ P823, p.30.

²¹²⁴ Haxhibeqiri, T.6967-6968; P1068, p.5.

(a) Dakovica/Gjakovë town

818. From on or about 24 March 1999 through April 1999, police systematically went from house to house in Dakovica/Gjakovë town ordering Kosovo Albanians to leave.²¹²⁵

819. During expulsions, MUP forces created a climate of terror and fear. MUP forces attacked people's compounds and killed residents.²¹²⁶ In addition, police and paramilitaries, and sometimes soldiers, set on fire, destroyed and looted many of the houses and shops belonging to Kosovo Albanians.²¹²⁷ All damaged property belonged to local Albanians.²¹²⁸ Reports in the OSCE-KVM Bluebook corroborate the pattern of violence and destruction of property in Dakovica/Gjakovë town from 24–26 March 1999.²¹²⁹

(b) Miloš Gilić Street/Millosh Giliq Street

820. During the night of 1-2 April 1999, forces of the FRY and Serbia launched an operation against the Ćerim/Qerim district of Dakovica/Gjakovë town. Over a period of several hours, Serb forces forcibly entered houses of Kosovo Albanians, killed the occupants, and set their houses on fire.²¹³⁰ Serbian houses were left untouched.²¹³¹ Over 50 persons were killed during the action.

821. During that night, Serb police and paramilitaries attacked a house at 157 Miloš Gilić/Millosh Giliq Street, firing with their automatic weapons.²¹³² There were 21 civilians, mostly women and children, in the basement of the house.²¹³³ The policemen forced them to move from the basement into the house,²¹³⁴ and shot indiscriminately at the group.²¹³⁵ The policemen then set the house on fire.²¹³⁶ Only 10-year-old Dren Ćaka survived the massacre.²¹³⁷ The remaining 20 civilians from the basement were killed.²¹³⁸ Forensic data, assessed by Eric Baccard, a forensic

²¹²⁵ Haxhibeqiri, P1068, p.9; T.6988-6989, 6996-6997. See also Dula, T.8345, 8398.

²¹²⁶ Dula, P1268, p.3; T.8328, 8334–8335, 8361–8367; Hoxha, P879, p.5; P880, pp.13, 15-19; P881, p.5; Haxhibeqiri, P1068, pp.9–11.

²¹²⁷ Dula, P1268, pp.3–4; T.8336, 8341–8343, 8347–8348, 8372–8373, 8395, 8399–8400; Hoxha, P880, p.12; P881, p.4; Haxhibeqiri, P1068, pp.9–11; T.6941–6943, 6947–6949, 7013, 7030; P1069; P1068, p.10.

²¹²⁸ Haxhibeqiri, T.6943; Vejsa, P978, p.3.

²¹²⁹ P1029, pp.133, 135, 140, 142, 151, 153.

²¹³⁰ Hoxha, P879, pp.6–7; Vejsa, T.6089; P978, pp.2–3; P979, pp.16–17; K74, P1095, p.2; Parashumti, P903, p.5; T.5968, 5993.

²¹³¹ Vejsa, P978, p.3; P980; T.6096–6097; K74, P1095, pp.2–3; Parashumti, P903, pp.5–6; T.5972–5974, 6002, 6004; P906.

²¹³² Hoxha, P879, pp.6–7; K74, P1095, p.5; Vejsa, P978, pp.2–3.

²¹³³ Ćaka, T.8633; P1296, pp.6–7; Vejsa, P978, p.4.

²¹³⁴ Ćaka, T.8635–8636; P1296, pp.13, 15–16; P1302.

²¹³⁵ Ćaka, T.8635–8637, 8642–8647; P1296, pp.10, 16–22, 34; P1300; P1301, pp.6–8; Hoxha, P879, p.7; P880, pp.26–27; Vejsa, T.6091.

²¹³⁶ Vejsa, P978, p.3; P979, p.18; K74, P1095, p.5; Hoxha, P879, p.7; T.5625; P880, p.28; Parashumti, P903, pp.5–6; T.5972–5974, 6002, 6004; P906.

²¹³⁷ Ćaka, T.8639–8640, 8645; P1296, pp.16–17, 22–23; P1302.

²¹³⁸ Hoxha, P879, pp.8–9; Vejsa, P978, pp.3–4; Ćaka, P1296, pp.21, 33. See Proof of Death Charts, Schedule G.

pathologist, confirmed that there were at least 20 victims: one adult male, several adult females, and 12 children.²¹³⁹

822. That night, 44 other people were killed in the neighbourhood.²¹⁴⁰

823. On the early morning of 2 April 1999, residents and survivors from the Ćerim/Querim district joined a convoy of people leaving the town on foot and on tractors.²¹⁴¹ Similarly, between late March and April 1999, thousands of people left Dakovica/Gjakovë town and joined “a river of people, many kilometres long”, moving towards Albania.²¹⁴²

824. The police and the army were at almost every street corner.²¹⁴³ Checkpoints manned by police were in the town, including at the Mete Efendi Bridge and barracks, near the town exit.²¹⁴⁴ Here, policemen ordered refugees to throw all IDs and driver’s licences into two large boxes.²¹⁴⁵ Serb police and soldiers escorted convoys to the Kosovo/Albanian border at Ćafa Prushit/Qafa e Prushit.²¹⁴⁶ There, police and soldiers manned the checkpoint and asked refugees for their IDs.²¹⁴⁷ People in the convoy were eventually allowed to cross the border at Qafa e Prushit.²¹⁴⁸

825. Defence witness Miloš Došan, Commander of the 52nd ARB based in Dakovica/Gjakovë town,²¹⁴⁹ observed large groups of people moving through and leaving Dakovica/Gjakovë town at the end of March and early April 1999.²¹⁵⁰ He denied Serb forces deported Kosovo Albanians from their homes.²¹⁵¹ He claimed that people left because of NATO/depleted uranium, terrorist activity and propaganda.²¹⁵² Došan’s testimony is neither credible nor reliable because it is biased. He had an interest in distancing himself from crimes because his brigade was involved in crimes in

²¹³⁹ Baccard, P1139, pp.15,37–39; P1161, pp.2–10; T.7661-7663; P1140, pp.18-19.

²¹⁴⁰ Hoxha, P880, pp.33,37.

²¹⁴¹ Hoxha, P879, p.8; P881, p.15; Ćaka, T.8649; P1296, pp.26–27; Haxhibeqiri, P1068, p.11; K74, P1095, p.6; Vejsa, T.6092-6093; P978, p.3.

²¹⁴² Haxhibeqiri, P1068, p.11; T.6938.

²¹⁴³ Hoxha, P879, p.8. See also K74, P1095, p.6.

²¹⁴⁴ Dula, T.8347; Vejsa, T.6093–6094; P978, p.3; P979, pp.8–9; Parashumti, T.5978, 6013; Hoxha, P879, p.8.

²¹⁴⁵ Dula, T.8347-8349; Vejsa, T.6093–6094; P978, p.3; P979, p.9; Parashumti, T.5978; Hoxha, P879, p.8; P880, p.34.

²¹⁴⁶ Dula, P1268, p.4; T.8229, 8347, 8349; K74, P1095, p.6.

²¹⁴⁷ Dula, P1268, p.4; Hoxha, P879, p.8; P881 pp.15-17, 30-31; Vejsa, P978, p.4; P979, p.9; K74, P1095, p.6; Ćaka, T.8649, 8663–8664, 8668.

²¹⁴⁸ Hoxha, P879, p.8; P881, pp.16–17; Vejsa, P978, p.4.

²¹⁴⁹ Došan, T.11338, 11435–11436; D685, pp.2-3.

²¹⁵⁰ Došan, T.11383–11384, 11467–11469; D685, pp.28, 367.

²¹⁵¹ Došan, D685, pp.29, 80.

²¹⁵² Došan, T.11424–11425, 11469–11470, 11514–11515; D685, pp.27–28, 61, 79.

Meja/Mejë.²¹⁵³ In contrast to his testimony, witnesses leaving Dakovica/Gjakovë town consistently testified they left because Serbian police forced them to leave and made them fear for their lives.²¹⁵⁴

Destruction of cultural property and religious sites

826. Between the end of March and early April 1999, VJ and MUP forces burned or damaged many Albanian historical and religious sites in Dakovica/Gjakovë town, especially its old historic quarter, including: the bazaar, Hadum mosque and adjoining Islamic Library.

827. Witness Dula's house was situated approximately 300m away from the old Hadum mosque in the town's historic quarter.²¹⁵⁵ In the night between 24 and 25 March 1999, Dula heard Serbian voices,²¹⁵⁶ wood and shops burning,²¹⁵⁷ and explosions and shelling from the bazaar area.²¹⁵⁸ The following morning, 25 March 1999, Dula saw that almost her entire neighbourhood was destroyed. Many of the old bazaar shops were still smoking or on fire,²¹⁵⁹ and the Hadum mosque had been damaged: the top of the minaret tower had collapsed on the ground.²¹⁶⁰ Haxhibeqiri, a town resident, saw the old historic quarter burning²¹⁶¹ and mosque damaged²¹⁶² at similar times to Dula, corroborating her evidence. In early April 1999, he also saw "paramilitaries" setting houses on fire in his neighbourhood, Hadum or Carshia e Vjeter.²¹⁶³

828. Riedlmayer's report and testimony support the conclusion that the old bazaar shops, Hadum mosque, its library and Islamic school had been heavily damaged and burned.²¹⁶⁴ The pattern and the nature of the damage suggested that fire from the ground, rather than air strikes, caused the destruction.²¹⁶⁵ These findings do not support the Defence claims²¹⁶⁶ that NATO air-strikes had caused the damage in the old bazaar of Dakovica/Gjakovë. Further, Riedlmayer's report recorded

²¹⁵³ Došan, T.11392-11393,11398,11473;D703,p.2;P958,p.33.

²¹⁵⁴ Dula,P1268,pp.2, 4;T.8349,8357-8360,8375,8399;Hoxha,P879,p.8;P880,p.25;K74,P1095,p.6. *See also* Part III, Section(B)(3).

²¹⁵⁵ Dula,P1268,p.2.

²¹⁵⁶ Dula,P1268,p.2;T.8358.

²¹⁵⁷ Dula,P1268,p.2;T.8333,8361.

²¹⁵⁸ Dula,T.8374-8375.

²¹⁵⁹ Dula,P1268,p.3;T.8336-8339,8378-8379;P1269.

²¹⁶⁰ Dula,P1268,p.4;T.8336-8337,8339-8341;P1104,p.1;P1107.

²¹⁶¹ Haxhibeqiri,P1068,p.9;T.6947-6949;P1069.

²¹⁶² Haxhibeqiri,T.6942;P1069, mark 2.

²¹⁶³ Haxhibeqiri,T.6940-6943;P1068,p.10.

²¹⁶⁴ Riedlmayer,T.7509-7519;P1104,p.1;P1108,p.1;P1099,pp.87-92;P1106;P1110. *See also* Haxhibeqiri,T.6945,7008-7009

²¹⁶⁵ Riedlmayer,T.7510-7511,7646-7647;P1099,p.88.

²¹⁶⁶ *See e.g.* Došan,D685,p.29. *See also* Došan,T.11353-11354,11456-11458;D687,pp.1-2;D685,pp.58,310.

that informants saw MUP forces setting the bazaar and Hadum mosque on fire the night after the NATO bombing began.²¹⁶⁷

829. Corroborating Riedlmayer's conclusions, Vejsa, a Miloš Gilić Street resident, testified that NATO did not bomb the Dakovica/Gjakovë historic centre between 24 March and 2 April 1999.²¹⁶⁸ Similarly, VJ daily situation reports do not record a significant bombardment of Dakovica/Gjakovë around 24 March 1999.²¹⁶⁹

Forces of the FRY and Serbia were responsible for the crimes committed in Đakovica/Gjakovë

830. The crimes committed in the Đakovica/Gjakovë municipality were committed by forces of the FRY and Serbia in organised and co-ordinated actions. The evidence shows that VJ and MUP units were involved in operations, often together, in Đakovica/Gjakovë town and municipality during the Indictment period.

831. Already from summer 1998, VJ units were present in Đakovica/Gjakovë.²¹⁷⁰ From March until June 1999, the VJ operated in Đakovica/Gjakovë with the 549th Mtbr,²¹⁷¹ the 52nd ARB,²¹⁷² the 52nd MPBn,²¹⁷³ the 125th Mtbr,²¹⁷⁴ and Đakovica VTod.²¹⁷⁵ The commanders of these units were subordinated to Lazarević.

832. In 1999, Dordević personally ordered the deployment and redeployment of the 23rd and 73rd PJP Detachments to Đakovica/Gjakovë.²¹⁷⁶

(c) Korenica/Korenicë

833. On 25 March 1999, VJ forces entered the villages of Deva/Devë and Babaj and executed eight civilian men.²¹⁷⁷

834. On 27 March, soldiers led by a VJ commander named Dragan ordered villagers to leave Guska/Guskë within one hour for Albania.²¹⁷⁸ They left in a convoy,²¹⁷⁹ and were ultimately sent to

²¹⁶⁷ Riedlmayer, T.7503; P1099, pp.92-93; P1105, p.2; P1108.

²¹⁶⁸ Vejsa, T.6098-6099.

²¹⁶⁹ See D930, pp.1-2. The first mention of damage inflicted in the Đakovica is the entry from 28 March 1999: between 22:00 and 23:15, the Devet Jugovica barracks were bombarded with no consequences: D930, p.4.

²¹⁷⁰ D728, p.1.

²¹⁷¹ See e.g. D37, pp.2,4-6,18; P1032.

²¹⁷² P958, pp.6,9,12.

²¹⁷³ P338, p.6. See Peraj, T.1341.

²¹⁷⁴ P919.

²¹⁷⁵ P900.

²¹⁷⁶ P136; P711; P1182. See also P1193; P1195; P1487; P1185; P1189; P1196; P1199; P1488.

²¹⁷⁷ Deda, P1030, p.5.

²¹⁷⁸ Deda, P1030, p.5; P1031, p.4; T.6542.

Korenica/Korenice.²¹⁸⁰ Similarly, on 4 April 1999, a uniformed and heavily armed policeman named Milutin Prašćević and other police officers ordered families in Korenica/Korenice to leave for Albania.²¹⁸¹ They too left in a convoy,²¹⁸² but were ordered back to Korenica/Korenice.²¹⁸³

835. On 27 April 1999, Korenica/Korenice was attacked during the Meja operation, as described below.

(d) Meja/Mejë

836. On the morning of 27 April 1999, VJ, MUP and paramilitary forces began sweeping through the Reka/Caragoj Valley, from the village of Dobroš/Dobrosh to Korenica/Korenice, forcibly expelling Albanian residents and setting their homes on fire.²¹⁸⁴

837. Witness K73 stated that his VJ unit first “sealed” the village of Dobroš/Dobrosh and the “cleansing” continued from there for two days until they reached Korenica/Korenice.²¹⁸⁵ On the first day they expelled “hundreds” of Albanian civilians and set their houses on fire.²¹⁸⁶ [REDACTED].²¹⁸⁷

838. Similarly, witness K90 said his VJ unit blockaded and “secure[d]” the area around Korenica/Korenice and Meja/Mejë.²¹⁸⁸ Many police were then deployed into the area, and “randomly fired into homes”.²¹⁸⁹ As villagers began to flee, their homes would be “set alight”.²¹⁹⁰

839. About 35 soldiers, paramilitaries and policemen ordered Lizane Malaj’s family out of their house in Korenica/Korenice, stole three cars and made the men lie down at gunpoint.²¹⁹¹ Elsewhere in Korenica/Korenice, nine men wearing uniforms which were not the “normal” army uniforms forced everyone out of the house in which Merita Deda, a refugee from Guška/Guskë, was

²¹⁷⁹ Deda,P1030,p.5;T.6537–6538.

²¹⁸⁰ Deda,P1031,p.5;T.6537–6538.

²¹⁸¹ Malaj,T.811,857-858.

²¹⁸² Malaj,T.809-811.

²¹⁸³ Malaj,T.811.

²¹⁸⁴ K73, [REDACTED];P330-A,para.41.

²¹⁸⁵ K73, [REDACTED]; P330-A,para.41.

²¹⁸⁶ K73,P330-A,para.42;P331-A,para.8; [REDACTED]. [REDACTED].

²¹⁸⁷ [REDACTED].

²¹⁸⁸ K90,P321,para.48;T.1452-1453.

²¹⁸⁹ K90,P321,para.48;T.1344-1345.

²¹⁹⁰ K90,P321,para.48.

²¹⁹¹ Malaj,T.813-816,864–865.

sheltering.²¹⁹² That same morning in Meja/Mejë, four uniformed men, including two local MUP officers, told Martin Pnishi's family to leave, as they were about to burn the house down.²¹⁹³

840. A consistent practice of Serb forces, including policemen, throughout the Meja/Mejë operation was to separate the men from the women, and then beat, rob and kill the men. This happened to the men in Malaj's and Deda's family and houses.²¹⁹⁴ Serb forces made the women in Deda's house raise three fingers and shout "Serbia, Serbia".²¹⁹⁵ The rest of the family members were told to walk to Albania.²¹⁹⁶²¹⁹⁷ After the killings, Serb forces set the houses on fire.²¹⁹⁸

841. Police, VJ soldiers and paramilitaries manned checkpoints on the roads where they separated out the men and killed them.²¹⁹⁹ At one checkpoint, K90 saw hundreds of displaced Albanians "coming from everywhere".²²⁰⁰ MUP officers separated men from women, and "herded" at least three to four groups of up to 10 men into houses in a compound at gunpoint.²²⁰¹ There, the police executed the Albanian men.²²⁰² Later, K90 saw the police set fire to these houses.²²⁰³

842. At a checkpoint on the road near his home in Meja/Mejë, Pnishi observed Serb forces separating the men from the women, then sending some men to the nearby school building.²²⁰⁴ Nike Peraj, a VJ officer, later saw four men's dead bodies lying behind the school's toilets.²²⁰⁵

843. During the course of the Meja/Mejë operation, forces of the FRY and Serbia killed at least 344 people. Years later, the human remains of approximately 300 of these victims were exhumed from mass graves at Batajnica, including those of some of Malaj's and Deda's relatives.²²⁰⁶

844. The displaced Albanians who were not executed were forced to leave Kosovo. Convoys of refugees from villages throughout the Reka/Caragoj valley, including Korenica/Korenice, Guska/Guskë, Junik, Dakovica/Gjakovë and Skivjane/Skivjan, made their way to Albania.²²⁰⁷

²¹⁹² Deda, P1031, pp. 5-6, 8, 17, 34; P1030, p. 6. See also Peraj, P313, para. 90.

²¹⁹³ Pnishi, T. 6574-6575, 6578; P1033, pp. 2-3; P1034, pp. 5-6. [REDACTED].

²¹⁹⁴ Malaj, T. 818; Deda, P1031, pp. 5-7; P1030, p. 6.

²¹⁹⁵ Deda, P1030, p. 6; P1031, pp. 5-6.

²¹⁹⁶ Malaj, T. 815-818.

²¹⁹⁷ Malaj, T. 819.

²¹⁹⁸ Malaj, T. 819-820, 873-874. [REDACTED]; K90, T. 1346.

²¹⁹⁹ See also Pnishi, P1033, p. 4; T. 1448; Peraj, P313, paras. 73-74.

²²⁰⁰ K90, P321, para. 53.

²²⁰¹ K90, P321, paras. 54, 59, 61; T. 1351-1352.

²²⁰² K90, P321, paras. 59-60.

²²⁰³ K90, P321 para. 66.

²²⁰⁴ Pnishi, P1033 pp. 4, 9.

²²⁰⁵ Peraj, P313, para. 69.

²²⁰⁶ See P98; P99; P100; P576; Annex C, Schedule H; Deda, P1031, p. 7; Malaj, T. 830-832.

²²⁰⁷ Malaj, T. 821-823, 825-828; P295; Abrahams, T. 3969-3972; P756, pp. 25-31.

Along the way, VJ soldiers and police manned checkpoints and lined the road, forcing them to keep walking.²²⁰⁸

845. So that Kosovo Albanians could not return, Serb forces, including police, took the refugees' IDs and registration plates as they expelled them from their houses, at checkpoints and at the border.²²⁰⁹

Forces of the FRY and Serbia were responsible for the crimes committed during the Meja/Mejë operation

846. Peraj stated that in early March 1999, the PrK Chief of Security, Momir Stojanović, told him that Serbian forces would carry out a cleansing plan against Albanians in Dakovica/Gjakovë municipality.²²¹⁰ On 22 April 1999, Stojanović's relative, Milutin Praščević,²²¹¹ was killed along with other MUP officers in a KLA ambush.²²¹² Stojanović held an informal gathering in Dakovica/Gjakovë town and prior to mourning Praščević's death.²²¹³ There, in an "emotional outburst" he told Nikola Mičunović (VJ Major commanding reservist units of the Territorial Defence, aka "Dragan") and Colonel Kovačević (commander of Dakovica/Gjakovë MUP station) that at least 100 "heads" had to be eliminated and all houses burned in revenge.²²¹⁴ Days later, Mičunović told Peraj that "the valley of Carragojs was going to pay a very high price".²²¹⁵ As demanded by Stojanović, six days after Praščević's murder, over 300 Albanian "heads" were in fact eliminated, and most Albanian homes burned.

847. Around this time, about 400 policemen arrived in the area in buses and civilian vehicles.²²¹⁶ By at least 25 April 1999, the VJ and the MUP had deployed their units to the area northwest of Meja/Mejë, towards Junik.²²¹⁷

848. Documentary evidence shows that both VJ and MUP units were engaged, specifically: VJ 125th Mtbr;²²¹⁸ elements of the 63rd Parachute Brigade, 52d MPBn;²²¹⁹ 2nd Battalion of the 549th

²²⁰⁸ Malaj, T.821, 823, 827-828. See also Deda, P1030, pp.6-8.

²²⁰⁹ Malaj, T.816, 828; Pnishi, P1033, p.4; Peraj, P313, para.73; D34, para.8. See also K89, P1274, pp.82-83.

²²¹⁰ Peraj, P313, para.57.

²²¹¹ Stojanović, T.11888. See Malaj, T.809-811, 857-858.

²²¹² P1544; Peraj, P313, para.59; K90, P321, para.47.

²²¹³ Peraj, P313, paras.59-62.

²²¹⁴ Peraj, P313, paras.59-60.

²²¹⁵ Peraj, P313, para.58.

²²¹⁶ K90, P321, para.47; T.1343.

²²¹⁷ P949; P950.

²²¹⁸ P949; P950.

²²¹⁹ Peraj, P313, para.65; T.1200; P317.

Mtbr;²²²⁰ 52nd ARB;²²²¹ and one company of MUP PJP 73rd Territorial Detachment was deployed in the Ponoševač/Ponoshec, Korenica/Korenice, and Smocica/Smolicë villages area.²²²²

849. On a map, Peraj showed the deployment of VJ and MUP units along the Dakovica/Gjakovë-Decane/Deçan road.²²²³ During the operation, the 63rd Parachute Brigade moved down the left side of the valley, parallel with the 52nd MPBn. The PJP 73rd Territorial Detachment moved down the right side of the valley.²²²⁴

850. In a 27 April combat report, the Commander of the 125th Mtbr, Dragan Živanović, referred to a column of “Šiptar civilians” on the axis of the Seremet/Sheremetaj-Racaj/Rracaj-Dakovica/Gjakovë and “further on”.²²²⁵ This axis would have passed through or near Meja/Mejë. The task for the following day was to “continue mopping up the general area of Reka in a concerted action with the MUP”.²²²⁶

851. On 27 April, the 2nd Battalion of the 549th Mtbr blocked off the Korenica/Korenice village axis.²²²⁷ Other VJ units did the same.²²²⁸ Many police were then deployed into the area.²²²⁹

852. Šešelj’s and Arkan’s units were also deployed in the area.²²³⁰

853. General Lazarević and Lieutenant-Colonel Goran Jeftović (Staff Officer for PrK operations) coordinated the overall action from Dakovica/Gjakovë.²²³¹ By late April 1999, Lazarević was primarily based at the Dakovica/Gjakovë forward command post, together with other members of the PrK Command.²²³² From there, he directed the operations on the ground and received reports from Novica Stanković and Milan Kotur at a VJ command post.²²³³ Colonel Kotur, from the PrK,²²³⁴ was deployed to a command post at the Catholic Church northwest of Osek village, where

²²²⁰ D37, pp.10–12; Došan, T.11479, 11481; [REDACTED].

²²²¹ P958, p.33; Došan, T.11392–11393, 11398, 11473; P703, p.2

²²²² P949, p.2. *See also* Peraj, P313, para.65.

²²²³ Peraj, P313, paras.64–65; P317; T.1225–1227.

²²²⁴ K73, P330-A, paras.37, 41; [REDACTED]; P337; [REDACTED].

²²²⁵ P950, p.2.

²²²⁶ P950, p.3.

²²²⁷ D37, p.11.

²²²⁸ K90, P321, para.48; T.1452–1453; [REDACTED].

²²²⁹ K90, P321, para.48; T.1344–1345.

²²³⁰ Pnishi, P1033, p.5; Peraj, P313, para.80.

²²³¹ Peraj, P313, para.65.

²²³² Peraj, P313, para.91.

²²³³ Peraj, P313, paras.91, 93.

²²³⁴ Peraj, T.1264.

he had a clear view of the Reka/Caragoj valley to direct the operation.²²³⁵ The MUP command post was located in the Dervish prayer house in the Dužlje/Duzhnjë village.²²³⁶

854. Defence witness Momir Stojanović went to great lengths to undermine Peraj's testimony. Stojanović denied he ever said that there would be a cleansing operation, and that Serb forces should seek retribution for Praščević's killing.²²³⁷ Stojanović had a personal interest in undermining Peraj's testimony, as it implicated him in instigating the murder of over 300 Albanians. To distance himself from these comments, Stojanović made highly incredible claims, including: he did not remember Praščević was killed during the war,²²³⁸ he was evasive about whether Praščević was a police officer,²²³⁹ he even denied that he knew at the time that the KLA killed Praščević.²²⁴⁰ Given that it was Stojanović's job to gather KLA intelligence, that the initial criminal report stated clearly that terrorists killed Praščević,²²⁴¹ and that multiple witnesses were aware that the Meja/Mejë action was at least partly in response to this terrorist killing,²²⁴² these denials are not worthy of belief.

855. Further, Stojanović went to great lengths to distance himself from the crimes committed in Meja/Mejë. He claimed not to know that the VJ had committed any crimes during the operation, even though it was his job to learn of crimes committed by the VJ and investigate them.²²⁴³ Since the action led to the murder of over 300 people, thousands of displaced Albanians, and homes burning throughout the entire valley, either Stojanović was negligent in his job or he was not truthful. At a minimum, it is clear that he had little interest in investigating the crimes committed during the Meja/Mejë operation: when remains of those killed there were found in a mass grave in Batajnica, he conducted no investigation, even though he was Chief of Security of the Army of Serbia and Montenegro at the time.²²⁴⁴ In general, Stojanović was an incredible witness who tried to assist himself and the defence rather than give objective, truthful testimony.

856. The organisation and planning involved in the Meja/Mejë operation are further evidenced by the fact that VJ and MUP forces hid the dead bodies of the Albanians they murdered. Peraj saw four

²²³⁵ Peraj, P313, para.63; P317.

²²³⁶ Peraj, P313, para.63; P317.

²²³⁷ Stojanović, T.11894-11895.

²²³⁸ Stojanović, T.11890.

²²³⁹ Stojanović, T.11906-11908.

²²⁴⁰ Stojanović, T.11889-11890.

²²⁴¹ P1544; Stojanović, T.11905.

²²⁴² Došan, T.11476-11478.

²²⁴³ Stojanović, T.11929.

²²⁴⁴ Stojanović, T.11938-11944.

trucks driving towards Dakovica/Gjakovë town from Meja/Mejë with a police escort, transporting piles of bodies.²²⁴⁵ The MUP then buried these bodies in mass graves.²²⁴⁶

9. Gnjilane/Gjilan Municipality

857. Beginning around 24 March 1999, VJ, MUP and paramilitary forces expelled thousands of Albanians from Gnjilane/Gjilan municipality, including the villages of Žegra/Zhegër, Vladovo/Lladovë, Vlačica/Vlastica, and Prilepnica/Përlepticë.

(a) Žegra/Zhegër

858. In 1999, the village of Žegra/Zhegër had approximately 4,000 residents. Out of about 600 houses, roughly 70 houses were Serb.²²⁴⁷

859. Throughout March 1999 there was a noticeable build-up of MUP, paramilitary and VJ forces in Žegra/Zhegër.²²⁴⁸ These forces were primarily based in the radiator factory, the agricultural co-operative and the primary school.²²⁴⁹ VJ forces also expelled Albanian families from their homes in order to quarter soldiers.²²⁵⁰ Two or three weeks before the NATO campaign started, reservists and regular VJ soldiers manned a checkpoint at the entrance of the village to check residents' identity documents.²²⁵¹ Forces in APC's and tanks patrolled the area daily.²²⁵²

860. On 28 March 1999 (Muslim holiday of Bajram), the Serb families in Žegra/Zhegër started to mark their homes with a white cloth on the door to distinguish their houses from the Albanian ones.²²⁵³ Paramilitaries assisted by local Serbs searched the village for prominent Albanians.²²⁵⁴ They attempted to locate the LDK president, Tahir Tahiri, but did not succeed and instead killed his brother, Shyqeri Tahiri.²²⁵⁵

²²⁴⁵ Peraj, P313, paras. 86, 88.

²²⁴⁶ See Part III, Section(B)(5).

²²⁴⁷ Shabani, P786, p.2; P787, para. 4.

²²⁴⁸ P1028, p.812. See also Shabani, P786, pp.2-3; P787, para. 2.

²²⁴⁹ Shabani, P786, pp.2-3. See also K81, P792, p.6; P793, p.16 (the factory was located at the entrance to the Žegra/Zhegër village approximately one kilometre away from Vladovo/Lladovë).

²²⁵⁰ Shabani, P786, p.3.

²²⁵¹ Shabani, P786, p.2.

²²⁵² Shabani, P786, p.2.

²²⁵³ Shabani, P786, p.2; P788, pp.22-25.

²²⁵⁴ Shabani, P788, pp.5-6; P786, p.3. Shabani names the local Serbs who provided the list of prominent Albanians (P787, para.5). K81 corroborated Shabani's evidence and gave a list of civilians he saw working with the soldiers/paramilitaries. K81, P792, p.8.

²²⁵⁵ Shabani, P786, p.3; P788, p.5.

861. On 29 March, MUP, VJ, paramilitary and local Serbs began systematically expelling the ethnic Albanian residents from Žegra/Zhegër.²²⁵⁶ Serb forces in APC's drove through the village firing machine guns at houses.²²⁵⁷ VJ soldiers went from house to house, forcing people to leave at gunpoint.²²⁵⁸ They shot at and injured several residents.²²⁵⁹ Most of the villagers fled to the mountains.²²⁶⁰ They sought refuge in the woods and the neighbouring village of Donja Stubla/Stubëlle E Poshtme, where they lived in very difficult conditions for about five weeks.²²⁶¹

862. In early April, villagers from other parts of Gnjilane/Gjilan municipality, such as Ribnik/Rimnik, Delekar, Budrika/Burrke E Eperme, Mogila/Mogille, Nosalje/Nosalë and Vladovo/Lladovë, also fled to Donja Stubla/Stubëlle E Poshtme, after Serb forces attacked their villages,²²⁶² killing and injuring many civilians.²²⁶³ Some of the wounded died upon arrival in Donja Stubla/Stubëlle E Poshtme.²²⁶⁴

863. By mid April, roughly 20,000 people had amassed in Donja Stubla/Stubëlle E Poshtme.²²⁶⁵ Food and water became scarce, so large groups of refugees began leaving the village everyday in the direction of Macedonia.²²⁶⁶

864. One group of about 600 Albanians left Donja Stubla/Stubëlle E Poshtme in early May.²²⁶⁷ On their way to Macedonia, they were shot at by VJ soldiers. Later, thirty to forty VJ and paramilitary forces stopped them near a border crossing and separated the men from the women. The forces surrounded the men at gunpoint, and threatened to kill them.²²⁶⁸ Their commander yelled ethnic insults at the Albanians, and ordered the group to walk to Preshevë/Preševo, Serbia.²²⁶⁹ The convoy set off for Preshevë/Preševo and, over the night, was joined by 300 other Albanians, including some from Žegra/Zhegër.²²⁷⁰ They all crossed into Macedonia the following day.²²⁷¹

²²⁵⁶ Shabani,P786,p.3;P788,pp.4-6.

²²⁵⁷ Shabani,P786,p.3;P787,para.8.

²²⁵⁸ Shabani,P786,p.3.

²²⁵⁹ Shabani,P786,p.3;P787,paras.9-12.

²²⁶⁰ Shabani,P786,p.3. Some villagers attempted to go back and were expelled a second time (Shabani,P787,paras.13-14;P788,pp.6-7).

²²⁶¹ Shabani,P786,pp.4-5;P788,pp.41-42.

²²⁶² Shabani,P786,p.4.

²²⁶³ Shabani,P786,p.4.

²²⁶⁴ Shabani,P786,p.4.

²²⁶⁵ Shabani,P786,p.4.

²²⁶⁶ Shabani,P786,pp.4-5;P788,pp.41-42.

²²⁶⁷ Shabani,P786,p.5;P788,p.7.

²²⁶⁸ Shabani,P786,p.5; P788,pp.45-46.

²²⁶⁹ Shabani,P786,pp.5-6 P788,pp.7-9,84.

²²⁷⁰ Shabani,P786,p.6;P788,p.7.

²²⁷¹ Shabani,P786,p.6.

865. In total, about 1,200 to 1,300 people fled Žegra/Zhegër at the end of March 1999.²²⁷² By 26 June 1999, when some villagers returned to Žegra/Zhegër, all but a few of the Albanian houses were either totally or partially burned, while Serb houses were intact.²²⁷³

(b) Vladovo/Lladovë

866. On 25 March 1999, armed VJ and paramilitaries entered Vladovo/Lladovë on eight to 10 buses.²²⁷⁴ Many of the paramilitaries, including men known as Arkan's Tigers, stayed in a factory with the VJ at the entrance to Žegra/Zhegër.²²⁷⁵ They were armed with automatic guns and drove civilian vehicles. They set up check-points, stole residents' cars, and mistreated the civilian population.²²⁷⁶

867. Many of the villagers, including women, children and the elderly, fled to the mountains, from where they could see that Serb forces kept shooting in the village.²²⁷⁷ Around 2 April, a handful of villagers decided to go back to Vladovo/Lladovë.²²⁷⁸ VJ soldiers in dark green uniforms opened fire on them with automatic guns, wounding and killing villagers.²²⁷⁹

868. After about two weeks, the villagers ran out of food, and a group of them went to the village of Zub/Zhub.²²⁸⁰ Shortly thereafter, the VJ began attacking civilian houses in Zub/Zhub, causing the residents to flee. Soldiers opened fire on the fleeing civilians.²²⁸¹ The group from Vladovo/Lladovë managed to escape and later joined a convoy of 1,000 people travelling to the Macedonia.²²⁸² Police and VJ escorted the convoy to the Macedonian border.²²⁸³ At the border, MUP searched the convoy, and took everyone's ID papers.²²⁸⁴ The convoy had to remain at the Macedonian border until the border crossing opened, and eventually crossed on 14 April 1999.²²⁸⁵

²²⁷² Shabani,P786,pp.3-4;P788,pp.6-7. K81 also witnessed people fleeing Žegra/Zhegër around this time (K81,P792,p.8).

²²⁷³ Shabani,P787,para.19 (Shabani said that roughly 120 Albanian houses were totally burned and 420 were partially burned). K81 also confirmed that Albanian houses in Žegra/Zhegër were burned, while Serb houses were intact (K81,P792,p.8).

²²⁷⁴ K81,P792,p.6;P793,p.3 (correction to the number of buses: 8 to 10, not 80 buses). VJ soldiers wore dark green uniforms, while the paramilitaries wore parts of uniforms or civilian clothes, had long beards, and appeared to be older than the VJ soldiers (K81,P792,p.6;P793,pp.17,20).

²²⁷⁵ K81,P792,p.6;P793,pp.16,20,23. The factory was located at the entrance to the Žegra/Zhegër village approximately one kilometre away from Vladovo/Lladovë.

²²⁷⁶ K81,P792,p.6;P793,p.19.

²²⁷⁷ K81,P792,pp.6-7.

²²⁷⁸ K81,P792,p.7.

²²⁷⁹ K81,P792,p.7.

²²⁸⁰ K81,P792,pp.8-9.

²²⁸¹ K81,P792,p.9.

²²⁸² K81,P792,p.9.

²²⁸³ K81,P792,p.9.

²²⁸⁴ K81,P792,p.9.

²²⁸⁵ K81,P792,p.9.

(c) Prilepnica/Përlepticë

869. Prilepnica/Përlepticë, located north-east of the town of Gnjilane/Gjilan, had about 3,000 primarily Albanian inhabitants as of March 1999.²²⁸⁶

870. On 6 April, ten to fifteen soldiers came into the village, fired their guns, and caused some frightened residents to flee.²²⁸⁷ The soldiers said that they had orders from Belgrade to empty the village and threatened the village imam, Abdylhaqim Shaqiri, and told him to instruct the population to leave their homes.²²⁸⁸ The villagers were given two hours to leave in the direction of Uroševac/Ferizaj.²²⁸⁹

871. A convoy of about 3,000 people and 400 cars left Prilepnica/Përlepticë.²²⁹⁰ The convoy first stopped near Kmetofc/Kmetovce village at a MUP and VJ checkpoint, where they were questioned by VJ soldiers.²²⁹¹ They continued on the road and were later stopped by the police who informed them that the Gnjilane/Gjilan SUP had sent orders instructing the convoy to return to Prilepnica/Përlepticë.²²⁹² Some villagers returned to Prilepnica/Përlepticë that night to find their houses destroyed, looted and raided.²²⁹³

872. About one week later, on 13 or 14 April, the VJ ordered Prilepnica/Përlepticë villagers to leave again. Two local reserve VJ soldiers, Ljuba Palamarevic and Djilas Mladenovic, said that they had orders to empty Prilepnica/Përlepticë.²²⁹⁴ The entire village evacuated again the following day with a MUP escort in a convoy of approximately 500 vehicles. They were later joined by expelled villagers from Kosac/Kosovce.²²⁹⁵ When they reached Macedonia, border police ordered them to leave all their vehicles in a nearby field along with the keys and licenses. They were later taken on buses from Macedonia to different refugee camps.²²⁹⁶

²²⁸⁶ Shaqiri, P729, p.5.

²²⁸⁷ Shaqiri, P729, pp.6-9. Most of the soldiers wore solid olive-green-grey uniforms. One or two wore green camouflage. They carried automatic rifles, Kalashnikovs, and spoke Serbo-Croatian.

²²⁸⁸ Shaqiri, P729, pp.8-11.

²²⁸⁹ Shaqiri, P729, p.17.

²²⁹⁰ Shaqiri, P729, p.23.

²²⁹¹ Shaqiri, P729, pp.23-24. VJ soldiers were wearing olive-green-grey uniforms. The MUP were wearing traffic police uniforms with white ribbons on the arm.

²²⁹² Shaqiri, P729, pp.25-30; P731.

²²⁹³ Shaqiri, P729, pp.30-32.

²²⁹⁴ Shaqiri, P729, pp.33-36.

²²⁹⁵ Shaqiri, P729, pp.38-41. P733 maps the route.

²²⁹⁶ Shaqiri, P729, pp.55-56; P732; P733.

Destruction of cultural property: Vlaštica/Vlastica

873. In late March to early April, forces described as VJ soldiers assisted by local armed civilians attacked the village of Vlaštica/Vlastica. They looted and burned houses.²²⁹⁷ The forces also set the Vlaštica/Vlastica mosque on fire.²²⁹⁸ Riedlmayer categorized the Vlaštica/Vlastica mosque as “heavily damaged”.²²⁹⁹ The database entry for the Vlaštica mosque shows that the interior was burned out.²³⁰⁰ Information from the EU/IMG report as well as a media account also confirmed damages to the interior of the mosque.²³⁰¹

Forces of the FRY and Serbia were responsible for the crimes in Gnjilane/Gjilan municipality

874. VJ, MUP, and paramilitary forces were present during the expulsions of the civilian population from Gnjilane/Gjilan municipality. The VJ was present with the 175th Infantry Brigade, deployed in the area until at least mid-April, together with MUP forces.²³⁰² Various “armed non-Albanian civilians” and “paramilitaries” were reported to be working alongside the Serb forces.²³⁰³

875. Witnesses identified both VJ and MUP forces as perpetrators of the crimes committed in Gnjilane/Gjilan municipality, either through the uniforms they wore, or through the fact that some of the soldiers, policemen or local Serbs committing crimes were known to victims and witnesses.²³⁰⁴

876. Documentary evidence in the Trial Record shows that:

- On or about 19 March to 21 March 1999, the OSCE-KVM reported a large military presence including armored vehicles in the border area to the south of Gnjilane/Gjilan.²³⁰⁵ This coincides with the expulsions in Žegra/Zhegër, which began in late March.²³⁰⁶
- By the end of March 1999, the 58th Military Territorial Detachment (VTOd), in coordination with the 52nd Mixed Artillery Brigade, the 175th Infantry Brigade, and MUP forces, was deployed in the town of Gnjilane/Gjilan and in other villages in the area.²³⁰⁷

²²⁹⁷ K81,P793,p.18.

²²⁹⁸ K81,P792,p.7;P793,pp.7-8;P795.

²²⁹⁹ Riedlmayer,T.7538;P1099,pp.78-79;P795,P1125;P1126.

²³⁰⁰ Riedlmayer,T.7539;P1126;P1099,p.78.

²³⁰¹ Riedlmayer,T.7539;P1126.

²³⁰² P766,p.2. See also P1028,p.812;P896.

²³⁰³ Shabani,P786,pp.2-3;P788,pp.5-6;K81,P792,pp.6,8;P793,pp.16,20,23;Shaqiri,P729,pp.6-9.

²³⁰⁴ Shabani,P788,pp.5-6;P786,p.3;P787,para.5;K81,P792,pp.6,8;P793,pp.17,20;Shaqiri,P729,pp.6-9,23-24.

²³⁰⁵ P1028,p.812.

²³⁰⁶ Shabani,P786,pp.3-4;P788,pp.5-6.

²³⁰⁷ P896,p.5(8.1).

- At a MUP Staff meeting of 4 April 1999, SUP chief Gavranić reported “problems with volunteers in Žegra”, and that about 50,000 persons had moved out.²³⁰⁸
- A report on criminal proceedings alleged that, on 29 March 1999, seven soldiers/volunteers from the 175th Infantry Brigade committed crimes in Žegra/Zhegër.²³⁰⁹
- On 13 April 1999, a Joint Command order tasked the Niš Corps, a tactical group of the 252nd Armoured Battalion, and the 175th Infantry Brigade, with the assistance of the armed non-Albanian population, to support the MUP in combat actions in the area.²³¹⁰

10. Uroševac/Ferizaj

(a) Staro Selo/Fshati I Vjeter

877. On the night of 24 March 1999, a Praga sitting on the Uroševac/Ferizaj–Gnjilane/Gjilan road fired towards Staro Selo/Fshati I Vjeter.²³¹¹ “[M]any houses were hit by the shells.”²³¹² In response to the shelling, the residents in the outlying houses in the village, including witness Bajram Bucaliu and his family, moved in with relatives living closer to the village centre.²³¹³

878. On 2 April, a VJ forces consisting of approximately 50 soldiers and 5 tanks entered the village.²³¹⁴ The soldiers confiscated villagers’ vehicles and required villagers to hand over weapons²³¹⁵

879. The soldiers remained in Staro Selo/Fshati I Vjeter until the morning of 5 April 1999, when they left in the direction of the Gnjilane/Gjilan road.²³¹⁶ Before leaving the village, they set fire to some of the Albanian homes they had previously occupied.²³¹⁷

880. In the early afternoon that same day, approximately 80 paramilitaries arrived in the village from the direction of the Priština-Skopje road.²³¹⁸ The paramilitaries said that they were Šešelj’s men.²³¹⁹

²³⁰⁸ P764,p.2.

²³⁰⁹ P964,p.7. See also Đaković,T.8151-8152.

²³¹⁰ P766,p.2.

²³¹¹ Bucaliu,T.5068,5099;P824,p.2.

²³¹² Bucaliu,T.5068.

²³¹³ Bucaliu,T.5068;P824,p.2.

²³¹⁴ Bucaliu,P824,p.2;P827,p.4.

²³¹⁵ Bucaliu,P826,p.2;P827,pp.6,42,45,68.

²³¹⁶ Bucaliu,P824,p.3;P826,p.25.P827,p.6.

²³¹⁷ Bucaliu,P824,p.3;P826,p.25;P827,p.6.

²³¹⁸ Bucaliu,T.5054,5090,5093;P824,p.3;P827,pp.7-9;P826,p.27.

881. The paramilitaries took control of the village, placing a curfew, confiscating vehicles, extorting money, and forcing a number of local young men to dig trenches.²³²⁰

882. On 13 April 1999, the paramilitaries killed three villagers and took four others, including two women, to an unknown location.²³²¹ News of the killings spread quickly,²³²² and caused the entire village, except four Albanian families, to flee the next day. Bucaliu explained that the killings left the villagers no choice but to leave.²³²³

883. The villagers travelled in a convoy of 500 to 600 people toward Uroševac/Ferizaj.²³²⁴ The convoy had to pass through a joint VJ-MUP checkpoint at the bridge junction with the Skopje-Priština/Prishtina highway.²³²⁵

884. In Uroševac/Ferizaj town, there were tanks in the town centre and checkpoints throughout the town "at crucial points," allowing them to control the exits and entrances to neighbourhoods.²³²⁶ There were streams of people walking on foot towards the train station.²³²⁷ Bucaliu and his family began their journey to Macedonia by train the following day as described below.

885. Bucaliu returned to Staro Selo/Fshati I Vjeter on 6 July 1999 and found that his house and many others had been completely burned down.²³²⁸

(b) Biba/Bibe and Sojevo/Sojevë

886. During the NATO bombing, local Serbs were armed and wearing uniforms.²³²⁹ Conversely, the Serbian authorities did not distribute any arms to the Kosovo Albanians in the area.²³³⁰ On 24 March 1999, most of the residents of Biba/Bibe moved to houses in the centre of the village, away from the main road.²³³¹

²³¹⁹ Bucaliu, P827, p.9.

²³²⁰ Bucaliu, P824, pp.3-4; P826, pp.28,57; P827, p.9.

²³²¹ Bucaliu, T.5081; P824, p.4; P826, p.28; P827, p.10.

²³²² Bucaliu, T.5078.

²³²³ Bucaliu, T.5058.

²³²⁴ Bucaliu, T.5056, 5083-5088; P825, p.3; P826, p.30; P827, pp.10-12.

²³²⁵ Bucaliu, T.5056; P825, p.3.

²³²⁶ Bucaliu, P825, p.4; T.5056-5057.

²³²⁷ Bucaliu, P825, p.4.

²³²⁸ Bucaliu, T.5066, 5111; P825, p.5; P826, pp.33-34; P827, p.14.

²³²⁹ Hyseni, P809, p.4; P810, pp.3-4.

²³³⁰ Hyseni, P810, p.4.

²³³¹ Hyseni, P808, p.2; P809, pp.4-5; P810, p.7.

887. That night, APCs shelled houses in Biba/Bibe along the main road.²³³² After three days, Hyseni moved with his family to his uncle's house in Sojevo/Sojevë.²³³³ The VJ was stationed at the village school, and also occupied some private homes.²³³⁴ He saw three tanks and two anti-aircraft artillery cannons positioned near his uncle's house.²³³⁵ This unit stayed there for several days, then left and joined the unit stationed at the Sojevo/Sojevë school.²³³⁶

888. Around 6 April 1999, Hyseni saw a group of 18 "paramilitaries" and two "policemen" enter Sojevo/Sojevë from the direction of Gnjilane/Gjilan.²³³⁷ The paramilitaries wore green uniforms and carried automatic weapons and knives, while the policemen wore blue/black uniforms and carried automatic rifles.²³³⁸ The paramilitaries and police terrorized the villagers. They "torched the entire neighbourhood" of Limanaj²³³⁹ and also killed two Albanians.²³⁴⁰

889. Paramilitaries and police then moved toward the neighbourhood where Hyseni was staying, and the villagers began to flee into the woods.²³⁴¹ Hyseni saw that two paramilitaries shot his paralyzed uncle and his aunt.²³⁴²

890. Hyseni and his family hid in the woods with over 200 other villagers.²³⁴³ This group then split in two.²³⁴⁴ Paramilitaries found one of the groups,²³⁴⁵ robbed the villagers²³⁴⁶ and ordered them to travel to Ferizaj or be killed.²³⁴⁷

891. The VJ unit stationed at the Sojevo/Sojevë school ordered everyone in that neighbourhood to "leave the village" and travel to Uroševac/Ferizaj.²³⁴⁸ Hyseni travelled with hundreds of others towards Uroševac/Ferizaj town.²³⁴⁹

892. Once the convoy reached Uroševac/Ferizaj, it was stopped by the "Serbian traffic police" and ordered to proceed to Gnjilane/Gjilan.²³⁵⁰ The convoy left Uroševac/Ferizaj, but only travelled

²³³² Hyseni, P808, p.2; P809, p.5.

²³³³ Hyseni, P808, p.2; P809, p.5; P810, pp.7, 19-21.

²³³⁴ Hyseni, P809, p.5.

²³³⁵ Hyseni, P810, p.8.

²³³⁶ Hyseni, P810, p.8.

²³³⁷ Hyseni, P808, p.2; P809, p.5; P810, pp.8-9.

²³³⁸ Hyseni, P808, p.2.

²³³⁹ Hyseni, P810, p.46; P809, p.5; T.4905-4906.

²³⁴⁰ Hyseni, T.4866; P808, p.3; P809, p.5; P810, pp.8-9, 46.

²³⁴¹ Hyseni, P809, p.5.

²³⁴² Hyseni, P808, pp.2-3.

²³⁴³ Hyseni, P808, p.3; P809, p.5.

²³⁴⁴ Hyseni, P809, p.5.

²³⁴⁵ Hyseni, T.4867-4868; P809, p.5.

²³⁴⁶ Hyseni, T.4867.

²³⁴⁷ Hyseni, T.4867-4868.

²³⁴⁸ Hyseni, P810, pp.31-33.

²³⁴⁹ Hyseni, P809, p.6

to Slatina/Sllatine village, where Hyseni and his family stayed for about 12 days.²³⁵¹ While they were there, thousands of refugees flowed into the town from Gnjilane and other villages.²³⁵²

893. Hyseni and his family ultimately left Slatina/Sllatine and travelled to Uroševac/Ferizaj.²³⁵³ Hyseni described the situation in Uroševac/Ferizaj as “terrible.”²³⁵⁴ The army, the police, and paramilitaries were present, and there was constant shooting.²³⁵⁵ Hyseni and his family eventually left Uroševac/Ferizaj and travelled to Macedonia by bus on 28 April 1999 as described below.

894. Hyseni returned to Biba/Bibe a year later, and discovered that his house had been burned to the ground.²³⁵⁶

(c) Mirosavlje/Mirosalë

895. Around 4 April 1999, Florim Krasniqi, a resident of Mirosavlje/Mirosalë, observed a very large convoy of military vehicles travelling on the main road from Gnjilane/Gjilan towards Uroševac/Ferizaj town.²³⁵⁷ These forces shelled towards the villages of Rahovica/Rahovicë and Zlatare/Zllatar.²³⁵⁸ From his position Krasniqi could hear, but not see, the shelling.²³⁵⁹ His observations are corroborated by the War Diary of the 243rd Mechanised Brigade, which documented for 4 April 1999: “Mb /mortar/...as decided by the commander, is engaged on providing support to MUP forces on the axis of /illegible/ village – Rahovica village.”²³⁶⁰

896. The next day, Krasniqi travelled to Rahovica/Rahovicë and Zlatare/Zllatar and learned from the residents that the shelling had killed four and wounded five villagers. He attended their funerals.²³⁶¹

897. As Krasniqi returned on 5 April 1999, he could hear the “very loud noises of the automatic weapons firing and shelling” and “the noise of large vehicles like tanks moving around the area.”²³⁶² The sounds were coming from the direction of Pojatistë/Pojatishme village.²³⁶³ A short

²³⁵⁰ Hyseni, P808, p.3; P809, p.6; P810, pp.11,51-52.

²³⁵¹ Hyseni, P808, p.3; P809, p.6; P810, p.11. See also P811.

²³⁵² Hyseni, P809, p.6; P808, p.3.

²³⁵³ Hyseni, T.4868-4869.

²³⁵⁴ Hyseni, P809, p.7.

²³⁵⁵ Hyseni, T.4870.

²³⁵⁶ Hyseni, P810, p.14.

²³⁵⁷ F.Krasniqi, P631, p.2.

²³⁵⁸ F.Krasniqi, P631, p.2; P630, p.34.

²³⁵⁹ F.Krasniqi, P631, p.2.

²³⁶⁰ P956, p.10.

²³⁶¹ F. Krasniqi, P631, p.2.

²³⁶² F. Krasniqi, P631, p.2.

²³⁶³ F. Krasniqi, P631, p.2.

time later, approximately 1,000 displaced people from Pojatistë/Pojatishme sought shelter in Mirosavlje/Mirosalë.²³⁶⁴ The displaced were citizens of Pojatistë/Pojatishme and refugees from other villages, such as Uroševac/Ferizaj, Muhadžer Prelez/Prelezi i Muhaxherëve, and Muhovce/Muhoc, who had been staying in Pojatistë/Pojatishme because they had been driven out of their villages.²³⁶⁵

898. Krasniqi helped find shelter for the refugees in Mirosavlje/Mirosalë – there were so many displaced people that often 40 people had to share a single room.²³⁶⁶ Krasniqi spoke with about 20 to 30 of the refugees.²³⁶⁷ Consistently, the refugees told him, “They were all forced out of their villages by the Serb military.”²³⁶⁸

899. Around 7 April 1999, Krasniqi saw fires in the distance, and houses burning in the villages of Sojevo and Komoglava.²³⁶⁹ The next day, Krasniqi saw a military convoy approaching the outskirts of Mirosavlje/ Mirosalë, and several soldiers began running towards the houses in the village.²³⁷⁰ The residents of Mirosavlje/Mirosalë feared for their safety and immediately fled.²³⁷¹

900. A convoy of approximately 20 vehicles and hundreds of villagers started heading towards Uroševac/Ferizaj town.²³⁷² They encountered several checkpoints and soldiers along the road.²³⁷³ On the way, Krasniqi saw many homes on fire or destroyed.²³⁷⁴

901. When they arrived at Uroševac/Ferizaj, the refugees encountered a police checkpoint on the outskirts of town.²³⁷⁵ Krasniqi and his family arrived in Uroševac/Ferizaj on 8 April.²³⁷⁶ On 14 April 1999, Krasniqi decided to leave the town because he feared for his safety.²³⁷⁷ He and his family travelled to Macedonia by bus as described below.

902. Defence witness Radomir Mitić, the chief of the police department of the Uroševac/Ferizaj SUP,²³⁷⁸ testified that the population did move from surrounding rural areas to Uroševac/Ferizaj town, but that this was due to antiterrorist operations, fighting between the police and the KLA, and

²³⁶⁴ F. Krasniqi, P631, p.2.

²³⁶⁵ F. Krasniqi, P631, pp.2-3.

²³⁶⁶ F. Krasniqi, P631, p.3; P630, p.15.

²³⁶⁷ F. Krasniqi, P631, pp.3-4.

²³⁶⁸ F. Krasniqi, P631, pp.3-4.

²³⁶⁹ F. Krasniqi, P631, p.4.

²³⁷⁰ F. Krasniqi, P631, p.5.

²³⁷¹ F. Krasniqi, P631, p.5; P630, p.26.

²³⁷² F. Krasniqi, P631, pp.5-6; P630, p.28.

²³⁷³ F. Krasniqi, P631, pp.5-6; P630, p.29.

²³⁷⁴ F. Krasniqi, P631, p.6.

²³⁷⁵ F. Krasniqi, P631, p.6.

²³⁷⁶ F. Krasniqi, P631, p.6.

²³⁷⁷ F. Krasniqi, P631, p.6.

²³⁷⁸ Mitić, T.12615.

NATO cluster bombs.²³⁷⁹ This runs counter to the first-hand testimony of three independent witnesses – Bucaliu, Hyseni, and Krasniqi – who described not only their experiences, but those of their fellow villagers. They were clear that they and their neighbours fled solely because of the actions of Serb forces.

(d) The Uroševac Train Station

903. The chief of the Uroševac/Ferizaj train station co-ordinated with the MUP and the VJ to transport large numbers of Albanians across the border into Macedonia. In 1999, the railway station in Uroševac/Ferizaj was the second busiest in Kosovo, after the station in Kosovo Polje.²³⁸⁰ Trains running through the Uroševac/Ferizaj station originated at Kosovo Polje, and then continued on to Deneral Janković/Hani i Elezit and then Skopje, Macedonia.²³⁸¹

904. Shortly before the NATO air strikes began, the Serbian chief of the station, Zika Ilić, began to meet with VJ officers. Bajram Bucaliu worked at the Uroševac/Ferizaj train station until 25 March 1999.²³⁸² He noted that in the week prior to the NATO air strikes, military officers began coming to the station to meet with Ilić, which was unusual.²³⁸³

905. Once the air strikes began, Serb employees took exclusive control of the station. On 25 March 1999, Ilić fired all the Albanian employees at the Uroševac/Ferizaj station, including Bucaliu.²³⁸⁴ Ilić explained, “It’s an order from above.”²³⁸⁵ The Serb employees continued working at the station.²³⁸⁶

906. Trains running on this line transported an extraordinary number of passengers from Priština to the Macedonian border. Following the start of the NATO bombing, train service ceased for five days from 24 to 28 March.²³⁸⁷ Once train travel resumed on 29 March, most of the trains were running on a special, irregular schedule.²³⁸⁸ Many of these trains did not stop in

²³⁷⁹ Mitić, T.12732.

²³⁸⁰ Bucaliu, P825, p.2.

²³⁸¹ Bucaliu, P825, p.2.

²³⁸² Bucaliu, T.5061; P825, p.2; P826, pp.2-3; P827, pp.14-15.

²³⁸³ Bucaliu, P825, p.3; P826, pp.10-11.

²³⁸⁴ Bucaliu, P825, p.2; P826, p.11.

²³⁸⁵ Bucaliu, P826, p.11.

²³⁸⁶ Bucaliu, P826, p.11.

²³⁸⁷ Bucaliu, P826, p.75, 90; P827, p.21; P829, pp.110-112.

²³⁸⁸ Bucaliu, P826, pp.17-18; P827, p.21; P829, pp.112-118.

Uroševac/Ferizaj,²³⁸⁹ which was very unusual.²³⁹⁰ Bucaliu observed that these trains did not stop because they were already “crammed” with passengers.²³⁹¹

907. Further, these trains had many more carriages than usual – ten to twenty instead of the usual two to three.²³⁹² Also, passengers were loaded into freight cars.²³⁹³

908. Additionally, many trains had either a police or military escort travelling on them, which was unusual.²³⁹⁴ The log book entries indicate that the trains were “running according to the rules, with an escort from Kosovo Polje/Fushe Kosove.”²³⁹⁵ Bucaliu saw policemen riding on trains,²³⁹⁶ wearing “regular police uniforms,” with a camouflage pattern of “blue, white and a kind of brown.”²³⁹⁷

909. While many trains were already full before reaching Uroševac/Ferizaj, others did stop there, and they transported Albanians from Uroševac/Ferizaj out of Kosovo.

910. On 14 April 1999, Bucaliu and his family travelled to Uroševac/Ferizaj town, and went to the train station the next day.²³⁹⁸ Approximately ten policemen were at the train station.²³⁹⁹ There were ten passenger cars to take people to the border.²⁴⁰⁰ Thousands of Kosovo Albanians boarded the train,²⁴⁰¹ packed “like sardines.”²⁴⁰² There were policemen escorting the train.²⁴⁰³ However, at the border, the train was not allowed to disembark by the Macedonian authorities, and was ultimately sent back to Uroševac/Ferizaj.²⁴⁰⁴

911. The next day, 16 April 1999, Bucaliu and his family boarded another train headed for General Janković/Hani i Elezit.²⁴⁰⁵ Again, the train was packed with about 3,000 Kosovo Albanians and not all people waiting to board could get on.²⁴⁰⁶ Again, policemen escorted the train.²⁴⁰⁷

²³⁸⁹ Bucaliu, P826, pp.18,51; P827, p.22. Bucaliu explained that an arrow in columns 3 and 4 indicates trains that passed through the Uroševac/Ferizaj station, but did not stop there, even when scheduled to do so. See P829, pp.112-116.

²³⁹⁰ Bucaliu, P826, p.95; P827, p.26.

²³⁹¹ Bucaliu, P826, pp.18,51-52,91-92.

²³⁹² Bucaliu, P826, pp.16-17.

²³⁹³ Bucaliu, P826, p.17.

²³⁹⁴ Bucaliu, P826, p.20; P827, p.63.

²³⁹⁵ Bucaliu, P826, p.20; P829, pp.112-113.

²³⁹⁶ Bucaliu, T.5059-5060; P826, p.20. See also P824, p.5.

²³⁹⁷ Bucaliu, P826, p.20.

²³⁹⁸ Bucaliu, P825, p.4; P826, pp.30,34.

²³⁹⁹ Bucaliu, P825, p.4.

²⁴⁰⁰ Bucaliu, P825, p.4.

²⁴⁰¹ Bucaliu, T.5057-5059; P825, p.4; P824, p.5; P826, pp.30-31; P827, pp.12,23; P829, pp.124-125.

²⁴⁰² Bucaliu, T.5059.

²⁴⁰³ Bucaliu, P826, p.31.

²⁴⁰⁴ Bucaliu, T.5057; P825, p.4; P824, p.5; P826, p.31; P827, pp.12,23-24.

²⁴⁰⁵ Bucaliu, P824, p.5; P825, p.4; P826, pp.31,34; P827, pp.13,24.

²⁴⁰⁶ Bucaliu, P824, p.5; P826, p.31.

912. At Đeneral Janković/Hani i Elezit, the train was allowed to continue all the way to the border.²⁴⁰⁸ According to Bucaliu, this was “not a normal thing to happen, because usually passenger trains shouldn’t go up to the border but remain at the station.”²⁴⁰⁹ Policemen and soldiers took control at the border crossing²⁴¹⁰ and directed passengers to cross the border.²⁴¹¹

913. According to Bucaliu, to manage overcrowded trains after the NATO air strikes, the station chief at the Uroševac/Ferizaj railway station sought additional transportation from the bus station.²⁴¹² In addition, the station chief also called on a private truck company, “Fertrans”, to transport passengers to the border by trucks.²⁴¹³ Krasniqi and his family experienced this when they fled Uroševac/Ferizaj, around the same time that Bucaliu left.²⁴¹⁴ They could not board a train because it was already overcrowded, and they took a bus instead, which took them to the Đeneral Janković/Hani i Elezit border crossing.²⁴¹⁵

914. On 27 April, Hyseni and his family joined a group of 30 displaced people who had travelled to Uroševac/Ferizaj after being expelled from Nerodimlje/Nerodime.²⁴¹⁶ The next morning the group went to the Uroševac/Ferizaj bus station, where Hyseni saw four buses filled with people.²⁴¹⁷ Hyseni testified that, “Of course [the buses] were arranged by the Serb forces, because the road to Skopje doesn’t . . . employ four of five buses.”²⁴¹⁸

915. Soldiers and policemen were present at the bus station. Everyone was made to pay 20 DM before boarding.²⁴¹⁹ In Kačanik/Kaçanik town, the VJ and MUP stopped the four buses at a checkpoint and exhorted the refugees for money and valuables.²⁴²⁰ The bus ultimately arrived at the Đeneral Janković/Hani i Elezit border crossing.²⁴²¹ Police ordered refugees in a column to cross the border in groups of ten.²⁴²²

²⁴⁰⁷ Bucaliu, T.5059; P824, p.5; P827, p.13.

²⁴⁰⁸ Bucaliu, T.5060; P826, p.32; P824, p.5; P827, p.14.

²⁴⁰⁹ Bucaliu, P826, p.32. *See also*, T.5060.

²⁴¹⁰ Bucaliu, T.5060; P824, p.5; P825, p.5; P826, p.32; P827, p.14.

²⁴¹¹ Bucaliu, T.5060; P825, p.5; P826, pp.32, 72, 74; P827, p.14.

²⁴¹² Bucaliu, P826, pp.19.

²⁴¹³ Bucaliu, P826, pp.19.

²⁴¹⁴ F.Krasniqi, P631, p.6.

²⁴¹⁵ F.Krasniqi, P631, p.6.

²⁴¹⁶ Hyseni, P809, p.7; P810, p.14.

²⁴¹⁷ Hyseni, T.4870; P808, p.3; P809, p.7; P810, pp.14-15.

²⁴¹⁸ Hyseni, T.4870.

²⁴¹⁹ Hyseni, T.4912; P809, p.7; P808, p.3.

²⁴²⁰ Hyseni, T.4912; P808, pp.3-4; P809, p.7.

²⁴²¹ Hyseni, T.4871; P809, p.7.

²⁴²² Hyseni, T.4871.

916. Defence witness Mitić claimed that the Uroševac/Ferizaj SUP was not involved in organizing transportation for Albanians to leave Kosovo.²⁴²³ However, whether it was at the level of the Uroševac/Ferizaj SUP or higher, it is clear that the MUP and the VJ were directly involved in transporting Albanians out of Kosovo. The VJ met with the Serbian station chief, Ilić, on multiple occasions prior to the NATO air strikes. Once the air strikes began, the station operated irregular trains with more carriages, and fired all the Albanian employees. The MUP escorted passenger trains from Kosovo Polje to the Macedonian border, were present in unusual numbers at the Uroševac/Ferizaj train and bus stations, and exercised control over buses during their journey to the border.

Forces of the FRY and Serbia were responsible for the crimes in Uroševac/Ferizaj municipality

917. Forces of the FRY and Serbia were responsible for the crimes in Uroševac/Ferizaj municipality. In the month before the NATO bombing started, there was a build-up of Serb forces there, comprised of VJ and MUP forces working in cooperation with reservists.²⁴²⁴ By mid-February 1999, there were thirty-six RPOs in Uroševac/Ferizaj municipality, and a total of 4,951 weapons had been issued to reservists by the MUP and the VJ.²⁴²⁵ There were frequent police patrols, and checkpoints along the main road from Priština to Skopje.²⁴²⁶ Police forces used the MUP building, while the military used the barracks along the road to Prizren.²⁴²⁷

918. The Uroševac/Ferizaj SUP was fully operative during these massive deportation operations and was responsible to Đorđević. Đorđević in fact personally visited the Uroševac/Ferizaj SUP and met with the SUP Chief in the midst of the deportation campaign.²⁴²⁸ The SUP chief briefed Đorđević about the situation on the ground and about the mass-scale departure of civilians by train to Macedonia.²⁴²⁹

919. The 243rd Mechanised Brigade was deployed in Uroševac/Ferizaj, and was reinforced with volunteers.²⁴³⁰ They worked together with the MUP, and were heavily engaged in combat operations in the villages of Uroševac/Ferizaj during the NATO intervention.²⁴³¹ On 13 April 1999, the Joint Command tasked two VJ brigades, MUP units, and armed non-Albanians to participate in

²⁴²³ Mitić, T.12733.

²⁴²⁴ Hyseni, P809, p.4; P810, pp.3-4.

²⁴²⁵ P1055, p.7.

²⁴²⁶ Hyseni, P809, p.4.

²⁴²⁷ Hyseni, P809, p.4.

²⁴²⁸ Đorđević, T.9738.

²⁴²⁹ Đorđević, T.10021.

²⁴³⁰ P962; P956, p.7.

²⁴³¹ See e.g. P956, pp.7-9, 12.

an action in the area between Gnjilane/Gjilan and Uroševac/Ferizaj.²⁴³² The same day, the 243rd Mechanised Brigade worked with Uroševac/Ferizaj PJP to “crush[] and destroy[]” KLA in the “Firaj, Brod and Slatina sector”.²⁴³³ It was these forces, together with paramilitaries and armed civilians, that committed the crimes throughout Uroševac/Ferizaj municipality.

11. Kaçanik Municipality

920. Between March and May 1999 forces of the FRY and Serbia attacked villages in Kačanik/Kaçanik municipality, including Kotlina/Kotlinë, Slatina/Sllatinë, Vata, and Kačanik/Kaçanik town. These attacks resulted in the destruction of houses and religious sites and civilian deaths.

(a) Kotlina/Kotlinë

921. On the morning of 24 March, Serb forces entered Kotlina/Kotlinë and fired on the village for hours.²⁴³⁴ There was no outgoing fire from the village.²⁴³⁵ When the shelling ceased, VJ and police forces encircled the village. The men fled into the hills, while the women, children and elderly gathered in an open field near the centre of the village.²⁴³⁶

922. From a vantage point, Loku observed tanks and Pinzgauers enter the village.²⁴³⁷ He saw police and soldiers capture approximately 20 unarmed men in a wooded area and then beat them.²⁴³⁸ Loku described the forces involved in Kotlina/Kotlinë as wearing blue camouflage police uniforms and bullet-proof vests.²⁴³⁹ Some had the word “POLICIJA” in white letters on their backs. Some were also wearing black masks. Others wore red bandanas on their heads.²⁴⁴⁰ The soldiers were wearing green camouflage VJ uniforms with green berets on their heads.²⁴⁴¹

923. By noon, these forces had gathered all the remaining people from the village. They separated the women and the children from the elderly men, took the men to another area of the field and made them lie face down on the ground, while kicking or beating them with rifle butts.²⁴⁴²

²⁴³² p767.

²⁴³³ p947,p.1.

²⁴³⁴ Loku,T.3639. See also P654.

²⁴³⁵ Loku,P652,p.4;P653,p.20.

²⁴³⁶ Loku,P652,p.4,9.

²⁴³⁷ Loku,P653,p.64;P652,p.4.

²⁴³⁸ Loku,P652,pp.4-5;P653,p.11. See also marking n.3 on P656. Loku,T.3641.

²⁴³⁹ Loku,P652,pp.4-5;P653,p.11.

²⁴⁴⁰ Loku,P652,p.5.

²⁴⁴¹ Loku,P652,p.5.

²⁴⁴² Loku,P653,p.8;P652,p.5.

924. Later, two military trucks arrived in the village, and around 400 people, mainly women and children, were forced onto the trucks and driven towards Kačanik/Kaçanik town.²⁴⁴³ At gunpoint, the police ordered the remaining villagers to follow the trucks on foot.²⁴⁴⁴

925. Police and VJ forces then led the group of 20 captured men towards the north of the village.²⁴⁴⁵ Loku saw soldiers and policemen beat the prisoners and throw them into the wells. About 30 minutes later, Loku heard shots and a loud explosion from the area of the wells and saw smoke rising from them.²⁴⁴⁶

926. After the police and VJ forces left, Loku and other villagers returned to the village.²⁴⁴⁷ They found the bodies of Idriz Kuqi, Vejsel Vlashi, and another villager, Zimer Loku, who was badly injured but still alive.²⁴⁴⁸ He later died from his injuries.²⁴⁴⁹ During his testimony, Loku was able to identify the people killed in Kotlina/Kotlinë on a set of photographs.²⁴⁵⁰

927. In September 1999, an Austrian forensic team exhumed 22 bodies from the wells.²⁴⁵¹ Families members identified the victims.²⁴⁵² Baccard gave evidence on the report prepared by the Austrian forensic team regarding the Kotlina/Kotlinë site.²⁴⁵³ A total of 25 victims were recovered: 22 were in the upper and lower wells, and 3 in the mosque.²⁴⁵⁴ At the time of Baccard's report, 21 individuals were identified from the recovered remains, while 5 bodies remained unidentified.²⁴⁵⁵ Marks of explosion or shrapnel were found on 21 bodies.²⁴⁵⁶ The cause of death of the three bodies exhumed at the mosque was gunshot wounds.²⁴⁵⁷ Ten other bodies also bore gunshot wounds.²⁴⁵⁸ There were three cases of injuries to the head by blunt force.²⁴⁵⁹ Tests of samples of clothing found at the well sites confirmed the presence of traces of explosives.²⁴⁶⁰

²⁴⁴³ Loku, P652, p.5; P653, pp.9-10.

²⁴⁴⁴ Loku, P652, p.5; P653, pp.9-10.

²⁴⁴⁵ Loku, P652, pp.5,9; P653, pp.11-12,82-86. *See also* marking n.4 on P656. Loku, T.3641,3643,3681. *See also* P660.

²⁴⁴⁶ Loku, P652, p.6; P653, p.13; P660.

²⁴⁴⁷ Loku, P652, p.6; P653, pp.65-66.

²⁴⁴⁸ Loku, P652, pp.5-6; P653, p.65-66. *See also* Annex C, Schedule K.

²⁴⁴⁹ Loku, P652, p.6. *See also* Annex C, Schedule K.

²⁴⁵⁰ Loku, T.3646-3649; P659; P653, pp.16-17. *See also* Annex C, Schedule K.

²⁴⁵¹ Loku, P653, pp.14-15; P1167; P658.

²⁴⁵² Loku, P653, pp.14-15.

²⁴⁵³ Baccard, P1139, p.48. *See also* P1167.

²⁴⁵⁴ Baccard, P1139, pp.48,51.

²⁴⁵⁵ Baccard, P1139, p.49; P1140, p.27.

²⁴⁵⁶ Baccard, P1139, pp.50-52.

²⁴⁵⁷ Baccard, P1139, pp.49,50,51.

²⁴⁵⁸ Baccard, P1139, pp.50,52.

²⁴⁵⁹ Baccard, P1139, pp.51,52.

²⁴⁶⁰ Baccard, P1167, p.42; P1140, p.28.

928. Defence expert Zoran Stanković challenged the findings and methodology of the Austrian forensic team.²⁴⁶¹ He claimed that the bodies had been brought from elsewhere and thrown down the well shafts, and that the killings happened before the bodies were thrown into the wells.²⁴⁶² In reaching his conclusions, Stanković ignored the evidence discovered by the Austrian team on site, which confirmed that the bodies had been blown up in the wells. The Austrian team found that: (a) the walls of the upper and lower well shafts were blackened with soot;²⁴⁶³ (b) all 22 bodies in the wells were severely damaged from the effects of the explosions or fire;²⁴⁶⁴ and (c) tests of soil samples from inside the wells revealed the presence of TNT.²⁴⁶⁵

929. Stanković also claimed that the fact that only 12 bullet casings were recovered on-site supported his thesis that the bodies had been killed elsewhere.²⁴⁶⁶ However, in cross-examination, he conceded that he did not have any basis to reach this conclusion.²⁴⁶⁷ Stanković's expert evidence in relation to this incident is, at best, no more than speculation and should be disregarded.

(b) Kačanik/Kaçanik town

930. On 27 March 1999, Isa Raka saw two military Jeeps and a car arriving at a lime factory²⁴⁶⁸ across the river from Raka's house.²⁴⁶⁹ Around 20-30 police officers got out.²⁴⁷⁰ Two officers wore VJ camouflage uniforms with a green and brown pattern and the others wore blue camouflage uniforms.²⁴⁷¹ Raka recognized the person who was giving orders and who appeared to be in charge as "Lubisha", the Deputy Commander in the Kačanik/Kaçanik police station.²⁴⁷²

931. The policemen took up positions in the lime factory and began firing towards the houses across the river.²⁴⁷³ One grenade hit Raka's house, going through the roof.²⁴⁷⁴ No one was firing.

²⁴⁶¹ Stanković, T.13410-13411; D926, para. 1.

²⁴⁶² Stanković, T.13414-13415, 13489; D926, para. 3.

²⁴⁶³ P1167, pp. 8-9.

²⁴⁶⁴ P1167, p. 72.

²⁴⁶⁵ P1167, p. 91.

²⁴⁶⁶ D926, para. 6.

²⁴⁶⁷ Stanković, T.13490-13492.

²⁴⁶⁸ Raka, P664, para. 12; T.3729; P665, p. 6; D92, p. 3; P667 (Raka marked with the n. 1 his own house and n. 2 the house from which he observed the policemen at the lime factory; Raka, P665, p. 11).

²⁴⁶⁹ Raka, P664, para. 12; T.3731-3732; P665, pp. 6, 10; P666.

²⁴⁷⁰ Raka, P664, para. 12; T.3729; P665, pp. 6, 24; D92, p. 3; P666 (the lowest red marking shows the location of the jeeps, and the two higher marks show the positions of the policemen and the two VJ soldiers; Raka, P665, pp. 9-11).

²⁴⁷¹ Raka, P664, para. 12; P665, p. 6; D92, p. 3.

²⁴⁷² Raka, P664, para. 13; T.3729-3730; P665, pp. 7, 24; D92, p. 3.

²⁴⁷³ Raka, P664, paras. 14-15; T.3730; P665, pp. 7-8, 20; D92, p. 3; P666.

²⁴⁷⁴ Raka, P664, para. 15; D92, p. 3.

towards the factory.²⁴⁷⁵ Several civilians were wounded or killed by the shooting.²⁴⁷⁶ Raka's pregnant wife, Sherife, was hit by the gunfire.²⁴⁷⁷

932. The next day, people from other neighbourhoods told Raka that the police were going from house to house expelling residents, and that they had killed a civilian and taken away two others.²⁴⁷⁸

933. Out of fear, Raka's family and the rest of the neighbours decided to leave before the police arrived.²⁴⁷⁹ They fled through the woods towards Macedonia in a group of around 500-1000 people.²⁴⁸⁰ Raka travelled with other men who helped him to carry his wounded wife on a stretcher.²⁴⁸¹

934. Raka's wife was sent to the hospital in Skopje, but died days later.²⁴⁸² When Raka returned to Kačanik/Kaçanik in mid-June 1999, he found his house damaged.²⁴⁸³

(c) Slatina/Sllatina and the Vata/Vataj hamlet

935. On 13 April, Sejdi Lami saw VJ forces entering Vata/Vataj with four Pragas and six military lorries loaded with approximately 100 soldiers.²⁴⁸⁴ Some soldiers wore brown and blue camouflage uniforms, while others wore dark brown and black camouflage uniforms.²⁴⁸⁵ Lami described another group of men wearing bandannas and dark uniforms as paramilitaries.²⁴⁸⁶ Lami also saw two other groups of soldiers heading to Vata/Vataj: one group of approximately 150 persons moved around the village of Slatina/Sllatina, while the other group came from the direction of Brod in the Štrpce/Shtërpe municipality.²⁴⁸⁷

936. The soldiers started shooting at the houses in Vata/Vataj,²⁴⁸⁸ and then entered the village, causing the local population to flee.²⁴⁸⁹ There was no outgoing fire from the village.²⁴⁹⁰

²⁴⁷⁵ Raka, P665, p.8.

²⁴⁷⁶ Raka, P664, para.17; T.3738; P665, p.28; D92, p.3.

²⁴⁷⁷ Raka, P664, para.20; P665, pp.12-13; D92, p.4.

²⁴⁷⁸ Raka, P664, para.22; T.3739; P665, pp.13-14.

²⁴⁷⁹ Raka, P664, para.22; T.3741; P665, pp.13,33.

²⁴⁸⁰ Raka, P664, para.22; P665, p.14.

²⁴⁸¹ Raka, P664, para.22.

²⁴⁸² Raka, P664, para.27; T.3733; P665, p.15; D92, p.5.

²⁴⁸³ Raka, P664, para.28.

²⁴⁸⁴ Lami, P661, p.3; T.3718.

²⁴⁸⁵ Lami, P661, p.3; P662, p.11; T.3698.

²⁴⁸⁶ Lami, P661, p.3; T.3698-3699.

²⁴⁸⁷ Lami, P661, p.3; T.3718.

²⁴⁸⁸ Lami, P661, pp.3-4; P662, pp.13-14; T.3699.

²⁴⁸⁹ Lami, P661, p.4; T.3699.

²⁴⁹⁰ Lami, P661, p.4; T.3722.

937. After the soldiers left the village, Lami and his brothers found four dead bodies lying along a path.²⁴⁹¹ He recognized them as Mahmut Čaka, Hebib Lami, Rraman Lami,²⁴⁹² and Brahim Lami.²⁴⁹³ That day, seven more bodies were brought to the village: they were all civilians and had no weapons.²⁴⁹⁴ All the 11 bodies were buried on 14 April in the local Muslim cemetery.²⁴⁹⁵ In July 1999, KFOR exhumed these bodies, and forensic experts examined them and reburied the bodies.²⁴⁹⁶

938. Between 14 and 15 April 1999, the whole population fled Vata/Vataj and headed to the Macedonian border in fear.²⁴⁹⁷ They were stopped by the VJ and asked for money to be allowed to cross the border. They paid 500DM and were then allowed to pass.²⁴⁹⁸ When Lama returned to his village in July 1999, he found that his and other houses had been looted.²⁴⁹⁹

939. Baccard gave evidence on the burial site at Vata/Vataj based on the examinations of a Canadian Forensic Team.²⁵⁰⁰ Ten of the bodies were exhumed and autopsied.²⁵⁰¹ The cause of death in all the cases was gunshot injuries.²⁵⁰² Further, a Danish Forensic Team autopsied three additional victims from a second grave site in Slatina/Sllatina: Qemajl Deda, Nazmi Elezi, and Vesel Elezi.²⁵⁰³ The cause of death was multiple gunshot wounds, stab wounds, and head injury from a grenade.²⁵⁰⁴

Destruction of cultural property and religious sites

940. The attack by Serb forces on the villages of Kačanik/Kaçanik municipality resulted in the destruction of religious sites. The mosque in Kotlina/Kotlinë was damaged.²⁵⁰⁵ Further, during an

²⁴⁹¹ Lami, T.3720,3722-3723;P663, marks nn.1-2 (mark n.1 indicates the hamlet of Vata, mark n. 2 indicates the location of the four dead bodies); Lami, T.3700-3703.

²⁴⁹² Lami, P661, p.4; P662, p.8.

²⁴⁹³ Lami, P661, p.4; P662, p.7. All these victims, except for Rraman Lami, are listed in Schedule K of the Indictment.

²⁴⁹⁴ Lami, P661, p.5; T.3723-3724. Lami remembered the names of only four of 4 of the 7 bodies: Ilir Osman Caka, Jakup Caka, "Shyqyri", and Ramadan Xhokli (Lami, P662, p.7).

²⁴⁹⁵ Lami, P661, p.5; T.3724.

²⁴⁹⁶ See P1169; P1170.

²⁴⁹⁷ Lami, T.3701, 3724-3725.

²⁴⁹⁸ Lami, P661, p.5; T.3717.

²⁴⁹⁹ Lami, P661, p.5.

²⁵⁰⁰ Baccard, P1139, p.56. See also P1168; P1169.

²⁵⁰¹ Baccard, P1139, pp.56,59; P1168, pp.14-16. The grave of Ramadan Xholki was left undisturbed at the request of his father (see P1169, pp.5,15).

²⁵⁰² Baccard, P1139, pp.57,59; P1168, p.16. See Annex C, Schedule K.

²⁵⁰³ Baccard, P1170.

²⁵⁰⁴ Baccard, P1170, pp.5,11,19.

²⁵⁰⁵ P1131; Riedlmayer, P1099, pp.68-69.

attack on Ivaja/Ivajë on 8 March,²⁵⁰⁶ the mosque in the village was set alight, and the minaret was partially destroyed.²⁵⁰⁷

Forces of the FRY and Serbia were responsible for the crimes in Kačanik/Kaçanik municipality

941. The evidence shows that VJ and MUP units were involved in operations in Kačanik/Kaçanik municipality in late March and April 1999. Kačanik/Kaçanik municipality was in the AOR of the 243rd Mechanised Brigade, commanded by General Jelić, Lazarević's direct subordinate. When the charged crimes occurred, Jelić's brigade was involved in actions in support of the MUP, including the Uroševac/Ferizaj PJP, in Kotlina/Kotlinë, Slatina/Sllatinë, Stagovo/Stagovë and Dubrava/Lisnaje.²⁵⁰⁸

942. Further, as described above, witnesses identified both VJ and MUP forces as perpetrators of the crimes committed in Kačanik/Kaçanik municipality, either through the uniforms they wore, or because they knew the soldiers and policemen committing the crimes.

12. Dečani/Deçan

(a) Drenovac/Drenoc and Beleg

943. On or around 27 March 1999, police entered Drenovac/Drenoc and ordered the Kosovo Albanian population to leave.²⁵⁰⁹ K58, a local resident, saw houses burning.²⁵¹⁰ The villagers went to the nearby village of Beleg.²⁵¹¹ In Beleg, K58 sought refuge in a house belonging to Naim Vishaj, along with about 100 refugees from the villages of Drenovac/Drenoc, Crnobreg/Carrabreg and Glodane/Gllogjan.²⁵¹²

944. On the evening of 28 March 1999, a large group of police, soldiers and paramilitaries entered Beleg,²⁵¹³ continuously shelled and shot, and created an atmosphere of fear and tension.²⁵¹⁴

945. Early on 29 March 1999, armed policemen and soldiers surrounded K20's family house in Beleg, ordered the family out and took them to the basement of an unfinished house.²⁵¹⁵ The

²⁵⁰⁶ Loku, P653, p.62.

²⁵⁰⁷ Loku, T.3669; P653, p.5; P1135, p.1; Riedlmayer, T.7551; P1099, pp.69-71.

²⁵⁰⁸ P935; P937; P947.

²⁵⁰⁹ Mazrekaj, T.3840, 3859; P675, p.8; P676, pp.10-11; K58, P1080, p.5; P1081, p.24.

²⁵¹⁰ K58, T.7313, 7340-7341; P1081, p.24.

²⁵¹¹ Mazrekaj, T.3840; P675, p.8; P676, p.17; K58, P1080, p.5; P1081, p.25. [REDACTED].

²⁵¹² K58, T.7293, 7313-7314; P1080, pp.5-6; P1081, pp.4, 13.

²⁵¹³ Mazrekaj, T.3842; P676, pp.17, 53-56; K58, T.7308, 7315; P1080, p.6; P1081, pp.5-6; [REDACTED]; P1280, p.3; [REDACTED]; P1283. See also P954, p.10; P954, pp.3-4.

²⁵¹⁴ K58, T.7293, 7314-7315, 7341-7342; P1080, p.6; P1081, pp.11-12, 25; [REDACTED]; P1280, p.2; [REDACTED]; P1280, p.2; Mazrekaj, P675, p.8; P676, p.19.

basement quickly filled to about 300 people.²⁵¹⁶ From inside the basement, the villagers heard shooting.²⁵¹⁷

946. Policemen and soldiers guarded the civilians, threatening them with guns.²⁵¹⁸ K20 testified that an armed, Albanian-speaking policeman gave orders to others and kept watch over the villagers.²⁵¹⁹ That afternoon, policemen took the civilians out of the basement to a field/meadow.²⁵²⁰ As they exited, Serb forces pointed APCs, tanks and other heavy weaponry towards the villagers.²⁵²¹ Serbian police and paramilitaries also surrounded Naim Vishaj's house and ordered everyone out.²⁵²² Like K20, the policemen took K58 and her family to a basement; however, it was overcrowded, so they took them to a large meadow.²⁵²³

947. In the field/meadow, about 100 police and soldiers or paramilitaries separated men from women and children, stripped many people naked and searched everyone for valuables and documents, which they then took.²⁵²⁴ Policemen beat Mazrekaj with blows and rifle butts,²⁵²⁵ and did the same with other men.²⁵²⁶ The women were later taken to a basement, searched, and forced to hand over their valuables.²⁵²⁷

948. The group in the field/meadow was kept outside in the rain until darkness.²⁵²⁸ Men, including Mazrekaj, were detained overnight in the house with the basement.²⁵²⁹ The women, including K20 and K58, and children were taken to two rooms and a cowshed/stable in a different house in Beleg.²⁵³⁰ Paramilitary guarded the rooms.²⁵³¹

²⁵¹⁵ [REDACTED];P1280,pp.2-3; [REDACTED];P1283; [REDACTED]. See also Mazrekaj,T.3843;P675,p.9;P676,p.19.

²⁵¹⁶ K20,P1280,p.3; [REDACTED]. See also Mazrekaj,T.3843;P675,p.10; [REDACTED];P1280,p.3.

²⁵¹⁷ Mazrekaj,P675,p.9;K20,P1280,p.3; [REDACTED].

²⁵¹⁸ [REDACTED]; Mazrekaj,T.3843;P675.

²⁵¹⁹ [REDACTED];P1280,p.3; [REDACTED].

²⁵²⁰ [REDACTED];P1280,p.3; [REDACTED];[REDACTED];Mazrekaj,P675,p.10.

²⁵²¹ K20,P1280,p.3; [REDACTED].

²⁵²² K58,T.7293-7294,7307-7309,7318,7338-7339;P1080,p.6;P1081,p.4. See K58,T.7307-7309,7328,7338-7339.

²⁵²³ K58,T.7294-7295,7319;P1080,p.7.

²⁵²⁴ [REDACTED];P1280,pp.3-4; [REDACTED]; K58,T.7296,7321,7343;P1080,pp.7-8;P1081,pp.14,29,40-41; Mazrekaj,P675,p.10.

²⁵²⁵ Mazrekaj,T.3844;P675,p.10;K58,P1080,p.8;P1081,pp.28-29,36.

²⁵²⁶ [REDACTED];K58,P1080,p.8;Mazrekaj,T.3845;P675,pp.10-11.

²⁵²⁷ K58,T.7297-7298,7320-7321;P1081,pp.29-32,41-42;P1080,p.8; [REDACTED];P1280,p.4.

²⁵²⁸ K58,P1080,p.8;K20,P1280,p.4; [REDACTED].

²⁵²⁹ Mazrekaj,P675,pp.11-12; K20,P1280,p.4; [REDACTED]; K58,P1080,p.8.

²⁵³⁰ K20,P1280,p.4; [REDACTED];K58,P1080,pp.8-9;T.7325.

²⁵³¹ K58,P1080,p.9.

949. During the night, two or three men in green uniforms came to K58's and K20's room and took out around 20 girls and young women for "cleaning" tasks,²⁵³² [REDACTED].²⁵³³

950. K20 and the other two girls were taken to a burnt house.²⁵³⁴ K20 was put in a room, where a soldier forcibly undressed her.²⁵³⁵ [REDACTED].²⁵³⁶ K20 was raped several times that night by different soldiers.²⁵³⁷ The Albanian-speaking policeman and other soldiers stood in the doorway occasionally illuminating the scene with a torch.²⁵³⁸ [REDACTED].²⁵³⁹

951. At least three young girls, K20 included, were sexually assaulted by soldiers that night.²⁵⁴⁰ K58 testified that when the girls returned they were crying and looked dishevelled. She overheard one telling her mother that she had been raped.²⁵⁴¹

952. On 30 March 1999, Serb forces ordered the villagers to leave Beleg and to depart for Albania.²⁵⁴² The women, children and elderly were put on tractors and trucks,²⁵⁴³ and joined a convoy of hundreds of refugees heading for Kukës, on the Albanian border.²⁵⁴⁴ Police and APCs, from the VJ and MUP, escorted the refugees out.²⁵⁴⁵ The refugees were asked for their IDs, but explained that they had already been seized in Beleg.²⁵⁴⁶

953. Between 40 and 66 men from Beleg, Drenovac/Drenoc and Slup/Sllup, including K58's husband, were kept behind. The men have not been heard from since.²⁵⁴⁷

954. [REDACTED].²⁵⁴⁸

²⁵³² K20,P1280,p.4; [REDACTED];K58,T.7326-7329,7343;P1080,p.9; P1081,pp.8,15-16.

²⁵³³ [REDACTED].

²⁵³⁴ K20,P1280,pp.4-5; [REDACTED].

²⁵³⁵ K20,P1280,p.5; [REDACTED].

²⁵³⁶ [REDACTED].

²⁵³⁷ K20,P1280,p.5; [REDACTED].

²⁵³⁸ K20,P1280,p.5; [REDACTED].

²⁵³⁹ [REDACTED].

²⁵⁴⁰ K20,P1280,p.6; [REDACTED]. *See also* K58,P1080,p.9;P1081,p.9.

²⁵⁴¹ K58,P1080,p.9;P1081,p.9.

²⁵⁴² K58,T.7300,7330;P1080,p.10;P1081,p.13; [REDACTED];P1280,p.6; [REDACTED]; Mazrekaj,T.3847;P675,p.12.

²⁵⁴³ K20,P1280,p.6; [REDACTED]; Mazrekaj,T.3847;P675,pp.12-13;K58,T.7300;P1080,p.10.

²⁵⁴⁴ K58,T.7300;Mazrekaj,P676,p.21.

²⁵⁴⁵ Mazrekaj,T.3847-3848;P675,p.13;P676,pp.20-21;K58,T.7331-7332;P1081,p.10; [REDACTED]. *See also* P1029,pp.151-152.

²⁵⁴⁶ K58,T.7321; [REDACTED].

²⁵⁴⁷ K20,P1280,p.6; [REDACTED];K58,T.7301;P1080,pp.9-10; P1081,pp.9,33-34.

²⁵⁴⁸ [REDACTED].

Forces of the FRY and Serbia were responsible for the crimes in Dečani/Dečan municipality

955. Both the VJ and the MUP were involved in operations in Dečani/Dečan municipality at the end of March 1999.²⁵⁴⁹

956. The OSCE-KVM Bluebook reported that on 30 March 1999, there were 12 tanks and 100 vehicles in Dečani/Dečan.²⁵⁵⁰ Witnesses testified that police and VJ entered Beleg and escorted civilians out with blue and green APCs/army vehicles.²⁵⁵¹ They also had Pragas, trucks, tanks and anti-aircraft artillery.²⁵⁵²

957. Witnesses identified policemen, paramilitaries and soldiers as the forces that ordered villagers to leave their homes in Drenovac/Drenoc on 27 March 1999,²⁵⁵³ and Beleg on 29 and 30 March 1999.²⁵⁵⁴ It was again policemen, assisted by soldiers or paramilitaries, who separated men and women, and beat, stripped, searched and stole money, valuables and IDs from them in Beleg on 29 March 1999.²⁵⁵⁵ Soldiers, directed by a policeman, raped several young girls in Beleg on the night of 29 March 1999.²⁵⁵⁶

958. The War Diary of the 125th Motorised Brigade confirms that the VJ was conducting combat operations in Dečani/Dečan at the end of March 1999, and that it was engaged in "providing support" to MUP forces.²⁵⁵⁷ Dragan Živanović commanded the Brigade.²⁵⁵⁸ Živanović was Lazarević's direct subordinate.²⁵⁵⁹

959. The Dečani/Dečan OUP was based in Dečani/Dečan town.²⁵⁶⁰ Defence witness Vukmir Mirčić, the OUP Chief, was directly subordinated to the Đakovica SUP Chief, both of whom were subordinated to Đorđević.²⁵⁶¹

960. Mirčić denied that MUP and VJ forces expelled Kosovo Albanians or committed any crimes against the population.²⁵⁶² Although admitting that he saw long convoys of Kosovo Albanian

²⁵⁴⁹ P954, p.10.

²⁵⁵⁰ P1029, pp.151–152.

²⁵⁵¹ Mazrekaj, T.3842,3847–3848; P675, p.13; P676, pp.17,20–22,44–45; [REDACTED]; P1280, p.2; D359.

²⁵⁵² [REDACTED]; P318, pp.2–3; P1280, p.2; [REDACTED]; K58, T.7298,7327.

²⁵⁵³ Mazrekaj, T.3840,3859; P675, p.8; P676, pp.10–11,17; K58, P1080, p.5; P1081, pp.24–25; T.7313,7341.

²⁵⁵⁴ [REDACTED]; [REDACTED]; P1280, pp.2,6; K58, T.7293–7295,7300,7307–7309,7318–7319,7330,7338–7339; P1080, pp.6–7,10; Mazrekaj, T.3847–3848; P675, pp.12–13; P676, pp.21–22.

²⁵⁵⁵ [REDACTED]; P1280, pp.3–4; [REDACTED]; [REDACTED]; K58, T.7296–7298,7320–7322,7324–7325,7343; P1080, pp.7–8; P1081, pp.14,28–33,36,40–42; Mazrekaj, T.3844–3845; P675, pp.10–11.

²⁵⁵⁶ K20, P1280, p.5; [REDACTED]. See also K58, T.7326–7328,7343; P1080, pp.7,9; P1081, p.8.

²⁵⁵⁷ P957, pp.3–4. See also P954, p.10.

²⁵⁵⁸ Došan, T.11480; P1366; P929, p.2. See also P957, pp.1–2.

²⁵⁵⁹ See e.g. P954, p.1.

²⁵⁶⁰ Mirčić, T.13340–13341.

²⁵⁶¹ Mirčić, T.13228–13229,13293,13295,13306.

²⁵⁶² Mirčić, T.13362–13364,13372–13373,13375–13376,13390.

refugees leaving in late March 1999,²⁵⁶³ Mirčić said they left because of NATO and the KLA.²⁵⁶⁴ Mirčić's testimony is neither credible nor reliable. Witnesses testified that they were forced to leave by the police; they did not leave because of NATO and there was no KLA presence in Beleg at the time of their expulsion.²⁵⁶⁵ Mirčić sought to detach himself from the expulsions and crimes since he and the policemen in his OUP were implicated in them.²⁵⁶⁶

13. Vučitrn/Vushtrria municipality

961. Vuçitrn/Vushtrria municipality is located in north-central/east Kosovo. According to the 1998 Defence Plan for the Town of Vuçitrn/Vushtrria, the municipality was 95% Albanian, with 700 Serbs and Montenegrins living in the town.²⁵⁶⁷

962. Serb forces began building up in the area of Vuçitrn/Vushtrria in late February/early March 1999. Special MUP forces arrived in the area from outside Kosovo.²⁵⁶⁸

963. On 28 or 29 March 1999, Serb forces launched an offensive from the Rashice/Rašica area outside the village of Gornja Sudimlja/Studime e Epërme in the Vuçitrn/Vushtrria municipality, causing residents to flee.²⁵⁶⁹ Serb forces burned houses in Donja Sudimlja/Studime e Poshteme to prevent villagers from returning.²⁵⁷⁰

964. On 1 April 1999, Serb police expelled the Kosovo Albanian population of Vuçitrn/Vushtrri town from their houses.²⁵⁷¹

965. From 25 April until 6 May 1999, a large-scale operation (the "Bajgora operation") involving MUP, VJ and armed "non-Šiptars" took place in Vuçitrn/Vushtrria municipality.²⁵⁷² During this action tens of thousands of ethnic Albanian civilians were forcibly expelled, hundreds were imprisoned and tortured, and over one hundred civilians were murdered

966. On or about 2 May 1999, forces of the FRY and Serbia broke through the front line in the areas of Lab/Llap and Meljenica, and advanced south attacking several villages, including

²⁵⁶³ Mirčić, T.13290,13343-13344,13346-13349.

²⁵⁶⁴ Mirčić, T.13290-13292,13344,13347,13349-13351; D698; D922, pp.2-3; D923.

²⁵⁶⁵ See K58, T.7312-7313; [REDACTED].

²⁵⁶⁶ See e.g. Mirčić, T.13355,13366-13367,13369,13377-13378.

²⁵⁶⁷ D266, p.2.

²⁵⁶⁸ Ciaglinski, P832, pp.12-13.

²⁵⁶⁹ Gërxfhaliu, P512, para.6; P513, pp.11,12.

²⁵⁷⁰ Gërxfhaliu, P512, para.6; D70, p.2; T.3110.

²⁵⁷¹ Kadriu, P515, pp.12-13.

²⁵⁷² P969; P345; P959; P955, pp.57-63; P1040, pp.1,6.

Skrovna/Skromë, Slakovce/Sllakofc, Ceceli/Cecelija, Gornja Sudimlja/Studime e Epërme,²⁵⁷³ and Vesekovce/Vesekovc village. They forced villagers out of their homes, and burnt houses, shops, and mosques.²⁵⁷⁴

967. Approximately 30,000 to 50,000 people formed a convoy and headed down the "Studime Gorge" road in the direction of Vuçitrn/Vushtrria town.²⁵⁷⁵ Serbian forces advanced on the convoy from multiple sides,²⁵⁷⁶ and fired shells at them, pushing them south.²⁵⁷⁷

968. Late that afternoon, on 2 May 1999, the convoy arrived in Gornja Sudimlja/Studimja e Epërme, but due to the shelling could not move and were massed together in a large group.²⁵⁷⁸ The convoy was surrounded on all sides by Serbian forces.²⁵⁷⁹ Throughout the evening and night VJ, MUP, and paramilitary forces demanded money from the civilians, threatened and beat them,²⁵⁸⁰ killing those who did not give them money.²⁵⁸¹

969. These forces murdered over 100 Kosovo Albanians on 2 May 1999.²⁵⁸² Gërxhaliu heard forces saying that they had already killed about 50 people, and that they should continue until they reached 100.²⁵⁸³ When they were done, Gërxhaliu heard one Serbian male say, "Soldiers, let's go back now. We have no fuel and it is clear up here. We have mopped up the terrain."²⁵⁸⁴ Serb forces then ordered the refugees to proceed, and split the convoy in two parts.²⁵⁸⁵

970. On 3 May 1999, Serb forces led the refugees to an agricultural co-operative near Vuçitrn/Vushtrria town.²⁵⁸⁶ Policemen were on the road to the agricultural co-operative,²⁵⁸⁷ where the refugees were housed in cramped hangars.²⁵⁸⁸

971. The following morning the refugees were taken out of the hangars. Police surrounded the area.²⁵⁸⁹ Kadriu recognised a local policeman from Vuçitrn/Vushtrria police station, Dragan

²⁵⁷³ Kadriu, P515, p.14; P516, p.16; Gërxhaliu, P512, paras.11-12,25; P513, p.134; Xhafa, T.3082,3103,3116.

²⁵⁷⁴ Gërxhaliu, P512, paras.11-12; P513, p.134; Kadriu, P515, p.14; Xhafa, T.3082.

²⁵⁷⁵ Xhafa, T.3047; P509, pp.16-18,33,39-40; P510, para.4; Kadriu, P516, pp.22,43; P515, pp.14-15; Gërxhaliu, P512, para.11; P513, pp.20-22,90, 94; T.3110,3111,3148,3159,3160,3167; D70, p.2; P514.

²⁵⁷⁶ Gërxhaliu, T.3168; Xhafa, T.3047.

²⁵⁷⁷ Kadriu, P515, p.16; Gërxhaliu, P512, para.12; T.3112-3113; P514.

²⁵⁷⁸ Gërxhaliu, P512, para.12; P514; T.3112; Kadriu, P516, p.15; Xhafa, T.3048; P509, pp.17-18,22-23; P510, para.5; P511.

²⁵⁷⁹ Xhafa, P510, para.5.

²⁵⁸⁰ Gërxhaliu, P512, paras.15,18; T.3161,3162,3168; P513, pp.97,130; D70, p.2; Xhafa, T.3041,3048; P509, pp.23,44-45,47-48,63; P510, para.5; T.3040-3041; Kadriu, P516, p.16.

²⁵⁸¹ Gërxhaliu, P512, para.18; D70, p.2.

²⁵⁸² Xhafa, T.3094; Kadriu, T.3177-3178; P515, pp.21-24. *See Annex C, Schedule I.*

²⁵⁸³ Gërxhaliu, P512, para.21; D70, p.3.

²⁵⁸⁴ Gërxhaliu, P512, para.24; T.3102,3116.

²⁵⁸⁵ Kadriu, P515, p.16; Gërxhaliu, P513, p.93.

²⁵⁸⁶ Gërxhaliu, P513, p.92; Kadriu, P516, p.16; Xhafa, T.3054; P510, para.10; P511.

²⁵⁸⁷ Xhafa, P510, para.10.

²⁵⁸⁸ Kadriu, P515, p.16; Xhafa, T.3054; P510, para.10.

Petrović,²⁵⁹⁰ and Xhafa recognized his deputy police commander, Simić.²⁵⁹¹ The police separated men from women, children and the elderly,²⁵⁹² loaded the men onto trucks and drove them to the Smrekovnica/Smrakonica prison in Vučitrn/Vushtrria municipality.²⁵⁹³

972. At the Smrekovnica/Smrakonica prison, police severely beat the men with sticks and guns as they entered the prison. Kadriu saw Duško Janjić, Vučitrn/Vushtrria police chief, and his deputy, Simić, at the prison.²⁵⁹⁴

973. The men were kept in inhumane and overcrowded conditions.²⁵⁹⁵ Prisoners were regularly beaten almost every evening. Kadriu recognized two policemen from his village as amongst the forces beating them: Zoran Vukotić and Saša Manojlović.²⁵⁹⁶

974. On or about 23 May 1999, many of the men were put on buses armed by the MUP, and escorted to the Albanian border.²⁵⁹⁷ In Žur/Zhur, close to the border crossing, the detainees were forced off the buses, beaten by the policemen, and then told to run to the border with their hands behind their heads. Their identification documents were seized before they crossed into Albania.²⁵⁹⁸

975. In July 1999, a French forensic team exhumed and autopsied the bodies of 93 victims of the convoy massacre of 2 May 1999 from a local cemetery in Gornja Sudimlja/Studimja e Epërme, in two grave sites ("L1" and "L2").²⁵⁹⁹ In 83 cases, the bodies presented wounds inflicted by firearms, blunt or sharp weapons.²⁶⁰⁰ The two most common causes of death were injuries to the abdominal internal organs and skull-brain injuries.²⁶⁰¹ The French team found that in a number of instances, the overall appearance of the injuries sustained by the victims "suggest a shot fired from close or point blank range".²⁶⁰²

²⁵⁸⁹ Kadriu, P515, p.17.

²⁵⁹⁰ Kadriu, P515, p.17.

²⁵⁹¹ Xhafa, P510, para.10; T.3055-3056, 3094-3096.

²⁵⁹² Kadriu, P515, p.17.

²⁵⁹³ Kadriu, P515, p.18; Xhafa, T.3055, 3095; P509, pp.8, 55; P510, para.11; P511.

²⁵⁹⁴ Kadriu, P515, p.18; P516, p.18.

²⁵⁹⁵ Kadriu, P516, pp.21-22, 43.

²⁵⁹⁶ Kadriu, P515, p.18; P516, p.19.

²⁵⁹⁷ Kadriu, P515, p.20.

²⁵⁹⁸ Kadriu, P515, p.20.

²⁵⁹⁹ Baccard, P1139, p.64; P1173, p.6; P1174, p.2.

²⁶⁰⁰ Baccard, P1139, pp.66, 68; P1166, p.40.

²⁶⁰¹ Baccard, P1139, pp.66, 68.

²⁶⁰² See e.g. P1172, p.4, 6, 13, 15, 20, 22, 24, 26, 32, 36, 38, 40, 43, 45. See also P1171.

Destruction of cultural property and religious sites

976. At least three mosques were destroyed or damaged in Vučitrn/Vushtrria. The Market Mosque and its surroundings were set on fire and later bulldozed.²⁶⁰³ The Market Mosque was “completely destroyed”,²⁶⁰⁴ and two more mosques, Gazi Ali Bey and Karamanli, were “lightly damaged”.²⁶⁰⁵

Forces of the FRY and Serbia perpetrated the crimes in Vučitrn/Vushtrria municipality

977. VJ and MUP records demonstrate that the crimes perpetrated in Vučitrn/Vushtrria were committed as part of organized and coordinated joint operations of the VJ and MUP acting to drive the Albanian population out of Kosovo. Documentary evidence and witness testimony demonstrate that expulsions and murders were committed during the course of these joint operations.²⁶⁰⁶

978. On 23 March 1999, pursuant to a Joint Command order, VJ and MUP forces conducted an operation in the Malo Kosovo area, north of Vučitrn/Vushtrria municipality.²⁶⁰⁷ Around this time, crimes and expulsions began taking place in the area. Soon after, on 28 to 29 March 1999, Serbian forces launched an offensive from the Rashica/Rašica area, causing locals to flee.²⁶⁰⁸

979. On 15 April 1999, the Joint Command ordered the 211th Armoured Brigade, the 15th Armoured Brigade, and the 58th Light Infantry Brigade, with the help of the “armed non-Šiptar population”, to support the MUP in an action in the Bajgora-Bare sector (the “*Bajgora* operation”).²⁶⁰⁹ This action began on 25 April and continued into early May 1999.²⁶¹⁰ Lazarević issued an order on 4 May 1999 tasking PrK units to engage in an action with the MUP and armed non-Šiptars in the Bajgora-Bare sector.²⁶¹¹

980. Lukić and Stevanović were informed about the completion of actions in Bajgora. On 11 May 1999, at a MUP Staff meeting, the *Bajgora* operation was declared a success, and PJP commanders reported on its completion.²⁶¹²

²⁶⁰³ Kadriu, P515, p.12; P1098, p.87; Riedlmayer, P1099, p.49; P1102, pp.1-2.

²⁶⁰⁴ P1098, p.87.

²⁶⁰⁵ Riedlmayer, P1099, pp.34-35,49; P1102, pp.3-5; P1103, pp.1-6.

²⁶⁰⁶ D105.

²⁶⁰⁷ D105.

²⁶⁰⁸ Gërzhaliu, P512, para.6; P513, pp.11,12.

²⁶⁰⁹ P969.

²⁶¹⁰ P959; P955, pp.57-63.

²⁶¹¹ P1040, pp.1,6.

²⁶¹² P345, pp.2,4.

981. The 125th okbr War Diary confirms that, after preparations and briefings on 22 and 23 April 1999,²⁶¹³ beginning on 25 April units were engaged in the *Bajgora* operation, providing support to the MUP.²⁶¹⁴ The diary also recorded that on 22 April 1999, a large number of refugees had arrived in the Vučitrn/Vushtrria area²⁶¹⁵ and that on 30 April 1999 in the *Bajgora* region columns of refugees were being directed by the MUP.²⁶¹⁶

982. The 15th okbr War Diary confirms that, on 21 April 1999, the unit began preparations for the *Bajgora* operation with the MUP, and were engaged in supporting the MUP in a siege on 24/25 April 1999.²⁶¹⁷ The diary also records columns of refugees on 30 April 1999, and states that the MUP were engaged in "triage" and directing the columns.²⁶¹⁸ Units were engaged in the *Bajgora* operation at least until 2 May 1999.²⁶¹⁹

983. According to the Defence Plan for the Town of Vučitrn/Vushtrria, about 150 non-Albanians were organized in a local civilian defence, their strength estimated to be about two companies, armed with infantry weapons.²⁶²⁰ The plan envisaged placing the armed civilians under the command of the MUP,²⁶²¹ and provided for co-ordination with the VJ for fire support.²⁶²²

984. VJ and MUP units were the only units deployed in the area where the convoy massacre occurred. The 211th Armoured Brigade,²⁶²³ the 15th Mechanised Battalion,²⁶²⁴ the 58th Light Infantry Brigade,²⁶²⁵ and the 35th PJP Detachment²⁶²⁶ participated in the *Bajgora* operation. The 15th Armoured Brigade was deployed to the south-east of where the convoy was attacked. The 211th Armoured Brigade was deployed to the north-west. PJP units conducted a sweep operation from north to south of Vučitrn/Vushtrria municipality.²⁶²⁷ The column of refugees was encircled from every direction. These units controlled the area where the massacre occurred.

²⁶¹³ P959, pp.3-4,6.

²⁶¹⁴ P959, pp.10,13,17,19,24,27.

²⁶¹⁵ P959, pp.3-4.

²⁶¹⁶ P959, p.24.

²⁶¹⁷ P955.

²⁶¹⁸ P955.

²⁶¹⁹ P955.

²⁶²⁰ D266, p.3; P524.

²⁶²¹ D266, pp.3,4,6.

²⁶²² D266, p.5.

²⁶²³ P969, para.5.1.

²⁶²⁴ P969, para.5.2; P955, p.57.

²⁶²⁵ P969, para.5.3.

²⁶²⁶ P345, p.4.

²⁶²⁷ P969, para.5.1.

985. Witnesses identified police officers taking part in the expulsion and mistreatment of civilians.²⁶²⁸

986. MUP documents demonstrate that the MUP was responsible for the detention of Kosovo Albanians at the Smrekovnica prison. Two police reports, from 3 and 16 May 1999, signed by the Commander of the Vučitrn/Vushtrria police station, Ljubisa Simić, report the detention of 830 to 887 individuals at the Smrekovnica prison, following a joint MUP-VJ action in the Vučitrn/Vushtrria area.²⁶²⁹ Furthermore, a request dated 11 May 1999, stated that the Smrekovnica prison had an “enormous” amount of detainees and needed more supplies.²⁶³⁰ At the MUP Staff meeting of 7 May 1999, Kosovska Mitrovica deputy SUP Chief Bogunović reported that, as a result of the *Bajgora* operation, 827 “terrorists” were being held at the Smrekovnica prison.²⁶³¹

987. A letter from the Vučitrn/Vushtrria Municipal Council, dated 3 May 1999, sent a request for humanitarian aid for 30,000 refugees in the Donja Studimlja and Smrekovica villages. It further stated that there are already “25,000 Šiptari” in Vučitrn/Vushtrria, and that they are unable to support them all.²⁶³²

988. Witnesses described the numerous forces that mistreated the civilians as VJ, MUP, and paramilitary.²⁶³³ Witnesses also saw civilians assisting MUP and VJ forces with the expulsions, and torching Albanian houses in Vučitrn/Vushtrria town.²⁶³⁴

14. Podujevo/Podujevë

989. On 28 March 1999, members of the Skorpions killed 16 civilians, two elderly men and fourteen women and children, from the Bogujevci, Duriqi and Llugaljiu families in Podujevo/Podujevë town.²⁶³⁵ Five children survived the massacre but sustained serious and multiple gunshot wounds.²⁶³⁶ The massacre took place within 30 minutes of the arrival of the Skorpions to Podujevo/Podujevë.²⁶³⁷

²⁶²⁸ Kadriu, P515 pp.17-19; P516, p.18; Xhafa, P510, para.10; T.3055-3056, 3094-3096. See P1288, p.4.

²⁶²⁹ P1351; P519.

²⁶³⁰ P518.

²⁶³¹ P771, p.5.

²⁶³² P520.

²⁶³³ Gërxfhaliu, P512, paras.15-16, 18, 24; P513, pp.24-26, 77, 90-91, 97, 115-116, 130; T.3115-3116; D70, p.2; Xhafa, T.3040-3041, 3048; P509, pp.23, 44-45, 47-48, 63; P510, para.5; Kadriu, P516, p.16.

²⁶³⁴ Kadriu, P515, p.12.

²⁶³⁵ See Annex C, Schedule L.

²⁶³⁶ S.Bogujevci, P373, paras.57, 63; T.1899; F.Bogujevci, P383, para.51; T.1936.

²⁶³⁷ Đorđević, T.9705; Trajković, T.9094.

990. In March 1999, Saranda and Fatos Bogujevci, two survivors of the massacre, lived in a large family compound in Podujevo/Podujevë town. The compound contained three houses.²⁶³⁸ Shortly before the NATO air campaign commenced, some family friends, the Duriqis, moved into a house in the rear of the compound.²⁶³⁹

991. The compound was located on the main road in the centre of Podujevo/Podujevë town, close to the police station.²⁶⁴⁰ To the right of the family compound was Selman Gashi's family compound.²⁶⁴¹

992. In the weeks before the NATO bombing, many Kosovo Albanian families moved from surrounding villages to Podujevo/Podujevë town due to clashes between the KLA and Serbian forces in the villages.²⁶⁴² The Bogujevcis confined themselves to their house because there were many police and military vehicles passing through the main road.²⁶⁴³ There were also tanks just outside Podujevo/Podujevë.²⁶⁴⁴

993. The family heard rumours that Serbian forces were targeting and killing men, so the men of the family left the house and hid. The family believed that they would not be targeted if only women and children remained in the house.²⁶⁴⁵

994. On the morning of 28 March 1999,²⁶⁴⁶ Fatos saw a police vehicle pull up in front of the family compound and police or soldiers on the street.²⁶⁴⁷ For their safety, the family moved to the Duriqi house.²⁶⁴⁸

995. Upon arrival, there were 19 people in that house, 18 women and children and Hamdi Duriqi, a 70-year-old man.²⁶⁴⁹

996. At around 9:00am, the families heard shooting and breaking glass.²⁶⁵⁰ They noticed four or five "soldiers" inside the compound, in front of the Duriqi house.²⁶⁵¹

²⁶³⁸ S.Bogujevci,P373,para.10;F.Bogujevci,T.1924-1925,1928,1949,1956;P384;P383,para.10.

²⁶³⁹ S.Bogujevci,P373,para.16;T.1881-1882;F.Bogujevci,P383,para.16;T.1925.

²⁶⁴⁰ S.Bogujevci,P373,paras.11,13; F.Bogujevci,P383,paras.11,13. *See also* F.Bogujevci,T.1924,1926;P384; S.Bogujevci,T.1893;P377.

²⁶⁴¹ S.Bogujevci,P373,para.13;F.Bogujevci,P383,para.13.

²⁶⁴² F.Bogujevci,T.1950. *See e.g.* F.Bogujevci,P383,para.16;S.Bogujevci,T.1881-1882.

²⁶⁴³ F.Bogujevci,T.1956-1957;P383 para.17;S.Bogujevci,P373,para.17.

²⁶⁴⁴ F.Bogujevci,T.1956-1957.

²⁶⁴⁵ S.Bogujevci,T.1880; P373,para.19;P375,pp.1-2;F.Bogujevci,P383,para.18;P381,p.2.

²⁶⁴⁶ S.Bogujevci,P375,pp.1-2;F.Bogujevci,P381,p.1;P383,para.26.

²⁶⁴⁷ F.Bogujevci,P383,para.26;P381,pp.1-2;T.1927. *See also* S.Bogujevci,P373,para.25;T.1913;P374,p.2.

²⁶⁴⁸ S.Bogujevci,T.1880;P373,para.26;P375,p.2;P374,p.2;F.Bogujevci,P383,para.27;T.1927-1928.

²⁶⁴⁹ S.Bogujevci,P373,para.26;T.1881;F.Bogujevci,P383,paras.25,27;T.1924; Indictment, Schedule L. *See also*, S.Bogujevci,T.1895-1896;P379,pp.6-8.

997. The families started leaving the house, but once outside, the “soldiers” stopped and searched them and the house. Shouting at them, the “soldiers” escorted the families through Selman Gashi’s courtyard with their hands up.²⁶⁵² Fatos said that in referring to “soldiers”, he was not referring to the regular army or police.²⁶⁵³ The “soldiers” wore green camouflage uniforms.²⁶⁵⁴ Saranda said that the “soldiers” had a two-headed eagle on their shoulders.²⁶⁵⁵

998. Goran Stoparić, a former member of the Skorpions, was deployed to Podujevo/Podujevë with the Skorpions on 28 March 1999. The unit had just arrived in Podujevo, and Stoparić was searching for accommodation with another Skorpion member, Milovan Tomić.²⁶⁵⁶ From the back room of the house he had found, Stoparić observed members of the Skorpions pushing 19 ethnic Albanian civilians at gunpoint into the house’s backyard.²⁶⁵⁷ The group was comprised of one elderly male, 12 children, and the remainder were women.²⁶⁵⁸ Stoparić said the civilians “looked terrified”.²⁶⁵⁹

999. The Skorpions singled out Hamdi Duriqi. They told him to put his hands against the wall, searched him and took his *plis*.²⁶⁶⁰ They also searched others in the group,²⁶⁶¹ but stopped searching when asked by Stoparić and Tomić.²⁶⁶²

1000. A Skorpion member approached Shefkate Bogujevci, Fatos’s mother, and took some money from her. There was a shed or outbuilding behind the group and members of the Skorpions took Shefkate inside.²⁶⁶³ The rest of the group was taken to another neighbour’s courtyard.²⁶⁶⁴

1001. From the courtyard, the group, except for Shefkate, was taken to the street, facing the police station, where they stood in a column.²⁶⁶⁵ Stoparić said that he and Tomić became concerned about

²⁶⁵⁰ F.Bogujevci,P383,para.28;P382,p.2.

²⁶⁵¹ S.Bogujevci,P373,para.28;P375,p.3;P374,p.2. See also F.Bogujevci,P383,para.28.

²⁶⁵² S.Bogujevci,P373,para.29;P374,p.2;P375,p.3;F.Bogujevci,P383,paras.28,30;P381,p.2;T.1929.

²⁶⁵³ F.Bogujevci,P383,para.29.

²⁶⁵⁴ S.Bogujevci,T.1883;P373,para.40; F.Bogujevci,P383,paras.29,32;P381,pp.4–5; P382,p.5;T.1929,1932–1933; Stoparić,T.2827;P493,para.42. See also Vasiljević,T.5909.

²⁶⁵⁵ S.Bogujevci,P375,pp.6–7. See also Stoparić,P493,para.41;T.2819.

²⁶⁵⁶ Stoparić,T.2830,2864;P493,para.47,50. See also Trajković,T.9093–9094,D442,pp.1–2;P 86,p.1. See P496; Stoparić,T.2825,2831. See generally Stoparić,P493,para.51.

²⁶⁵⁷ Stoparić,T.2825,2827;P493,paras.50–52;P40,p.31;P496.

²⁶⁵⁸ Stoparić,P493,para.52.

²⁶⁵⁹ Stoparić,P493,para.52.

²⁶⁶⁰ Stoparić,P493,para.52;S.Bogujevci,P373,para.32;P375,p.3;P374,pp.2–3;F.Bogujevci,P383,para.30;P382,p.3.

²⁶⁶¹ S.Bogujevci,P373,para.33;P375,p.3;F.Bogujevci,P383,para.31;P381,p.2;T.1929;Stoparić,P493,para.52;P40,p.31.

²⁶⁶² Stoparić,T.2825–2826;P493,para.52;P40,p.31. See also F.Bogujevci,P383,para.31;P381,p.2;T.1929.

²⁶⁶³ S.Bogujevci,P373,paras.36–37;P374,pp.3,8;P375,pp.3,5;T.1892;P376;F.Bogujevci,P383,para.35;P381,p.2;P382,p.3.

²⁶⁶⁴ S.Bogujevci, P373,paras.37–38;P374,pp.3,8–9;P375,p.5;F.Bogujevci,P383,para.31.

²⁶⁶⁵ S.Bogujevci,T.1884,1893;P373,para.39;P374,p.3;F.Bogujevci,P383,para.35;P382,p.7. See F.Bogujevci,T.1924,1926;P384.

what the Skorpion members intended to do with the civilians, so Stoparić sent the civilians out to the street to the commander of the unit, Slobodan Medić (aka Boca).²⁶⁶⁶

1002. On the street, there were many soldiers and policemen, including PJP, SAJ, local policemen and Skorpion members.²⁶⁶⁷ These forces were breaking shop windows and looting.²⁶⁶⁸ On a map, Stoparić marked where the different forces were, using a colour code corresponding to the colour of their uniforms.²⁶⁶⁹

1003. A "soldier" approached Hamdi Duriqui, slapped him and pulled him out of the group.²⁶⁷⁰ Selman Gashi was also on the street, outside a nearby coffee house.²⁶⁷¹ A "soldier" directed Gashi and Duriqui into the coffee house, following them inside.²⁶⁷² Saranda and Fatos heard two shots from inside the coffee house and have not seen either man since.²⁶⁷³ Both men were older than 50.²⁶⁷⁴

1004. On a diagram, Fatos indicated where the coffee house was. He indicated that the group was standing between the path and the coffee house,²⁶⁷⁵ and so he could see it. On a map, Stoparić marked where "the man" was separated and taken into "some kind of catering facility".²⁶⁷⁶ Both witnesses identified similar locations.

1005. The group was directed back into the courtyard from where they had come.²⁶⁷⁷ As they walked, the Skorpion members continued to shout.²⁶⁷⁸ On a photograph, Saranda marked the passage from the street by which the group returned to the courtyard.²⁶⁷⁹ On a diagram, Fatos marked the courtyard into which the group was directed.²⁶⁸⁰ Similarly, Stoparić marked the direction in which the women and children returned to the courtyard and where he was standing when they returned.²⁶⁸¹

²⁶⁶⁶ Stoparić, P493, para. 52; T. 2814. See P496; Stoparić, T. 2826–2827; P493, para. 51.

²⁶⁶⁷ Stoparić, T. 2864; P493, para. 49; P40, p. 31; S. Bogujevci, T. 1884, 1910–1911; P373, paras. 39, 41, 62; P374, pp. 3–4, 8; P375, p. 6; F. Bogujevci, P383, para. 35; P382, p. 3.

²⁶⁶⁸ S. Bogujevci, T. 1884; P373, para. 42; P374, p. 4; F. Bogujevci, P383, para. 36; P381, p. 2.

²⁶⁶⁹ Stoparić, T. 2827; P496. See generally Stoparić, P493, para. 51.

²⁶⁷⁰ S. Bogujevci, T. 1885; P373, para. 42; P374, p. 4; P375, p. 3; F. Bogujevci, P383, para. 36; P382, pp. 3, 5. See Stoparić, T. 2810–2811; P493, para. 54.

²⁶⁷¹ S. Bogujevci, T. 1885; P373, para. 43; P374, p. 4; F. Bogujevci, P383, para. 35.

²⁶⁷² S. Bogujevci, T. 1885; P373, para. 43; P374, p. 4; P375, p. 3; F. Bogujevci, P383, para. 36; Stoparić, T. 2827, 2828; P493, para. 54.

²⁶⁷³ S. Bogujevci, T. 1885; P373, para. 43; P374, p. 4; P375, p. 3; F. Bogujevci, P383, para. 36; P382, p. 7.

²⁶⁷⁴ F. Bogujevci, T. 1931.

²⁶⁷⁵ F. Bogujevci, T. 1924, 1930–1931; P384.

²⁶⁷⁶ Stoparić, T. 2827–2828, 2830; P496. See generally Stoparić, P493, para. 51.

²⁶⁷⁷ S. Bogujevci, P373, para. 44; P374, p. 4; F. Bogujevci, P383, para. 37; P381, p. 2; P382, p. 3. See also Stoparić, T. 2828–2830; P496; P493, para. 54; P40, p. 31.

²⁶⁷⁸ S. Bogujevci, P373, para. 44; P374, p. 4; F. Bogujevci, P381, p. 2.

²⁶⁷⁹ S. Bogujevci, T. 1892; P376.

²⁶⁸⁰ F. Bogujevci, T. 1924, 1933; P384.

²⁶⁸¹ Stoparić, T. 2829; P496. See generally Stoparić, P493, para. 51.

1006. Shefkate, who had been earlier separated from the group, was taken out of the shed and into the courtyard. She was crying: "They are only children".²⁶⁸² The Skorpions then took Shefkate and the group behind the house.²⁶⁸³ While she was walking, one of the Skorpions pushed Shefkate, and then shot her once in the back. She fell on the ground, and the same man shot her again and killed her.²⁶⁸⁴

1007. The Skorpions surrounded the civilians in the courtyard.²⁶⁸⁵ There were approximately 10 "soldiers" in the courtyard, with others coming in and out.²⁶⁸⁶ Saranda said that the "soldier" who shot Shefkate changed his weapon and started shooting at the group.²⁶⁸⁷

1008. Saranda described what happened next:

When he started shooting, I just leaned on the wall and just slid down and then it hit me on my right leg, the bullets, and then after a while the shooting stopped; and there was a sound from someone, the kind of sound where you're struggling to breathe, and then the shooting started again. And then when the shooting started again, it hit me in my arm and in my back. And then after a while, the shooting stopped, and then it was quiet, so I wasn't sure whether the soldiers were still there or had gone. And then I decided to lift my head up.²⁶⁸⁸

1009. Fatos gave a similar account of the shooting and said that the civilians "all fell on top of each other and just fell on the floor".²⁶⁸⁹

1010. Saranda and Fatos identified some of the shooters as wearing a green camouflage uniform.²⁶⁹⁰ Fatos said that the "soldier" who separated Shefkate from the group and directed the group back into the courtyard was the "leader" because he gave orders.²⁶⁹¹

1011. Stoparić heard the shooting with Tomić, as they moved towards an alley leading to an adjacent street. He described it as "continuous and very loud".²⁶⁹² Seconds later, Stoparić and Tomić ran back to the courtyard as the shooting ceased²⁶⁹³ and stopped just at the courtyard's entry,

²⁶⁸² S.Bogujevci, T.1885;P373,para.46;P374,p.4;F.Bogujevci,P383,para.39;T.1933.

²⁶⁸³ S.Bogujevci, T.1885-1886;P380;P373,para.46;P374, p.4;P375,p.4.

²⁶⁸⁴ S.Bogujevci, P373, para.46;P374,p.4;P375,p.4;T.1885-1886,1891; P376;F.Bogujevci,P383,para.40;T.1933 P381,p.2.

²⁶⁸⁵ S.Bogujevci, P373, para.47;P375,p.8;T.1890,1894-1895;P380;P379,pp.1,5; F.Bogujevci,P383,para.37;T.1934; Stoparić, P493,para.56;T.2834.

²⁶⁸⁶ S.Bogujevci, T.1891;P376;P373,para.47. *See also* Stoparić, T.2833-2834;P493,paras.56-57.

²⁶⁸⁷ S.Bogujevci, T.1885-1886;P373,paras.47-48. *See also* P86,p.1;D442, p.2;F.Bogujevci,P383,para.42.

²⁶⁸⁸ S.Bogujevci, T.1887. *See also* S.Bogujevci, 1890-1891,1894;P376;P373,para.48;P374,p.4;P375,p.4;P378.

²⁶⁸⁹ F.Bogujevci, T.1934. *See also* F.Bogujevci, P383, paras.42-45;P382,p.4;T.1935;P384.

²⁶⁹⁰ S.Bogujevci, P373, paras.59,62;P374,p.6;F.Bogujevci, P383, para.37;T.1932-1933.

²⁶⁹¹ F.Bogujevci, T.1932-1933;P383,paras.33, 35;P382,p.5.

²⁶⁹² Stoparić, P493, para.55.

²⁶⁹³ Stoparić, P493, paras.55-56;T.2832;P497.

from where they had a clear view of the courtyard.²⁶⁹⁴ Stoparić saw the bodies of the civilians whom he had seen earlier at the base of a wall.²⁶⁹⁵

1012. Stoparić saw Saša Cvetan, Dragan Medić, Dragan Borojević and Dejan Demirović facing the victims²⁶⁹⁶ in the courtyard and marked their positions on a map.²⁶⁹⁷ Stoparić believed that they were involved in the shooting²⁶⁹⁸ and that Dragan Medić, Boca's brother, ordered the men to kill the civilians because he was the highest ranked in the group.²⁶⁹⁹ The shooters left, without exchanging words with Stoparić.²⁷⁰⁰

1013. Saranda, Fatos and Stoparić all thought that more than one shooter perpetrated the massacre, from the nature of the injuries and the rapid fire of the shots.²⁷⁰¹

1014. Fourteen civilians were killed in the shooting in the courtyard.²⁷⁰² Only five children survived.²⁷⁰³ Saranda was shot in the arm 13 times, twice in the leg and once in the back and now has limited movement in her left arm.²⁷⁰⁴ Fatos was wounded in both legs with three bullets in one and two in another.²⁷⁰⁵

1015. The survivors were administered first aid²⁷⁰⁶ and taken to Priština/Prishtinë hospital.²⁷⁰⁷ At some point one of the children, 9-year-old Lirije Bogujevci, was sent to Belgrade for treatment.²⁷⁰⁸ Saranda's father eventually learnt that the children were in the hospital and visited them.²⁷⁰⁹ The children remained in hospital until June 1999.²⁷¹⁰

1016. The bodies from the massacre were buried in the outskirts of Podujevo/Podujevë.²⁷¹¹ An exhumation report from a grave site in Podujevo, conducted by the OSCE identified 19 bodies,

²⁶⁹⁴ Stoparić, T.2832; P493, para.55; P497.

²⁶⁹⁵ Stoparić, P493, para.56; T.2834, 2839.

²⁶⁹⁶ Stoparić, P493, para.56; T.2833-2834, 2838; P497; P498. *See also* P41, pp.6-7. *See generally* Stoparić, P493, para.51.

²⁶⁹⁷ *See* Stoparić, T.2833, 2838; P497; P498. *See generally* Stoparić, P493, para.51.

²⁶⁹⁸ Stoparić, T.2835; P40, p.32. *See* P41, pp.6-7.

²⁶⁹⁹ Stoparić, T.2839. *See also* Stoparić, P493, para.60.

²⁷⁰⁰ Stoparić, P493, para.58; T.2839.

²⁷⁰¹ S.Bogujevci, P373, para.60; P374, pp.6-8; P375, p.7; T.1888-1889; F.Bogujevci, P383, para.44; P382, p.6; P381, p.6; T.1934; Stoparić, T.2831; P493, para.55. *See* P41, p.8.

²⁷⁰² *See* Indictment, Schedule L.

²⁷⁰³ S.Bogujevci, P373, paras.57, 63; T.1899; F.Bogujevci, P383, paras.51-52; T.1936.

²⁷⁰⁴ S.Bogujevci, T.1899; P373, para.58; P374, p.6.

²⁷⁰⁵ F.Bogujevci, P383, paras.48, 50; T.1934-1935.

²⁷⁰⁶ S.Bogujevci, P373, para.52; P374, p.5; P375, p.4; T.1888, 1914; F.Bogujevci, T.1944; P383, para.46; P382, p.4; P381, p.2; Stoparić, T.2840; P493, para.59; Trajković, T.9094; P86, p.1; D442, p.2.

²⁷⁰⁷ S.Bogujevci, P373, paras.53-55; P374, p.6; P375, p.4; F.Bogujevci, P383, paras.49, 51; T.1937, 1944; P381, p.3. *See also* Trajković, T.9094; P86, p.1; D442, p.2.

²⁷⁰⁸ S.Bogujevci, P373, para.57; F.Bogujevci, T.1944.

²⁷⁰⁹ S.Bogujevci, P373, para.57.

²⁷¹⁰ S.Bogujevci, T.1900, 1914; P373, para.57; F.Bogujevci, T.1937.

²⁷¹¹ F.Bogujevci, P383, para.55; T.1937.

including the people listed by Saranda and Fatos.²⁷¹² The British Forensic Team conducted individual autopsy reports on eight bodies.²⁷¹³ The general conclusion from the autopsies was that the cause of death was multiple gunshot wounds to the chest, neck and head.²⁷¹⁴

15. Unscheduled Incidents

(a) Čuska/ Qyshk

1017. Čuska/Qyshk is located approximately three kilometres east of Peja/Peć.²⁷¹⁵ In May 1999, the village consisted of approximately 2,000 residents, largely of Kosovo Albanian ethnicity.²⁷¹⁶ Around 16 or 17 April 1999, VJ and MUP entered Čuska/Qyshk and set fire to a number of Albanian houses. They did not harm the Serbian houses.²⁷¹⁷

1018. On 14 May 1999, Tahir Kelmendi a Čuska/Qyshk resident saw around eighty heavily armed VJ and MUP members enter Čuska/Qyshk.²⁷¹⁸ Hazir Berisha, a local villager gathered with others in the center of Čuska/Qyshk.²⁷¹⁹ The VJ and MUP surrounded them.²⁷²⁰ Men were separated from women and children.²⁷²¹ Everyone was ordered to throw down their possessions, including identification documents.²⁷²² Hazir Berisha had seen two of the perpetrators (Srećko Popović and Nenad Kastratović) before when they set fire to houses in Čuska/Qyshk in April 1999.²⁷²³ Nebojša Minić was also present.²⁷²⁴ On 14 May, Hazir Berisha did not know their names but learnt this later.²⁷²⁵

1019. The VJ and the MUP divided the 30 odd men into three groups.²⁷²⁶ Before that, Popović made a hand gesture that Hazir Berisha took to mean that “the men should be killed.”²⁷²⁷ They insulted the men by saying, “Where is NATO?” and “Where is the America?”²⁷²⁸

²⁷¹² P1150, pp.4-7. See S.Bogujevci, T.1899; P373, paras.26,63; F.Bogujevci, P383, paras.25,27,52.

²⁷¹³ See P1142; P1145; P1146; P1147; P1148; P1149; P1141; P1143; P1144.

²⁷¹⁴ P1142, pp.3-4; P1141, p.1; P1143, p.1; P1144, p.1; P1145, p.1; P1146, p.1; P1147, p.1; P1148, p.1; P1149, p.1. See also Baccard, T.7681-7682.

²⁷¹⁵ Hazir Berisha, P796, para.5.

²⁷¹⁶ Hazir Berisha, P796, para.5.

²⁷¹⁷ Hazir Berisha, P796, para.10.

²⁷¹⁸ Kelmendi, P803, paras.12-22, T.4765-4770.

²⁷¹⁹ Hazir Berisha, P796, paras.22-23; T.4611.

²⁷²⁰ Hazir Berisha, T.4611-4612.

²⁷²¹ Hazir Berisha, T.4612; Kelmendi, P803, para.45; T.4721.

²⁷²² Hazir Berisha, P796, paras.26,31-32; T.4612-4613; Kelmendi, T.4721. See also Abrahams, T.3984; P756, pp.56-57.

²⁷²³ Hazir Berisha, P796, para.72; T.4608-4609, 4629, 4655-4659; P797; P772

²⁷²⁴ Hazir Berisha, P796, paras.47,73; P772; T.4612-4613, 4616, 4625. Minić was identified as the man on the top row on the far right-hand side of P772 wearing the police uniform and holding the Kalashnikov. The man on the bottom row on the far right of P772 was also with Nebojša Minić on 14 May 1999 (P772; Hazir Berisha, T.4610, 4613).

²⁷²⁵ Hazir Berisha, T.4609, 4656, 4658-4659; P797; P772.

²⁷²⁶ Hazir Berisha, P796, paras.43-47, 50; T.4616-4617, 4621; Kelmendi, P803, paras.46, 54-55; T.4721-4723. See also Abrahams, T.3984; P756, pp.57, 62.

1020. The VJ and MUP directed Hazir Berisha's group of about a dozen men to a house.²⁷²⁹ They started shooting; Hazir Berisha was hit in his leg.²⁷³⁰ A canister was thrown and filled the room with black smoke.²⁷³¹ Hazir Berisha caught on fire.²⁷³² He escaped through a window, hid and was eventually rescued.²⁷³³ Kelmendi heard and observed the murders from a distance.²⁷³⁴

1021. Approximately 41 men were killed in Čuska/Qyshk on 14 May.²⁷³⁵ Three men survived from each house.²⁷³⁶ On that day, other Albanians were killed by the same perpetrators in the nearby villages Pavlač/Pavlan and Sahać/Zahać.²⁷³⁷

Forces of the MUP and the VJ were Responsible for the Crimes in Čuska/Qyshk

1022. On 13 May 1999, Vlahović, a police commander told refugees at a neighbouring village to go to Čuska/Qyshk because the police would be sending all Čuska/Qyshk residents to Albania.²⁷³⁸

1023. On 16 and 17 April and on 14 May 1999, the MUP wore blue camouflage police uniforms with a grey mixture of colours while the VJ wore both solid green and camouflage uniforms.²⁷³⁹ Hazir Berisha identified "Pucrani" as an active policeman in Peć/Peja who was there on 14 May 1999.²⁷⁴⁰ When shown P772, Braković, a PJP commander recognized some men as policemen.²⁷⁴¹ Braković thought he recognised "Salipur," a police officer affiliated with the Peć/Peja SUP. The SUP Chief of Peć/Peja was Đorđević's direct subordinate.

²⁷²⁷ Hazir Berisha, P796, paras. 43-47-48; T. 4616-4617.

²⁷²⁸ Hazir Berisha, P796, para. 51; T. 4617.

²⁷²⁹ Hazir Berisha, P796, paras. 53-55; T. 4617-4618.

²⁷³⁰ Hazir Berisha, P796, paras. 56-57; T. 4618-4621.

²⁷³¹ Hazir Berisha, P796, paras. 60-61; T. 4619-4621.

²⁷³² Hazir Berisha, P796, paras. 61-62; T. 4619-4620, 4665.

²⁷³³ Hazir Berisha, P796, paras. 64-74; T. 4619-4622, 4666-4667. *See also* Kelmendi, T. 4724, 4730-4731, 4739, 4781-4782; P797.

²⁷³⁴ Kelmendi, P803, para. 55-60; T. 4723-4724, 4731-4732.

²⁷³⁵ Hazir Berisha, T. 4623; Abrahams, T. 3983-3984; P756, p. 70.

²⁷³⁶ Kelmendi, P803, para. 57; T. 4724, 4731-4732.

²⁷³⁷ Hazir Berisha, T. 4624; Abrahams, P756, pp. 71-73; T. 3983. For other murders at that time, *see also* Kelmendi, P803 paras. 50-51, 73-75; T. 4714-4715, 4725-4726, 4733, 4737, 4740-4744, 4780.

²⁷³⁸ Kelmendi, P803, paras. 34-36; T. 4716-4717, 4720; 4775-4776, 4785-4787. *See also* Kelmendi, P803, paras. 24-29; T. 4719-4720; T. 4771-4772.

²⁷³⁹ Hazir Berisha, T. 4631, 4640. *See also* D117, p. 2. Hazir Berisha said that he did not know why D117 mentioned "paramilitaries" and that it was the police and the army in who were at Qyska/Čuska that day: Hazir Berisha, T. 4646-4650.

²⁷⁴⁰ Hazir Berisha, T. 4627-4631; P772.

²⁷⁴¹ P345, p. 7; Braković, T. 4185-4186; P772.

1024. Both Berisha and Kelmendi recognized the man wearing a cap as Salipur (or Saripuri or Šalipur) and said he was a policeman.²⁷⁴² Kelmendi knew Salipur as “Munja.”²⁷⁴³ Sharipul was known as a dangerous man and maltreated Albanians.²⁷⁴⁴

1025. Braković knew of a unit called “Munja” in Peć/Peja that was composed of policemen tasked with complex tasks in mid-1998 in the town of Peć.²⁷⁴⁵ During a Joint Command meeting on 30 July 1998, Đorđević stated that “Munja/Lightning will tomorrow proceed to Vučak near Ovčarevo”.²⁷⁴⁶ It is likely that the “Munja” participated in the Čuska/Qyshk massacre.

(b) Pusto Selo/PustaSelë

1026. Pusto Selo/Pustaselë is a village in Orahovac/Rahovec municipality, located north-east of Orahovac/Rahovec town.²⁷⁴⁷ On 31 March 1999, Serb forces in tanks entered Pusto Selo/Pustaselë.²⁷⁴⁸ They separated men from women and children, and took their valuables.²⁷⁴⁹ They sent the women towards Ratkovac/Ratkoc.²⁷⁵⁰

1027. The police told the remaining men to “[s]it down, kneel down, like you do in the mosque”²⁷⁵¹ and look down at the earth that “belongs to Serbia”.²⁷⁵² They beat the men and emptied their pockets of valuables, money and identification documents.²⁷⁵³ Beqir Krasniqi, a Pusto Selo/Pustaselë resident, heard the Serbian word for “execution” – “streljanje” – from one of the police radios.²⁷⁵⁴

1028. The police then marched the men to a nearby stream,²⁷⁵⁵ lined them along the river, and shot at them in smaller groups.²⁷⁵⁶ The police repeated this procedure four times.²⁷⁵⁷ Krasniqi was in the

²⁷⁴² Hazir Berisha, P772; T.4610,4626,4631; Berisha knew his name before 14 May and knew him to be a policeman. (T.4627).

²⁷⁴³ Kelmendi, T.4727,4745; P772.

²⁷⁴⁴ Kelmendi, T.4727-4728,4745,4750,4753,4785-4786; Hazir Berisha, T.4626,4671. Hazir Berisha’s testimony on whether Sharipul was present in Qyshk/Čuska on 14 May is unclear. See Hazir Berisha, T.4610,4631,4653,4657. Berisha said that he knew that Salipur had been killed (T.4653).

²⁷⁴⁵ Braković, T.4187. See also P755, pp.14-22.

²⁷⁴⁶ P886, p.23.

²⁷⁴⁷ P823, p.16.

²⁷⁴⁸ Mazreku, T.6169-6170,6188,6192,6198-6199; P987, p.3; B. Krasniqi, P909, p.3; P908, p.3; D226, p.2.

²⁷⁴⁹ Mazreku, P987, p.3; T.6170-6171,6199; B. Krasniqi, T.6035,6073,6078,6081; P908, p.3; P909, p.3; D226, p.3.

²⁷⁵⁰ Mazreku, P987, p.4; T.6171; B. Krasniqi, T.6077; P908, p.3.

²⁷⁵¹ B. Krasniqi, T.6035; P908, p.3; T.6029.

²⁷⁵² B. Krasniqi, T.6063,6073; Mazreku, T.6171.

²⁷⁵³ Mazreku, P987, pp.3-4; T.6171; B. Krasniqi, T.6035,6078; P908, pp.3-4; D226, p.3. See also B. Krasniqi, T.6029.

²⁷⁵⁴ B. Krasniqi, P908, p.4; T.6036,6080.

²⁷⁵⁵ B. Krasniqi, T.6035-6036; P908, p.5; D226, p.3; Mazreku, P987, p.4.

²⁷⁵⁶ Mazreku, T.6172,6198; P987, p.4; B. Krasniqi, T.6035-6036,6080; P908, p.5; D226, p.3.

²⁷⁵⁷ Mazreku, T.6172-6174; P987, pp.4-5.

second group of men.²⁷⁵⁸ When the shooting started, bodies fell on top of Krasniqi.²⁷⁵⁹ After his group, Krasniqi heard two more rounds of fire.²⁷⁶⁰ Mazreku was in the last group of men.²⁷⁶¹ At the river, around 200–300 shots were fired. Mazreku fell down.²⁷⁶² Krasniqi saw houses on fire.²⁷⁶³ 106 men were executed,²⁷⁶⁴ and thirteen survived.²⁷⁶⁵

Forces of the FRY and Serbia were responsible for the crimes in Pusto Selo/Pustaselë

1029. VJ and MUP forces were responsible for the massacre.²⁷⁶⁶ Serbs who arrived on tanks and the shooters wore “grass green” or “[d]ark green, olive green” clothes.²⁷⁶⁷ “Policija” or Milicija” was written on their backs.²⁷⁶⁸ The Serbian flag and four “S” was worn on the sleeves.²⁷⁶⁹ Krasniqi gave various descriptions of the uniforms of the Serb forces in Pusto Selo/Pustaselë,²⁷⁷⁰ due to his difficulty in naming colours.²⁷⁷¹ Despite the discrepancies in his description of uniforms, Krasniqi consistently testified that police “in uniform” were in Pusto Selo/Pustaselë and committed the massacre.²⁷⁷² Krasniqi and Mazreku both testified that the Serb forces they saw were older than regular soldiers,²⁷⁷³ and entered Pusto Selo/Pustaselë in tanks, trucks and jeeps.²⁷⁷⁴

1030. Further, as already discussed elsewhere (Part IV, Section (C)(1)), there is overwhelming evidence confirming the presence of forces of the FRY and Serbia in the Orahovac/Rahovec municipality from the end of March until at least mid-April 1999.²⁷⁷⁵

²⁷⁵⁸ B.Krasniqi, T.6080; B.Krasniqi, P908, p.5.; D226, p.3. See also Mazreku, P987, pp.4–5.

²⁷⁵⁹ B.Krasniqi, P908, p.5.

²⁷⁶⁰ B.Krasniqi, D226, p.3; P908, pp.5–6.

²⁷⁶¹ Mazreku, P987, p.5.

²⁷⁶² Mazreku, P987, p.5; T.6174.

²⁷⁶³ B.Krasniqi, P908, p.6; T.6072; D226, p.3. See also D811, p.5.

²⁷⁶⁴ Mazreku, T.6175; P988, para.13; B.Krasniqi, T.6072; P908, p.7.

²⁷⁶⁵ Mazreku, T.6174–6175; P987, p.4, P988, para.13; B.Krasniqi, D226, p.3. See also B.Krasniqi, T.6035–6036; P908, pp.5, 7; [REDACTED].

²⁷⁶⁶ Mazreku, T.6172, 6198; P987, p.4; B.Krasniqi, T.6035–6036, 6080; P908, p.5.

²⁷⁶⁷ Mazreku, T.6170, 6172, 6193, 6197–6198; P988, para.6.

²⁷⁶⁸ Mazreku, T.6170, 6178–6179, 6192–6193, 6197–6198; P987, p.3; P988, paras.6–7. See also Mazreku, T.6194; P327.

²⁷⁶⁹ Mazreku, T.6194–6196; P318.

²⁷⁷⁰ See e.g., B.Krasniqi, P908, p.3; D225(MFI), pp.1,3. B.Krasniqi marked the blue camouflage pattern as the uniforms he saw in Pusto Selo/Pustaselë (B.Krasniqi, T.6030–6031; P910).

²⁷⁷¹ B.Krasniqi, T.6023–6024.

²⁷⁷² B.Krasniqi, T.6029. See also B.Krasniqi, T.6036.

²⁷⁷³ B.Krasniqi, T.6043, 6072; P908, p.3; P909, paras.21, 23; Mazreku, P988, para.6.

²⁷⁷⁴ B.Krasniqi, T.6061; P908, p.8; Mazreku, T.6170, 6192, 6198; P987, p.3; P318.

²⁷⁷⁵ See e.g., P350; P1316; P1317; P970; P898; See also P1285; [REDACTED]; P1548, p.2.

V. RESPONSIBILITY PURSUANT TO ARTICLES 7(1) AND 7(3) OF THE STATUTE

A. Legal Elements of Article 7(1) mode of liability

1. Joint criminal enterprise (JCE)

1031. Participation in a JCE is a form of “commission” under Article 7(1) of the Statute.²⁷⁷⁶ A conviction under this mode of responsibility requires a finding that the accused participated in the JCE. The accused in this case did not physically commit any crimes but participated in the JCE as co-perpetrator. For responsibility under JCE, the participant need not physically participate in any element of any crime, so long as the requirements of JCE responsibility are met.²⁷⁷⁷ Nor is the participant in a JCE required to be physically present when and where the crime is being committed.²⁷⁷⁸

JCE I

1032. The elements for the first form of JCE are:²⁷⁷⁹

- A plurality of persons;²⁷⁸⁰
- The existence of a common design, plan or purpose which amounts to or involves the commission of a crime provided for in the Statute;²⁷⁸¹
- The accused participated in the common design, plan or purpose through his acts or omissions;²⁷⁸²
- The JCE members shared the intent for the crimes in question.²⁷⁸³

Plurality of persons

1033. JCE liability requires a plurality of persons.²⁷⁸⁴ They need not be organised in a military, political, or administrative structure.²⁷⁸⁵ While the plurality of persons belonging to the JCE must

²⁷⁷⁶ *Kvočka* AJ, para. 79; *Vasiljević* AJ, para. 95.

²⁷⁷⁷ *Kvočka* AJ, para. 99.

²⁷⁷⁸ *Kvočka* AJ, paras. 112-113, 276; *Simba* AJ, para. 296. However, it may be taken as an indicator of a co-perpetrator's contribution. *Simba* AJ, para. 296.

²⁷⁷⁹ *Stakić* AJ, para. 64. See also *Kvočka* AJ, para. 81; *Vasiljević* AJ, para. 100.

²⁷⁸⁰ *Stakić* AJ, para. 69 (referring to a plurality of persons that acted together in the implementation of a common goal).

²⁷⁸¹ *Stakić* AJ, para. 64 (referring to *Tadić* AJ, para. 227).

²⁷⁸² *Stakić* AJ, para. 64 (referring to *Tadić* AJ, para. 227).

²⁷⁸³ *Brdanin* AJ, para. 365 (referring to Accused's intent to commit the crime and to participate in a common plan aimed at its commission); *Kvočka* AJ, para. 82; *Stakić* AJ, para. 65; *Vasiljević* AJ, para. 97; *Tadić* AJ, para. 196.

²⁷⁸⁴ *Stakić* AJ, para. 69 (referring to a plurality of persons that acted together in the implementation of a common goal).

be identified, it is not necessary to identify by name each of the persons involved.²⁷⁸⁶ Depending on the circumstances of the case, it can be sufficient to refer to categories or groups of persons.²⁷⁸⁷

1034. Liability under JCE may exist even if none or only some of the physical perpetrators are members of the JCE.²⁷⁸⁸ What matters in a first category JCE is not whether the person who carried out the *actus reus* of a particular crime is a JCE member, but whether the crime in question forms part of the common purpose.²⁷⁸⁹ This is a matter of evidence.²⁷⁹⁰

1035. Where the principal perpetrator of a particular crime is not a JCE member, this essential requirement - whether the crime is part of the common purpose - may be inferred from various circumstances, including the fact that the accused or any other member of the JCE closely cooperated with the principal perpetrator to further the common criminal purpose.²⁷⁹¹ To hold a member of a JCE responsible for crimes committed by non-members, it has to be shown that the crime can be imputed to one member of the JCE, who - when using a principal perpetrator - acted in accordance with the common plan.²⁷⁹² The existence of this link should be assessed on a case-by-case basis.²⁷⁹³ "Factors indicative of such a link include evidence that the JCE member explicitly or implicitly requested the non-JCE member to commit such a crime or instigated, ordered, encouraged, or otherwise availed himself of the non-JCE member to commit the crime."²⁷⁹⁴ A link can also be established where the JCE member controls the hierarchical structure to which the physical perpetrator belongs;²⁷⁹⁵ or where a hierarchical structure used by the JCE member cooperates with the physical perpetrators.²⁷⁹⁶

Common Purpose

1036. It is necessary to prove the existence of a common plan, design or purpose among the JCE members which amounts to or involves the commission of a crime provided for in the Statute.²⁷⁹⁷ An explicit agreement among the JCE participants is not required.²⁷⁹⁸ There is no need for this

²⁷⁸⁵ *Stakić* AJ, para.64 (referring to *Tadić* AJ, para.227).

²⁷⁸⁶ *Krajišnik* AJ, para.156.

²⁷⁸⁷ *Krajišnik* AJ, para.156; *Limaj* AJ, para.99; *Brdanin* AJ, para.430.

²⁷⁸⁸ *Brdanin* AJ, para.413.

²⁷⁸⁹ *Brdanin* AJ, paras.410,418-419.

²⁷⁹⁰ *Brdanin* AJ, para.418.

²⁷⁹¹ *Brdanin* AJ, para.410.

²⁷⁹² *Brdanin* AJ, para.413.

²⁷⁹³ *Brdanin* AJ, para.413.

²⁷⁹⁴ *Krajišnik* AJ, para.226.

²⁷⁹⁵ *Martić* AJ, para.181.

²⁷⁹⁶ *See, Martić* AJ, para.195.

²⁷⁹⁷ *Stakić* AJ, para.64 (referring to *Tadić* AJ, para.227).

²⁷⁹⁸ *Krajišnik* TJ, para.883.

purpose to have been previously arranged or formulated; it may materialise extemporaneously and be inferred from the facts.²⁷⁹⁹ The common purpose can evolve over time so as to comprise additional (expanded) crimes.²⁸⁰⁰ This requires that the JCE members were informed of the crimes, did nothing to prevent their recurrence and persisted in the implementation of this expansion of the common objective.²⁸⁰¹

Contribution

1037. The accused must have participated in the common purpose.²⁸⁰² This participation need not involve the commission of a specific crime (for example, murder, extermination, torture), or be criminal *per se*, but may take the form of assistance in, or contribution to, the execution of the common purpose.²⁸⁰³ It is sufficient for the accused to have committed an act or an omission which contributes to the common criminal purpose.²⁸⁰⁴ Although an accused's contribution to the JCE need not be necessary or substantial, it should at least be a significant contribution to the crimes for which the accused is to be found responsible.²⁸⁰⁵

Mens Rea

1038. In JCE I the co-perpetrators possess the shared intent for the crimes in question.²⁸⁰⁶ This requires the common state of mind that the crime(s) should be carried out;²⁸⁰⁷ the commission of the crime must be the goal of the JCE members.²⁸⁰⁸ Such intent is different from motive and JCE members need not desire the criminal result or be enthusiastic about it.²⁸⁰⁹ Intent may be inferred from the circumstances,²⁸¹⁰ such as from acceptance of the crime and continued contribution.²⁸¹¹ The inference that the JCE members were motivated by the requisite intent may be drawn even where those individuals are not precisely identified.²⁸¹² An individual's conduct may be a relevant factor in establishing his or her intent.²⁸¹³

²⁷⁹⁹ *Stakić* AJ, para.64 (referring to *Tadić* AJ, para.227).

²⁸⁰⁰ *Krajišnik* AJ, para.163

²⁸⁰¹ *Krajišnik* AJ, para.171.

²⁸⁰² *Stakić* AJ, para.64 (referring to *Tadić* AJ, para.227).

²⁸⁰³ *Stakić* AJ, para.64; *Krajišnik* AJ, para.695.

²⁸⁰⁴ *Kvočka* AJ, para.187.

²⁸⁰⁵ *Simba* AJ, para.303; *Brdanin* AJ, para.430. In practice, the significance of the accused's contribution will be relevant to demonstrating that the accused shared the intent to pursue the common purpose: *Kvočka* AJ, para.97.

²⁸⁰⁶ *Tadić* AJ, para.228; *Stakić* AJ, para.65.

²⁸⁰⁷ *Krajišnik* AJ, paras.200, 707.

²⁸⁰⁸ *Brdanin* AJ, paras.365, 431; *Martić* AJ, para.172.

²⁸⁰⁹ *Kvočka* AJ, paras.105-106, 416.

²⁸¹⁰ *Kvočka* AJ, para.243.

²⁸¹¹ *Krajišnik* AJ, para.200.

²⁸¹² See *Krstić* AJ, para.34 ("Where direct evidence of genocidal intent is absent, the intent may still be inferred from the factual circumstances of the crime. The inference that a particular atrocity was motivated by genocidal intent may be

JCE III

1039. Responsibility under JCE III is responsibility for crimes which were not included in the common purpose, but were nevertheless a natural and foreseeable consequence of the execution of the common purpose.²⁸¹⁴

1040. The requisite *mens rea* for this form of JCE is twofold.²⁸¹⁵ First, the accused must have the intention to participate in and contribute to the common criminal plan, design or purpose.²⁸¹⁶ Second, it must have been foreseeable that such a crime might be perpetrated by one or other members of the group, and it must be proved that the accused willingly took that risk.²⁸¹⁷ This means that the accused was aware that such crime was a possible consequence of the execution of that enterprise and with that awareness, the accused decided to participate in that enterprise.²⁸¹⁸ The crime must be shown to have been foreseeable to the accused in particular.²⁸¹⁹

1041. When the accused, or any other member of the JCE, in order to further the common criminal purpose, uses persons who, in addition to (or instead of) carrying out the *actus reus* of the crimes forming part of the common purpose, commit crimes going beyond that purpose, the accused may be found responsible for such crimes provided that he participated in the common criminal purpose with the requisite intent and that, in the circumstances of the case, (i) it was foreseeable that such a crime might be perpetrated by one or more of the persons used by him (or by any other member of the JCE) in order to carry out the *actus reus* of the crimes forming part of the common purpose; and (ii) the accused willingly took that risk: the accused, with the awareness that such a crime was a possible consequence of the implementation of that enterprise, decided to participate in that enterprise.²⁸²⁰

drawn, moreover, even where the individuals to whom the intent is attributable are not precisely identified" (references omitted, emphasis added)); see also *Kordić* AJ, para.675 (inferring discriminatory intent on the part of the perpetrators, required for persecutions, and referring to *Krstić*).

²⁸¹³ *Kvočka* AJ, para.213.

²⁸¹⁴ *Kvočka* AJ, para.83.

²⁸¹⁵ *Kvočka* AJ, para.83.

²⁸¹⁶ *Kvočka* AJ, para.83.

²⁸¹⁷ *Stakić* AJ, para.65.

²⁸¹⁸ *Stakić* AJ, para.87; *Brdanin* AJ, paras.365, 411; *Blaškić* AJ, para.33; *Vasiljević* AJ, para.101; *Martić* AJ, para.83; *Krnjelac* AJ, para.32; *Prosecutor v. Karadžić*, Case No. IT-95-5/18, App. Ch., Decision on Prosecution's Motion Appealing Trial Chamber's Decision on JCE III Foreseeability, 25 June 2009, para.18.

²⁸¹⁹ *Stakić* AJ, para.65.

²⁸²⁰ *Brdanin* AJ, para.411.

2. Ordering

Actus Reus

1042. The accused, as a person in a position of authority, instructed another person to commit an offence.²⁸²¹

1043. It is sufficient that there is proof of some position of authority on the part of the accused that would compel the perpetrator to commit a crime pursuant to the accused's order.²⁸²² A formal superior-subordinate relationship is not required.²⁸²³ The position of authority may be informal or of a purely temporary nature.²⁸²⁴

1044. The order does not need to be given in any particular form,²⁸²⁵ and does not necessarily have to be explicit in relation to the consequences it will have.²⁸²⁶ It is not necessary that the order be given directly to the individual executing it.²⁸²⁷ Physical presence at the scene of the crime is not required.²⁸²⁸ The order has to have a direct and substantial effect on the commission of the illegal act.²⁸²⁹

Mens Rea

1045. The accused acted with direct intent or with the awareness of the substantial likelihood that a crime would be committed in the execution of that order.²⁸³⁰

3. Planning

Actus Reus

1046. The accused, alone or together with others, designed the criminal conduct constituting the crimes charged. The planning was a factor substantially contributing to the perpetration of the crimes.²⁸³¹

1047. The existence of a plan can be proved by circumstantial evidence.²⁸³²

²⁸²¹ *Kordić* AJ, para.28.

²⁸²² *Karera* AJ, para.211; *Semanza* AJ, para.361.

²⁸²³ *Kordić* AJ, para.28.

²⁸²⁴ *Semanza* AJ, para.363.

²⁸²⁵ *Kamuhanda* AJ, para.76; *Krstić* TJ, para. 601.

²⁸²⁶ *D. Milošević* AJ, para.267.

²⁸²⁷ *Blaškić* TJ, para.282.

²⁸²⁸ *D. Milošević* AJ, para.290.

²⁸²⁹ *Kamuhanda* AJ, para.75; *Kayishema* AJ, para.186; *Gacumbitsi* AJ, paras.184-185.

²⁸³⁰ *Blaškić* AJ, para.42; *Kordić* AJ, paras.29,30.

²⁸³¹ *Kordić* AJ, para.26.

Mens Rea

1048. The accused acted with direct intent or with the awareness of the substantial likelihood that a crime would be committed in the execution of that plan.²⁸³³

4. Instigating***Actus Reus***

1049. The accused prompted another person to commit the offence.²⁸³⁴ The instigation was a factor substantially contributing to the conduct of the other person committing the crime.²⁸³⁵ The accused need not be present when the instigated crime is committed.²⁸³⁶

1050. It need not be shown that the offence would not have been committed without the participation of the instigator. It suffices to demonstrate that the instigation was a factor substantially contributing to the conduct of the person committing the crime.²⁸³⁷

Mens Rea

1051. The accused acted with direct intent or with the awareness of the substantial likelihood²⁸³⁸ that a crime would be committed in the execution of that instigation.²⁸³⁹

5. Aiding and abetting***Actus Reus***

1052. The accused gave practical assistance, encouragement, or moral support which had a substantial effect on the perpetration of the crime.²⁸⁴⁰

1053. The *actus reus* of aiding and abetting a crime may occur before, during, or after the principal crime has been perpetrated, and the location at which the *actus reus* takes place may be removed from the location of the principal crime.²⁸⁴¹

²⁸³² Blaškić TJ, para.279.

²⁸³³ Kordić AJ, paras.29,31.

²⁸³⁴ Kordić AJ, para.27.

²⁸³⁵ Kordić AJ, para.27.

²⁸³⁶ Nahimana AJ, para.660.

²⁸³⁷ Kordić AJ, para.27.

²⁸³⁸ Kordić AJ, para.32.

²⁸³⁹ Kordić AJ, paras.29,32.

²⁸⁴⁰ Blaškić AJ, para.46.

Mens Rea

1054. The accused knew that his acts assist in the commission of the crime of the principal perpetrator and was aware of the essential elements of the crime which was ultimately committed by the principal.²⁸⁴² It is not necessary that the aider and abettor is aware of the precise crime that was intended and which in the event was committed, rather it suffices that he is aware that one of a number of crimes will probably be committed, and one of those crimes is in fact committed.²⁸⁴³

B. Legal elements of Article 7(3) mode of liability

1055. Criminal responsibility under Article 7(3) requires: 1) the existence of a superior-subordinate relationship with the superior's "effective control" over the subordinate(s), 2) knowledge or reason to know that a crime is about to be or has been committed by a subordinate, and 3) a failure to take necessary and reasonable measures to prevent the crime or punish the perpetrator.²⁸⁴⁴

1056. Superior responsibility under Article 7(3) "encompasses all forms of criminal conduct by subordinates, not only the 'committing' crimes in the restricted sense of the term, but all other modes of participation under Article 7(1)."²⁸⁴⁵ Applicable in both international and internal armed conflicts,²⁸⁴⁶ the scope of superior responsibility under Article 7(3) of the Statute extends beyond traditional "command responsibility" to both military and civilian superiors who possess authority.²⁸⁴⁷

1. Superior-subordinate relationship

1057. For Article 7(3) liability it must be established that the accused was a *de jure* or *de facto* superior and that he had effective control over the subordinate who engaged in criminal conduct.²⁸⁴⁸

²⁸⁴¹ *Blaškić* AJ, para.48.

²⁸⁴² *Simić* AJ, para. 86. *See also Mrkšić* AJ, paras.49, 60, (referring to the awareness of a probability); *see also* para.63; *Blaškić* AJ, paras.45, 50; *Ndindabahizi* AJ, para. 122 (referring to aiding and abetting a crime with awareness that a crime will probably be committed) *Furundžija* TJ, para.246; *Blaškić* TJ, para.287 (both referred to in *Blaškić* AJ, fn.94), *Brdanin* TJ, para.272; *Strugar* TJ, para.350.).

²⁸⁴³ *Blaškić* AJ, para.50.

²⁸⁴⁴ *D.Milošević* AJ, para.280; *Orić* AJ, para.18; *Nahimana* AJ, para.484; *Halilović* AJ, paras.59, 210.

²⁸⁴⁵ *Blagojević* AJ, para.280. *See also Nahimana* AJ, paras.485-486; *Orić* AJ, para.21.

²⁸⁴⁶ *Hadžihasanović* Superior Responsibility AD, paras.10-36,57.

²⁸⁴⁷ *Čelebići* AJ, para.196; *Orić* TJ, para.308, citing *Čelebići* TJ, paras.356,378; *Aleksovski* TJ, para.75; *Aleksovski* AJ, para.76; *Kordić* TJ, para.416; *Stakić* TJ, para.459.

²⁸⁴⁸ *D.Milošević* AJ, para.280; *Orić* AJ, para.18; *Nahimana* AJ, para.484; *Halilović* AJ, paras.59, 210; *Čelebići* AJ, paras.196, 198.

1058. A superior-subordinate relationship is most obviously characterised by the hierarchical relationship that exists in a military structure on all levels,²⁸⁴⁹ but it does not require direct or formal subordination.²⁸⁵⁰ Furthermore, there is no requirement that the relationship between the superior and subordinate be direct, immediate or permanent in nature;²⁸⁵¹ superior responsibility can be triggered in cases of temporary command or re-subordination of troops.²⁸⁵²

1059. The superior must also have “effective control” over the subordinates, meaning “the material ability to prevent or punish” the subordinates’ offences.²⁸⁵³

1060. Indicators of effective control are more a matter of evidence than of substantive law.²⁸⁵⁴ Such indicators are limited to demonstrating the power to prevent, punish, or initiate measures leading to proceedings against the alleged perpetrators.²⁸⁵⁵ The ability to initiate criminal investigations against the perpetrators may be an indicator of effective control.²⁸⁵⁶ The capacity to issue orders, and proof that the orders are actually followed, is yet another indicator.²⁸⁵⁷ More than one entity can wield effective control over a unit at a particular point in time.²⁸⁵⁸

2. Knew or had reason to know

1061. An assessment of the mental element required by Article 7(3) of the Statute should be made “in the specific circumstances of each case, taking into account the specific situation of the superior concerned at the time in question.”²⁸⁵⁹ To be held responsible under Article 7(3), it must be proved that a superior knew or had reason to know that a subordinate was about to commit a crime or had done so. This requirement is satisfied if information was available to the superior which would have

²⁸⁴⁹ See ICRC Commentary on Article 87 of Additional Protocol I, para.3553: “There is no member of the armed forces exercising command who is not obliged to ensure the proper application of the [Geneva] Conventions and the [Additional] Protocol. As there is no part of the army which is not subordinated to a military commander at whatever level, this responsibility applies from the highest to the lowest level of the hierarchy, from the Commander-in-Chief down to the common soldier who takes over as head of the platoon to which he belongs at the moment his commanding officer has fallen and is no longer capable of fulfilling his task.”

²⁸⁵⁰ *Čelebići* AJ, para. 303.

²⁸⁵¹ See *Strugar* TJ, paras. 362-363.

²⁸⁵² *Strugar* TJ, para. 362, fn. 1072, relying on ICRC Commentary on Article 87 of Additional Protocol I, p. 1019 (para. 3554), which provides that: “A commander may, for a particular operation and for a limited period of time, be supplied with reinforcements consisting of troops who are not normally under his command. He must ensure that these members of the armed forces comply with the Conventions and the Protocol as long as they remain under his command.” See also *Blaškić* AJ, paras. 498-499; *Delić* TJ, para. 54.

²⁸⁵³ *Čelebići* AJ, paras. 196, 256; *Čelebići* TJ, para. 377-378.

²⁸⁵⁴ *Blaškić* AJ, para. 69, citing *Aleksovski* AJ, paras. 73-74; *Čelebići* AJ, para. 206.

²⁸⁵⁵ *Blaškić* AJ, para. 69, citing *Aleksovski* AJ, para. 76.

²⁸⁵⁶ *Halilović* AJ, para. 182.

²⁸⁵⁷ *Halilović* AJ, para. 207. See also *D. Milošević* AJ, para. 280; *Strugar* AJ, paras. 253-254.

²⁸⁵⁸ *Aleksovski* TJ, para. 106; *Blaškić* TJ, para. 303.

²⁸⁵⁹ *Čelebići* AJ, para. 239.

put him on notice – whether actual or inquiry notice – of offences by subordinates.²⁸⁶⁰ The same state of knowledge is required for both civilian and military superiors.²⁸⁶¹

Actual notice

1062. Actual knowledge may be established through direct or circumstantial evidence.²⁸⁶² In determining whether a superior had actual knowledge of the acts of his subordinates, the Chamber may consider factors such as the number, type and scope of unlawful acts, their timing, the number and type of troops and the logistics involved, the *modus operandi* of similar unlawful acts, the staff and officers involved, and the location of the superior when the acts were committed.²⁸⁶³

Inquiry notice

1063. Criminal responsibility attaches to a superior where information was available to him which would have put him on notice of the offences committed by his subordinates.²⁸⁶⁴ It is not required that the superior actually acquaint himself with the information.²⁸⁶⁵ A superior will be deemed to have reason to know when he possessed information sufficiently alarming to justify further inquiry.²⁸⁶⁶ This information may be general in nature, and does not need to include specific details about unlawful acts which have been or are about to be committed.²⁸⁶⁷ Examples of information that may put a superior on inquiry notice include the criminal propensity or violent or unstable character of subordinates, the level of their training and instruction, and the tactical situation.²⁸⁶⁸

1064. Knowledge of past crimes can also put a superior on notice of the risk of future crimes.²⁸⁶⁹ Moreover, where a superior fails to punish known past crimes, it “is likely to be understood by his subordinates at least as acceptance, if not encouragement, of such conduct with the effect of

²⁸⁶⁰ *Čelebići* AJ, paras.238,241 provide in part: “a superior will be criminally responsible through the principles of superior responsibility only if information was available to him which would have put him on notice of offences committed by subordinates” (emphasis added).

²⁸⁶¹ *Brđanin* TJ, para.282; *Krnjelac* TJ, para.94; *Musema* TJ, paras.147-148. See *Nahimana* AJ, paras.791, 839-841.

²⁸⁶² *Hadžihasanović* TJ, para.94, citing *Čelebići* TJ, para.386; *Krnjelac* TJ, para.94; *Kordić* TJ, para.427; *Brđanin* TJ, para.278; *Strugar* TJ, para.368. See also *Delić* TJ, para.64; *Boškoski* TJ, para.413.

²⁸⁶³ *Čelebići* TJ, para.386; *Orić* TJ, para.319. See also *Delić* TJ, para.64; *Boškoski* TJ, para.413.

²⁸⁶⁴ *Čelebići* AJ, para.241. See also *Blaškić* AJ, paras.62,64; *Halilović* TJ, para.67; *Orić* AJ, para.52.

²⁸⁶⁵ *Čelebići* AJ, para.239.

²⁸⁶⁶ *Strugar* AJ, paras.298, 304; *Hadžihasanović* AJ, paras.28,261; *Čelebići* AJ, para.232 (finding that “failure to conclude, or conduct additional inquiry, in spite of alarming information constitutes knowledge of subordinate offences”).

²⁸⁶⁷ See *Čelebići* AJ, para.238; *Krnjelac* AJ, paras.154-155,171; *Blaškić* AJ, para.62.

²⁸⁶⁸ *Hadžihasanović* TJ, paras.99-100. See also *Čelebići* AJ, para.238.

²⁸⁶⁹ *Strugar* AJ, para.301; *Hadžihasanović* AJ, para.30. See also *Krnjelac* AJ, para.172 (entering convictions under Article 7(3) for *Krnjelac*’s failure “to take the necessary and reasonable measures to prevent the acts of torture committed subsequent to those inflicted on Ekrem Zeković and for having failed to investigate the acts of torture committed prior to those inflicted on Ekrem Zeković and, if need be, punish the perpetrators.”).

increasing the risk of new crimes being committed.”²⁸⁷⁰ As such, it is relevant to the determination of whether a superior possessed information sufficiently alarming to put him on notice of the risk that subordinates might subsequently perpetrate similar crimes.²⁸⁷¹ While a superior’s knowledge of and failure to punish his subordinates’ past offences is insufficient, in itself, to conclude that the superior knew that similar future offences would be committed by the same group of subordinates, this may, depending on the circumstances of the case, nevertheless constitute sufficiently alarming information to justify further inquiry under the “had reasons to know” standard.²⁸⁷²

3. Failed to prevent or punish

1065. The last requirement under Article 7(3) is that the superior failed to take the necessary and reasonable measures to prevent the crime or to punish the perpetrators.

What measures are “necessary and reasonable”

1066. The “necessary and reasonable” measures to prevent or punish which a superior must take are those measures that are “within his material possibility,” to be evaluated on a case-by-case basis.²⁸⁷³ In essence, “it is a commander’s degree of effective control, his material ability, which will guide the Trial Chamber in determining whether he reasonably took the measures required either to prevent the crime or to punish the perpetrator.”²⁸⁷⁴ Generally speaking, “‘necessary’ measures are the measures appropriate for the superior to discharge his obligation (showing that he genuinely tried to prevent or punish) and ‘reasonable’ measures are those reasonably falling within the material powers of the superior.”²⁸⁷⁵

²⁸⁷⁰ *Hadžihasanović* AJ, para.30. See also *Strugar* AJ, para.301.

²⁸⁷¹ *Hadžihasanović* AJ, para.30 (Failure to punish known past crimes “is indeed relevant to the determination of whether, in the circumstances of a case, a superior possessed information that was sufficiently alarming to put him on notice of the risk that similar crimes might subsequently be carried out by subordinates and justify further inquiry”).

²⁸⁷² *Strugar* AJ, paras.301, 304.

²⁸⁷³ *Čelebići* TJ, para.395; *Blaškić* AJ, paras.72,417.

²⁸⁷⁴ *Blaškić* TJ, para.335. See also paras.301-302; *Čelebići* TJ, para.395 (“a superior may only be held criminally responsible for failing to take such measures that are within his powers. The question then arises of what actions are to be considered to be within the superior’s powers in this sense. As the corollary to the standard adopted by the Trial Chamber with respect to the concept of superior, we conclude that a superior should be held responsible for failing to take such measures that are within his material possibility.”).

²⁸⁷⁵ *Halilović* AJ, para.63, reiterated in *Orić* AJ, para.177. See also *Hadžihasanović* AJ, para.33 (noting that Article 86 of Additional Protocol I requires superiors to take “all feasible measures within their power” to punish a breach of the laws of war). Article 87 adds the duty to “initiate such steps as are necessary to prevent such violations [...] and, where appropriate, to initiate disciplinary or penal action against violators thereof.”

Duty to prevent or punish involves distinct legal obligations

1067. A superior's duty to prevent or punish does not permit a superior to choose in terms of alternatives, to either prevent the crimes or to await their commission and then punish.²⁸⁷⁶ The failure to prevent and the failure to punish "represent two distinct legal obligations, the failure of either one of which entails responsibility under Article 7(3) of the Statute."²⁸⁷⁷

Duty to prevent

1068. In observing the duty to prevent, "the superior must intervene as soon as he becomes aware of the planning or preparation of crimes to be committed by his subordinates and as long as he has the effective ability to prevent them from starting or continuing."²⁸⁷⁸ The superior must take steps to prevent as soon as he is on notice of possible crimes.²⁸⁷⁹ The superior must undertake all measures which are necessary and reasonable to prevent subordinates from planning, preparing or executing the crimes.²⁸⁸⁰ For example, beyond issuing routine instructions to observe the law, "a superior may have to give special orders aimed at bringing unlawful practices of subordinates in compliance with the rules of war"²⁸⁸¹ and ensure their implementation.²⁸⁸² A superior may further be required to investigate whether crimes are about to be committed,²⁸⁸³ to protest against or criticise criminal action,²⁸⁸⁴ to take disciplinary measures,²⁸⁸⁵ or to report to²⁸⁸⁶ and/or to insist that immediate action be taken before a superior authority,²⁸⁸⁷ even if the superior lacks the formal capacity or legal competence to perform such measures personally.²⁸⁸⁸ For instance, "[a]n obvious case of failure would be if a superior, despite awareness of the criminal activities of his or her subordinates, did

²⁸⁷⁶ Orić TJ, para.326, citing *Blaškić* TJ, para.336; *Strugar* TJ, para.373; *Blagojević* TJ, para.793; *Limaj* TJ, para.527; *Semanza* TJ, para.407. See also *Milutinović* TJ, Vol.1, para.116; *Delić* TJ, para.69; *Bošković* TJ, para.416.

²⁸⁷⁷ *Hadžihasanović* AJ, para.259.

²⁸⁷⁸ *Orić* TJ, para.328.

²⁸⁷⁹ *Popović* TJ, para.402.

²⁸⁸⁰ *Orić* TJ, para.565.

²⁸⁸¹ *Orić* TJ, para.331, citing *Strugar* TJ, para.374 (referencing the *Hostages* case, 11 TWC 759, p.1311); *Halilović* TJ, para.74; *Bagilishema* TJ, para.265.

²⁸⁸² *Orić* TJ, para.331, citing *Strugar* TJ, para.378; *Halilović* TJ, para.74; *Hadžihasanović* TJ, para.153. See also *Delić* TJ, para.73.

²⁸⁸³ *Orić* TJ, para.331, citing *Strugar* TJ, para.416; *Halilović* TJ, para.90.

²⁸⁸⁴ *Orić* TJ, para.331, citing *Strugar* TJ, para.374 (referencing *High Command* case, 11 TWC 1, p.623); *Halilović* TJ, para.89.

²⁸⁸⁵ *Orić* TJ, para.331, citing *Strugar* TJ, para.374 (referencing *Tokyo Judgement* I, p.452); *Halilović* TJ, para.89. See also *Delić* TJ, para.73.

²⁸⁸⁶ *Orić* TJ, para.331, citing *Blaškić* TJ, paras.329,335; *Hadžihasanović* TJ, para.154.

²⁸⁸⁷ *Orić* TJ, para.331, citing *Strugar* TJ, para.374 (referencing *Tokyo Judgement* I, p.448); *Halilović* TJ, para.89. See also *Delić* TJ, para.73.

²⁸⁸⁸ *Orić* TJ, para.331.

nothing,²⁸⁸⁹ for instance by simply ignoring such information.”²⁸⁹⁰ The duty to prevent includes a duty to suppress an unlawful act while it is being committed.²⁸⁹¹

Duty to punish

1069. Additionally, a superior has to take all measures that are necessary and reasonable in order to ensure that crimes of subordinates are punished. For example, the superior must order or execute appropriate sanctions²⁸⁹² or, if such action would be premature, “must at least conduct an investigation²⁸⁹³ and establish the facts²⁸⁹⁴ in order to ensure that offenders under his or her effective control are brought to justice.”²⁸⁹⁵ The obligation on the part of the superior is to take active steps to ensure that the perpetrators are brought to justice.²⁸⁹⁶ Reporting crimes to competent prosecutorial authorities is a reasonable measure that the superior could be required to undertake.²⁸⁹⁷ The superior is not required to personally conduct the investigation or dispense the punishment,²⁸⁹⁸ but must at least ensure investigation of the matter²⁸⁹⁹ and submit a report “to the competent authorities for further investigation or sanction.”²⁹⁰⁰ As with preventing crimes, “the superior’s own lack of legal competence does not relieve him from pursuing what his or her material ability enables him or her to do.”²⁹⁰¹

²⁸⁸⁹ Orić TJ, para. 331, citing Čelebići TJ, paras. 772, 774; Aleksovski TJ, para. 117; Strugar TJ, para. 416; Halilović TJ, para. 90; Ntagerura TJ, paras. 654-657.

²⁸⁹⁰ Orić TJ, para. 331, citing Čelebići TJ, para. 387.

²⁸⁹¹ Delić TJ, para. 71; Hadžihasanović TJ, para. 127; Strugar TJ, para. 446.

²⁸⁹² Orić TJ, para. 336, citing Ntagerura TJ, para. 650.

²⁸⁹³ Orić TJ, para. 336, citing Kordić TJ, para. 446; Brđanin TJ, para. 279; Strugar TJ, para. 378; Halilović TJ, paras. 74, 97, 100.

²⁸⁹⁴ Orić TJ, para. 336, citing Halilović TJ, paras. 97, 100.

²⁸⁹⁵ Orić TJ, para. 336, citing Strugar TJ, para. 378; Halilović TJ, para. 98 (noting that Military tribunals established after World War II interpreted the superior’s duty to punish as implying an obligation for the superior to conduct an effective investigation and to take active steps to ensure that the perpetrators will be brought to justice.).

²⁸⁹⁶ Delić TJ, para. 74.

²⁸⁹⁷ Hadžihasanović AJ, para. 154; Blaškić AJ, para. 72.

²⁸⁹⁸ Orić TJ, para. 336, citing Kvočka TJ, para. 316; Halilović TJ, para. 100.

²⁸⁹⁹ Orić TJ, para. 336, citing Halilović TJ, para. 97.

²⁹⁰⁰ Orić TJ, para. 336, citing Blaškić AJ, para. 632; Blaškić TJ, paras. 302, 335, 464; Kordić TJ, para. 446; Kvočka TJ, para. 316; Stakić TJ, para. 461; Brđanin TJ, para. 279; Halilović TJ, paras. 97, 100.

²⁹⁰¹ Orić TJ, para. 336, citing Aleksovski TJ, para. 78; Blaškić TJ, paras. 302, 335, 464; Halilović TJ, para. 100.

C. Vlastimir Đorđević's Individual Criminal Responsibility under Article 7(1) of the Statute

1. Đorđević is responsible for the crimes charged in the Indictment as a member of the JCE

(a) Introduction

1070. Throughout the Indictment period, Đorđević was Chief of the RJB and was the "highest ranking officer" and "the number 2 man" in the MUP.²⁹⁰² He also held key positions as Assistant Minister of the MUP and member of the MUP Minister's Collegium.

1071. Throughout his membership in the JCE set out in the Indictment, Đorđević significantly contributed to its implementation through his acts and omissions. In particular:

- 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.

1072. Through his participation in the MUP Collegium and the Joint Command, and as Head of the RJB, Đorđević acted in concert with other JCE members to further the common purpose of maintaining control over Kosovo through various criminal means. Through his position of authority, Đorđević commanded and controlled MUP units, including those in Kosovo, participated in planning and co-ordinating joint MUP/VJ operations, and used MUP units to commit crimes.

1073. Đorđević shared the intent of other JCE members to implement the common purpose through the commission of crimes and is therefore responsible pursuant to Article 7(1) of the Statute for the crimes committed during the campaign to modify the ethnic balance in Kosovo. Alternatively, should the Trial Chamber find that the crimes in Counts 3 to 5 were outside the common purpose, these crimes were natural and foreseeable consequences of the execution of the plan to modify the ethnic balance through deportation and forcible transfer. In deciding to

²⁹⁰² Mišić, T.14073; Vasiljević, T.5933.

participate in that enterprise, Đorđević willingly accepted the risk that such crimes might be committed.

(b) Đorđević's position

1074. Đorđević joined the Serbian MUP in July 1971.²⁹⁰³ On 11 September 1996, he was appointed Assistant Minister of Interior.²⁹⁰⁴ On 1 June 1997, upon his promotion to Lieutenant-General, he became acting Head of the RJB.²⁹⁰⁵ On 10 July 1997, the President of Serbia promoted him to Colonel General,²⁹⁰⁶ the highest rank within the MUP. On 27 January 1998, MUP Minister Stojiljković appointed Đorđević Chief of the RJB, a position he held until 30 January 2001.²⁹⁰⁷

(c) Đorđević commanded and controlled all RJB units in Kosovo

(i) Đorđević headed the RJB

1075. Đorđević was the highest-ranking MUP officer and commanded and controlled MUP units and attached units engaged in combat operations. His authority to control the RJB is evident from his mandate under Article 54 of the Rules of Internal Organisation of the MUP.²⁹⁰⁸ Đorđević confirmed that according to these rules, as Chief of the Department, he had authority and duty to control the RJB throughout Serbia.²⁹⁰⁹

1076. The RJB was the largest MUP Department. From at least July to October 1998 and throughout the conflict in 1999, the RJB had more than 14,000 personnel in Kosovo,²⁹¹⁰ including members of special units- PJP's and SAJ.²⁹¹¹ These personnel fell under Đorđević's authority.

1077. The RJB chain of command flowed from Stojiljković and Đorđević at the MUP HQ in Belgrade to the MUP Staff. The MUP Staff was the body in charge of co-ordinating and managing the work of MUP units engaged in combat actions in Kosovo, and served as an intermediate command level between MUP HQ and SUPs in Kosovo.²⁹¹² Lukić, the Head of the MUP Staff and

²⁹⁰³ Đorđević, T.9388; D393, p.1.

²⁹⁰⁴ Đorđević, T.9394-9396; D394.

²⁹⁰⁵ Order on Agreed Facts, p.25; Đorđević, T.9396; D395.

²⁹⁰⁶ Đorđević, T. 9533-9534, 9771; D421.

²⁹⁰⁷ Đorđević, T.9396-9397; D396; D397; Order on Agreed Facts, p.25.

²⁹⁰⁸ P357, Art.54.

²⁹⁰⁹ Đorđević, T.9788, 9817, 9823.

²⁹¹⁰ P1038, p.2; P769, p.1; P87, p.7; P1509(MFI), p.4; Đorđević, T.10043.

²⁹¹¹ P1509, pp.4-5.

²⁹¹² Cvetic, T.6597.

a JCE member, implemented the plans and policies adopted at the level of Belgrade. He reported to Đorđević and Stojiljković.²⁹¹³

Đorđević's powers as Head of the RJB

1078. Đorđević's primary function was to ensure that the RJB fulfilled its mandate.²⁹¹⁴ In order to do so, he had broad powers and his use of them is evidenced by:

- Deployment of police units to Kosovo to carry out anti-terrorist operations.²⁹¹⁵ Decisions to deploy PJP units were issued in the form of dispatches and were made by the MUP Minister or by a person authorised by him.²⁹¹⁶ According to Cvetić, "as a rule, the authorised person was the head of the RJB."²⁹¹⁷ Đorđević confirmed that such dispatches needed to be signed by an official in his position of authority.²⁹¹⁸ Reports from SUPs to the MUP HQ in Belgrade confirm that Đorđević's instructions were complied with.²⁹¹⁹ Đorđević's dispatches contained detailed instructions on the units, the number of personnel and amount of equipment to be deployed, and the municipalities in Kosovo to which these units were sent.²⁹²⁰ Đorđević's dispatches also contained instructions on the units being rotated out of Kosovo.²⁹²¹
- Issuing orders containing tasks and instructions for the SUPs, MUP Staff and RJB special units in Kosovo. Several dispatches demonstrate his authority.²⁹²² For example, on 18 February 1999, when the MUP was making plans to launch an offensive in the Spring, Đorđević issued a dispatch addressed to all RJB units requiring them to update their defence plans and recruit to full capacity the 21st to 87th PJP detachments.²⁹²³ On 12 June 1999, following the signing of the Kumanovo agreement, Đorđević ordered the withdrawal of all MUP units from Kosovo.²⁹²⁴

²⁹¹³ See Part III, Section (A)(3)(b)(ii).

²⁹¹⁴ See P357, Art.2.

²⁹¹⁵ P131;P132;P134;P137;P138;P346;P713;P1188.

²⁹¹⁶ Cvetić,T.6649,6655-6656,6658.

²⁹¹⁷ Cvetić,T.6655.

²⁹¹⁸ Đorđević,T.10058;P137. See also Kerić,T.7773.

²⁹¹⁹ Golubović, T.1669-1670;P355(issued in response to P133). See also Kerić, T.7782. The following dispatches were issued in response to RJB Dispatch 587 (P711): P1191;P1192;P1194;P1195;P1196;P1197;P1198;P1199. The following dispatches were issued in response to RJB Dispatch 218 (P713): P1482;P1483;P1484.

²⁹²⁰ Kerić,T.7768;P1181;P356;P711;P137.

²⁹²¹ Cvetić,T.6658-6659. See P1182;P1183;P1184;P1185;P133;P135;P136;P139;P346;P712;P1189;P1190.

²⁹²² Đorđević,T.9461(P132);Đorđević,T.9628-9629 (P1202);T.9640(P1203);T.9640-9641 (D433);T.9653-9654(P715); T.9659 (D717).

²⁹²³ P356,item 1.

²⁹²⁴ P1209.

- Setting up staffs within the RJB.²⁹²⁵ In order to better co-ordinate the work of MUP units in Kosovo, Đorđević formed the MUP Staff of KiM on 11 June 1997²⁹²⁶ and renewed the Staff's mandate on 15 May 1998.²⁹²⁷ On 11 June 1998, he appointed Lukić as Head of the Staff.²⁹²⁸
- Disciplining members of the RJB responsible for crimes. In his dispatch of 9 April 1999, Đorđević authorised heads of organisational units to impose the disciplinary sanctions prescribed in the Decree on Internal Affairs During the State of War, for serious violations of employment obligations and duties.²⁹²⁹ In cases involving criminal offences—such as rape, murder or looting—SUP Chiefs, Đorđević's subordinates, were required to seek the authorisation from the MUP HQ in Belgrade before initiating criminal proceedings against the offender.²⁹³⁰
- Appointing and dismissing RJB personnel, including SUP chiefs and members of the MUP Staff.²⁹³¹ Đorđević was the only official, other than the Minister, authorised to issue decisions on the appointment and dismissal of staff.²⁹³²

(ii) Đorđević continued to command RJB units in Kosovo after June 1998 and during the Indictment period

1079. Đorđević claimed that pursuant to Stojiljković's decision of 16 June 1998 expanding the MUP Staff, Lukić became answerable directly to Stojiljković, not to him, for MUP units involved in anti-terrorist operations in Kosovo.²⁹³³ Đorđević insisted that he was not in charge of "a single policeman who was engaged in Kosovo in anti-terrorist activities or on the defence of the country".²⁹³⁴

1080. Stojiljković's 16 June 1998 decision did not divest Đorđević of his powers as Head of the RJB nor modify the chain of command within the MUP.²⁹³⁵ On the contrary, the evidence proves that after 16 June 1998, Đorđević continued to exercise command authority over RJB units,

²⁹²⁵ See P357, Art.10.

²⁹²⁶ D402. See also Đorđević, T.9466-9467, 9469.

²⁹²⁷ D100; Đorđević, T.9476.

²⁹²⁸ P760; Đorđević, T.9553-9554. See also P57, Part III, Section(A)(3)(b)(ii).

²⁹²⁹ P1050; Cvetić, T.6711-6712.

²⁹³⁰ Cvetić, T.6708-6711, 6757-6758; P50; P1049, Art.10.

²⁹³¹ Cvetić, T.6774-6775. See e.g. P76; P77; P79; P80; P82; P140; P143; P144; P703; P1044; D405.

²⁹³² Đorđević, T.10060. See also T.9737-9738.

²⁹³³ Đorđević, T.9481-9482, 9794-9795, 9935, 10059.

²⁹³⁴ Đorđević, T.10118.

²⁹³⁵ See Part III, Section(A)(3)(b)(i).

including those in Kosovo. Lukić remained a member of the RJB and Đorđević's direct subordinate.

1081. Đorđević played a key role in the implementation of the 1998 summer offensive. Following the meeting at Beli Dvor on 21 July 1998, where the Plan for Suppressing Terrorism was adopted, Stojiljković called a meeting at the MUP HQ, which Đorđević, Stevanović and Lukić attended, to discuss the tasks to be carried out by the MUP pursuant to the Plan.²⁹³⁶ Đorđević testified that given the importance of the forthcoming task, Stojiljković instructed both Đorđević and Stevanović to be present during the execution of this task of fighting terrorism in order to "fulfil our obligations."²⁹³⁷

1082. Đorđević left for Priština that same evening. He met with the PrK Commander and members of the political leadership in Priština.²⁹³⁸ The next day, Đorđević and Stevanović attended a MUP Staff meeting, at which SUP Chiefs and PJP commanders were present. Đorđević and Stevanović briefed participants on the recently-adopted Plan and issued instructions on the forthcoming tasks to be carried out by police units.²⁹³⁹

1083. That evening, Đorđević also attended a meeting with the VJ and MUP leadership and senior political representatives in the province.²⁹⁴⁰ Again, the implementation of the Plan was the main topic on the agenda. When the MUP and the VJ began implementing the Plan, these meetings of the senior MUP, VJ and political leadership evolved into the daily briefings of the Joint Command. Đorđević participated actively in these meetings.²⁹⁴¹

1084. The notes of Joint Command meetings show Đorđević's hands-on involvement and command over MUP combat actions from July to October 1998.²⁹⁴² For example:

- On 26 July, Đorđević directed: "Finish off Priština-Kijevo tomorrow, approach Mališevo as soon as possible, put Crnoljevo, Suva Reka and Zborce on hold and move on to Junik and Rudnik".²⁹⁴³
- On 27 July, Đorđević addressed the details of the operation against Mališevo/Malishevë,²⁹⁴⁴ which was launched the next day. Đorđević was in the field during this joint MUP-VJ

²⁹³⁶ Đorđević, T.9567-9569.

²⁹³⁷ Đorđević, T.9568.

²⁹³⁸ Đorđević, T.9569-9571.

²⁹³⁹ Đorđević, T.9574-9575, 9800-9801; Cvetić, T.6627-6629; P768.

²⁹⁴⁰ P886, p.2; Đaković, T.7878-7881; Đorđević, T.9578.

²⁹⁴¹ See Part III(A)(3)(b)(i).

²⁹⁴² See e.g. P886, pp.9, 12, 14, 19, 23, 27, 29, 57, 60, 69, 95, 101, 105, 108.

²⁹⁴³ P886, p.12.

²⁹⁴⁴ P886, pp.13-14.

action.²⁹⁴⁵ That same day, when the action was completed, Đorđević called via radio from Mališevo/Malishevë to a MUP Staff meeting in Priština, attended by Stojiljković, and said that Mališevo/Malishevë was “free.”²⁹⁴⁶

- On 12 August, Đorđević ordered: “engage the 3rd and 4th Detachments around Loda and have them work on Friday; do Voška and Slup and engage the army”.²⁹⁴⁷ The notes of the following day record that preparations of MUP detachments for the Vokša and Slup action were ongoing, with a VJ combat group as a support.²⁹⁴⁸
- On 23 August, Đorđević updated participants on actions involving several PJP Detachments and the JSO, and instructed that “the Prizren and Belgrade companies and the SAJ [...] proceed along the Dulje-Rance direction”.²⁹⁴⁹ Trajković confirmed that in this period the SAJ took part in an action along the Dulje-Rance axis.²⁹⁵⁰
- On 22 September, following Pavković’s comment about a misunderstanding regarding the engagement of the 1st and 8th PJP companies with the 15th Armoured Brigade in this action, Đorđević reported: “These two companies have been engaged with one PJP detachment to close the route through Drvare with one company; two companies came out west of Žilivoda village”.²⁹⁵¹ The PrK order of 19 September 1998 instructed the 15th Armoured Brigade to support the 1st and 8th PJP companies in this action.²⁹⁵²

1085. Đorđević was on the ground in Kosovo throughout the implementation of the Plan,²⁹⁵³ and closely monitored the operations of MUP units in the field.²⁹⁵⁴ He testified that “In 1998, when the situation was most difficult, I was down there all the time”.²⁹⁵⁵ He described his role:

When I was in Kosovo, I was not merely an observer. On the order of the minister, it was my task to get involved and to provide assistance in the activities being carried out down there and to give my contribution to the success of the anti-terrorist activity.²⁹⁵⁶

1086. Trajković said that Đorđević and Stevanović were frequently with SAJ units when they were in the field, “Their presence...was obvious”.²⁹⁵⁷

²⁹⁴⁵ Đorđević, T.9597-9598.

²⁹⁴⁶ Cvetić, T.6621,6644; P888, p.4. *See also* Cvetić, T.6612.

²⁹⁴⁷ P886, p.41.

²⁹⁴⁸ P886, p.44. *See also* P1232, p.3.

²⁹⁴⁹ P886, p.57.

²⁹⁵⁰ Trajković, T.9067-9069; P886, p.57.

²⁹⁵¹ P886, p.108.

²⁹⁵² P1422, pp. 8-9.

²⁹⁵³ Đorđević, T.9515.

²⁹⁵⁴ Đorđević, T.9853-9854.

²⁹⁵⁵ Đorđević, T.10031.

²⁹⁵⁶ Đorđević, T.9790-9791.

²⁹⁵⁷ Trajković, T.9066-9067.

1087. Towards the end of September 1998, approximately 1500 PJP troops conducted a large-scale operation in the areas of Jablanica and Glodane.²⁹⁵⁸ While the operation was underway, Đorđević visited Decani and met with Decani OUP Chief Vukmir Mirčić, who informed him that tens of thousands of civilians from some 20 villages had gathered in Istinić, north of Decani town.²⁹⁵⁹ Đorđević approved Mirčić's proposal to send someone to Istinić to negotiate the peaceful surrender of the weapons.²⁹⁶⁰ After the villagers had handed in their weapons,²⁹⁶¹ Đorđević personally went to the village with Mirčić and met with the elders.²⁹⁶² As a result of the peaceful hand-over, the police action was not "carried through as planned".²⁹⁶³ Although Đorđević denied that he put an end to the action,²⁹⁶⁴ that is the only reasonable inference to be drawn from the evidence. In his 2004 letter to the Nedeljni Telegraf, Đorđević wrote that after the weapons were handed over, "I immediately stopped any further search of the terrain".²⁹⁶⁵

1088. During the summer offensive, Đorđević also spent time at the premises of the MUP Staff. He had an office in the same building.²⁹⁶⁶ Cvetić testified that both Đorđević and Stevanović were often at the Staff in Kosovo during the period between 25 July and the end of September 1998.²⁹⁶⁷ Both also attended MUP Staff meetings during that period.²⁹⁶⁸

1089. Đorđević acknowledged that he was fully familiar with the activities of the MUP Staff in the summer of 1998. He knew about the contents of the MUP Staff report that provided an overview of MUP "operations aimed at eradicating terrorist activities" in Kosovo in the summer of 1998.²⁹⁶⁹ Đorđević was directly involved in these activities at the time: "All the activities of the staff were familiar to me, especially for the period when I was there myself".²⁹⁷⁰ Đorđević said that this document "faithfully represents the situation prevailing at the time and the events unfolding".²⁹⁷¹

1090. Lukić recognised Đorđević's authority as his superior. For example, reporting to the Joint Command with respect to the situation in Orahovac/Rahovec on 29 July 1998, Lukić stated: "the unit did not leave Orahovac as ordered by General Đorđević".²⁹⁷² At a meeting on 4 September

²⁹⁵⁸ Dorđević, T.9802-9803.

²⁹⁵⁹ Dorđević, T.9622-9623; Mirčić, T.13263.

²⁹⁶⁰ Dorđević, T.9623; Mirčić, T.13625.

²⁹⁶¹ Dorđević, T.9623, 9803; Mirčić, T.13625.

²⁹⁶² Dorđević, T.9624-9625; Mirčić, T.13625-13266.

²⁹⁶³ Dorđević, T.9622-9623, 9802-9804; D429.

²⁹⁶⁴ Dorđević, T.9804.

²⁹⁶⁵ P1474, p.5.

²⁹⁶⁶ Dorđević, T.9585.

²⁹⁶⁷ Cvetić, T.6622.

²⁹⁶⁸ Dorđević, T.9574-9575, 9800-9801; P768; P770; Cvetić, T.6621, 6640.

²⁹⁶⁹ Dorđević, T.9635, 9637; D432.

²⁹⁷⁰ Dorđević, T.9637; D432.

²⁹⁷¹ Dorđević, T.9637; D432.

²⁹⁷² P886, p.19.

1998, Đorđević ordered Lukić to “return all inhabitants to the village by force tomorrow” and to search the terrain for weapons.²⁹⁷³ The following day, Lukić reported that Đorđević’s instructions had been carried out.²⁹⁷⁴

1091. Đorđević remained Head of the RJB in 1999 and continued to exercise his powers and play a strategic role in MUP operations in Kosovo. As explained in more detail below, he was at the Stimlje police station while the joint VJ/MUP action in Račak was underway and monitored that action. He also attended the 17 February 1999 MUP Staff meeting, along with the senior leadership of the MUP, at which the RJB offensive to be launched in the spring was discussed. He made several trips to Kosovo in March and April 1999, and remained apprised of the situation on the ground. He also continued to attend Joint Command meetings in 1999, and participated in a meeting in Priština on 1 June 1999 that dealt with MUP and VJ actions on the ground.

1092. During the Indictment period, Đorđević deployed RJB units to Kosovo. From late February through mid-March 1999, in preparation for the Spring offensive, Đorđević issued numerous orders deploying PJP units to Kosovo.²⁹⁷⁵ The units remained on the ground throughout the conflict in 1999 and participated in the crimes charged in the Indictment.²⁹⁷⁶

1093. Đorđević was also responsible for the use of the SAJ in Kosovo. SAJ Commander Trajković testified that, in March 1999, he spoke several times with his “immediate superior” Đorđević about replenishing the SAJ with additional men, and said that it was only natural that Đorđević would be the first person he spoke to about this.²⁹⁷⁷ [REDACTED].²⁹⁷⁸ As described in more detail below, Đorđević deployed the Skorpions to reinforce the SAJ in Kosovo on two occasions in 1999.²⁹⁷⁹ In July 1999, Đorđević issued a decision ending Trajković’s tour of duty as SAJ Commander in Kosovo.²⁹⁸⁰

(iii) Đorđević participated in high-level strategic meetings

1094. Đorđević was a member of the MUP Minister’s Collegium, the highest policy-making body within the MUP. It was comprised of Minister Stojiljković and his six Assistant Ministers²⁹⁸¹ — Đorđević (Chief of the RJB); Marković (Chief of the RDB); General Nikola Čurčić (Deputy Chief

²⁹⁷³ P886,p.73.

²⁹⁷⁴ P886,p.75.

²⁹⁷⁵ See e.g. P356;P711;P137.

²⁹⁷⁶ See Part IV, Section(C).

²⁹⁷⁷ Trajković,T.9087.

²⁹⁷⁸ [REDACTED].

²⁹⁷⁹ See Part V, Section(C)(1)(f).

²⁹⁸⁰ Trajković,T.9056;P145.

²⁹⁸¹ Đorđević,T.10030;Mišić,T.14029–14030,14069.

of the RDB); General Petar Zeković (Head of the Administration for Joint Affairs, Board and Lodging); General Obrad Stevanović (Head of the Police Administration), and General Stojan Mišić (Head of the Administrations for Alien Affairs, Travel Documents, Fire Fighting and Communications).²⁹⁸²

1095. The Collegium managed the work of the MUP.²⁹⁸³ Collegium meetings were held every Tuesday.²⁹⁸⁴ Stojiljković presided over these meetings.²⁹⁸⁵ As in 1998, the Collegium met regularly during the conflict in 1999.²⁹⁸⁶

1096. The Collegium dealt with matters such as recruitment, reinforcement and replenishment of units, and logistical and procurement matters relevant to the engagement of units in Kosovo.²⁹⁸⁷ Through the Police Administration, the Collegium received requests from the MUP Staff on police units to be deployed to Kosovo or to be rotated back to Serbia, and acted on these requests to ensure that the MUP Staff received the forces and logistical resources required.²⁹⁸⁸ The Collegium also decided upon appropriate security policies, directing all organisational units and forces in the field.²⁹⁸⁹ Personnel-related decisions were also made at the level of the Collegium.²⁹⁹⁰

1097. Đorđević became a member of the Joint Command when it was established in July 1998.²⁹⁹¹ Đorđević's role and the nature of his involvement in the Joint Command are reflected in the minutes of Joint Command meetings, where he regularly attended and participated.²⁹⁹² All Joint Command members, including Đorđević, were kept informed at all stages of the operations.²⁹⁹³ Đorđević remained a member of the Joint Command in 1999.²⁹⁹⁴ The role and authority of the Joint Command are discussed in more detail in Part III(A)(3)(b)(i).

1098. Throughout his tenure as Head of the RJB, Đorđević represented the Department at high-level co-ordination meetings dealing with MUP operations in Kosovo. Other JCE members also participated in these meetings. For example:

²⁹⁸² Đorđević, T.9409; P263; Mišić, T.14069, 14082; D208.

²⁹⁸³ Mišić, T.14021, 14023, 1427-1428, 14078.

²⁹⁸⁴ Mišić, T.14079-14080.

²⁹⁸⁵ Mišić, T.14080, 14145.

²⁹⁸⁶ Mišić, T.14053, 14079.

²⁹⁸⁷ Mišić, T.14032, 14040, 14054, 14086-14088, 14090, 14092, 14907.

²⁹⁸⁸ Mišić, T.14087-14090, 14095.

²⁹⁸⁹ Mišić, T.14083, 14091.

²⁹⁹⁰ Cvetić, T.6855.

²⁹⁹¹ P886, p.2; Đaković, T.7878-7881; Đorđević, T.9577-9578.

²⁹⁹² See e.g. P886, pp.9, 12, 14, 19, 23, 27, 29, 57, 60, 69, 95, 101, 105, 108.

²⁹⁹³ See Part III, Section(A)(3)(b)(i).

²⁹⁹⁴ See Part III, Section(A)(3)(b)(i).

- On 21 July 1998, Đorđević was one of the senior MUP representatives present at a meeting held in Milošević's office in Belgrade where the summer offensive was planned. Other senior representatives of the MUP (Stojiljković, Stevanović, Marković and Lukić), the VJ (Perišić, Samardžić, Pavković and Dimitrijević) and several state officials (Milutinović, Šainović, Anđelković) also attended. Milošević informed those present that the SDC had decided to engage the VJ in Kosovo.²⁹⁹⁵ Pavković presented a plan for a large-scale joint MUP/VJ offensive on a map and the plan was approved.²⁹⁹⁶
- In August 1998, Đorđević participated in two meetings at Beli Dvor in Belgrade, with the same members of the senior leadership.²⁹⁹⁷ The implementation of the Plan for Suppressing Terrorism was assessed, and Pavković and Lukić submitted reports for the 3rd Army and the MUP.²⁹⁹⁸
- On 25 October 1998, Đorđević headed the Serbian MUP team in the negotiations of the Clark-Naumann Agreement, which included matters impacting the work of the MUP in Kosovo.²⁹⁹⁹ Đorđević was the lead negotiator for the MUP and signed the agreement with US-KDOM representative Shaun Byrnes at the end of these negotiations.³⁰⁰⁰
- On 29 October 1998, in his capacity of Chief of the RJB,³⁰⁰¹ Đorđević participated in the meeting of the Operations Inter-Departmental Staff for the Suppression of Terrorism in Belgrade, where the implementation of the Plan for Suppressing Terrorism and the work of the Joint Command were discussed.³⁰⁰²
- On 27 November 1998, Đorđević participated in a meeting in Belgrade chaired by Stojiljković, and also attended by Marković, MUP Assistant Ministers, Šainović, and Lukić.³⁰⁰³ The "essence of the meeting" was a recommendation "to continue execution of anti-terrorist actions aimed at suppressing terrorism in Kosovo" and to strengthen the police role in these actions by making it "more offensive in taking measures in the newly arisen situation."³⁰⁰⁴

²⁹⁹⁵ Daković, T.7916-7918, 8048, 9563-9564. See also P87, pp.3; P1361; P682.

²⁹⁹⁶ Đorđević, T.9829, 9874-9875, 9563-9564, 9566. See also P87, p.3.

²⁹⁹⁷ Đorđević, T.9619-9620.

²⁹⁹⁸ Đorđević, T.9620.

²⁹⁹⁹ Byrnes, T.8177; P1214, p.31.

³⁰⁰⁰ P836; Byrnes, T.8178, 8230-8231. See also Byrnes, T.8180-8181.

³⁰⁰¹ Đorđević, T.10153.

³⁰⁰² P87.

³⁰⁰³ P689, p.3.

³⁰⁰⁴ P689, p.3.

- On 5 January 1999, Đorđević represented the RJB at a co-ordination meeting on the situation in Kosovo at Beli Dvor. Milošević, Milutinović, Šainović, Ojdanić, Stojiljković, Pavković, and Lukić were also in attendance.³⁰⁰⁵
- On 4 May 1999, Đorđević attended a meeting in Milošević's villa in Belgrade at which the leaders of the police and military and civilian Serbian leadership were present.³⁰⁰⁶ Pavković and Lukić provided an overview of the activities of VJ and MUP units in Kosovo.³⁰⁰⁷
- On 9 July 1999, Đorđević was one of the senior MUP officers present at a meeting with the VJ leadership at the VJ General Staff.³⁰⁰⁸ Ojdanić called the meeting to resolve ongoing problems of insufficient co-operation between the VJ and the MUP in dealing with crimes in Kosovo.³⁰⁰⁹

(iv) The Serbian military and political leadership, and internationals, recognised Đorđević as the leader of the RJB in Kosovo

1099. Members of the VJ and the political leadership of the FRY, including Milošević himself, recognised Đorđević's authority over the use of MUP units in Kosovo. At a meeting on 17 May 1999 at Beli Dvor in Belgrade, Milošević, the senior VJ leadership and Marković, discussed the issue of paramilitaries in Kosovo and the presence of the Skorpions.³⁰¹⁰ Milošević instructed Marković to "sit down with Vlajko [Stojiljković] and Roda [Đorđević] and clear it up with them—their heads won't be chopped off but Boca must answer".³⁰¹¹ Vasiljević, who attended the meeting, understood Milošević to be instructing Marković to relay this message to "those persons who bear the highest responsibility for the use of MUP forces [in Kosovo]".³⁰¹²

1100. In July 1999, Milošević decorated Đorđević with the Order of the Yugoslav Flag in the First Degree for his leadership of MUP units in Kosovo, commending Đorđević 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...".³⁰¹³

³⁰⁰⁵ Đorđević, T.10043,10152.

³⁰⁰⁶ Đorđević, T.9743-9744.

³⁰⁰⁷ Đorđević, T.9743; P1537; D443.

³⁰⁰⁸ Đorđević, T.10100; Vasiljević, T.5720.

³⁰⁰⁹ Vasiljević, T.5690,5718-5719,5722.

³⁰¹⁰ Vasiljević, T.5681.

³⁰¹¹ Vasiljević, T.5681-5682,5684; P884, p.1.

³⁰¹² Vasiljević, T.5688.

³⁰¹³ P1506, p.1. See also Đorđević, T.9779-9782.

1101. Internationals dealt with Đorđević as the Head of the RJB. During negotiations for the October Agreements, Byrnes understood Đorđević to be leading the Serbian side, because Đorđević was introduced in that capacity.³⁰¹⁴ Byrnes said that Đorđević “was clearly in charge” of the MUP negotiating team.³⁰¹⁵

(v) Conclusion

1102. Given his significant involvement in operations in 1998 and continued involvement in 1999, the only reasonable inference is that Đorđević remained actively involved in the command and control of RJB units, including those in Kosovo, throughout the Indictment period.

1103. Whether or not Đorđević acted pursuant to an order from his superior in the government does not relieve him of criminal responsibility if those actions were taken in furtherance of the JCE. The fact that the plan emanated from higher levels of the government is part of the Prosecution’s case and is not inconsistent with his individual criminal liability for the part he played. In the same vein, if Stojiljković were present to meet these allegations it would not assist him to claim that the orders originated from persons superior to him, for example, Milošević.³⁰¹⁶

1104. At the time relevant to the Indictment, Đorđević and Stojiljković managed the work of the MUP in Kosovo from the highest strategic level. Although they often went to Kosovo, neither needed to be based there to play his role. That was Lukić’s role. Đorđević and Stojiljković worked in tandem, as indicated by Stojiljković in his dispatch of 24 March 1999: “...it is necessary to intensify the enforcement of measures that were ordered as per *our dispatch* number 312 of the 18th of February 1999...”³⁰¹⁷ Stojiljković was referring to Đorđević’s dispatch no.312,³⁰¹⁸ in which he reiterated instructions on measures to be adopted that had been issued by Stojiljković at a MUP Staff meeting of 17 February 1999.³⁰¹⁹ The evidence shows that Lukić implemented these measures on the ground.³⁰²⁰

1105. Đorđević’s authority is beyond dispute. His subordinates on the ground recognised his authority, as did other members of the Minister’s Collegium. His colleagues in the VJ and the senior political leadership recognised Đorđević as one of the key figures in the MUP. The evidence in relation to Đorđević’s powers and functions as Head of the RJB also reveals his key role in

³⁰¹⁴ Byrnes, T.8230-8231.

³⁰¹⁵ Byrnes, T.8178.

³⁰¹⁶ See ICTY Statute, Art.7(4).

³⁰¹⁷ P702, p.1 (*emphasis added*).

³⁰¹⁸ P356.

³⁰¹⁹ P85, pp.2-3.

³⁰²⁰ See Part III, Section(A)(3)(b)(ii).

planning, controlling and organising the work of the RJB units in Kosovo. Đorđević worked closely with the leadership of the MUP, in particular Stojiljković, Stevanović and Lukić, to co-ordinate MUP operations with the VJ in Kosovo. He regularly represented the RJB at high-level meetings with the leadership of the FRY and Serbia.

1106. The powers invested in the office of Chief of the RJB could not easily be superseded. Đorđević testified that in October 2000 he refused to obey two orders of the Minister which envisaged the use of excessive force against Serbian civilians. As a result, the actions were not carried out.³⁰²¹ [REDACTED].³⁰²² This evidence demonstrates firstly, that Đorđević was not a mere pawn of the Minister and, secondly, that while he occupied the post of chief of the RJB, his co-operation or approval was required to use RJB units in security operations. Đorđević's claims that the Minister effectively divested him of much of his authority and power to control the RJB especially in the use of the units operating in Kosovo³⁰²³ were simply not credible.

(d) Đorđević participated in training and arming non-Albanian civilians and disarming Albanian villages

1107. As the Head of the RJB and a member of the Joint Command, Đorđević played a significant role in the process of arming non-Albanian civilians and disarming ethnic Albanians throughout Kosovo. Through his participation in the Joint Command, Đorđević participated in the efforts of the FRY and Serbian leadership to carry out these processes, despite his awareness of the likelihood that criminal acts would be perpetrated. His active involvement in the implementation of this policy shows that he acted in concert with other JCE members to further the common purpose through criminal means.

(i) The arming of the non-Albanian population

1108. Đorđević was involved in arming the non-Albanian population in Kosovo. The decision to arm non-Albanians was made at the highest levels of the government in Serbia and the FRY, with the participation of the MUP leadership.³⁰²⁴ The MUP Staff implemented this decision.³⁰²⁵

1109. The MUP Staff armed local non-Albanian villagers and formed reserve police squads (RPOs).³⁰²⁶ On 30 June 1998, the MUP Staff sent a dispatch to all SUPs to assess the need for

³⁰²¹ Đorđević, T.9962; P1474, pp.8-9.

³⁰²² [REDACTED].

³⁰²³ Đorđević, T.9515, 9587, 9687-9688, 9788-9789.

³⁰²⁴ Cvetić, T.6663-6664; Đorđević, T.9862, 9901.

³⁰²⁵ Cvetić, T.6713. See also P1052.

weapons for RPOs.³⁰²⁷ In the beginning of July 1998, SUPs began setting up RPOs.³⁰²⁸ By February 1999, the total number of armed non-Albanians in Kosovo was about 60,000.³⁰²⁹ Ethnic Albanians did not receive weapons and were not included in RPOs.³⁰³⁰

1110. While Đorđević accepted that the MUP organised and trained the RPOs,³⁰³¹ he maintained that the MUP did not exert control over these squads nor manage their work.³⁰³² According to him, the MUP simply provided logistics, training and equipment to members of these squads.³⁰³³

1111. The evidence shows that RPOs were under the general command and control of the MUP, which was also responsible for organising and training them:

- The MUP exercised authority over the appointment of RPO commanders.³⁰³⁴ On 10 July 1998, Lukić sent a dispatch to the commanders of several police stations in Kosovo, instructing them to organise the local defence with the newly formed RPOs, engage the RPOs, and carry out training.³⁰³⁵ At the 28 July 1998 meeting of the MUP Staff, Stojiljković instructed those present: "Chiefs of reserve police stations should be from the respective villages".³⁰³⁶
- The RPOs were responsible to the commander of the police station in their area, who in turn issued specific tasks to the RPO commander.³⁰³⁷
- RPOs provided support to MUP forces during organized anti-terrorist operations in the areas under their protection.³⁰³⁸ When engaged in actions with MUP units, RPO members were placed under the command of the MUP.³⁰³⁹
- The MUP Staff issued instructions regarding the use of RPOs. For example, on 2 December 1998, SUP chiefs were reminded to submit reports on the strength, weapons, training and activities of RPOs.³⁰⁴⁰ On 7 and 11 May 1999, Lukić ordered that members of the RPOs

³⁰²⁶ Cvetić, T.6634,6663-6664;Đorđević, T.9901. See P1054, p.1; P1052; P688, p.8; P975; P690, para.8; P689, pp.6,8; P1043, p.5; P770, pp.4-5; P85, pp.1,3.

³⁰²⁷ P1054, p.1; P1052. See Cvetić, T.6836-6837; D267; D268; Halit Berisha, T.3417.

³⁰²⁸ P1054. See D432, p.6; P688, p.8.

³⁰²⁹ Cvetić, T.6717; P1055, pp.6-7. See also P976; P1330, p.9; P87, p.10.

³⁰³⁰ Cvetić, T.6719; Đaković, T.8137.

³⁰³¹ Đorđević, T.9906-9907, 9940.

³⁰³² Đorđević, T.9908, 9911, 9919, 9928, 9939-9940.

³⁰³³ Đorđević, T.9907, 9919, 9939-9940.

³⁰³⁴ P1054, p.1; D270.

³⁰³⁵ D269; P1052. See Đorđević, T.9906-9907.

³⁰³⁶ P688, p.8.

³⁰³⁷ Cvetić, T.6713. See e.g. D270, p.4; P1043, p.5. See also Halit Berisha, T.3417, 3393; P599 pp.56-58; P600, p.13.

³⁰³⁸ See e.g. P969, p.1; P971, p.2.

³⁰³⁹ See e.g. D260, p.6.

³⁰⁴⁰ P689, pp.6,8. See also P764, p.3.

could only wear police or military uniforms when they were performing tasks as police or VJ reservists.³⁰⁴¹

1112. Đorđević claimed to have limited knowledge of the arming process, and that he was unaware that the VJ and the MUP co-ordinated the arming and training of RPOs through the Joint Command.³⁰⁴² Yet the evidence is overwhelming that Đorđević was fully aware of the policy of arming the RPOs and sanctioned its implementation. The arming of non-Albanians was an integral part of the 1998 Plan for Suppressing Terrorism.³⁰⁴³ The progress made in the implementation of this policy was discussed at Joint Command meetings, which Đorđević attended. When confronted with evidence of these meetings, Đorđević repeatedly denied having knowledge about the matters discussed.³⁰⁴⁴ Đorđević's denials are not credible, as evidence by numerous discussions during Joint Command meetings that he personally attended:

- On 29 July 1998, Lukić reported: "Weapons were distributed today in Vitina (1.100), Kosovska Kamenica, training has not been conducted yet."³⁰⁴⁵
- On 20 August 1998, Minić said: "Recruit the Serbs in those villages and organise a meeting with the village commanders."³⁰⁴⁶
- On 19 September 1998, Lazarević referred to the fact that "a plan for Čičavica has been made".³⁰⁴⁷ A PrK order issued that day instructed PrK units to support "territorially-based MUP forces and the Serbian population" in the action around Mt Čičavica.³⁰⁴⁸ The notes of subsequent Joint Command meetings indicate that Đorđević was present when this action was discussed.³⁰⁴⁹ His intervention at the meeting of 22 September 1998 shows that he was not only aware the action took place, but that he had detailed information about the axis of deployment for PJP units participating in the action.³⁰⁵⁰
- On 28 October 1998, Pavković said: "We must bear in mind the use of armed people and how to include them in defending roads."³⁰⁵¹
- On 29 October 1998, at the meeting of the Operations Inter-Departmental Staff for the Suppression of Terrorism in Belgrade, when the Plan for Suppressing Terrorism was discussed, Pavković expressly stated that the following task formed part of the Plan:

³⁰⁴¹ P771, p.12; P345, pp.8-9; D111, para.19.

³⁰⁴² Đorđević, T.9903,9909,9913,9923-9925.

³⁰⁴³ P87,p.4; P1223;P1051.

³⁰⁴⁴ See e.g. Đorđević,T.9914-9916(P886, p.18);T.9921(P886,p.22).

³⁰⁴⁵ P886, p.22;Đorđević,T.9921.

³⁰⁴⁶ P886, p.55;Đorđević,T.9922.

³⁰⁴⁷ P886,p.103.

³⁰⁴⁸ P1422,p.5;Đorđević,T.9861,9863.

³⁰⁴⁹ P886, pp.105, 107-109.

³⁰⁵⁰ See P1422, pp.8-9; P886, p.108. See also P87, p.5.

³⁰⁵¹ P886, p.142;Đorđević, T.9868-9869.

“Arming the Serbian and Montenegrin people and establishing reserve police units to defend Serbian villages.”³⁰⁵² Lukić reported that 12,500 reservists had undergone training in July and that in the final stages of the offensive, 14,500 men were trained.³⁰⁵³ Đorđević attended this meeting³⁰⁵⁴

1113. Đorđević knew that the policy of arming continued in 1999. He attended the 17 February 1999 MUP Staff meeting, where the report prepared by Pešić regarding RPOs in each municipality was discussed.³⁰⁵⁵ At the meeting, Lukić reported that RPOs in nearly all villages inhabited by Serbs were very active.³⁰⁵⁶

1114. This evidence demonstrates that Đorđević was directly involved in discussions at a strategic level with other JCE members about the arming, training and use of RPOs and was fully aware of the ongoing process. He was aware of the number of RPOs formed by the MUP and of the total number of weapons distributed. He also knew that the MUP and the VJ co-ordinated this activity through the Joint Command. It is inconceivable that he was, as he claims, not fully apprised of these matters and their significance. As Chief of the RJB, Đorđević must have endorsed the implementation of the policy.

1115. Armed non-Albanian civilians were used in actions by the MUP and the VJ. Cvetić explained how RPOs were engaged in these joint actions.³⁰⁵⁷ Numerous VJ and Joint Command combat orders state that the “armed non-Šiptar population” was “to be engaged” by the PrK and the MUP in carrying out operations on the ground. Among the tasks assigned to this entity were: reinforcing and assisting VJ and MUP forces in “crushing and destroying terrorist forces”, securing military facilities and communication routes, and defending areas populated with non-Albanians.³⁰⁵⁸ The phrase “armed non-Šiptar population” in these orders referred to groups of armed non-Albanian civilians who were engaged in actions with MUP and VJ units.³⁰⁵⁹

1116. The use of armed non-Albanian civilians in MUP and VJ operations in 1998 is further evidenced by VJ orders and reports.³⁰⁶⁰ A report of the 3rd Army Forward Command from 2 October 1998 analysed the positive experiences of joint MUP/VJ operations during the summer

³⁰⁵² P87, p.4.

³⁰⁵³ P87, p.7.

³⁰⁵⁴ Đorđević, T.9872.

³⁰⁵⁵ P85; P1055, p.8.

³⁰⁵⁶ P85, p.1.

³⁰⁵⁷ Cvetić, T.6672.

³⁰⁵⁸ See e.g. D343, p.5; P971, p.2; P889, p.4; P1328, p.2; P969, p.1; P767, p.2; P960, p.3; P350, p.2; D348, p.3.

³⁰⁵⁹ Cvetić, T.6634. See P969, p.1.

³⁰⁶⁰ See e.g. P1422, item 5.3; D340, p.4.

offensive and stated: "The distribution of weapons to citizens loyal to the FRY has made it possible for large-scale resistance against the terrorists to be organised."³⁰⁶¹

1117. Discussions between Samardžić and Ojdanić at the VJ Collegium meeting of 2 February 1999 in Belgrade confirm that there were plans to use the armed civilians in VJ-MUP actions in 1999.³⁰⁶² For example, the 16 February 1999 PrK plan for operations and co-ordinated actions with the MUP in the regions of Malo Kosovo, Drenica and Mališevo involved the use of the armed Serbs in Kosovo.³⁰⁶³ This plan was implemented through a series of Joint Command orders in March.³⁰⁶⁴

1118. Witnesses from different municipalities recounted that once the NATO bombing campaign began, the MUP and the VJ used armed local Serbs to carry out crimes against Kosovo Albanians and to expel them from their homes.³⁰⁶⁵

1119. Đorđević's claims that armed non-Albanian civilians were not used in any joint MUP-VJ actions are not credible.³⁰⁶⁶

(ii) Đorđević participated in the disarming of predominantly Albanian villages

1120. Đorđević was also involved in disarming predominantly Albanian villages. This disarmament was part of the 1998 Plan for Suppressing Terrorism.³⁰⁶⁷ While the MUP undertook the task of disarming Kosovo Albanians in the interior of the province, the PrK carried this out in the border belt.³⁰⁶⁸ As discussed above, Đorđević described his involvement in negotiating the disarming of the ethnic-Albanian village of Istinić in September 1998.³⁰⁶⁹

1121. Joint Command members monitored the progress of the disarming campaign in 1998,³⁰⁷⁰ as reflected in the notes of a Joint Command meeting of 19 September 1998,³⁰⁷¹ and in the minutes of the 29 October meeting at Beli Dvor.³⁰⁷² These disarming activities continued into October and

³⁰⁶¹ D340, p.4.

³⁰⁶² P1333, p.23.

³⁰⁶³ P889, p.4.

³⁰⁶⁴ P350 (Malo Kosovo, Vucitrn); D105; P971; P972 (Drenica); and P969 (Bajgora area- Vucitrn/Kosovska Mitrovica).

See also P85, p.1.

³⁰⁶⁵ *See e.g.* Bala, P420, p.7; T.2293-2294; Kadriu, P515, p.12; Ramadani, P306, pp.4-5, 18-19, 38, 43; M.Krasniqi, T.1057-1058; Zatriqi, T.3810; P672, p.6.

³⁰⁶⁶ Đorđević, T.9862-9863, 9869, 9902-9903.

³⁰⁶⁷ P87, p.4.

³⁰⁶⁸ D338; P886, p.82; D244; D432, p.7.

³⁰⁶⁹ Đorđević, T.9802-9804. *See* Mirčić, T.13263-13270.

³⁰⁷⁰ *See e.g.* P886, pp.39-41, 43, 48-49, 54-55, 66, 70, 73, 75, 78, 84, 87, 89-90, 93, 97, 99-100, 103, 120.

³⁰⁷¹ P886, p.103.

³⁰⁷² P87, pp.4-5.

November 1998. Several Joint Command Operative reports from October and November 1998 indicate that VJ and MUP units were collecting weapons "in Šiptar villages."³⁰⁷³

(iii) By arming non-Albanians and disarming ethnic Albanians, Đorđević facilitated the commission of the crimes charged

1122. Đorđević knew that ethnic tensions in Kosovo were running high in 1998 and 1999. The evidence establishes that the FRY and Serbian leadership was well aware of the highly-charged nature of the ethnic tension prevailing in Kosovo in 1998 and 1999, and of the real risk that ethnic Serbs would misuse the weapons being distributed.³⁰⁷⁴ As one of the most senior members of the MUP, it would have been obvious to Đorđević that arming one ethnic group while disarming another in an atmosphere of mutual hostility and ethnic tensions would inevitably lead to crimes based on ethnicity. Despite his awareness of the risks associated with utilising armed civilians in the local defence, Đorđević endorsed this policy and participated in its realisation.

1123. Armed local Serbs were incorporated into MUP and VJ units that committed the crimes charged in the Indictment. Specifically, they were utilised to forcibly expel the ethnic Albanian population from the province.

(e) Đorđević planned and co-ordinated joint MUP/VJ combat operations

1124. Đorđević also participated in planning and co-ordinating joint MUP/VJ combat operations in 1998 and 1999. During the 1998 summer offensive, Đorđević was intimately involved in the Joint Command that directed and implemented the Plan for Suppressing Terrorism.³⁰⁷⁵

1125. As described elsewhere in this brief, the MUP and the VJ worked in close co-ordination pursuant to Joint Command orders. This close co-ordination was a common feature of MUP and VJ forces carrying out operations in Kosovo in 1998. Such co-ordination was also necessary during the Indictment period to implement the common plan. Through his participation in the Joint Command, Đorđević used the MUP to commit crimes.

1126. As in 1998, Đorđević remained directly involved in MUP combat activities in Kosovo in 1999. This is evidenced by his hands-on involvement in the joint MUP/VJ action in Račak/Reçak on 15 January 1999. This was a planned and co-ordinated action.³⁰⁷⁶ Đorđević was at the Stimlje

³⁰⁷³ P1220,p.5; P1218,p.6; P1399,p.8; P1219, p.4.

³⁰⁷⁴ P902,p.16;D523, p.16; P85, p.3.

³⁰⁷⁵ See Part III, Section (A)(3)(b)(i).

³⁰⁷⁶ See Part V, Section(C)(1)(e).

police station at the onset of the operation and the events confirm his authority over, and knowledge of, planned MUP actions.

1127. The Račak/Rečak action began very early on the morning of 15 January and involved several MUP and VJ units.³⁰⁷⁷ [REDACTED].³⁰⁷⁸ [REDACTED].³⁰⁷⁹ [REDACTED].³⁰⁸⁰

1128. [REDACTED].³⁰⁸¹ [REDACTED].³⁰⁸²

1129. [REDACTED].³⁰⁸³ [REDACTED].³⁰⁸⁴ [REDACTED].³⁰⁸⁵

1130. Đorđević testified that he was not at the Stimlje police station on 15 January 1999. He said that he arrived in Priština on the morning of 15 January as part of a high-level government delegation from Belgrade. The delegation attended a meeting at the MUP Staff.³⁰⁸⁶ After lunch, Goran Radosavljević, a member of the Staff, informed Đorđević in passing that there had been an action in the village of Račak/Rečak and that in that action, terrorists were killed.³⁰⁸⁷ Đorđević claimed that he knew nothing about the planning of the action,³⁰⁸⁸ and stated that it was planned by the MUP Staff and the Uroševac SUP and that KVM had been duly notified about it.³⁰⁸⁹ KVM witnesses, however, testified that they had not been notified of this action.³⁰⁹⁰

1131. Đorđević stated that after concluding his official business in Peć on 16 January, he went on a ski trip to Mt. Kapoanik and was there when William Walker gave a press conference calling the Račak/Rečak action a massacre.³⁰⁹¹ According to Đorđević, he visited the Stimlje police station on 18 January 1999, when judicial authorities conducted an on-site investigation into the incident.³⁰⁹² [REDACTED].³⁰⁹³ [REDACTED].³⁰⁹⁴

³⁰⁷⁷ Mitić, T.12758-9; [REDACTED];Maisonneuve, P851, paras.33,47;T.5470-5471; P864.

³⁰⁷⁸ [REDACTED].

³⁰⁷⁹ [REDACTED].

³⁰⁸⁰ [REDACTED].

³⁰⁸¹ [REDACTED].

³⁰⁸² [REDACTED].

³⁰⁸³ [REDACTED].

³⁰⁸⁴ [REDACTED].

³⁰⁸⁵ [REDACTED].

³⁰⁸⁶ Đorđević, T.9665; D437.

³⁰⁸⁷ Đorđević, T.9666-9667; D437.

³⁰⁸⁸ Đorđević, T.9667.

³⁰⁸⁹ Đorđević, T.9667-9668.

³⁰⁹⁰ Drewienkiewicz, T.6504; P864; P869.

³⁰⁹¹ Đorđević, T.9669-9671.

³⁰⁹² Đorđević, T.9672-9673.

³⁰⁹³ [REDACTED].

³⁰⁹⁴ [REDACTED].

1132. This significant alleged contradiction was never put to K86 by the Defence in cross-examination, in accordance with Rule 90(H)(ii). He was therefore never afforded an opportunity to comment on this Defence position, or to address its feasibility.

1133. Defence witnesses Mitić and Mladenović sought to support Đorđević's position that he was not at the Stimlje police station on 15 January. Their testimony was neither credible nor reliable. Mitić was at the Stimlje police station with Janicević that morning, monitoring the action.³⁰⁹⁵ He stated that Janicević kept in radio contact with units participating in the action,³⁰⁹⁶ that the fighting continued all day,³⁰⁹⁷ and that he had information "that there were fatalities".³⁰⁹⁸ Nonetheless, Mitić claimed that he did not know there had been a massacre in Račak/Recak. He stated that police only conducted an on-site investigation on 18 January 1999 because the incident received great attention from KVM and the top leadership.³⁰⁹⁹

1134. Mitić repeatedly denied that Đorđević was at the Stimlje police station on 15 January,³¹⁰⁰ claiming that he only saw Đorđević there on 18 January when the on-site investigation took place.³¹⁰¹ He also denied that Đorđević had any involvement in the planning of the action.³¹⁰² Even when confronted with Janicević's detailed testimony in the *Milošević* case³¹⁰³ about Đorđević's participation in planning the action on 12 January and his presence at the Stimlje police station on 15 January, Mitić maintained his denials.³¹⁰⁴ Mitić stated that perhaps Janicević "confused the dates" regarding Đorđević's presence at the police station and Đorđević's presence at a meeting at the MUP Staff when the action was planned.³¹⁰⁵ KVM representative Maisonneuve confirmed that Janicević was involved in planning this action and commanded the MUP units involved.³¹⁰⁶ Given Janicević's direct involvement in the Račak/Recak action, Mitić's explanation that Janicević simply confused the dates is not plausible. Mitić tailored his evidence to help Đorđević.

³⁰⁹⁵ Mitić, T.12678.

³⁰⁹⁶ Mitić, T.12683.

³⁰⁹⁷ Mitić, T.12683-12684.

³⁰⁹⁸ Mitić, T.12683.

³⁰⁹⁹ Mitić, T.12687-12688.

³¹⁰⁰ Mitić, T. [REDACTED] 12802-12803.

³¹⁰¹ Mitić, T.12659-12660, [REDACTED]

³¹⁰² Mitić, T.12797-12798, 12806.

³¹⁰³ P1555.

³¹⁰⁴ Mitić, T.12802-12803.

³¹⁰⁵ Mitić, T.12798, 12802-12805.

³¹⁰⁶ Maisonneuve, T.5474-5475; P869, pp.7-8.

1135. [REDACTED].³¹⁰⁷ Mladenović claimed that he and the men arrived at Stimlje at 8.30am. However, he also said that he set off from Uroševac at around 8:30am.³¹⁰⁸ [REDACTED].³¹⁰⁹ [REDACTED].³¹¹⁰ [REDACTED].³¹¹¹

1136. A month after the Račak/Rečak action, on 17 February 1999, Đorđević participated in a MUP Staff meeting where operations to be carried out by the MUP in the spring were discussed.³¹¹² Lukić reported on a plan to carry out three mopping up operations in the Podujevo, Dragobilja and Drenica areas. Stojiljković told those present that “Within two or three days of an attack, we have to put our plans in motion and use the time to mop up the territory from terrorists.”³¹¹³

1137. In preparation for this offensive, Đorđević deployed additional PJP units to Kosovo from late February to mid-March 1999.³¹¹⁴ The offensive planned in February 1999 by Đorđević and other JCE members was implemented down the VJ and MUP chains of command in late March 1999 through a series of Joint Command orders. Many of the crimes charged in the Indictment were committed in the course of this offensive.

(f) Đorđević used paramilitary groups and volunteers

1138. Đorđević significantly contributed to the JCE by engaging paramilitary groups and volunteers to commit crimes against ethnic Albanian civilians. Đorđević approved of their use to supplement MUP units in Kosovo. One notorious group was the Skorpions unit, which was incorporated into the SAJ and deployed to Kosovo with Đorđević’s approval. On 28 March, members of the Skorpions massacred civilians in Podujevo. The unit was disbanded and returned to Serbia proper. Some weeks later, Đorđević approved its redeployment to Kosovo. The unit remained in Kosovo until May and participated in “cleansing” actions with PJP units.

(i) Prior to the commencement of the NATO campaign, Stojiljković and Đorđević prepared for the introduction of paramilitaries and volunteers in to the MUP

1139. At the 17 February meeting of the MUP Staff, Stojiljković said: “approach and engage volunteers carefully, linking their engagement through the reserve police force when assessed as

³¹⁰⁷ [REDACTED].

³¹⁰⁸ Mladenović, T.12492.

³¹⁰⁹ [REDACTED].

³¹¹⁰ [REDACTED].

³¹¹¹ [REDACTED].

³¹¹² P85.

³¹¹³ P85, pp.1,3.

³¹¹⁴ See e.g., P356; P711; P137.

necessary". The following day, Đorđević issued Dispatch 312, setting out the tasks Stojiljković outlined, which were to "carry out the necessary checks, compile lists and establish complete control over volunteer and paramilitary units and their members."³¹¹⁵ Pursuant to this dispatch, all SUPs had the duty to establish whether there were members of paramilitary formations in their territories who had fought in Croatia and Bosnia and Herzegovina and, if there were any volunteers in their area, they were to record and control them.³¹¹⁶

1140. In line with his role of implementing policy in Kosovo, on 17 March, at a MUP Staff meeting, Lukić instructed SUP chiefs to retain volunteers who arrived in Kosovo, since such men were to be engaged in MUP operations once the war began.³¹¹⁷ On the eve of the NATO bombing, Stojiljković issued a dispatch that reinforced the measures ordered in Dispatch 312.³¹¹⁸ Stojiljković instructed: "You shall register all volunteer and paramilitary units and their members and keep them under control *in case that you might need to engage them.*"³¹¹⁹ The incorporation of volunteers and paramilitaries in the police was unlawful.³¹²⁰

(ii) Đorđević approved and facilitated the use of the Skorpions unit in Kosovo in

1999

a. Đorđević reinforced the SAJ with the Skorpions

1141. Đorđević played a key role in the incorporation of the Skorpions into the MUP. SAJ Commander Trajković testified that prior to his deployment to Kosovo in 1999, he spoke several times with Đorđević about replenishing the SAJ with a combat group.³¹²¹ His evidence to this extent is confirmed by Đorđević.³¹²² Around 25 March, Trajković called Đorđević,³¹²³ who told him that a combat group in Prolom Banja was ready to join the SAJ.³¹²⁴ [REDACTED].³¹²⁵ [REDACTED].³¹²⁶ [REDACTED].³¹²⁷ [REDACTED].³¹²⁸ [REDACTED].³¹²⁹ [REDACTED].³¹³⁰

³¹¹⁵ P356, para. 7; Cvetić, T.6681.

³¹¹⁶ Cvetić, T.6678.

³¹¹⁷ Cvetić, T.6692.

³¹¹⁸ P702; Cvetić, T.6680.

³¹¹⁹ P702, para. 5 (*emphasis added*).

³¹²⁰ Cvetić, T.6675, 6678; Simović, T.13702; Mišić, T.14111-14112, 14115.

³¹²¹ Trajković, T.9087.

³¹²² Đorđević, T.9695-9697.

³¹²³ Trajković, T.9090.

³¹²⁴ Trajković, T.9087-9090.

³¹²⁵ [REDACTED].

³¹²⁶ [REDACTED].

³¹²⁷ [REDACTED].

³¹²⁸ [REDACTED].

1142. [REDACTED].³¹³¹ [REDACTED].³¹³²

1143. Following these contacts with Trajković [REDACTED], Đorđević approved the engagement of the Skorpions with the SAJ.³¹³³ [REDACTED].³¹³⁴

1144. [REDACTED].³¹³⁵ His testimony on this point is not credible in light of the unchallenged evidence of Trajković [REDACTED]. Similarly, defence witnesses Zoran Simović, the Belgrade SAJ Commander, and Radoslav Stalević, the Priština SAJ Commander, both testified that Trajković told them that he found the "reservists" for the SAJ [REDACTED].³¹³⁶ Neither Simović nor Stalević participated in any meetings [REDACTED] regarding the engagement of the reservists, yet both seemed to have a detailed recollection of these discussions.³¹³⁷ Stalević and Simović aligned their evidence in order to support Đorđević.

1145. The Defence never gave Trajković the chance to address these claims. He was never, in fact, cross-examined about the Skorpions at all.

b. The re-grouping of the Skorpions

1146. [REDACTED].³¹³⁸ [REDACTED].³¹³⁹ The original unit was disbanded around 1996 after participating in the Croatian and Bosnian conflicts.³¹⁴⁰

1147. Some days before the NATO bombing, Medić visited Stoparić in Šid to persuade him to join the old Skorpions unit that was being reformed and would be attached to the SAJ.³¹⁴¹ Stoparić was assigned to enlist volunteers who wished to join the Skorpions.³¹⁴²

1148. On 24 March 1999, approximately 120 volunteers left Šid in buses.³¹⁴³ Many had no experience in fighting and were untrained.³¹⁴⁴ Stoparić said this was the first time that untrained

³¹²⁹ [REDACTED].

³¹³⁰ [REDACTED].

³¹³¹ [REDACTED].

³¹³² [REDACTED].

³¹³³ P86,p.1;D442, p.1.

³¹³⁴ [REDACTED].

³¹³⁵ [REDACTED].

³¹³⁶ Simović,T.13581-13582,13606,13705-13706,13712; Stalević,T.13776.

³¹³⁷ Simović,T.13580,13582,13705-13706; Stalević,T.13705,13776-13777,13818.

³¹³⁸ [REDACTED].

³¹³⁹ [REDACTED].

³¹⁴⁰ Stoparić,T.2861;P493,paras.23-25; [REDACTED].

³¹⁴¹ Stoparić,P493,paras.34-35.

³¹⁴² Stoparić,P493,para.36;T.2855-2856.

volunteers would operate alongside the SAJ.³¹⁴⁵ The buses travelled to Belgrade,³¹⁴⁶ [REDACTED].³¹⁴⁷

c. Đorđević ordered the deployment of Medić's unit to Kosovo with the SAJ

1149. Đorđević attempted to downplay his role in deploying the Skorpions to Kosovo with the SAJ. Đorđević said that Stojiljković was responsible for engaging reservists with the SAJ,³¹⁴⁸ and after he gave his approval, Đorđević had informed Trajković and the Police Administration of the Minister's decision.³¹⁴⁹ Đorđević tried to place himself outside the chain of command for SAJ units in Kosovo and said that the reservists entered Kosovo, without his approval, pursuant to a MUP Staff decision.³¹⁵⁰ This is contradicted by the evidence of Trajković and K92.

1150. It is clear that Đorđević had the authority to deploy the Skorpions to Kosovo and to attach them to the SAJ. Trajković said that he discussed the engagement of additional men with Đorđević, his direct superior, and said that it was only natural that Đorđević would be the first person he spoke to about this.³¹⁵¹ In the report Trajković prepared for Đorđević in May 1999,³¹⁵² Trajković stated that the RJB Chief (Đorđević) and MUP Staff approved the engagement for the SAJ of 128 reservists, commanded by Slobodan Medić. The reservists were then put on the roster of SAJ reservists on 25 March.³¹⁵³ [REDACTED].³¹⁵⁴

1151. Simović sought to support Đorđević's position that it was the Minister who decided on the engagement of the unit and that Đorđević simply conveyed the Minister's decision to Trajković.³¹⁵⁵ Simović's testimony on this point is, at best, no more than speculation; these decisions were made at a level well above his rank. More generally, Simović was an untrustworthy witness in many

³¹⁴³ Stoparić, T.2817; P493, paras.38-40.

³¹⁴⁴ Stoparić, P493, para.39.

³¹⁴⁵ Stoparić, P493, para.39; P495, pp.16-17.

³¹⁴⁶ Stoparić, P493, para.41; T.2817.

³¹⁴⁷ [REDACTED].

³¹⁴⁸ Đorđević, T.9697-9698, [REDACTED], 10114-10115.

³¹⁴⁹ Đorđević, T.9698, 10114. [REDACTED].

³¹⁵⁰ Đorđević, T.9701-9703, 10115-10116.

³¹⁵¹ Trajković, T.9087.

³¹⁵² Đorđević, T.9713, 10114.

³¹⁵³ P86, p.1; D442, p.1.

³¹⁵⁴ [REDACTED]; Vasiljević, T.5681-5682, 5688; P884, p.1.

³¹⁵⁵ Simović, T.13573-13574, 13581-13582, 13605-13606.

areas. For example, he initially said that he left Podujevo on 28 March to attend a funeral in Belgrade but later admitted that the funeral did not take place on that day.³¹⁵⁶

d. Dorđević knew he was deploying a notorious paramilitary unit

1152. Dorđević knew that he was deploying a paramilitary unit to join the SAJ. During a phone conversation with Trajković, Dorđević told him that the combat group contained experienced or partly experienced combatants, who had been at the fronts in Slavonia, Baranja and Western Srem.³¹⁵⁷ [REDACTED].³¹⁵⁸

1153. All parties involved were aware that this was a paramilitary unit. Both Trajković and Simović knew that the men attached to the SAJ in March 1999 were the Skorpions. Trajković said that the unit was called the Skorpions because its leader, Slobodan Medić, was previously the commander of the Skorpions unit that had been active in Slavonia, Baranja, Western Srem and Bosnia.³¹⁵⁹ The symbols and emblems of the Skorpions appeared during the same period.³¹⁶⁰ Trajković explained that the group was even referred to as the Skorpions in internal MUP lists for the payment of per diems and other expenses.³¹⁶¹ Simović stated that he learned the reservists were referred to as the Skorpions from his conversation with Trajković.³¹⁶²

1154. Stoparić was surprised that the Skorpions would be joining the SAJ because the SAJ were an elite anti-terrorist unit.³¹⁶³ The Skorpions were deployed to Kosovo as a group under Medić's command. They were retained as a group and not dispersed into detachments. The Skorpions were identified by others and identified themselves as a separate unit.³¹⁶⁴ 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.³¹⁶⁵

1155. [REDACTED]³¹⁶⁶ [REDACTED].³¹⁶⁷ [REDACTED].³¹⁶⁸ [REDACTED].³¹⁶⁹

³¹⁵⁶ Simović, T.13591,13612,13614,13657-13661.

³¹⁵⁷ Trajković, T.9090.

³¹⁵⁸ [REDACTED].

³¹⁵⁹ Trajković, T.9086-9087,9099;P86,p.1;D442, p.1.

³¹⁶⁰ Trajković, T.9087; [REDACTED].

³¹⁶¹ Trajković, T.9099.

³¹⁶² Simović, T.13606-13607.

³¹⁶³ Stoparić, T.2854;P493,para.39.

³¹⁶⁴ Stoparić, P495, p.101.

³¹⁶⁵ Stoparić, P493, paras.11, 41; T.2819.

³¹⁶⁶ [REDACTED].

³¹⁶⁷ [REDACTED].

³¹⁶⁸ [REDACTED]. [REDACTED].

1156. [REDACTED].³¹⁷⁰ [REDACTED].

1157. Despite Đorđević's denials,³¹⁷¹ it is clear from the accounts of both Trajković and K92 that Đorđević knew the men's background. Having played such a vital role in their incorporation into the MUP, the inescapable inference is that Đorđević knew that the men were the Skorpions and their antecedents.

1158. A preliminary background check would have disclosed the criminal antecedents of many of the Skorpions. On 8 May, Lieutenant-Colonel Đurović, Deputy Chief of Security for the PrK, informed Vasiljević that serious crimes involving paramilitary formations were being committed in Kosovo.³¹⁷² Vasiljević tasked Đurović to prepare an investigative report, which he delivered four days later. Đurović informed Vasiljević that a paramilitary group led by Boca Medić—the Skorpions—had been deployed to Kosovo as part of the SAJ commanded by Trajković.³¹⁷³ The report stated that the Skorpions had been deployed in the former Yugoslavia and that among them were persons who had criminal records.³¹⁷⁴ Their general reputation was that they had “criminal types in their ranks, problematic people...”³¹⁷⁵

1159. Đorđević's claims that he did not know that the Skorpions were a notorious paramilitary group are not credible.³¹⁷⁶ Had he requested a background check of the men, he, like Vasiljević, would have known that Medić's men included criminals. This information was readily available given that Vasiljević was able to obtain it within four days.

1160. Đorđević was in fact well aware that Serbian paramilitary and volunteer groups, like the Skorpions, were “as a rule a front for criminal interests”. He himself had explicitly warned SUP Chiefs of this in his dispatch of 29 April 1998.³¹⁷⁷

1161. Both Simović and Stalević testified that, in 1999, they were unaware of any criminal offences committed by the unit.³¹⁷⁸ It is equally unsurprising that the MUP commanders, including Đorđević, would deny knowledge that the unit included persons with criminal records. The

³¹⁶⁹ [REDACTED].

³¹⁷⁰ [REDACTED].

³¹⁷¹ Đorđević, T.9709-9710,9715, [REDACTED],10108.

³¹⁷² Vasiljević, T.5662.

³¹⁷³ Vasiljević, T.5663,5665-5667.

³¹⁷⁴ Vasiljević, T.5666.

³¹⁷⁵ Vasiljević, T.5667.

³¹⁷⁶ Đorđević, T.9710,9715,10108

³¹⁷⁷ Đorđević, T.9545;P709.

³¹⁷⁸ Simović, T.13596,13693-13696,13699;Stalević, T.13789.

credibility of this denial must be weighed in light of Vasiljević's testimony that this was well known within VJ security circles.

1162. Based on [REDACTED] the circumstances in which these men had been mobilised, given that Medić had gathered volunteers for the purpose of being incorporated into the SAJ, and bearing in mind that it was unlawful to engage volunteers in the MUP, Đorđević had clear notice that some, if not all, of these men were unsuitable for the police. That he permitted their incorporation into the SAJ without ensuring that these checks were made suggests that he knew— and intended—that they would be involved in activities other than legitimate operations. The SAJ was the most elite special force of the RJB,³¹⁷⁹ yet many of these recruits had no experience in fighting and were untrained.³¹⁸⁰ [REDACTED].³¹⁸¹ [REDACTED].³¹⁸²

e. The Skorpions were deployed to Kosovo in late March 1999

1163. On 25 March, the Skorpions arrived on buses from Šid to the police football stadium outside Belgrade.³¹⁸³ Uniformed policemen distributed uniforms to the men.³¹⁸⁴ The men, [REDACTED],³¹⁸⁵ were transported to the SAJ base in Prolom Banja on about 26 March,³¹⁸⁶ where they remained for two days.³¹⁸⁷

1164. On 26 March, Trajković's jeep hit a mine and his driver, Radovan Aleksić, was killed and Trajković injured. While he was in hospital, Trajković learned that Simović and Đorđević had agreed to introduce the unit.³¹⁸⁸ On 27 March, Simović went to Prolom Banja to arrange for the deployment of the Skorpions.³¹⁸⁹ On 28 March, Simović escorted them in buses from Prolom Banja to Podujevo/Podujevë.³¹⁹⁰ Along the way at Đavolija Varoš, Medić outlined the mission: to "clear up the other half" of Podujevo/Podujevë that was not under Serbian control.³¹⁹¹

³¹⁷⁹ Đorđević, T.9695; Stalević, T.13839-13843.

³¹⁸⁰ Stoparić, P493, para.39.

³¹⁸¹ [REDACTED].

³¹⁸² [REDACTED]. See P66, Arts.27,29.

³¹⁸³ Stoparić, P493, para.41; P495, p.78; [REDACTED].

³¹⁸⁴ [REDACTED]; Stoparić, P493, paras.41-43.

³¹⁸⁵ [REDACTED].

³¹⁸⁶ Stoparić, P493, para.44; P86, p.1; D442, p.1.

³¹⁸⁷ Stoparić, P493, para.45.

³¹⁸⁸ Trajković, T.9091-9092.

³¹⁸⁹ Simović, T.13585-13587, 13738, 13748-13749.

³¹⁹⁰ Trajković, T.9092; Simović, T.13586-13587, 13600, 13738-13739, 17348. See Stalević, T.13783-13784.

³¹⁹¹ Stoparić, P493, para.46.

f. Upon arriving in Podujevo/Podujevë, the Skorpions killed a group of civilians

1165. Upon their arrival in Podujevo/Podujevë on 28 March 1999, members of the Skorpions shot and killed a group of 16 civilians: two elderly men and fourteen women and children. Five children survived the massacre but sustained serious multiple gunshot wounds.³¹⁹²

1166. Simović called Đorđević to inform him about the incident.³¹⁹³ Trajković learned about the massacre on 28 March while at the hospital in Priština.³¹⁹⁴ The reservists committed the killings during the first 30 minutes that they were in Podujevo/Podujevë.³¹⁹⁵

1167. The VJ was also informed about the massacre. Stojanović, the Chief of Security of the PrK Command, ordered that the incident be investigated in full.³¹⁹⁶

g. The Skorpions were under SAJ command by the time they arrived in Podujevo/Podujevë

1168. Like Simović and Stalević, Đorđević testified that at the time of the massacre, the Skorpions had not been technically attached to the SAJ as reservists.³¹⁹⁷ These claims were not supported by the evidence or the circumstances of these events.

1169. In what appears to be an attempt to distance himself from the killings, Simović claimed that Medić's men were never attached to the SAJ and were therefore not under his command.³¹⁹⁸ Simović insisted that he had no authority over the reservists.³¹⁹⁹ He was unable to provide an answer when asked repeatedly by the Trial Chamber who could issue orders to these reservists.³²⁰⁰ Similarly, Stalević could not provide an answer to the question of who could issue orders to the "reservists".³²⁰¹ Simović and Stalević's evasiveness was little more than an attempt to deny responsibility for the crime committed by the Skorpions under their command. Given the command structures within the MUP, it is not plausible that the Skorpions would have been deployed to Kosovo with the SAJ without first being placed under the command of the SAJ.

³¹⁹² See Part IV, Section(C)(14).

³¹⁹³ Đorđević, T.9703-9704.

³¹⁹⁴ Trajković, T.9093.

³¹⁹⁵ Đorđević, T.9705; Trajković, T.9094.

³¹⁹⁶ Stojanović, T.11777-11778.

³¹⁹⁷ Đorđević, T.9705.

³¹⁹⁸ Simović, T.13742, 13747.

³¹⁹⁹ Simović, T.13619, 13644-13646, 13718-13720, 13748-13749, 13753.

³²⁰⁰ Simović, T.13718-13721, 13749-13753.

³²⁰¹ Stalević, T.13909-13910.

1170. By the time the Skorpions had arrived in Podujevo/Podujevë, they had been incorporated into the SAJ. As the most senior commander on the ground,³²⁰² Simović was their commander. Simović's authority is evident from the fact that he ordered them to return to Prolom Banja.³²⁰³ The following statements demonstrate that he considered the Skorpions his subordinates:

- "I told the members of my unit, I ordered them, to send back all the *Skorpion* members on the buses and to send them to Prolom Banja, and [...] if there were any members of the reserve force of the Serbia MUP, then certainly that order would have applied to them too because I, as a senior officer, [...] could order subordinates".³²⁰⁴
- In both his interview and testimony before the Prokuplje Court in 2002 (P1590/P1591), Simović indicated that he ordered the Skorpions and Medić to return to Prolom Banja.³²⁰⁵ When confronted with his prior statements in the *Đorđević* case, Simović eventually conceded that he had given this order to "all those who were there, members of the reserve force".³²⁰⁶

1171. Stalević confirmed that the men were returned to Prolom Banja on Simović's order.³²⁰⁷

1172. Stoparić similarly testified that Simović ordered Medić to return the reservists to Prolom Banja within half an hour of the massacre.³²⁰⁸ In total, the Skorpions were in Podujevo/Podujevë for less than one hour.³²⁰⁹

1173. After deciding to return the unit, Simović informed the MUP Staff and Đorđević.³²¹⁰ Trajković and Stalević confirm this.³²¹¹ The massacre committed by the Skorpions was, however, not reported in the MUP Staff's daily bulletin of important events of 28 March 1999 sent by the Staff to the MUP Minister and Đorđević.³²¹²

h. At Prolom Banja, the Skorpions were disarmed and disbanded

1174. Once the Skorpions returned to Prolom Banja, Đorđević issued an order for the unit to be disarmed and sent home. Acting on Đorđević's orders, Trajković [REDACTED] travelled to

³²⁰² Simović, T.13649-13650.

³²⁰³ Simović, T.13588.

³²⁰⁴ Simović, T.13670 (*emphasis added*).

³²⁰⁵ P1591, p.3; P1590, p.3.

³²⁰⁶ Simović, T.13669-13670. *See also* Simović, T. 13617.

³²⁰⁷ Stalević, T.13785, 13820-13821.

³²⁰⁸ P86, p.2; D442, p.2; Trajković, T.9094-9095; Stoparić, P493, para.59.

³²⁰⁹ Stoparić, T.2840-2841; P493, para.60.

³²¹⁰ Simović, T.13588-13589, 13673-16375, 13723, 13753.

³²¹¹ Stalević, T.13785; Trajković, T.9094-9095.

³²¹² D296.

Prolom Banja to arrange this.³²¹³ Trajković told the men to return their weapons and said that they were going back to Belgrade.³²¹⁴ According to Stoparić, the Skorpions turned in their weapons, but retained their uniforms, and left.³²¹⁵ Medić gave a speech at Prolom Banja. He said: "What did they expect, we are at war, people get killed in war".³²¹⁶

i. In April 1999, Đorđević redeployed the Skorpions to Kosovo

1175. Shortly thereafter, in April 1999, Đorđević redeployed the Skorpions to Kosovo and re-attached them to the SAJ. Despite his denials,³²¹⁷ Đorđević eventually conceded that he redeployed the Skorpions to Kosovo:

Later he [Trajković] told me, I need them [reengaged reservists for the SAJ]; I will guarantee for them. I asked him, How many? He said, 100. I obtained an approval from the minister. I engaged the administration in charge of sending the reservists down there. He made the selection. He takes charge. And now you're holding me responsible.

All right, I may be responsible, but what I know is that he [Trajković] provided guarantee for their re-engagement. And I know, based on the testimony we heard here from one of the reservists, is that they carried out their job extremely professionally, and they didn't commit any crime. ...³²¹⁸

1176. [REDACTED].³²¹⁹ They decided to redeploy the reserve force once again.³²²⁰ Trajković assured Đorđević that "for as long as I remained there, there would be no further incidents".³²²¹ In his May 1999 report, Trajković wrote that the MUP Staff and "Chief of Department" approved the redeployment.³²²² Trajković was unsure who issued the order for redeployment but was informed about the re-engagement by Đorđević in the second half of April.³²²³

1177. [REDACTED].³²²⁴ [REDACTED].³²²⁵ [REDACTED].³²²⁶ [REDACTED].³²²⁷

1178. Vasiljević corroborated Trajković's evidence. At a meeting of the VJ leadership in Belgrade on 16 May 1999, Pavković stated that General Đaković had had a discussion with "Boca", who told

³²¹³ Trajković, T.9095-9096, 9112-9113; Đorđević, T.9706-9707, 9709, 10112. [REDACTED].

³²¹⁴ Trajković, T.9096. See also P86, p.2; D442, p.2; Đorđević, T.9706-9707.

³²¹⁵ Stoparić, P493, para.62; T.2844.

³²¹⁶ Stoparić, P493, para.61; T.2842.

³²¹⁷ Đorđević, T.10109-10110, 10116-10117.

³²¹⁸ Đorđević, T.10113 (*emphasis added*).

³²¹⁹ [REDACTED].

³²²⁰ Trajković, T.9101-9102; P86; D442.

³²²¹ Trajković, T.9101, 9105-9106.

³²²² P86, p.2; D442, p.2.

³²²³ Trajković, T.9106.

³²²⁴ [REDACTED].

³²²⁵ [REDACTED].

³²²⁶ [REDACTED].

³²²⁷ [REDACTED].

him that the group had arrived in Kosovo following Đorđević's orders and that the MUP would collect the group and send them to those areas where the situation was the worst.³²²⁸

1179. Following Đorđević's approval to re-engage the Skorpions with the SAJ, 108 members of the original group of 128 were redeployed to assist the SAJ.³²²⁹ Medić was again placed in charge of them.³²³⁰

1180. All of the men involved in the Podujevo/Podujevë killings, except for Saša Cvetan, were redeployed.³²³¹ Trajković stated that although they redeployed members who had committed the crime, they did not realise this at the time.³²³² Simović claimed that the police had the duty to screen the men before they were redeployed and that he knew procedures were underway, but could not say if the men had actually been screened.³²³³

1181. In the context of the crimes that he knew were being committed in Kosovo, returning this violent paramilitary group is evidence of Đorđević's intention to contribute to the implementation of the common plan. He would have been well aware that he was returning some of the perpetrators of this horrendous crime. Đorđević did not ensure that the men who committed the massacre within minutes of arriving in Podujevo/Podujevë were not sent back. He could not responsibly rely solely on Trajković's assurance when he was aware that none of the shooters had been charged.

j. Once redeployed to Kosovo, the Skorpions participated in "cleansing" ethnic Albanian villages

1182. After the Skorpions were disarmed, Stoparić and the other Skorpions had returned to Šid.³²³⁴ Boca's men visited them in Šid about 10 days later.³²³⁵ The next day, the men were redeployed to Kosovo in two buses.³²³⁶ On 26 April, the Skorpions arrived at the SAJ forward command in

³²²⁸ Vasiljević, T.5673-5674; P1595 states: "We also have verified information that Major-General Milan Đaković, operative officer in the command of the 3rd Army, recognised in this group a certain Slobodan Medić, aka Boca, and asked him what sort of task had brought him there, to which the other replied that he had come by order of the MUP General Rodja". (P1595 is a supplement to a report to the 3rd Army Command from the field dated 16 May 1999).

³²²⁹ Trajković, T.9102; Đorđević, T.9708, 10116.

³²³⁰ P86, p.2; D442, p.2.

³²³¹ Stoparić, T.2844; P495, p.17.

³²³² Trajković, T.9109.

³²³³ Simović, T.13680-13681.

³²³⁴ Stoparić, P493, para.63.

³²³⁵ Stoparić, P493, para.63.

³²³⁶ Stoparić, P493, para.64; T.2844.

Kosovo Polje.³²³⁷ Stoparić observed many PJP units in Kosovo Polje and recognized PJP members from Kragujevac.³²³⁸

1183. Around 28 or 29 April, the Skorpions and PJP units were transported to Jezerce in Suva Reka municipality.³²³⁹ The units commenced operations to drive the KLA out and seize villages (“cleaning”).³²⁴⁰ Under the SAJ’s command, and along with active-duty members, they engaged in operations in the Jezerce Mountain sector.³²⁴¹ They remained in Kosovo until 9 May.³²⁴²

1184. The Skorpions participated in joint actions, along with PJP units, that were aimed at preventing Kosovo Albanians from returning to their homes.³²⁴³ After the Skorpions took a village they would withdraw.³²⁴⁴ Then the PJP in the rear guard would enter the village and set fire to the houses.³²⁴⁵ Stoparić said: “Once the Albanians left and we’d take control of the terrain, they would come back from the forest after two days. 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”.³²⁴⁶

(g) Đorđević played a leading role in the concealment of the crime of murder

1185. Đorđević played a leading role in actively concealing the evidence of widespread murders committed by the forces of the FRY and Serbia against Kosovo Albanians. Over the course of the Indictment period, he co-ordinated the clandestine burial of multiple truckloads of bodies that were systematically exhumed from across Kosovo and driven hundreds of kilometres to the grounds of the *13 Maj* Centre in Batajnica, outside of Belgrade. The remains of more than 800 Kosovo Albanian victims, from across Kosovo, were eventually exhumed from that site. Over the same time period, the MUP was similarly concealing the bodies of Kosovo Albanian victims at another SAJ base in Petrovo Selo, located in north-eastern Serbia. This was undoubtedly part of the same operation. While Đorđević was acting to conceal these shipments of bodies, murders were still being committed in Kosovo by the forces of the FRY and Serbia, and these crimes were systematically concealed through the mass transport of the bodies.

³²³⁷ P86,p.2;D442,p.2;Simović,T.13594,13678.

³²³⁸ Stoparić,P493,para.65.

³²³⁹ Stoparić,P493,para.67.

³²⁴⁰ Stoparić,P493,para.67;Stoparić,T.2874.

³²⁴¹ P86,p.2; D442,p.2;Stalević,T.13894.

³²⁴² P86,p.2; D442,p.2. See Đorđević,T.9708-9709.

³²⁴³ Stoparić,P493,para.68;T.2888-2889.

³²⁴⁴ Stoparić,P493,para.68.

³²⁴⁵ Stoparić,P493,para.68.

³²⁴⁶ Stoparić,T.2888-2889.

1186. When two separate refrigerator trucks full of bodies surfaced in rivers on opposite sides of Serbia in April of 1999, Đorđević played a principal role in the operations to re-conceal them. He ordered that bodies from a truck found in the Danube be removed and transported to the *13 Maj* Centre. He also oversaw the burial of bodies found in a truck floating in Lake Perućać in a mass grave on-site.

1187. These large-scale operations to conceal bodies had to be organized and approved at a high level. The MUP had to co-ordinate systematic operations to transport the bodies away from massacre sites, to temporarily bury the bodies, and then to unearth these bodies, load them into trucks and transport them out of Kosovo. The burial sites in Serbia had to be pre-selected, and high-level clearance, equipment, manpower and funding were required to bury the bodies in these mass graves. Đorđević significantly contributed to the JCE by providing these resources and by directly overseeing the transport and burial operations. As the Chief of the RJB, Đorđević was also the superior officer and the contact person for the SUP Chiefs and other senior MUP officials tasked with overseeing these concealment operations on the ground. The concealment of these bodies, and the cover-up of the serious crimes they would have evidenced to local observers and to the international community, was a substantial contribution to the JCE.

(i) The Refrigerator Truck in Bor/Kladovo

1188. On 5 April 1999, a refrigerator truck containing bodies was found floating in the Danube River in eastern Serbia near the village of Tekija.³²⁴⁷ After preliminary steps were taken by the nearby Kladovo OUP, Bor SUP Chief Caslav Golubović was contacted and briefed about the discovery and the steps that had been taken thus far.³²⁴⁸ Golubović contacted Đorđević in Belgrade at approximately 21:00 on 6 April and sought instructions on how to proceed. Golubović briefed Đorđević, informing him of everything he had been apprised of.³²⁴⁹ This included the information that there were 20-30 human bodies in the refrigerator truck and that the bodies were of men, women and children. Golubović told Đorđević that the bodies were dressed in civilian clothing and that many of the bodies were dressed in the billowing pants normally worn by Kosovo Albanians.³²⁵⁰ Golubović also told Đorđević that the truck itself appeared to be from Kosovo.³²⁵¹

³²⁴⁷ Radojković, T. 1764-1765.

³²⁴⁸ See supra para. 557.

³²⁴⁹ Golubović, T. 1662, 1740; P353, p. 8; Đorđević, T. 9720.

³²⁵⁰ Golubović, T. 1662, 1735-1736; P353, p. 14; Đorđević, T. 9721, 9979.

³²⁵¹ Đorđević, T. 9721.

1189. Ten or fifteen minutes after this conversation, Đorđević called back and gave Golubović instructions that the bodies should be retrieved and buried in the immediate vicinity.³²⁵² He told Golubović that this incident was to remain confidential.³²⁵³

1190. Pursuant to Đorđević's instructions, Golubović organized for the bodies to be removed and buried that night.³²⁵⁴ As they worked, it became apparent that there were approximately 50 more bodies in the truck than they had anticipated. Golubović phoned Đorđević at about 22:30 and explained that they would not be able to finish by morning.³²⁵⁵ Đorđević instructed Golubović to instead load these bodies into a new truck and have them transported to Belgrade, and ordered that the refrigerator truck in which they had been found be destroyed.³²⁵⁶

1191. The workers managed to load about 30 of the bodies into a truck.³²⁵⁷ At this point, Golubović called Đorđević. Đorđević told Golubović that this first shipment of 30 bodies should be transported to Belgrade.³²⁵⁸ Golubović's driver, Ljubinko Ursuljanović, drove this first lorry towards Belgrade, with two policemen escorting him.³²⁵⁹ Golubović was later telephoned by a person from the Ministry who asked for the truck's license number and the driver's mobile number, so that Ursuljanović and the lorry could be met en-route and escorted to the final destination.³²⁶⁰

1192. When Ursuljanović returned the next day, he told Golubović that a Volkswagen Golf had escorted him through Belgrade and that the truck was taken over by other persons "on the way to Novi Sad".³²⁶¹ Six or seven days later, the SUP Bor was called and told that the truck was available to be picked up. Ursuljanović went and retrieved the truck from a MUP parking lot.³²⁶²

1193. Golubović asked Đorđević to secure a truck so they could use it the next day to transport the remaining bodies to Belgrade.³²⁶³ When the truck arrived, these 53 bodies were loaded and transported to the SAJ centre in Batajnica.³²⁶⁴

³²⁵² Golubović, T.1725; P353, p.10; Đorđević, T.9722.

³²⁵³ Đorđević, T.9721-9722.

³²⁵⁴ Golubović, T.1742, 1713; P352, p.3.

³²⁵⁵ Golubović, T.1663, 1735, 1743-1744; P353, p.12-13.

³²⁵⁶ Đorđević, T.9726; Golubović, T.1744; P353, p.15.

³²⁵⁷ Radojković, P359, pp.17-19; Golubović, P353, pp.15-16.

³²⁵⁸ Golubović, T.1744, 1747; P352, p.4; P353, pp.15-16.

³²⁵⁹ Golubović, T.1747, 1758-1759; P352, p.4; P353, pp.15-17; P403, p.1.

³²⁶⁰ Golubović, P352, p.4; P353, pp.16-17.

³²⁶¹ Batajnica is between Belgrade and Novi Sad— see P2.

³²⁶² Golubović, P353, pp.17-18; P403, p.1.

³²⁶³ Golubović, P352, p.2; P353, pp.18-19.

³²⁶⁴ Golubović, P353, pp.18-19; [REDACTED].

Continuing the Coverup

1194. Pursuant to Đorđević's orders, once the bodies had been removed and transported to Belgrade, Golubović arranged to have the refrigerator lorry destroyed.³²⁶⁵ After an unsuccessful attempt to destroy the truck by setting it on fire, it was demolished with explosives.³²⁶⁶ Đorđević plainly acknowledged that this order was unlawful.³²⁶⁷

1195. Đorđević also instructed Golubović that the case was not to be made public or reported by the media.³²⁶⁸ [REDACTED].³²⁶⁹

Đorđević Oversaw the Funding for the Operation

1196. Đorđević also approved and oversaw the funding for this cover-up. After asking Đorđević on 7 April to provide him with money so he could pay the workers, Golubović received 10.000 dinars about 4-7 days later, which he distributed.³²⁷⁰ The workers were paid from the MUP's special expenses fund.³²⁷¹ Slobodan Borisavljević, Đorđević's Chef de Cabinet, told the Working Group that Đorđević instructed him to cover the operational expenses for the whole operation.³²⁷² The paperwork evidencing these payments was approved and signed by Đorđević on 19 and 22 April.³²⁷³ [REDACTED].³²⁷⁴ Despite having signed and approved the documents, Đorđević claimed that he was "not familiar with the name at all".³²⁷⁵

Assessing Đorđević's False Claims

1197. Đorđević made a number of specific claims with respect to the re-concealment of these bodies that were neither reliable nor consistent with the evidence.

i) *Đorđević did not consult with the Minister before ordering the bodies to be buried onsite*

1198. Đorđević claimed that the Minister had ordered him to tell Golubović that the bodies should be buried on-site and stated that he "didn't issue any orders until the minister was informed".³²⁷⁶ This assertion is inconsistent with his letter to the Nedeljni Telegraph, dated 18 June 2004, in which

³²⁶⁵ Golubović, T.1715,1755-1756;P353,pp.19-20;Đorđević,T.9726.

³²⁶⁶ Radojković,P359,pp.23-24;T.1783;Golubović,T.1755-1756;P352,p.4;P353,p.20.

³²⁶⁷ Đorđević,T.10002.

³²⁶⁸ P352,p.4;Golubović,T.1710;P353,pp.20-21.

³²⁶⁹ [REDACTED].

³²⁷⁰ Golubović,T.1667;P353,p.22. See also Radojković,P359,pp.17-19;Đorđević,T.9984.

³²⁷¹ P387,p.3.

³²⁷² [REDACTED];P389,p.1;Đorđević,T.9982-9983.

³²⁷³ P391;P392; [REDACTED]. See also P393, signed by Borisavljević.

³²⁷⁴ [REDACTED].

³²⁷⁵ Đorđević,T.9984.

³²⁷⁶ Đorđević,T.9721,9824.

he stated that immediately upon learning about the bodies, he himself “proposed that the complete criminal processing be conducted there”, and only informed the Minister afterwards.³²⁷⁷ Đorđević struggled to explain these discrepancies in cross-examination.³²⁷⁸

ii) *There was Never any Intention to Autopsy or Properly Process these Bodies*

1199. The claim that Đorđević, the Minister³²⁷⁹ or anyone else intended for the bodies to be autopsied or properly processed is fundamentally inconsistent with the nature of the actual operations. Neither the municipal or district prosecutor, nor any investigating judge, had been at the site when the bodies were being unloaded – at night. There was no forensic assistance at the scene. Moreover, Đorđević had initially ordered Golubović to bury these bodies at the site, and only later decided that they should be loaded onto another truck.³²⁸⁰ These steps were fundamentally inconsistent with any lawful handling of a truck full of human remains. The secrecy that Đorđević demanded at the time, and the ongoing concealment operation at Batajnica that he coordinated over the next two months, make clear that Đorđević was only interested in keeping this operation concealed.

iii) *Đorđević did not remove himself from this operation*

1200. Đorđević testified that he removed himself from dealing with the bodies after Golubović had followed his orders to load them into the first truck and have them driven to Belgrade. He stated that he told the Minister: “Do as you like. I don’t wish to take part in this whole matter any longer.”³²⁸¹ These claims are neither credible nor internally consistent. The suggestion that Đorđević withdrew at this point and that the Minister acted on his own to communicate with the truck drivers and determine “what the final destination was going to be” is inconsistent with the evidence that immediately thereafter Đorđević proceeded to oversee the burial of these very bodies in Batajnica.³²⁸² Indeed, the very choice of this location – the SAJ’s *13 Maj* Centre – suggests Đorđević’s involvement itself. In light of Đorđević’s continuing actions, there are only two plausible options: that Đorđević organized the delivery of the bodies to Batajnica himself, or that he acted in concert with the Minister to do so.

1201. Đorđević also claimed that immediately after he conveyed his instructions to Golubović on how to proceed, he told the Minister that they should establish a commission or group to investigate

³²⁷⁷ P1474, p.7; Đorđević, T.9967-9968.

³²⁷⁸ Đorđević, T.9824-9828.

³²⁷⁹ See P1474, p.7; Đorđević, T.9967-9968.

³²⁸⁰ Golubović, T.1745-1746.

³²⁸¹ Đorđević, T.9727-9728.

³²⁸² Đorđević, T.9727. See section *infra* paras.1217-1229.

the matter.³²⁸³ In light of Đorđević's overall actions, this claim is absurd. Just days later, Đorđević was involved in the burial of bodies from another refrigerator truck found in Lake Peručać. In the two months that followed, he then co-ordinated the burial of hundreds of additional bodies in mass graves in Batajnica. [REDACTED].³²⁸⁴

1202. It would appear that Đorđević's position, as with other issues, evolved in order to place all of the responsibility for his actions onto the Minister. In any case, the Indictment charges that Đorđević and the Minister participated together, along with several other key political, military and MUP figures, in committing these crimes. The participation of the Minister, or of any of the other co-perpetrators, does not negate Đorđević's individual criminal responsibility.

(ii) The Refrigerator Truck Incident at Lake Peručać

1203. When the human cargo of another refrigerator truck washed up in Lake Peručać, Đorđević also oversaw efforts to conceal those bodies by burying them onsite along the banks of the river.

1204. In mid-April of 1999, the Chief of the Uzice SUP, Đorđe Kerić, received a telephone call from Slavko Petrović, Chief of the Bajina Bašta OUP.³²⁸⁵ Petrović told Kerić that a number of dead bodies were floating in Lake Peručać.³²⁸⁶ After confirming the report, Kerić called Đorđević and informed him of this "extraordinary event".³²⁸⁷ Kerić and Đorđević had known each other for about 15 years.³²⁸⁸ Kerić sought further instructions from Đorđević concerning what he should do next and whether they should inform the investigating judge and prosecutor.³²⁸⁹ Đorđević instructed Kerić not to inform anyone, and to "conduct additional checks".³²⁹⁰

1205. Đorđević ordered that Zoran Mitričević, Chief of the Užice Crime Police, should be sent to the site with a group of inspectors.³²⁹¹ Đorđević told Kerić that he should keep him (Đorđević) informed and receive instructions about what to do afterwards. Sometime later, Mitričević telephoned Kerić and informed him that the number of bodies was growing and that a container had surfaced. He told Kerić that there were male and female bodies and that they were mostly dressed

³²⁸³ Đorđević, T.9723

³²⁸⁴ [REDACTED].

³²⁸⁵ Kerić, T.7755,7817. Kerić testified that he received the telephone call "about two weeks" before he was transferred to his new post. He was transferred to that post on 1 May 1999 (T.7754), thus further suggesting that he received the telephone call in the middle of April 1999.

³²⁸⁶ Kerić, T.7755-7756.

³²⁸⁷ Kerić, T.7756-7757,7818; Đorđević, T.9728.

³²⁸⁸ Đorđević, T.9990.

³²⁸⁹ Kerić, T.7756-7757,7819-7820.

³²⁹⁰ Kerić, T.7757,7819-7820; Đorđević, T.9728,9991.

³²⁹¹ Kerić, T.7756-7757.

in civilian clothes.³²⁹² Kerić telephoned Đorđević and informed him about what was being found. He asked Đorđević for further instructions. Đorđević instructed Kerić that they should speak “a little later”.³²⁹³

1206. Đorđević testified that at this point he went to see the Minister and conveyed the information to him. According to Đorđević, the Minister “didn't comment, he didn't give me any instructions; and didn't ask me to pass them to anyone.” Đorđević claimed that it was his belief at this time that the Minister “was going to settle this matter with someone else,” and that he therefore just left the Minister's office.³²⁹⁴

The Bodies were Buried Onsite

1207. As instructed, Kerić called Đorđević again about an hour later. Kerić testified that Đorđević told him that, “it was necessary to take measures to remove the bodies from the lake, to engage a number of officers and civilians for this purpose, and that these bodies should be buried in a mass grave near Lake Perućac dam.”³²⁹⁵

1208. Kerić's testimony that Đorđević ordered him to bury the bodies on-site is inconsistent with D316, a transcript of an interview that Kerić gave on 8 June 2005 to Judge Dilparić of the Belgrade District Court. In that interview, unlike the evidence he had provided to the Tribunal and the signed statement he provided to the Working Group in 2001, Kerić did not state that Đorđević had ordered the burial of the bodies, but stated that he and Mitričević had buried them on their own in the absence of clear instructions.³²⁹⁶ Kerić nonetheless insisted during his evidence in *Đorđević* that he was instructed by Đorđević to bury the bodies on-site.

1209. The issue of whether Đorđević directly ordered the burial of the bodies is addressed in more detail below, as are more general attempts by Đorđević to downplay his knowledge and involvement in this episode. Notwithstanding these denials, it is clear that on the uncontroverted evidence of *both* Kerić and Đorđević:

- a) Kerić informed Đorđević about the truckload of human bodies when it was discovered;³²⁹⁷

³²⁹² Kerić, T. 7757-7759, 7763.

³²⁹³ Kerić, T. 7759; Đorđević, T. 9728.

³²⁹⁴ Đorđević, T. 9728-9729.

³²⁹⁵ Kerić, T. 7759.

³²⁹⁶ Kerić, T. 7841-7864; P1212.

³²⁹⁷ Đorđević, T. 9995.

- b) Đorđević, Kerić's superior, was in regular communication with Kerić throughout the time in which the bodies were being dealt with and had issued him orders and expected him to report back;
- c) Kerić informed Đorđević that the bodies had been recovered from the water and then buried onsite, near the dam;³²⁹⁸
- d) The burial of these bodies in Lake Perucać was unlawful, and Đorđević was aware of this,³²⁹⁹ and
- e) Đorđević maintained this cover-up, while at the same time acting to conceal truckloads of other bodies coming from Kosovo.

Assessing Đorđević's Limited Denials

1210. Đorđević largely confirmed Kerić's account and admitted his knowledge and involvement with respect to the discovery and subsequent re-concealment of the bodies onsite. However, he sought to downplay his involvement in several respects:

- Đorđević denied telling Kerić to send Zoran Mitrićević or anybody else to the scene, claiming that this was "for him to decide";³³⁰⁰
- Đorđević testified that he only had two conversations with Kerić. The first occurred when Kerić informed him about the incident and Đorđević told him to check what it was about. The second occurred when Kerić conveyed to Đorđević what else was found in the lake;³³⁰¹
- Đorđević testified that he never instructed Kerić to bury the bodies, and that Kerić did so on his own and simply conveyed this information to Đorđević.³³⁰²

1211. Đorđević's denials of involvement and knowledge are not credible in the context of these events. Đorđević was not only SUP Chief Kerić's superior but Chief of the entire RJB. Kerić and Đorđević agree that Kerić called Đorđević seeking instructions on what to do about this significant issue. This was consistent with the operative chain of command. Đorđević also admits that upon being informed of the existence of these bodies, he ordered Kerić to "investigate it and to call me later".³³⁰³ In short, up until the moment that the bodies were actually buried, Đorđević was issuing orders to a subordinate, seeking to gather more information with respect to what should be done. This is precisely what one would expect, given their respective ranks within the MUP hierarchy. Đorđević's position – that having already issued such instructions he suddenly became a passive bystander as Kerić buried the bodies on his own – strains credulity. Perhaps more importantly, it makes even less sense that a subordinate like Kerić, who was in ongoing direct communication with

³²⁹⁸ Đorđević, T. 9995; Kerić, T. 7759-7760.

³²⁹⁹ Đorđević, T. 10002.

³³⁰⁰ Đorđević, T. 9991-9992.

³³⁰¹ Đorđević, T. 9729.

³³⁰² Đorđević, T. 9992, 9995.

³³⁰³ Đorđević, T. 9728, 9991.

the Chief of the Department about what was clearly a highly sensitive matter, would act in any manner that was not in keeping with the wishes of his superior.

1212. In the overall context of the events taking place in April of 1999, Đorđević's limited denials of knowledge and responsibility are less probable still. Đorđević admits, as outlined above, that he had just issued orders to another SUP Chief, Golubović, with respect to what to do with another refrigerator truck full of bodies that had surfaced in another river. Both Đorđević and Golubović testified that Đorđević first ordered that the bodies should be buried onsite, and only later (when onsite burial proved unfeasible), ordered that they be loaded into new trucks and transported once again.³³⁰⁴ Having just dealt with a remarkably similar incident involving a refrigerator truck, where the first approach was to order the local SUP Chief to bury the bodies onsite, it makes little sense to suggest that when the same issue arose at Lake Perućac, Đorđević was this time largely a passive observer who checked in only occasionally while that SUP Chief buried the bodies on his own initiative.

1213. In any event, it is clear on both Kerić and Đorđević's accounts that having completed the act of burying these bodies, Kerić reported directly back to Đorđević. Đorđević undertook none of the actions required of a superior commanding officer who was aware of and personally involved in the concealment of another truckload of human bodies. To the contrary, he continued to act to conceal these bodies, along with the other shipments and burials that he was co-ordinating throughout this period.

Đorđević Instructed Kerić Not to Contact the Investigative Judge or Prosecutor

1214. Đorđević's intention to conceal the evidence of these crimes was evident throughout his dealings with the bodies found at Lake Perućac. It was also apparent in his instructions that Kerić not inform the investigating judge or prosecutor.

1215. Kerić explained that after Mitričević told him that the number of bodies was increasing and that there were a number of bodies in the trailer, he (Kerić) had asked Đorđević for a second time whether he should inform the investigating judge. Đorđević told Kerić not to advise either the investigating judge or the prosecutor. This was contrary to standard procedure.³³⁰⁵

³³⁰⁴ Golubović, T.1725; P353, p.10; Đorđević, T.9722.

³³⁰⁵ Kerić, T.7761-7762.

1216. Kerić obeyed Đorđević's command, noting that if he had not complied he would have been subject to disciplinary proceedings from Đorđević.³³⁰⁶ It may be noted that, in all of his accounts, including in his statement to Judge Dilparić addressed above, Kerić was consistent that Đorđević had instructed him not to inform the investigative judge.³³⁰⁷ Đorđević sought to deny that he had instructed Kerić not to inform the investigative judge, but his testimony was evasive.³³⁰⁸

(iii) The Concealment of Bodies at the 13 Maj Centre in Batajnica

1217. Đorđević co-ordinated the burial of hundreds of bodies in mass graves at the 13 Maj Centre in Batajnica, the training ground for the SAJ, which was under his *de facto* and *de jure* control. Đorđević admitted that the Minister had placed him in charge of the SAJ, and that even for some 10 years prior to that the SAJ had been under his "direct leadership".³³⁰⁹

1218. [REDACTED].³³¹⁰

1219. Đorđević provided K87 with specific instructions with respect to the location and method of burial. These instructions reflected a thorough knowledge of the present layout of the Centre and forethought into where the bodies would best be concealed. He directed K87 to bury the bodies "behind the firing range", noting that this would be the most convenient place for burial because the earth had already been disturbed.³³¹¹ [REDACTED].³³¹² As they were leaving his office, they met the Minister who was passing by and Đorđević told the Minister that, "this was the man who was supposed to wrap up the whole matter".³³¹³

When did the Bodies First Arrive in Batajnica?

1220. [REDACTED] Đorđević provided rough estimates with respect to when the bodies first arrived at Batajnica. [REDACTED].³³¹⁴ Đorđević claimed that he learned from the Minister "Shortly after the event at Perućac" that the trucks containing bodies had been brought to

³³⁰⁶ Kerić, T.7811.

³³⁰⁷ D316, pp.3-4. It should be noted that when the Defence asked Kerić to read this portion aloud [T.7843], the translation used in court differed significantly from the English translation of D316 itself. In particular, Kerić read it as stating: "Since the number of bodies went up I believe that we should *not* inform either the investigating judge or anybody else. I informed Mr. Krivokapic, the investigating judge..." Given the context, it appears that this was an error in translation. In any case, the translation of the original makes clear that it was Đorđević who had insisted that the investigating judge not be contacted.

³³⁰⁸ See Đorđević, T.9993.

³³⁰⁹ Đorđević, T.9821.

³³¹⁰ [REDACTED].

³³¹¹ K87, P1415, para.17; P1416.1, p.5.

³³¹² [REDACTED].

³³¹³ Đorđević, T.9731; [REDACTED].

³³¹⁴ [REDACTED].

Batajnica.³³¹⁵ [REDACTED].³³¹⁶ It can safely be concluded that truckloads of bodies arrived at Batajnica on or about 7-8 April. On 7 April, the bodies from Tekija were loaded into a first truck, which left for Belgrade. The second truck left shortly after the first.³³¹⁷ Ursuljanović, the driver of the first truck, reported that he passed through Belgrade and that the truck was taken over “on the way to Novi Sad”, which is consistent with it being taken straight to Batajnica.³³¹⁸ [REDACTED].³³¹⁹ This evidence is consistent with K88’s evidence – in 1999, Good Friday fell on 9 April and the “Thursday before” was thus 8 April.

The Arrival and Burial of Bodies

1221. Acting on Đorđević’s instructions, K87 and other MUP members buried these bodies at the *13 Maj* Centre.³³²⁰ Shortly after these first shipments were buried, Đorđević arranged for the concealment of additional shipments of bodies.

1222. Đorđević was clear in his testimony that he issued orders to K87 to bury the bodies from these additional trucks and that K87 “followed the orders”. Đorđević stated that he called “the officer” (K87) and conveyed orders for bodies in two or three more trucks to be buried, following the same procedure he had initially sent out. He also confirmed his awareness that the job had been done. As Đorđević put it, rather succinctly: “I called the officer, related that to him, and he did the job.”³³²¹

1223. [REDACTED],³³²² [REDACTED].³³²³ Lipovać was Đorđević’s personal driver. Bašanović was the driver for Assistant Minister Zeković, who tasked K93 to collect corpses on several occasions.³³²⁴ Đorđević claimed that he was not aware that Lipovać and Bašanović were involved in the operations to transport bodies, and to bury bodies in Batajnica.³³²⁵ Given Đorđević’s role, Lipovać and Bašanović’s extensive involvement, and Đorđević’s relationship with Lipovać in particular, this is not a credible denial.

³³¹⁵ Đorđević, T.9729-9730.

³³¹⁶ [REDACTED].

³³¹⁷ Golubović, T.1666-1667, 1735, 1744.

³³¹⁸ Golubović, P.353, pp.17-18; P.403, p.1.

³³¹⁹ [REDACTED].

³³²⁰ Evidence with respect to the initial burials is outlined in Part III, Section(B)(5)(d).

³³²¹ Đorđević, T.9732-9733, 9978.

³³²² [REDACTED].

³³²³ [REDACTED]; K87, T.14176.

³³²⁴ Đorđević, T.9988.

³³²⁵ Đorđević, T.9989.

While Đorđević was Concealing Bodies at Batajnica, Crimes were Continuing

1224. Evidence from a variety of sources outlines further MUP massacres, and subsequent operations to conceal the bodies evidencing these crimes, that took place after Đorđević had begun concealing these shipments of bodies. Civilians were murdered by police at the end of April in Meja/Mejë and their bodies were transported and temporarily buried. In large-scale MUP operations running through May and into June of 1999, these bodies were systematically exhumed once again and transported out of Kosovo to the *13 Maj* Centre, where Đorđević arranged for their concealment in mass graves.³³²⁶

1225. Đorđević's ongoing role in concealing the evidence of these large-scale murders, as they continued to occur, enabled and encouraged the crimes to be committed without local or international observers learning about them or intervening.

It Was Đorđević Who Ceased the Operations at Batajnica

1226. [REDACTED].³³²⁷ Đorđević confirmed that K87 had contacted him and "expressed his dissatisfaction with the situation", although he again claimed that he was only conveying the Minister's orders.³³²⁸

Trajković's Conversations with Đorđević

1227. Comments that Đorđević made to Živko Trajković, the SAJ Commander, suggest further that the concealment of bodies in Batajnica was part of a larger high-level plan, and that Đorđević was the one responsible for overseeing the concealment operations. Trajković spoke to Đorđević on two occasions about the burial of bodies in Batajnica. At the beginning of June 1999, Trajković asked Đorđević why they had chosen to bury the bodies at the SAJ base. Đorđević replied that the decision had come from high up, stating something like, "This was the decision of people who are much more important than both you and me, and don't ask too many questions about this." Trajković understood that this was a state secret and that the decision had been taken at a high level. When Trajković asked what had happened, Đorđević responded, "What can I tell you? All of my brave generals put their heads into this -- buried their heads into the sand and they left it to me to finish this part of the work."³³²⁹

³³²⁶ See Part III, Section(B)(5)(iii).

³³²⁷ [REDACTED].

³³²⁸ Đorđević, T.10000.

³³²⁹ Trajković, T.9124-9126.

1228. Đorđević confirmed that he had expressed his “dissatisfaction with the way things were being dealt with” to Trajković. However, he then denied that he had said “anything of the sort” of what Trajković had described. When asked once again, directly, whether he had told Trajković that the decision to bury the bodies had been made from a “very high level”, Đorđević stated: “I didn’t use those words. I said that there was someone above me who decided about it, and *I did what I did and that’s why I’m here.*”³³³⁰ Đorđević acknowledged that the burial of these bodies in mass graves was unlawful.³³³¹

1229. Trajković’s second conversation with Đorđević took place at the Ministry’s Head Office in June 1999. They spoke about the potential of exhuming the bodies and moving them elsewhere. Đorđević said that the time would come for this to be done and that Trajković shouldn’t raise the issue anymore. Đorđević said that when the time was right, Trajković would be informed about what should be done with the bodies.³³³²

(iv) Bodies Concealed at Petrovo Selo

1230. Over the same time period as the Batajnica operation, the MUP was also concealing the bodies of Kosovo Albanian victims at another SAJ base in Serbia, in Petrovo Selo. [REDACTED].³³³³ The mass graves at Petrovo Selo and Batanica were components of the same plan to conceal the evidence of large-scale crimes.

1231. Đorđević’s knowledge and involvement in both operations can be inferred from the obvious similarities, and the basic overlap, between the Petrovo Selo concealment operations and the operations that Đorđević was directly co-ordinating in Batajnica. The circumstances surrounding [REDACTED] transporting human remains to Petrovo Selo – the use of a SAJ base as the final destination for concealment, the way the orders were conveyed to him, the provision of his escort, his contact when in Kosovo – are in material respects similar to the circumstances regarding his transportation of bodies from Kosovo to the *13 Maj* Centre. [REDACTED].³³³⁴ The links between the two operations, and the obvious co-ordination suggested by the transfer of equipment and the overlapping use of personnel, make it readily apparent that this was part of the same operation.

1232. Đorđević also exercised effective command and control over the police personnel attached to the SAJ base in Petrovo Selo. Đorđević accepted that in July 1999 he had instructed MUP

³³³⁰ Đorđević, T. 10000-10001 (*emphasis added*).

³³³¹ Đorđević, T. 10002.

³³³² Trajković, T. 9125, 9128.

³³³³ [REDACTED].

³³³⁴ [REDACTED].

officer Sreten Popović to collect the three Bytyqi brothers, who were serving sentences for misdemeanors in Prokuple, and transport them to the SAJ training centre at Petrovo Selo. Đorđević's orders were complied with and the task was carried out.³³³⁵ Although Đorđević is not criminally charged for the deaths of these brothers, and the Prosecution makes no submission in this regard, it is relevant and probative that in 2001 their remains were found in one of the mass graves at Petrovo Selo, along with the remains of a number of Kosovo Albanian victims mentioned in the Indictment.³³³⁶

1233. [REDACTED].³³³⁷ [REDACTED].

1234. [REDACTED].³³³⁸ [REDACTED],³³³⁹ [REDACTED].³³⁴⁰ [REDACTED].³³⁴¹ Đorđević confirmed that this conversation took place. His testimony with respect to the content of the discussion was evasive, however, and his claim that he simply "came there as a pensioner to take care of some of my own business" is not credible.³³⁴²

(v) Đorđević's flight

1235. In May 2001, the Serbian media started to publish reports on the discovery of hundreds of corpses at Batajnica. The fact that bodies had been found in the Danube was being circulated in the press, and Đorđević knew that he had played a significant role in the concealment of bodies.

1236. [REDACTED].³³⁴³ [REDACTED].³³⁴⁴

1237. [REDACTED].³³⁴⁵ He remained a fugitive until he was caught and brought before this Tribunal in 2007.

(h) Đorđević created an environment permissive of criminal behaviour

1238. Đorđević contributed significantly to the JCE by creating an environment permissive of crimes committed against the Kosovo Albanian population. As one of the most senior members of

³³³⁵ Đorđević, T.9973-9975. Đorđević once again claimed he was acting in accordance with a decision of the Minister.

³³³⁶ P815, pp.31-35; [REDACTED].

³³³⁷ [REDACTED].

³³³⁸ [REDACTED].

³³³⁹ [REDACTED].

³³⁴⁰ [REDACTED].

³³⁴¹ [REDACTED].

³³⁴² Đorđević, T.9990.

³³⁴³ [REDACTED].

³³⁴⁴ [REDACTED].

³³⁴⁵ [REDACTED].

the MUP, Đorđević had a duty to protect the safety of the civilian population. As the Head of the RJB, he had several powers available to him in order to guarantee that his units on the ground complied with the law, or at least to make it significantly more difficult for the crimes charged to have been committed. In light of his knowledge of the gravity and widespread nature of the crimes, Đorđević had a duty to try everything within his powers to impede the perpetrators. He should have followed up on allegations of crimes and ensured that crimes were adequately reported, investigations were initiated and perpetrators were punished. In deliberately omitting to do so despite his knowledge of the crimes committed by his forces in Kosovo in 1998 and 1999, Đorđević encouraged and legitimized crimes committed against Kosovo Albanians. He also failed to take any steps to restrain the use of excessive force by the MUP that led to widespread crimes against civilians in 1998. He did not dissociate himself from the heavy-handed tactics used by the MUP in 1998 and, instead approved of them by re-deploying the same units in 1999.

1239. Notably, hundreds of police officers were also involved in operations to conceal bodies throughout the Indictment period. They participated in a variety of capacities, from personally removing bodies after massacres, to subsequently re-exhuming bodies, to securing the sites of concealment operations. The practice of concealing the evidence of such crimes would have been well-known to MUP forces in Kosovo, and would no doubt have significantly permeated the institutional culture. These actions to cover-up the slaughter of Kosovo Albanian civilians, sanctioned at a systemic level within the MUP, inevitably fostered a strong culture of impunity amongst the forces on the ground. Đorđević's extensive actions in sanctioning and participating in these operations significantly contributed to the creation of an environment where such crimes would not only be permitted but systematically covered up.

(i) Đorđević's knowledge of crimes

1240. Đorđević knew that the heavy-handed tactics employed by the forces of the FRY and Serbia in operations in 1998 led to the commission of crimes against the ethnic Albanian civilian population. Throughout the Indictment period, he continued to engage MUP units in the same activities. As set out below, Đorđević demonstrated his approval of such crimes and his intent to commit them in 1999.

(i) Knowledge of crimes in 1998

1241. Đorđević was fully aware of the indiscriminate and excessive use of force by the forces of the FRY and Serbia during operations against the KLA in 1998, and knew that this resulted in the massive displacement of the Kosovo Albanian population through the perpetration of widespread

crimes against Kosovo Albanians. He was aware that if these same forces were deployed in the same theatre of operations, they would continue to commit such crimes in 1999. He had specific knowledge of: (a) MUP operations on the ground; (b) widespread destruction and looting; (c) killings; (d) large-scale displacement of civilians; (e) and complaints of internationals.

a. Knowledge of MUP operations on the ground

1242. Đorđević was comprehensively informed about the situation on the ground. As he described: "I knew every village, every hamlet, every path and every road, and I knew the circumstances there."³³⁴⁶ Đorđević was in Kosovo in 1998 when the Plan for Suppressing Terrorism was planned and implemented.³³⁴⁷ He was directly involved in the planning process and in ensuring that day-to-day operations were conducted by MUP units in accordance with this Plan. He regularly attended Joint Command meetings, where the implementation of the Plan was co-ordinated.³³⁴⁸

1243. Đorđević closely monitored MUP operations during the 1998 summer offensive. He attended the MUP Staff meeting of 22 July 1998, at which the implementation of the "Global Plan" was discussed.³³⁴⁹ He also attended MUP Staff meetings on 1 September 1998,³³⁵⁰ in late September, when the summer offensive was coming to an end,³³⁵¹ and on 5 November 1998, when the implementation of the October Agreements by the MUP was discussed at the presence of Milutinović, Stojiljković, and other senior members of the MUP.³³⁵²

1244. Đorđević toured MUP units in the field during the large-scale MUP actions in 1998.³³⁵³ In his 2004 letter to the Nedeljni Telegraf, he wrote: "From the first day until the completion of the operations, I was always with my officers and policemen, and with them, we liberated roads and entered the main strongholds of the terrorists."³³⁵⁴

1245. Đorđević's statements at Joint Command meetings show he possessed detailed information about MUP operations. For example, the notes of 1 August 1998 record Đorđević reporting: "All preparations for tomorrow's operations have been completed (launching of the third phase). The detachments will attack Rastavica and Prilep from the direction of Crnobreg tomorrow. A tank is

³³⁴⁶ Đorđević, T.10118.

³³⁴⁷ Đorđević, T.9515,10031.

³³⁴⁸ See Part III, Section(A)(3)(b)(i).

³³⁴⁹ P768; Cvetić, T.6640.

³³⁵⁰ Cvetić, T.6621.

³³⁵¹ Cvetić, T.6621.

³³⁵² Cvetić, T.6620-6621; P770, p.3.

³³⁵³ Đorđević, T.9622,9862-9863; Mirčić, T.13263-13264,13331; Čanković, T.13989-13990; Cvetić, T.6621,6644;

Stalević, T.13790-13791.

³³⁵⁴ P1474, p.4.

needed in Prilep and Glodane.”³³⁵⁵ At the meeting of 22 September 1998, Đorđević showed his knowledge of specific companies, stating: “These two companies have been engaged with one PJP detachment to close the route through Drvare with one company; two companies came out west of Žilivoda village”.³³⁵⁶

1246. Đorđević’s detailed knowledge of MUP/VJ operations made him aware of criminal activities occurring in that territory.

b. Knowledge of widespread destruction and looting

1247. Đorđević’s presence and active participation at Joint Command meetings illustrates his knowledge of crimes in Kosovo in 1998. For example:

- On 24 July, Gajić reported that “after Orahovac there has been uncontrolled looting of ethnic Albanian houses”.³³⁵⁷
- On 26 July, Gajić reported: “Bakali has accused Milošević of conducting ethnic cleansing in Orahovac”.³³⁵⁸
- On 7 August, Šainović pointed out that “The needless torching of houses causes the biggest political damage and this may result in pressure being exerted on the country.”³³⁵⁹
- On 12 August, Minić ordered, “The torching of houses must stop.”³³⁶⁰
- On 7 September, Đorđević warned that “We must reduce the use of artillery. We must take measures against persons who torch houses subsequently.”³³⁶¹
- On 21 September, Šainović stated that tasks should be carried out in a disciplined manner in order to prevent the torching.³³⁶²

1248. In the field, Đorđević observed and reported to the Joint Command on arson-damaged homes.³³⁶³ He knew that MUP units were involved in torching and looting Kosovo Albanian homes

³³⁵⁵ P886,p.27.

³³⁵⁶ P886,p.108. See P1422,pp.8-9.

³³⁵⁷ P886,p.8. Absences were recorded at the beginning of each meeting. While Đorđević is not recorded as having spoken at this meeting, he is also not recorded as being absent. It can thus be inferred that he attended.

³³⁵⁸ P886,p.11.

³³⁵⁹ P886,p.36.

³³⁶⁰ P886,p.42.

³³⁶¹ P886,p.82.

³³⁶² P886,p.107.

and property.³³⁶⁴ Đorđević testified that the position of the MUP leadership and the commanders on the ground was that "such negative conduct was to be prevented." He admitted his awareness, however, that, "Unfortunately, it wasn't done each and every time."³³⁶⁵

1249. Throughout August and September 1998, PJP units were observed forcibly expelling Kosovo Albanians from their villages, destroying property and torching villages almost daily.³³⁶⁶ Lukić, Đorđević's subordinate, was directly informed of such activity by Byrnes.³³⁶⁷ Byrnes appealed to Lukić to stop the police from forcing Kosovo Albanians villagers from their homes.³³⁶⁸ However, the complaints were not addressed, and the excessive use of force by police continued.³³⁶⁹ Given that Đorđević was in Kosovo at the time directing operations and was in regular contact with Lukić, Byrnes' complaints would have reached him.

c. Knowledge of killings

1250. From early 1998, Đorđević knew that civilians were murdered in MUP operations. He confirmed his own role in the attack on the Jashari compound in March 1998, stating that pursuant to Stojiljković's order, he and Jovica Stanišić headed the Staff that planned "a co-ordinated action" against the Jashari compound in early March 1998.³³⁷⁰ The SAJ and the JSO were involved in this action.³³⁷¹ Đorđević acknowledged that the MUP knew that "there were also a number of civilians in the area"³³⁷² and that his police forces killed civilians in the attack.³³⁷³ In fact, 58 ethnic Albanians were killed, including 18 women and 10 children.³³⁷⁴

1251. Đorđević knew that the joint VJ/MUP action in Gornje Obrinje/Abria e Epërme led to civilian deaths. At the Joint Command meeting of 26 September 1998, both Lukić and Pavković reported on the completion of the MUP/VJ action in Donje Obrinje/Abria e Poshtme and Gornje Obrinje/Abria e Epërme.³³⁷⁵ After news of a massacre of civilians at Gornje Obrinje/Abria e

³³⁶³ Đorđević, T.10093-10094.

³³⁶⁴ Đorđević, T.10094-10095. See P1474, p.5.

³³⁶⁵ Đorđević, T.10094-10095.

³³⁶⁶ Byrnes, P1214, pp.14,22-23,25-26.

³³⁶⁷ Byrnes, P1214, p.25. See P1214, pp.14-15.

³³⁶⁸ Byrnes, P1214, pp.21-24,26.

³³⁶⁹ Byrnes, P1214, p.26.

³³⁷⁰ See also Cvetić, T.6747-6748.

³³⁷¹ Cvetić, T.6616; Trajković, T.9060-9061; Crosland, P1400, para.28; T.9156.

³³⁷² Đorđević, T.9541.

³³⁷³ Đorđević, T.9541.

³³⁷⁴ P741, p.36. See Stojanović, T.11874-11875; Trajković, T.9061.

³³⁷⁵ P886, p.112. Although Đorđević is not recorded as having spoken at this meeting, he is also not recorded as being absent from the meeting. It can thus be inferred that he attended.

Epërme reached the international media, and the ECMM referred the matter to the ICTY,³³⁷⁶ authorities in Belgrade requested that the incident be investigated.³³⁷⁷ At the Joint Command meeting of 4 October 1998, Šainović referred to the need “launch an investigation into Obrinje.”³³⁷⁸

d. Knowledge of the large-scale displacement of civilians

1252. Joint Command members also discussed the refugee crisis stemming from the VJ and MUP actions.³³⁷⁹ For example:

- On 31 July 1998, following Đorđević’s report on recent actions, Šainović noted that “refugees are the biggest problem and the media should report that the Šiptars are returning home. If we could only have footage of them returning home.”³³⁸⁰
- On 2 August 1998, Pavković reported that “there were very many refugees in the direction of Lauša village”.³³⁸¹
- On 26 August 1998, Radović reported that 16,000 to 17,000 people took refuge in Albania and 40,000 people took refuge in Montenegro.³³⁸²
- On 20 September 1998, Anđelković reported that “there are around 15,000 refugees near Novo Selo and Beriša.”³³⁸³
- On 21 September 1998, Šainović stated that one of the problems was the “humanitarian catastrophe”.³³⁸⁴

1253. Đorđević knew that as a result of combat activities, “civilians were leaving their homes and going to areas that they believed were safer”.³³⁸⁵ He was aware that the international press and some international representatives were concerned about the displacement of civilians.³³⁸⁶ Specifically, he was aware that international organisations were “condemning the Serb forces, saying that it was

³³⁷⁶ Kickert, T.2586; P485, p.3.

³³⁷⁷ Abrahams, T.3960,4021. See also P886, p.116.

³³⁷⁸ P886, p.119.

³³⁷⁹ P886, pp.26-27,28,31,33,56,62-64,76,81,95,99,101,103-104,105.

³³⁸⁰ P886, p.26.

³³⁸¹ P886, p.28.

³³⁸² P886, p.63. While Đorđević is not recorded as having spoken at this meeting, he is also not recorded as being absent.

³³⁸³ P886, p.105.

³³⁸⁴ P886, p.107.

³³⁸⁵ Đorđević, T.9810.

³³⁸⁶ Đorđević, T.9810-9811,9814.

allegedly their activities that caused a lot of harm and suffering to civilians, forcing them to leave their homes". He accepted that there were situations where this was true.³³⁸⁷

1254. Đorđević claimed that he took measures to persuade refugees to return home.³³⁸⁸ More accurately, however, notes of Joint Command meetings reveal that the MUP used force to return refugees to their villages. At the meeting of 4 September 1998, Đorđević instructed Lukić to "return all inhabitants to the village by force tomorrow" and to search the terrain for weapons.³³⁸⁹ The following day, Lukić indicated that "the activities have been realised- the return of civilians, combing of the terrain".³³⁹⁰ Two days later, Đorđević ordered that one company was to go to the Sedlari sector and force the people to return to their villages.³³⁹¹

1255. Đorđević explained these passages of the Joint Command notes by saying that he had "merely launched an initiative", the gist of which was that whenever MUP units came across refugees, they were to tell them to return home. He denied that the MUP used force to return refugees to their villages³³⁹² or that the internationals complained about how this was done.³³⁹³

1256. Đorđević's testimony is contradicted by US KDOM representative Shaun Byrnes, who explained that he repeatedly complained to the MUP about the use of unnecessary force in handling refugees. For example, Byrnes reported about the excessive use of force by the MUP in September 1998, when MUP special forces conducted a sweep operation against the KLA in a number of Albanian villages in the Peć/Peja area, driving villagers from their homes.³³⁹⁴ Once the international press began reporting on this action, the MUP sent forces to the area and "effectively herded" the refugees onto police buses, transporting them back to their villages.³³⁹⁵ Byrnes' team photographed this event and reported that the civilians were terrified to be forced against their will onto MUP buses by members of the police. When Byrnes complained to Lukić about the unnecessary force used, Lukić cynically replied that it was "a humanitarian operation."³³⁹⁶

1257. When the KVM was set up in Kosovo, members of KVM received reports that MUP units were employing excessive force during actions. This was reported to Lukić.³³⁹⁷ Given Đorđević's

³³⁸⁷ Đorđević, T.9614. See P886, p.73.

³³⁸⁸ Đorđević, T.9810-9811, 9814.

³³⁸⁹ P886, p.73.

³³⁹⁰ P886, p.75.

³³⁹¹ P886, p.79.

³³⁹² Đorđević, T.9814-9815.

³³⁹³ Đorđević, T.9810; P1214, pp.26-28; D429.

³³⁹⁴ Byrnes, P1214, pp.26-28.

³³⁹⁵ Byrnes, P1214, p.28.

³³⁹⁶ Byrnes, P1214, pp.28-29. See also D429 and P886, p.86.

³³⁹⁷ P1005; Drewienkiewicz, T.6356-6358.

role and the well-established reporting procedures in place at the MUP, KVM's complaints would have reached Đorđević.

e. Knowledge of allegations levelled against the MUP by the international community

1258. Đorđević knew of the allegations of excessive force levelled by the international community against forces of the FRY and Serbia in Kosovo in a UN Security Council (SC) Resolution of 31 March 1998, which "condemned the use of excessive force by the Serbian police against civilians".³³⁹⁸

1259. Foreign media publicly and prominently condemned the excessive use of force by the forces of the FRY and Serbia in 1998 that resulted in violence against civilians. MUP officials in Belgrade were well aware of these allegations. For example, in relation to the MUP action on the Jashari compound in early March 1998, the MUP in Belgrade released a communiqué on 5 March 1998.³³⁹⁹

1260. By mid-August 1998, Đorđević knew that a UN SC resolution condemning the use of force by the MUP and the VJ was imminent. Đorđević was present at the Joint Command meeting of 12 August 1998, for example, when Minić reported that the Minister of Foreign Affairs "lead a dogged battle during the night for the Security Council to adopt the most lenient resolution".³⁴⁰⁰

1261. Đorđević said that he was familiar with the UN SC Resolution adopted on 23 September 1998 regarding "the excessive use of force by Serbian security forces and the Yugoslav Army".³⁴⁰¹ He said it preceded the political negotiations aimed at preventing "the escalation of further activity in the territory of Kosovo by Serb forces" and also terrorist activity.³⁴⁰² Given Đorđević's involvement in these negotiations in October 1998 as Head of the MUP delegation, he would have been comprehensively informed of the position of the international community regarding the use of force by the MUP in Kosovo.

1262. Human rights organisations condemned the actions of MUP and VJ forces in Kosovo in 1998. On 20 July 1998, HRW sent requests to the VJ, the MUP and the Serbian Secretary for Information on human rights violations in Kosovo.³⁴⁰³ In October 1998, HRW documented a series

³³⁹⁸ Đorđević, T.10095; P1074.

³³⁹⁹ D424.

³⁴⁰⁰ P886, p.41.

³⁴⁰¹ Đorđević, T.10095-10096; D160.

³⁴⁰² Đorđević, T.10095-10096. See Part III, Section(A)(2)(c).

³⁴⁰³ P742; P743; P744; P745; P746; P747; P748; Abrahams, P739, pp.2-3; T.3943-3948; P740, pp.30-32. HRW received no response to their requests for information: T.3945; P738, p.5.

of crimes perpetrated by members of the VJ and the MUP against the Kosovo Albanian population in Drenica.³⁴⁰⁴ HRW also conducted an investigation into the massacre of civilians at Gornje Obrinje/Abria e Epërme in late September 1998.³⁴⁰⁵ The findings of this investigation were published in February 1999 and distributed widely to the press, including the FRY media.³⁴⁰⁶ HRW's distribution list also included various entities within the Serb and Yugoslav government, including the Serbian MUP.³⁴⁰⁷

(ii) Knowledge of crimes in 1999

1263. Đorđević knew that the common plan could only be implemented by the use of force, and he had detailed knowledge that crimes were being committed pursuant to the common plan. Information was available to Đorđević through various channels: his observations on the ground; the reporting systems within the MUP; his meetings with senior MUP, VJ and civilian leadership; the media, and the complaints of the international community.

a. Knowledge of MUP operations

1264. The evidence establishes that Đorđević was in Kosovo in January, February and March 1999, when the Spring offensive was planned, and in April 1999, during its implementation. He was travelling to Kosovo when the large-scale crimes took place in the province. In fact, he was in Priština/Prishtinë and Uroševac/Ferizaj in mid-April during the massive expulsions.

1265. Đorđević continued to be involved in MUP operations in Kosovo during 1999. He monitored the Račak/Recak action from the Stimlje Police Station on 15 January 1999 and reported its outcome to Šainović.³⁴⁰⁸ He knew that the on-site team investigating the incident found 40 bodies at the mosque in Račak/Recak and that KVM Head William Walker had called the action "a civilian massacre".³⁴⁰⁹

1266. Đorđević made several trips to Kosovo between February and June 1999, which allowed him to follow the situation on the ground first-hand:

³⁴⁰⁴ P753; Abrahams, P741, pp.26-34; T.3942-3943.

³⁴⁰⁵ Abrahams, T.3949-3952.

³⁴⁰⁶ Abrahams, T.3950; P753, p.3.

³⁴⁰⁷ Abrahams, T.3937-3940, 3943, 4078-4079; P741, p.3; P740, p.26.

³⁴⁰⁸ See supra paras.1124-1137.

³⁴⁰⁹ Đorđević, T.9670-9672.

- On 17 February 1999, Đorđević attended a MUP Staff meeting where Lukić presented the RJB plan to conduct three large-scale “mopping-up” operations in the Podujevo/Podujevë, Dragobilja and Drenica areas.³⁴¹⁰
- On 8 March 1999, Đorđević participated at a MUP Staff meeting where the overall security situation in Kosovo and the implementation of measures in the defence plan were discussed.³⁴¹¹ At the time, the MUP and VJ had intensified the activities on the ground and were conducting “mopping-up” operations in Kačanik³⁴¹² and Vucitrn.³⁴¹³
- On 16 April 1999, Đorđević took part in a meeting at the MUP Staff with Stojilković and TEC President Zoran Andjelković.³⁴¹⁴
- On 18 April 1999, Đorđević met with Lukić and other MUP Staff members at the MUP Staff. He also met with the Priština and Uroševac SUP chiefs at their respective SUPs.³⁴¹⁵ That afternoon, he met with Pavković, Lazarević and Đaković at the premises of the PrK staff. Lukić and Stevanović also attended this meeting.³⁴¹⁶
- On 1 June 1999, Đorđević was present at a Joint Command meeting in Priština, also attended by Šainović, Pavković, Lazarević, Stevanović, and Lukić.³⁴¹⁷
- On 10 June 1999, Đorđević attended a meeting in Priština about the implementation of the Kumanovo agreement concerning the withdrawal of Serb forces from Kosovo.³⁴¹⁸

1267. When in Belgrade, Đorđević attended weekly meetings of the MUP Minister’s Collegium, where the situation on the ground in Kosovo was discussed. Đorđević’s claims that the Collegium never discussed anti-terrorist operations in Kosovo³⁴¹⁹ are not credible. Even Mišić had to accept that in view of the extremely complex security situation in Kosovo in 1998 and 1999, the situation in the province was one of the priorities at Collegium meetings.³⁴²⁰ He agreed that the replenishment and number of police units engaged in combating terrorism in Kosovo was discussed at these meetings.³⁴²¹

1268. More generally, it is inconceivable that the MUP Minister’s Collegium would discuss the security situation in the province, with detailed information on the number of police units in the

³⁴¹⁰ P85, p.1.

³⁴¹¹ Cvetic, T.6682-6684.

³⁴¹² Drewienkiewicz, T.6407; P996, para. 192; P844, p.7; P1029, pp.51, 67. *See also* Ciaglinski, T.5259-5260.

³⁴¹³ Drewienkiewicz, T.6374-6375; P996, paras. 190-191; P844, p.7; P1029, p.52.

³⁴¹⁴ Đorđević, T.9735.

³⁴¹⁵ Đorđević, T.9737-9738.

³⁴¹⁶ Đorđević, T.10020.

³⁴¹⁷ *See supra* paras.302-307.

³⁴¹⁸ Đorđević, T.9760-9761, 10022-10023.

³⁴¹⁹ Đorđević, T.9419-9420.

³⁴²⁰ Mišić, T.14086.

³⁴²¹ Mišić, T.14032, 14040, 14054, 14086-14088, 14090, 14092, 14907. *See also* Mišić, T.14095.

field, but knew nothing about the operations these units were conducting. In 1998 and in 1999, the conflict in Kosovo was the most important security-related situation involving the MUP. Collegium members therefore must have been fully informed of operations on the ground.

1269. Đorđević also knew about the situation in Kosovo through the MUP reporting systems. During the Indictment period, the MUP had well-functioning reporting systems in place. The Duty Operations Centre at the MUP HQ provided a means for senior MUP officials to remain informed of the activities of field headquarters and units.³⁴²² SUPs were under an obligation to forward reports to the MUP Staff and Operations Centre.³⁴²³ The Operations Centre then forwarded the information to the Analyses Administration, which compiled a summary of events and incidents for Serbia,³⁴²⁴ and distributed these reports to the senior leadership of the Ministry.³⁴²⁵ The MUP Staff also sent daily bulletins to the MUP HQ.³⁴²⁶

1270. In his dispatches, Đorđević regularly reminded RJB units to report all events of security interest to the Operations Centre at the Ministry HQ.³⁴²⁷

1271. Đorđević also received oral reports from his subordinates about the activities of MUP units in Kosovo.³⁴²⁸ Trajković said that when he was in the field, he would normally use his mobile phone to communicate important information to other MUP officers.³⁴²⁹ Trajković described calling Đorđević in late March 1999 from his mobile phone to ask about obtaining additional men for the SAJ.³⁴³⁰ When testifying before a Belgrade Court on 26 June 2009, Đorđević acknowledged that "Everything that was happening in the organs of the interior was for the most part brought to my attention through regular channels or in some other way."³⁴³¹ He later clarified that by regular channels, he meant "by telephone or somebody coming personally and conveying whatever it is they had to convey."³⁴³²

³⁴²² P357, Art.17.

³⁴²³ See e.g. Cvetić, T.6723: he testified that everything that happened in the territory of the SUPs was reported to the Ministry and the MUP Staff.

³⁴²⁴ Mišić, T.14044.

³⁴²⁵ See e.g. D275; Cvetić, T.6845-6846.

³⁴²⁶ See Part III, Section(A)(3)(b)(ii).

³⁴²⁷ See e.g. P1203; P356.

³⁴²⁸ See Part III, Section(A)(3)(b)(ii).

³⁴²⁹ Trajković, T.9090-9091.

³⁴³⁰ Trajković, T.9090.

³⁴³¹ P1508, p.5.

³⁴³² Đorđević, T.10086-10087.

b. Knowledge of large-scale displacement

1272. By early April 1999, Đorđević was aware of the numbers of Kosovo Albanians fleeing Kosovo.³⁴³³ Lukić's daily dispatches to the MUP in Belgrade provided a daily count of the increasing number of Kosovo Albanian refugees fleeing the province.³⁴³⁴ On 1 May 1999, Lukić reported that a total of 715,158 persons "belonging to the Šiptar national minority" had left the territory.³⁴³⁵

1273. During his trips to Kosovo, Đorđević was in a position to observe the situation on the ground first-hand. While at the Uroševac SUP on 18 April 1999, the SUP Chief briefed Đorđević about the situation on the ground and told him "that movement was noted of civilians, primarily by train to Macedonia, because the railway line goes through Uroševac".³⁴³⁶ Đorđević testified that this information was not new to him, as he had heard about the large-scale departure of the population while in Belgrade.³⁴³⁷

c. Knowledge of killings

1274. From the onset of the conflict, Đorđević knew of specific crimes committed by his subordinates. He was directly informed about the massacre of women and children in Podujevo on 28 March 1999 by the Skorpions, a unit he had just integrated into the SAJ and deployed.³⁴³⁸ Đorđević asked Trajković to prepare a simple report about the incident in mid-May,³⁴³⁹ but took no further measures to ensure that the perpetrators of this massacre were punished. Đorđević knew of the criminal propensity of this unit, and knew they were likely to commit serious crimes. However, he re-deployed the unit to Kosovo in April 1999, where it participated in "clearing-up" operations with PJP units, during which the homes of Kosovo Albanians were burnt down.³⁴⁴⁰

1275. Throughout the conflict, Đorđević had reliable information that MUP units in Kosovo were killing Kosovo Albanian civilians. He participated in concealing truckloads of victims' bodies at

³⁴³³ P718, p. 5. See Đorđević, T.10089.

³⁴³⁴ See e.g. 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.

³⁴³⁵ P694, p.8. The exhibit says, in error, "Between 24 April and 30 April 1999 [...]". P701, p.5 indicates that the period in question is that between 24 March and 30 April 1999.

³⁴³⁶ Đorđević, T.10021.

³⁴³⁷ Đorđević, T.10021.

³⁴³⁸ Đorđević, T.9703-9705. See Part V, Section(C)(1)(f)(ii).

³⁴³⁹ Trajković, T.9106-9107 (in relation to P86); Đorđević, T.9713, 10113-10114. See D442; P86.

³⁴⁴⁰ Stoparić, P493, para.68.

different mass grave sites in Serbia proper. He knew that these were the bodies of murdered Kosovo Albanians,³⁴⁴¹ and thus that unlawful killings of civilians were taking place in Kosovo.

1276. In the course of seeking to place the responsibility for dealing with these bodies onto the Minister, Đorđević made a number of significant admissions with respect to notice.³⁴⁴² He stated, for example, that the Minister,

made it known to me that he was fully behind it; that certain incidents had happened down there; and that something should be done in order to prevent the revelation of the finding of these bodies because of the whole NATO campaign and bombing. And he also added that no further measures should be undertaken in order to establish the true facts, that is to say to establish the origin of the bodies and how they were killed.³⁴⁴³

1277. Đorđević ultimately accepted that he knew these were victims of illegal killings:

Q. Didn't you at least suspect that Mr. Stojiljković wanted these bodies concealed because they resulted from irregular activities of persons that he was responsible for, that is the police?

A. Well, of course I had -- I suspected that the people came to harm in the activities at Kosovo, but I couldn't know how that happened, whether we're speak -- talking about crimes or bombing or something else, but everything indicates what you're assuming, but those were my assumptions, too, that those were bodies of persons who had lost their lives under circumstances I was unfamiliar with then, and I could suppose that they had been killed in one or more of many ways.³⁴⁴⁴

1278. Even accepting Đorđević's claims that he initially knew nothing about how these bodies ended up in trucks in the first place, as truckloads of bodies began arriving from Kosovo, Đorđević was given clear notice of crimes that were obviously occurring on a truly alarming scale. From the very nature of this evidence, Đorđević would have been aware that these murders were not isolated incidents, but systematic killings committed by the forces deployed on the ground. Đorđević acknowledged that his role was neither proper nor lawful.³⁴⁴⁵

1279. Đorđević claimed that he did not have information about the perpetrators, but these bodies were coming from Kosovo, where his men were deployed and actively engaged in operations. Đorđević accepted the possibility that the police could be responsible for these murders.³⁴⁴⁶ Given the circumstances, this inference was inescapable.

³⁴⁴¹ See Part III, Section(B)(5).

³⁴⁴² Đorđević, T.9723.

³⁴⁴³ Đorđević, T.9723-9724.

³⁴⁴⁴ Đorđević, T.10008 (*emphasis added*).

³⁴⁴⁵ Đorđević, T.10010.

³⁴⁴⁶ Đorđević, T.10011.

1280. In his testimony, Đorđević ultimately acknowledged his responsibility in the concealment of the crime of murder. He stated: "I am ashamed of my deeds, and I believe that the Court's decision will be adequate, and I will be held responsible for what I did".³⁴⁴⁷

d. Knowledge of crimes at high-level meetings in Belgrade

1281. The issue of serious crimes being committed by VJ and MUP members was discussed at a meeting with the FRY and Serbian military and civilian leadership on 4 May 1999 that Đorđević attended.³⁴⁴⁸ Milutinović, Stojiljković, Ojdanić and the most senior VJ and MUP officers, and senior politicians, were present.³⁴⁴⁹ Pavković and Lukić briefed the gathering about the security situation in Kosovo.³⁴⁵⁰ According to a press report about the meeting, information was presented that the MUP and the VJ had dealt with numerous cases of violence, killings, pillage, and other crimes, and had arrested several hundred perpetrators whose crimes were a great danger to the civilian population.³⁴⁵¹

1282. Several sources corroborate this account of the 4 May 1999 meeting:

- Serbian media reported that Milošević held a detailed meeting on 4 May with army and police heads to discuss the security situation in Kosovo, including numerous cases of crimes against civilians.³⁴⁵²
- Two days after the meeting, Lukić issued a formal order to MUP personnel to familiarise themselves with the contents of an article from *Politika*, dated 5 May, and to adhere to its directions.³⁴⁵³ He further directed SUP chiefs and PJP and SAJ commanders to take "all measures in the forthcoming period to prevent paramilitary formations and individuals from committing acts of violence, killing, raping, looting and other criminal acts... against civilians".³⁴⁵⁴
- The statements made by Šainović at the MUP Staff meeting of 7 May confirm the accuracy of the press accounts.³⁴⁵⁵

³⁴⁴⁷ Đorđević, T.10006.

³⁴⁴⁸ Đorđević, T.9743, 10144.

³⁴⁴⁹ Đorđević, T.9743-9744.

³⁴⁵⁰ Đorđević, T.9743.

³⁴⁵¹ P1537, p.1.

³⁴⁵² P1537; D443.

³⁴⁵³ D443.

³⁴⁵⁴ D443, p. 2.

³⁴⁵⁵ P771, p. 4.

e. Knowledge of crimes from the international community and the media

1283. On 27 May 1999, the initial ICTY indictment against Milošević, Milutinović, Šainović, Ojdanić and Stojiljković was made public.³⁴⁵⁶ This indictment contained detailed allegations about serious crimes —such as deportation, murder, and rape— committed by MUP forces across Kosovo. This put Đorđević on direct notice that forces under his command were alleged to be responsible for war crimes against ethnic Albanian civilians.

1284. Given the extensive publicity the indictment received in the media, Đorđević would have been made aware of it soon after 27 May. He would have also been aware of the specific charges levelled against Stojiljković and the MUP. Đorđević stated that he learned about the indictment related to Kosovo but had no information about its contents. Despite the fact that Stojiljković was in the neighbouring office, Đorđević said that they never discussed the indictment and that he did not read it.³⁴⁵⁷ However, Mišić, who worked in the office next to Đorđević's, heard about the indictment from the press and said that he informally discussed it with Stojiljković.³⁴⁵⁸ Although Mišić and Stojiljković did not discuss the specific charges within the indictment,³⁴⁵⁹ Mišić presumed that the indictment included charges for crimes committed by MUP forces in Kosovo during the war in 1999 because the foreign press and the media reported this.³⁴⁶⁰ This information would have also been available to Đorđević.

1285. Both domestic and international press covered the 1999 Kosovo conflict extensively. For example, on 5 April 1999, the New York Times ran a story on the killing of the Berisha family by Serbian police in Suva Reka.³⁴⁶¹ On 7 April 1999, the same newspaper published an article on the killing of roughly one hundred people by Serb forces in the village of Mala Kruša.³⁴⁶² On 17 July 1999 *Vreme* magazine reported:

In the three months of war, almost 700.000 of the Albanian residents were deported from Kosovo. Many of their houses were burnt and looted. The investigation by international experts who are working on several mass graves in Kosovo at the moment should show how many of them were killed and in what way.³⁴⁶³ ... There is no ... doubt now: The state military, police, and paramilitary forces committed horrible crimes in Kosovo.³⁴⁶⁴

³⁴⁵⁶ P42.

³⁴⁵⁷ Đorđević, T.10076-10078; P42.

³⁴⁵⁸ Mišić, T.14136-14137.

³⁴⁵⁹ Mišić, T.14136-14139, 14143.

³⁴⁶⁰ Mišić, T.14137.

³⁴⁶¹ P1514.

³⁴⁶² P1515.

³⁴⁶³ P1516, p.1.

³⁴⁶⁴ P1516, p.2.

1286. Đorđević claimed that he followed Serbian, but not foreign, media during the war,³⁴⁶⁵ and that he was not familiar with the *Vreme* article or with any crime committed.³⁴⁶⁶ He stated that he only heard about such crimes for the first time during his trial before this Tribunal.³⁴⁶⁷ His position that he did not know of specific allegations of MUP crimes is wholly incredible given his high-profile position at the time and the widespread media coverage of the conflict.

2. Đorđević shared the intent to carry out the common plan

1287. Đorđević shared the intent to carry out the common plan and thus intended for the crimes to occur. His actions, including controlling MUP units engaged in combat operations, and his participation in the MUP Minister's Collegium, the MUP Staff and the Joint Command during the commission of the crimes, demonstrate that he intended to modify the ethnic balance in Kosovo through criminal means, which included the commission of the crimes charged in the Indictment.

1288. In light of his involvement in Kosovo in 1998, when excessive and disproportionate force was used by the FRY/Serbian authorities resulting in the displacement of approximately 230,000 Kosovo Albanians, Đorđević would have been well able to predict the repetition of this situation should he deploy MUP units to Kosovo in 1999. Despite Đorđević's knowledge of the widespread crimes being committed in the territory of Kosovo by members of the MUP and the VJ, he continued to instruct the MUP to engage in additional joint operations with the VJ in Kosovo.

1289. Moreover, although he had the power to do so, as Head of the RJB and a high-ranking member of the MUP, he deliberately refrained from intervening against the perpetrators of crimes. By organising the concealment of the crime of murder, and by repeatedly failing to use his position of authority to prevent his subordinates from committing crimes or to punish those who had perpetrated crimes, he demonstrated his approval of these crimes. In contrast to his extensive knowledge of crimes in Kosovo, Đorđević took no action against the perpetrators.

1290. The only reasonable inference is that Đorđević had the intent to forcibly displace the Kosovo Albanian population by means of forcible transfer, deportation, murder and persecutions (based on forcible transfer, deportation, murder, sexual assault and wanton destruction and damage to religious sites) and thereby ensure continued control by the FRY and Serbian authorities over the province. He shared this intent with other members of the JCE, such as Milošević, Stojiljković, Ojdanić, Šainović, Pavković, Lukić and Lazarević.

³⁴⁶⁵ Đorđević, T.10078.

³⁴⁶⁶ Đorđević, T.10071-10072.

³⁴⁶⁷ Đorđević, T.10084.

1291. In the alternative, if any of the crimes are found to fall outside the common purpose of the JCE, his knowledge of the events in 1998 shows that he was aware that such crimes were at least a possible consequence of the implementation of the common purpose to modify the ethnic balance through a campaign of deportations and forcible transfer during 1999. In 1998, Đorđević played a central role in planning, organising, and directing the work of MUP units in Kosovo. He was also intimately involved in the Joint Command, the body that oversaw and implement joint MUP/VJ operations during the summer of 1998. When the common plan was implemented, Đorđević knew that joint MUP/VJ operations in 1998 had led to the use of excessive force and widespread crimes against civilians. He nevertheless re-engaged the MUP with the VJ in an offensive of far greater scale in 1999, which involved the use violence and terror to displace Kosovo Albanians. In so doing, Đorđević accepted the risk that these forces might commit crimes such as murders and persecutions (based on forcible transfer, deportation, murder, sexual assault and wanton destruction and damage to religious sites) to forcibly displace Kosovo Albanians.

3. Other forms of participation under Article 7(1)

(a) Đorđević is responsible for aiding and abetting the commission of crimes

1292. In the alternative to his liability as a member of the JCE, Đorđević is responsible for aiding and abetting the commission of crimes under Article 7(1) of the Statute. Đorđević provided practical assistance, encouragement and moral support to the perpetrators of crimes. Đorđević knew of the commission of widespread crimes by the forces of the FRY and Serbia and was aware that he was assisting the commission of such crimes.

1293. Đorđević provided moral support and practical assistance to the perpetrators of deportation, forcible transfer, murder, persecutions (based on forcible transfer, deportation, murder, sexual assaults and the wanton destruction or damage of religious sites). He contributed by deploying PJP units to Kosovo to participate in joint operations with the VJ during the NATO bombing and by furnishing them with equipment. He also incorporated paramilitaries into the MUP to participate in these operations. He armed local Serbs and ordered their engagement with the MUP in 1999. He participated in the planning of the joint operations conducted by the MUP.³⁴⁶⁸

1294. Đorđević played a leading role in co-ordinating large-scale operations to conceal the evidence of widespread murders committed by his forces against Kosovo Albanians during the two month period from early April.³⁴⁶⁹ While Đorđević was acting to conceal shipments of bodies to

³⁴⁶⁸ See Part V, Section(C)(1).

³⁴⁶⁹ See Part V, Section(C)(1)(g).

Batajnica murders were still being committed in Kosovo by these forces. Operations to quickly and surreptitiously transport bodies require organization and pre-planning. When bodies were moved, concealment measures were often known in advance.³⁴⁷⁰ Across Kosovo, forces on the ground sought to conceal the evidence of civilian massacres by burning the bodies³⁴⁷¹, hiding them in wells³⁴⁷², dynamiting them *en masse*,³⁴⁷³ or most effectively, removing the bodies from the crime sites entirely and burying them in another location.³⁴⁷⁴ The perpetrators of the murders – the forces on the ground and those who commanded them – at Meja/Mejë, Đakovica/Gjakove municipality on or about 27 or 28 April³⁴⁷⁵ knew that systematic actions were being taken to conceal the evidence of murder. Knowing that the bodies would be taken care of provided substantial support to the perpetrators.

1295. Further, despite his awareness of crimes, Đorđević refrained from taking any measures at his disposal to ensure adequate investigations of serious crimes by the MUP. His failure to take adequate measures to investigate crimes enabled and encouraged MUP forces to continue their campaign of terror, violence and displacement with the VJ.³⁴⁷⁶ He therefore substantially contributed to the commission of these crimes.

1296. Đorđević knew that the MUP and the VJ were responsible for serious criminal acts against ethnic Albanians in Kosovo in 1998.³⁴⁷⁷ He thus knew that excessive use of force, including deportation, forcible transfer, murder, persecutions (based on forcible transfer, deportation, murder, sexual assaults and the wanton destruction or damage of religious sites) were probable once he ordered the MUP into Kosovo in 1999 and that his conduct would substantially assist the commission of the crimes.

1297. Đorđević was aware of the general campaign of forcible displacements conducted by the VJ and the MUP throughout Kosovo during the NATO bombing. He was also aware of the broad discriminatory context of the conflict. The combination of his general knowledge of the widespread displacement of Kosovo Albanians in the course of MUP operations combined with his specific knowledge of locations of those operations³⁴⁷⁸ show that he knew of the campaign of terror,

³⁴⁷⁰ When members of the MUP massacred members of the Berisha family at a pizzeria in Suva Reka/Suharekë, for example, civilian protection workers were on the scene within 15-20 minutes and two trucks were promptly brought to the scene, which police ordered to be loaded with bodies (K83,T.389-392).

³⁴⁷¹ See Part IV, Section (C)(15)(a), Qyshk/Čuska.

³⁴⁷² See Part IV, Section (C)(11)(a), Kotlina/Kotlinë.

³⁴⁷³ See Part IV Section (C)(1)(d), Mala Kruša/Krusë e Vogel.

³⁴⁷⁴ See Part III Section (B)(5).

³⁴⁷⁵ See Part IV Section (C)(8)(d), Meja/Mejë.

³⁴⁷⁶ See Part V Section (C)(1)(g).

³⁴⁷⁷ See Part V Section (C)(1)(b)(i).

³⁴⁷⁸ See Part V, Section (C)(1)(2).

violence deportation and forcible displacement being carried out by MUP and VJ forces against Kosovo Albanians.³⁴⁷⁹

1298. In relation to murders and persecutions (based on sexual assaults and the wanton destruction or damage of religious sites), Đorđević knew that it was probable these crimes would be committed by MUP units during joint MUP/VJ operations in 1999. He was fully aware of the high ethnic animosities in Kosovo. Based on his own observations in the field, he was aware that MUP forces torched civilian homes and villages during their operations in 1998³⁴⁸⁰ and were likely to engage in similar behaviour if redeployed in 1999. Through his participation at the meeting in Beli Dvor on 4 May 1999, he was aware of allegations of sexual violence involving members of the MUP.³⁴⁸¹ That sexual violence is probable is not only consistent with common sense but also with the recent history in the former Yugoslavia. Đorđević knew that a campaign of violence and terror was being carried out by joint MUP/VJ forces against Kosovo Albanians and that MUP members would probably commit these violent crimes against vulnerable ethnic Albanians when forcibly expelling them from their homes. He knew that destruction of property and sexual assault were probable consequences of this campaign. Being aware of the discriminatory nature of this campaign of violence, he must have been aware that such crimes would probably be carried out with the same discriminatory intent.

1299. When involved in the concealment operations, Đorđević was aware that further killings would probably occur and that his involvement in the concealment would support the perpetrators.

(b) Đorđević is responsible for planning, ordering and instigating

1300. The facts set out above also establish the criminal responsibility of Đorđević on the basis of planning and ordering under Article 7(1) of the Statute. These facts, combined with Đorđević's failure to discipline MUP officials who committed crimes, establish the criminal responsibility of Đorđević on the basis of instigating. Despite his knowledge of the crimes committed by MUP units during the Indictment period, Đorđević failed to take substantive measures to prevent his subordinates from committing further crimes, or punish them for the crimes they had committed.

³⁴⁷⁹ See Part V, Section(C)(1)(i)(ii).

³⁴⁸⁰ See Part V, Section(C)(1)(i)(b).

³⁴⁸¹ See Part V, Section(C)(1)(ii)(d).

D. Vlastimir Đorđević's Individual Criminal Responsibility under Article 7(3) of the Statute

1301. The evidence establishes that Đorđević is liable as a superior under Article 7(3) for the crimes charged in the Indictment that were committed by members of the RJB.

1. Superior-subordinate relationship

1302. As Assistant Minister of the MUP and Chief of the RJB, Đorđević exercised *de jure* and *de facto* authority over all RJB units in Kosovo, including PJP units and the SAJ.³⁴⁸²

1303. As Chief of the RJB, Đorđević had effective control over his subordinates. He had the material ability to prevent crimes from being committed as well as to punish crimes. He had the authority to enforce discipline among members of MUP units,³⁴⁸³ which included the authority to establish appropriate investigating bodies or commissions.³⁴⁸⁴

1304. Đorđević had the power to issue orders to subordinate officers, including Lukić, members of the MUP Staff and PJP commanders in Kosovo.³⁴⁸⁵ SUP Chiefs were subordinate to Đorđević and under the principle of subordination they were obliged to comply with his orders.³⁴⁸⁶ If SUP Chiefs did not comply with his orders, Đorđević had the power to discipline them. He could also reassign or remove them from the MUP.³⁴⁸⁷ Based on the principle of subordination, SUP Chiefs were duty bound to report to him.³⁴⁸⁸ Đorđević had the authority to enforce this obligation to report.³⁴⁸⁹

1305. Đorđević had the authority to demand specific information. For example, on 21 December 1998, Đorđević sent a dispatch to the SUP Chiefs and the MUP Staff ordering the prevention of "the crimes and violations that could be committed through the use of firearms and may contain elements of violence, especially murder, robbery, aggravated theft, the stealing of vehicles and so

³⁴⁸² See Part V, Section(C)(1)(c).

³⁴⁸³ See Part V, Section(C)(1)(c)(ii). See also Vasiljević, T.5679,5681-5682,5684;P884, p. 1.

³⁴⁸⁴ See P357, Arts.2,10. Đorđević, T.9723 ("Then I proposed that I myself would set up such a group to investigate the situation").

³⁴⁸⁵ See Part V, Section(C)(1)(c)(i)-(iv).

³⁴⁸⁶ Kerić, T.7811.

³⁴⁸⁷ Kerić, T.7811.

³⁴⁸⁸ Đorđević, T.10050. See also, Part III, Section(A)(3)(b)(ii)(d).

³⁴⁸⁹ Kerić, T.7811.

on".³⁴⁹⁰ In this dispatch, he requested certain information and set deadlines for receipt of this information.³⁴⁹¹

1306. Đorđević's dispatch dated 9 April 1999 further illustrates his disciplinary authority. In this dispatch, Đorđević set out certain disciplinary procedures. He informed SUP Chiefs about the recently-adopted Decree on Internal Affairs During the State of War, which regulated the duties of MUP superiors to investigate and conduct preliminary proceedings against subordinates who had breached the law.³⁴⁹² Pursuant to his authority emanating from this decree, he authorised heads of organisational units to impose the disciplinary sanctions prescribed in the decree for serious violations of employment obligations and duties.³⁴⁹³ Đorđević's dispatch was implemented by Assistant Minister Petar Zeković.³⁴⁹⁴

1307. SUP Chiefs who were subordinate to Đorđević played a key role in the MUP disciplinary procedure. In order to discipline an insubordinate policeman, his immediate superior, for example, the unit commander or OUP Chief would inform the respective SUP Chief.³⁴⁹⁵ The SUP Chief would then request the prosecutor to initiate disciplinary proceedings after which the prosecutor would submit a request to the court.³⁴⁹⁶

1308. Crimes committed in connection with official duties, including war crimes and crimes against humanity would constitute a breach of duty and provided grounds for disciplinary action.³⁴⁹⁷ If the alleged breach of discipline was a criminal offence, the SUP Chief was required to inform the MUP HQ and request approval that criminal proceedings be initiated against the offender.³⁴⁹⁸ Simultaneously, a disciplinary procedure would be instigated and the perpetrator would be suspended until the completion of the procedures.³⁴⁹⁹ Upon approval from the MUP HQ,³⁵⁰⁰ the SUP Chief would submit a criminal report and a motion for disciplinary action to a disciplinary

³⁴⁹⁰ P717,p.1; Đorđević,T.9659. P1479 is Đorđević's order of 24 December 1999 to the SUP Chiefs on points for drawing up a report on the work done in 1999. At p.3, he requested information on crimes rates including the number and categories of crimes and perpetrators.

³⁴⁹¹ P717,p.4. See also P1203. This is a dispatch from Đorđević dated 7 October 1998 in which he orders the SUP Chief and the MUP Staff to "Report all events and incidents of security interest to the operations centre and the work lines at the Ministry headquarters immediately."

³⁴⁹² Cvetić,T.6711-6712;P1050.

³⁴⁹³ P1050,p.2.

³⁴⁹⁴ D262/P1480; Đorđević,T.9752.

³⁴⁹⁵ Cvetić,T.6704,6708,6852;Đorđević,T.9522-9523;Braković,T.4117-4118. Braković said that when a PJP member had to be disciplined the company commander would report the incident to the appropriate SUP Chief. The company commander could not take disciplinary action himself.

³⁴⁹⁶ Cvetić,T.6704;Mitić,T.12725.

³⁴⁹⁷ P66, Arts.50-57. See also Đorđević,T.9516-9518;Cvetić,T.6743.

³⁴⁹⁸ Cvetić, T6708,6711,6757-6758;See P1049, Arts.8-10; P66,Arts.50-57; See e.g. P1434,P1435 P1437,P1546.

³⁴⁹⁹ Cvetić,T.6709.

³⁵⁰⁰ Cvetić,T.6757,6758. Cvetić stated that his requests for disciplinary proceedings in cases of serious violations were never denied.

prosecutor.³⁵⁰¹ Criminal proceedings were not a substitute for disciplinary proceedings: both proceedings needed to be conducted.³⁵⁰²

1309. During the Indictment period, a functioning justice system existed to enforce the law within the MUP. MUP disciplinary courts were in place to establish both disciplinary responsibility and an internal system of justice.³⁵⁰³ As the civilian court system functioned normally during the relevant period, MUP perpetrators should have been prosecuted under the regular criminal law system for crimes committed in Kosovo.³⁵⁰⁴ Various legal procedures were thus in place, allowing for efficient investigations and prosecutions.³⁵⁰⁵

1310. The Law on Internal Affairs established a framework for disciplining MUP officials who breached their professional duties.³⁵⁰⁶ The Decree on Disciplinary Responsibility regulated the duties of MUP superiors to investigate and conduct preliminary proceedings against subordinates who had breached the law.³⁵⁰⁷ Together with the Law on Internal Affairs, the Decree on Disciplinary Responsibility created the legal mechanisms for enforcing discipline in the MUP.

1311. On 24 March 1999, the Decree on Internal Affairs During the State of War was issued following the Declaration of War.³⁵⁰⁸ The Decree simplified the disciplinary system by authorising the head of a sector of the MUP (i.e. Đorđević or Marković) or a person designated by him to discipline MUP personnel for certain breaches without resort to the usual procedures.³⁵⁰⁹ According to Đorđević, this decree made disciplinary proceedings more urgent by abbreviating certain procedural actions and superiors could immediately discipline subordinates.³⁵¹⁰ As Chief of the RJB, Đorđević had responsibility to ensure the functioning of the disciplinary proceedings and courts.³⁵¹¹

³⁵⁰¹ Cvetić, T.6704-6705, 6708-6709, 6852; P1049, Art.10.

³⁵⁰² Cvetić, T.6711. *See also* Cvetić, T.6852; D282.

³⁵⁰³ *See also* Braković, T.4118.

³⁵⁰⁴ *See e.g.* P50, Arts.47-48. Cvetić, T.6708. Marinković testified about her work in Kosovo thus indicating that the judicial system was functioning (T.12942-12952) *See also* D874-D886.

³⁵⁰⁵ Marinković, T.12906. *See also* T.12898, D855. Pursuant to P200, provided certain conditions were met, the investigating judge was able to expedite the conduct of certain investigative activities without authorisation from the public prosecutor. *See also*, Kerić, T.7821; Pantelić, T.12163.

³⁵⁰⁶ P66, Arts.14, 23.

³⁵⁰⁷ P1049, Arts.11-33. *See also* Pantelić, T.12160-12162; Đorđević, T.9518-9519; Cvetić, T.6710-6711, 6757

³⁵⁰⁸ P47.

³⁵⁰⁹ P47, Art.9; *See also* Đorđević, T.9521; Mitić, T.12725-12726; Pantelić, T.12099-12102.

³⁵¹⁰ Đorđević, T.9521.

³⁵¹¹ Cvetić, T.6712.

2. Knew or had reason to know and failure to take necessary and reasonable measures to prevent or to punish

(a) Failure to prevent

(i) Đorđević had reason to know of and failed to take necessary and reasonable measures to prevent crimes committed by his subordinates in 1999

1312. Đorđević knew that the excessive force used by the forces of the FRY and Serbia during operations in 1998 led to the commission of crimes against the ethnic Albanian civilian population.³⁵¹² In light of his knowledge of the widespread nature of the serious crimes such as murder and destruction committed by his units in 1998, Đorđević should have ensured that crimes were adequately reported, investigations were initiated and perpetrators punished. By deliberately failing to do so, Đorđević encouraged and gave legitimacy to crimes committed against Kosovo Albanians in 1999. He did not restrain the MUP's heavy-handed tactics that led to the widespread crimes against civilians in 1998. Instead he supported them by redeploying the same units in 1999 that followed the same pattern of engagement. By not punishing and removing perpetrators of crimes from units he was redeploying, Đorđević failed to take reasonable and necessary measures to prevent the commission of crimes in 1999. Thus, Đorđević had reason to know that similar crimes would be committed by his subordinates in 1999.³⁵¹³ Therefore his failure to punish resulted in his failure to prevent the crimes in 1999.

1313. Specifically, Đorđević knew that policemen who killed civilians by using excessive force during MUP operations in 1998 went unpunished. The massacres of the Jashari and Delijaj families in March and September 1998 underline this failure. By not taking punitive measures, Đorđević tacitly approved their criminality and failed to prevent further killings of civilians in 1999.

1314. In March 1998, the police attack on the Jashari compound resulted in 58 people being killed, 28 of whom were women, teenagers and children. Đorđević played a key role in this operation.³⁵¹⁴ Đorđević claimed that judicial organs carried out an on-site investigation.³⁵¹⁵ Even if an investigation was undertaken, no disciplinary action was initiated against the policemen.

³⁵¹² See Part V, Section(C)(1)(i)(i).

³⁵¹³ See Part V, Section(C)(1)(i)(ii).

³⁵¹⁴ See Part III, Section(A)(2)(b)(iii). See also supra paras.104-105.

³⁵¹⁵ Đorđević, T.9541-9542. See also, P741, p.38.

1315. Similarly, MUP units that were involved in the massacre of the Delilaj family in Gornje Obrinje/Abria e Epërme in September 1998 went unpunished.³⁵¹⁶ This was a joint MUP-VJ action that resulted in the killing of 21 members of the Delilaj family, 11 of whom were women and children.³⁵¹⁷ In December 1998, an on-site investigation was attempted but it was never completed.³⁵¹⁸

1316. As was the case with the Jashari incident, Đorđević knew that his subordinates were allegedly involved in the killing of women and children in Gornje Obrinje/Abria e Epërme. He made no effort to ensure that the incident was investigated. While on-site investigations fall within the purview of the judiciary, this does not absolve Đorđević of his responsibilities as a MUP commander.³⁵¹⁹ By Đorđević's own admission, the RJB was responsible for "determining criminal liability after anti-terrorist actions".³⁵²⁰ He did nothing and as such failed to prevent crimes against civilians in 1999.

1317. The criminal conduct of the 37th PJP detachment 4th Company (Niš Detachment) in 1998 and 1999 further illustrates Đorđević's failure to prevent crimes.³⁵²¹ In July 1998, Đorđević ordered the dispatch of this unit to Kosovo.³⁵²² Đorđević knew that crimes were being committed during the summer offensive which had resulted in widespread destruction.³⁵²³ In particular, this unit participated in the summer offensive where it committed crimes.³⁵²⁴ However, murders, looting and rapes committed by the unit remained unpunished. [REDACTED].³⁵²⁵

1318. In March 1999, Đorđević re-deployed the unit to Kosovo.³⁵²⁶ Given its prior conduct, and the impunity it had enjoyed, it is no surprise that the unit continued to commit crimes in 1999. In April 1999, the unit expelled civilians in the village of Ljubizda (Prizren municipality).³⁵²⁷ It also murdered civilians.³⁵²⁸

³⁵¹⁶ See Part V Section (C)(1)(h)(i)(c). Kickert, T.2586;P485,p.3.

³⁵¹⁷ Abrahams, T.3949-3950;P753,pp.11,37;P740,p.12. See also P891,p.3.

³⁵¹⁸ Marinković, T.12992-12993,13117-13118;Kickert,D61;T.2593,2637-2638,2648,P478,p.5;P479,pp.41-43,50,93-95,104-106;P489;P490.

³⁵¹⁹ Cvetić, T.6711. See also Cvetić, T.6852;D282.

³⁵²⁰ Đorđević, T.9543-9544.

³⁵²¹ K79, [REDACTED];P1260,pp.30,32,34-36,39,48,50-51. [REDACTED].

³⁵²² P133. See Cvetić, T.6658-6659;P139;P131.

³⁵²³ P886,pp.8,11,36,42,82,107. Although Đorđević is not recorded as having participated in the discussions on 24 July or 7 August, it is assumed that he is present as he is not recorded as being absent.

³⁵²⁴ *Supra* fn.3523.

³⁵²⁵ [REDACTED].

³⁵²⁶ P711.

³⁵²⁷ K79, [REDACTED];P1260,pp.70-71.

³⁵²⁸ K79, [REDACTED];P1260,p.64,86-87.

1319. Đorđević failed to take necessary and reasonable measures to prevent these crimes committed by his subordinates in 1998. Such measures included implementing orders to obey the law and ensuring compliance with them, and imposing disciplinary sanctions on members of the MUP who breached the law. Policemen who had committed crimes should have been disciplined and removed from Kosovo.

1320. In relation to the incidences set out above, at the very least, Đorđević should have insisted that the relevant SUP Chiefs took steps to investigate. Đorđević could also have requested reports from SUP Chiefs and inquired into disciplinary proceedings initiated against policemen who had committed these crimes against civilian, including killing women and children as a result of the excessive use of force. When initiating criminal proceedings, SUP Chiefs were required to inform the MUP HQ in Belgrade and to request their approval.³⁵²⁹ SUP Chiefs also had to conduct disciplinary proceedings alongside criminal proceedings.³⁵³⁰ As his subordinates, SUP Chiefs were duty bound to implement Đorđević's orders.³⁵³¹

1321. Having had these measures available to him³⁵³², Đorđević should have ensured that steps were taken to punish the crimes committed in 1998. Instead, Đorđević engaged the same units (including the policemen who had committed crimes) and employed the same tactics during the Indictment period. By persisting with this pattern of engagement, Đorđević failed to prevent the commission of crimes in 1999. He redeployed units to Kosovo in 1999 where they committed the crimes charged in the Indictment.

(ii) Đorđević had reason to know of and failed to take necessary and reasonable measures to prevent crimes committed by the Skorpions

1322. Members of the Skorpions murdered 16 civilians in Podujevo/Podujevë on 28 March.³⁵³³ The Skorpions were Đorđević's subordinates and he facilitated their deployment to Kosovo in 1999.³⁵³⁴ Đorđević approved their incorporation into the RJB, as members of the SAJ.³⁵³⁵ The Skorpions were a notorious paramilitary group.³⁵³⁶ From as early as April 1998, Đorđević was

³⁵²⁹ Cvetić, T.6708-6709, 6710-6711; 6757-6758; See P1049, Arts. 8-10; P66, Arts. 50-57. See e.g. P1434, P1435, P1437, P1546.

³⁵³⁰ Cvetić, T.6711. See also Cvetić, T.6852; D282.

³⁵³¹ Kerić, T.7811.

³⁵³² See supra paras. 1304-1307.

³⁵³³ See Part IV, Section(C)(14).

³⁵³⁴ See Part V, Section(C)(1)(f)(ii). Đorđević, T. [REDACTED], 10115. [REDACTED]. See also P86, p.1; D442, p.1

³⁵³⁵ See Part V, Section(C)(1)(f)(ii).

³⁵³⁶ See Part V, Section(C)(1)(f)(ii)(d).

aware that such groups were “as a rule a front for criminal interests” and had even warned SUP Chiefs of this.³⁵³⁷ Thus he had reason to know that the Skorpions would commit crimes in 1999.

1323. Having had notice of the criminal propensities of the Skorpions, Đorđević failed to take necessary and reasonable measures to prevent crimes committed by the Skorpions. At the very least, Đorđević must have known that some members of the Skorpions were unsuited for police duties in a war zone, and that at a minimum, background checks should be performed. He should have insisted that the men be screened before being sent to Kosovo. This basic step would have informed him that some members of the Skorpions had criminal pasts. Vasiljević, former Head of the VJ Security Administration was able to obtain this information from the VJ counter-intelligence group.³⁵³⁸ According to Vasiljević, their general reputation was that they had: “criminal types in their ranks, problematic people [...]”³⁵³⁹ As Chief of the RJB, Đorđević could have obtained information on the Skorpions. He did not.

1324. [REDACTED].³⁵⁴⁰ These men were being incorporated into the SAJ, the most elite special force of the RJB,³⁵⁴¹ with some of the best trained men in the RJB, yet many members of the Skorpions were untrained with no fighting experience.³⁵⁴² Having failed to request background checks, Đorđević sent an untrained paramilitary group reputed to have criminals within its ranks to fight in Kosovo. By deploying them with disregard to their suitability for their tasks, Đorđević put civilians in Kosovo at risk when he had a duty to protect them. Within minutes of arriving in Podujevo/Podujevë, they opened fire and killed elderly men, women and children.

1325. Having murdered civilians, the Skorpions were initially removed from Kosovo by the SAJ commander, Simović.³⁵⁴³ However, upon Đorđević’s approval, they were later returned to Kosovo.³⁵⁴⁴ They then participated in joint actions with PJP units that resulted in the burning of Kosovo Albanian homes in order to prevent their return.³⁵⁴⁵

1326. Given his knowledge of the criminal propensities of his subordinates, Đorđević should have taken proactive measures to investigate allegations of crimes committed by MUP members. He had sufficiently alarming information available to him to justify inquiry. He failed to do so and

³⁵³⁷ Đorđević, T.9545; P709.

³⁵³⁸ Vasiljević, T.5663, 5667.

³⁵³⁹ Vasiljević, T.5667.

³⁵⁴⁰ [REDACTED]. See Art.29 of the Law on Internal Affairs (P66). See also Arts. 27.

³⁵⁴¹ Stoparić, P493, para.39; Đorđević, T.9695.

³⁵⁴² Stoparić, P493, para.39; [REDACTED].

³⁵⁴³ Simović, T.13588. See also T.13720–13721, 13753.

³⁵⁴⁴ Đorđević, T.10113. See Part V, Section (C)(1)(f)(ii)(i).

³⁵⁴⁵ Stoparić, P493, para.68. See Part V, Section (C)(1)(f)(ii)(j).

deployed units to Kosovo that committed crimes. Hence, he failed to prevent the crimes committed by his subordinates in 1999.

(b) Failure to punish

(i) Đorđević knew about the Podujevo/Podujevë massacre and failed to take necessary and reasonable measures to punish the crime

1327. The perpetrators of the Podujevo/Podujevë murders were members of the Skorpions who had been incorporated into the RJB as members of the SAJ.³⁵⁴⁶ They were Đorđević's subordinates and he had the material ability to punish them.³⁵⁴⁷ Đorđević had specific notice that his subordinates had committed this crime.³⁵⁴⁸ Simović, the Commander of the Belgrade SAJ who was present at the crime scene informed Đorđević that that some members of the Skorpions had murdered women and children.³⁵⁴⁹

1328. As Chief of the RJB, Đorđević was responsible for ensuring that necessary and reasonable measures were taken to punish the members of the Skorpions involved in the murders they had committed in Podujevo/Podujevë on 28 March 1999. He failed to do so. The massacre was not investigated properly. Instead, it was covered up and the perpetrators were not punished until several years after the crime.

1329. Đorđević claimed that he was satisfied that the incident was investigated at the time. He testified that although there were many problems in uncovering the truth, eventually the whole incident was processed.³⁵⁵⁰ However, as discussed below, the massacre in Podujevo was not adequately investigated and appropriate steps were not taken to punish the perpetrators.

1330. On 28 March, Simović told Đorđević that the OUP had been notified about the incident and that operational actions were taken to detect the perpetrators of this crime.³⁵⁵¹ However, Simović did not participate in the investigation on 28 March because he left for Belgrade on that day.³⁵⁵² He also ordered that the Skorpions be returned to Serbia.³⁵⁵³ Simović informed Đorđević about his departure and as such, Đorđević was aware that the most senior MUP officer present at the crime

³⁵⁴⁶ See Part V, Section(C)(1)(f)(ii)(c).

³⁵⁴⁷ Đorđević, T. [REDACTED], 10115. [REDACTED].

³⁵⁴⁸ Đorđević, T. [REDACTED], 10115. [REDACTED].

³⁵⁴⁹ Đorđević, T. 9703-9705, 10052. Simović, T. 13588-13589 ("I also informed the head of sector, Mr. Vlastimir Djordjevic, in Belgrade, because I could not reach my own Commander Trajkovic on his cell phone.") See also Simović, T. 13723; See Part V, Section(C)(1)(f)(ii)(f).

³⁵⁵⁰ Đorđević, T. 9705.

³⁵⁵¹ Đorđević, T. 9705.

³⁵⁵² Simović, T. 13615, 13689, 13723.

³⁵⁵³ Simović, T. 13588. See also T. 13720-13721, 13753.

scene had left after the incident without taking adequate steps to investigate or discipline his men.³⁵⁵⁴

1331. Simović claimed that he did not cover up any crime because when he learnt about the incident, he alerted the competent authorities that took all investigative measures required.³⁵⁵⁵ However, immediately after the killings occurred, Simović sent the prime suspects – the Skorpions – back to Prolom Banja, thereby obstructing a proper investigation. Simović's sending away of the perpetrators and hasty departure from the scene without commencing any investigation is astounding. His conduct at the scene of this horrendous crime was clearly inadequate and this must have been clear to Đorđević.

1332. Simović insisted that by notifying the OUP about the massacre, he had discharged his duties.³⁵⁵⁶ However Simović did not know what "further steps" the OUP took, or whether the investigating judge arrived after he left Podujevo.³⁵⁵⁷ In response to the proposition that when he left Podujevo/Podujevë, no investigating judge nor prosecutor arrived, he said: "I don't know".³⁵⁵⁸ Despite not participating in the investigation, leaving the crime scene, and not knowing what steps were taken, he maintained that the police officers took the "necessary follow-up steps" and informed an investigating judge.³⁵⁵⁹ His position is best encapsulated in the statement: "I know that measures were taken to conduct all investigative measures, but after I left for Belgrade, I don't know what transpired".³⁵⁶⁰ Moreover, when he returned to Kosovo some days later,³⁵⁶¹ Simović did not contact anyone about the incident,³⁵⁶² and thus did not keep himself informed about the investigation. Similarly, Stalević, another SAJ commander, did not ensure that the men would be questioned in Prolom Banja.³⁵⁶³

1333. Đorđević failed to adopt any reasonable measures available to him to ensure that his subordinates, took any steps at all to investigate the incident and to identify the perpetrators. On the contrary, he acceded to Simović's sending away the perpetrators from the scene without any

³⁵⁵⁴ Simović, T.13649-13650.

³⁵⁵⁵ Simović, T.13652-13653.

³⁵⁵⁶ Simović, T.13588, 13615-13618, 13622-13623, 13648-13649, 13652-13653, 13658, 13670, 13673, 13682, 13723.

³⁵⁵⁷ Simović, T.13590, 13618, 13654, 13677.

³⁵⁵⁸ Simović, T.13654.

³⁵⁵⁹ Simović, T.13588, 13615, 13618, 13620, 13652-13654, 13590-13591.

³⁵⁶⁰ Simović, T.13677.

³⁵⁶¹ Simović, T.13591, 13677-13678.

³⁵⁶² Simović, T.13621.

³⁵⁶³ Stalević, T.13884.

investigation and worse, later he ordered Trajković to disband and disperse them without ensuring that any investigations were conducted and the offenders apprehended.³⁵⁶⁴

1334. On 29 March 1999 Đorđević received the MUP Staff Daily Bulletin for Kosovo for 28 March 1999 which made no reference to this serious crime.³⁵⁶⁵ The incident should have been listed under the "Serious Crimes" heading.³⁵⁶⁶ Đorđević himself said: "These reports must include crimes committed in the territory", and that the SUPs were duty bound to report to the MUP Staff and Ministry in Belgrade.³⁵⁶⁷ However, he was unable to explain why these multiple murders had not been reported up. He said: "Why this report does not include that information-I cannot explain. I don't know why it is left unmentioned here".³⁵⁶⁸ Neither could he explain the steps he took to rectify this serious failure of reporting.

1335. If the incident was being investigated by the SUP and the OUP, it should have been recorded in the Bulletin. This omission must have alerted Đorđević to the fact that the Podujevo/Podujevë massacre was not being properly reported and investigated. Yet Đorđević did not even inquire as to why this was the case. He did not contact his subordinates to demand an explanation for this alarming omission which indicated that a horrific crime committed by his subordinates was being overlooked without proper investigation. He took no steps to discipline the SUP Chief who was responsible for this omission or to demand that they conduct an investigation and report to him.³⁵⁶⁹ Having thus been alerted to the possibility that no investigations were being carried out by the responsible SUP or OUP, he failed to adopt any necessary and reasonable measures or any measures at all to ensure that the perpetrators were apprehended.

1336. Đorđević maintained that "the information about this crime was received and the service reacted".³⁵⁷⁰ Yet, as explained above, the immediate reaction of the service was the departure of the most senior officer (Simović) from the crime scene and the removal of the perpetrators, thus impeding the investigation.

1337. Stoparić a Skorpion member present at Podujevo/Podujevë, confirmed that the massacre was not investigated. He testified that when the Skorpions returned to Prolom Banja, no one questioned them about the Podujevo/Podujevë massacre. No one was arrested or taken into custody

³⁵⁶⁴ Đorđević, T. 9706-9707 ("I issued an order for this reserve force to be sent home"). *See also* Trajković, T. 9096.

³⁵⁶⁵ D296; Đorđević, T. 10050. Simović, T. 13674. *See* Part V, Section (C)(1)(f)(ii)(h).

³⁵⁶⁶ D296, item 5. *See also* Simović, T. 13674.

³⁵⁶⁷ Đorđević, T. 10050. *See also* Part III, Section (A)(3)(b)(ii)(d).

³⁵⁶⁸ Đorđević, T. 10052.

³⁵⁶⁹ Đorđević, T. 10051.

³⁵⁷⁰ Đorđević, T. 10052.

and no internal investigation was carried out.³⁵⁷¹ Stoparić and other squad commanders unofficially asked their men whether they had taken part in the incident. Stoparić believed that this unofficial investigation was “obstructed by the commander”, Boca, because his brother, Dragan Medić, was involved in the massacre. He said: “Therefore, it was possible that our investigation revealed who those involved were, but that is where it stopped. Nothing else happened.”³⁵⁷² Stoparić believed that Dragan Medić ordered the men to kill the civilians in the courtyard in Podujevo/Podujevë.³⁵⁷³ However, Dragan Medić was not even questioned about the killings at that time.³⁵⁷⁴

1338. The investigation that eventually did follow was a token affair. On 30 March, an investigating judge conducted an on-site investigation. Đorđević could not explain why it took judicial authorities more than 24 hours to carry out the crime-scene investigation.³⁵⁷⁵ According to Vasiljević, the corpses of the victims lay in the courtyard for three days.³⁵⁷⁶ In addition, the report of the on-site investigation conducted on 30 March produced by an investigating judge was meagre. It contained no information about the perpetrators despite it being known that the Skorpions were the prime suspects. The report merely referred to the bodies of the victims found on-site.³⁵⁷⁷

1339. In mid-May, a month and a half after the massacre, Đorđević asked Trajković to prepare a report about the deployment of the Skorpions to Kosovo.³⁵⁷⁸ However, his purpose in requesting the report was not to investigate the crime and find the perpetrators.³⁵⁷⁹ The report made no mention of any steps taken by the MUP to investigate the incident or to detain the perpetrators.

1340. It was only on 23 May that the Podujevo/Podujevë OUP eventually filed criminal reports against members of the Skorpions - Šasa Cvetan and Dejan Demirović - almost two months after the incident. During this time, the SAJ commanders on the ground, Simović and Stalević, did not investigate the incident. Indeed Simović said that he did not know about the criminal reports and subsequent investigation in late May because he did not take part in it.³⁵⁸⁰ Thus, two months after the incident, the SAJ commanders' disregard for this massacre persisted.

³⁵⁷¹ Stoparić, T.2843-2844; P495, pp.101-103.

³⁵⁷² Stoparić, T.2869; P495, p.18.

³⁵⁷³ Stoparić, T.2839.

³⁵⁷⁴ Stoparić, T.2844.

³⁵⁷⁵ Đorđević, T.9706; D441. See Trajković, T.9097; Vasiljević, T.5916, 5736. Vasiljević said that he later learned that due to road conditions, the investigation, while delayed, took place three days after the incident.

³⁵⁷⁶ Vasiljević, T.5916, 5736.

³⁵⁷⁷ D441.

³⁵⁷⁸ Trajković, T.9106-9107. See also P86.

³⁵⁷⁹ Đorđević, T. 9713, 10113-10114. See D442; P86.

³⁵⁸⁰ Simović, T.13688-15689.

1341. On 24 May, the District Court in Prokuplje issued a decision to investigate and detain Cvetan and Demirović.³⁵⁸¹ They were arrested at the end of the 1999 conflict, but were released some 10 or 20 days later. No one was brought to justice for the Podujevo/Podujevë massacre until several years after the end of Đorđević's tenure.³⁵⁸² Judicial proceedings against four other members of the Skorpions – Željko Đukić, Dragan Borojević, Dragan Medić and Miodrad Šolaja – were only initiated in April 2008, some nine years after the massacre.³⁵⁸³ Until then, they had not been held accountable for the killings of 28 March in Podujevo.

1342. Aside from these judicial measures, no internal disciplinary measures were taken by Đorđević with the sense of urgency that a crime of this nature demanded. Instead of being detained and questioned, the prime suspects were initially sent away and even disarmed and disbanded on his orders. Đorđević could have ordered his subordinates to ensure that the suspects were at least taken into custody for questioning after the incident.³⁵⁸⁴ Nevertheless, he merely requested and forwarded reports weeks after the incident. In the circumstances, this was not reasonable. Consequently, no internal MUP investigations or disciplinary actions were carried out at that time or during the remainder of Đorđević's tenure as RJB Chief which ended on 2001.

(ii) Đorđević knew that his subordinates had committed murders and failed to take necessary and reasonable measures to punish them

1343. Apart from the Podujevo/Podujevë massacre, Đorđević failed to punish hundreds of murders that were committed by his subordinates in Kosovo. From early April and continuing over a period of approximately two months, Đorđević co-ordinated the concealment of truckloads of human corpses in mass graves in Serbia proper.³⁵⁸⁵ Đorđević admitted that he participated in the concealment of bodies and that he was aware that these were bodies of victims of crimes.³⁵⁸⁶ Rather than punishing his subordinates who had perpetrated the murders, he assisted them by concealing these bodies.

³⁵⁸¹ P1592 and P1593.

³⁵⁸² Stoparić, P493, paras 83-88; T.2835, 2845-2849; P495, p.21. See Trajković, T.9097-9098; . [REDACTED]. The Trial Chamber in Belgrade stated, "The Court fully accepted the statement of the witness Stoparić from the main hearing of 10 December 2003. This statement is clear and convincing and is, most importantly, consistent with the statements of the children – injured parties." P40, p. 33.

³⁵⁸³ P1594.

³⁵⁸⁴ See supra paras.1304-1307.

³⁵⁸⁵ See Part V, Section(C)(1)(f).

³⁵⁸⁶ Đorđević, T.10008 ("Well, of course I had -- I suspected that the people came to harm" in the activities in Kosovo).

1344. Contained in these trucks, as Đorđević was well aware, were the bodies of Kosovo Albanian civilians.³⁵⁸⁷ Đorđević knew that these were the bodies of Kosovo Albanian civilians that had been killed during joint operations involving his subordinates.³⁵⁸⁸ During joint operations, at the very least, his subordinates assisted in these murders. The obvious and inescapable inference is that these bodies were the evidence of widespread criminal acts in Kosovo. Đorđević himself accepted that he was aware of the possibility that the perpetrators were police officers.³⁵⁸⁹ Evidence in regard to the several murder sites such as Suva Reka/Suharekë, Bela Crkva/Bellacërka, Mala Kruša/Krusha e Vogël and Miloš Gilić/Millosh Giliq Street, Pusto Selo/Pustaselë and Qyska/Čuska indicates that the perpetrators of these massacres included policemen or armed persons attached to the police who were Đorđević's subordinates.³⁵⁹⁰ Some victims of the massacres at Suva Reka/Suharekë, Izbica/Izbiçë and Meja/Mejë were identified from among the human remains found in the mass graves in Serbia proper.³⁵⁹¹

1345. Đorđević testified that his suggestion to Stojiljković that a commission be set up to investigate the origins of these bodies was not taken up.³⁵⁹² As Head of the RJB, Đorđević was aware that he himself had a legal obligation to arrange for a proper investigation of these bodies. He had a legal duty to punish his subordinates who were responsible for murders. He made no attempts to fulfill this obligation and admitted that he failed to do so. He said: "I should have acted accordingly [...] I didn't act that way, although I assumed that there may have been a crime involved and that the procedure wasn't regular and fair, but I didn't."³⁵⁹³ These bodies were not autopsied and processed in any way. In this context, he accepted that "the Court's decision will be adequate, and I will be held responsible".³⁵⁹⁴

1346. Instead of fulfilling his duty to investigate the murders, Đorđević took a range of steps to ensure precisely the opposite — that the murders were concealed as comprehensively as possible. For example:

³⁵⁸⁷ Golubović, T.1735-1736; P353, p.14; Đorđević, T. 9979. Đorđević was also told that the truck in Bor stated clearly on its side that it was from Kosovo; Đorđević, T. 9721.

³⁵⁸⁸ See Part V, Section(C) (1)(g)(i).

³⁵⁸⁹ Đorđević, T.10011. When it was put to him that he must have been aware of the possibility that policemen had committed these murders, he said: "Well, that's a mere assumption, whether it was the police or anybody else. I can't know who committed those crimes. Possibly the police... We saw here in the proceedings that there were really some gruesome situations. Who had committed those misdeeds and crimes. In some circumstances the perpetrators were police officers".

³⁵⁹⁰ See Part IV, Section(C)(4)(a), Section(C)(1)(b), Section(C)(1)(d), Section(C)(8)(b), Section(C)(15).

³⁵⁹¹ See Part III, Section (B)(5).

³⁵⁹² Đorđević, T.9723-9724.

³⁵⁹³ Đorđević, T.10010.

³⁵⁹⁴ Đorđević, T.10006, 9723-9724. See also T.10002.

- He gave an unlawful order to Golubović to destroy the first refrigerator lorry after the bodies were transported to Belgrade.³⁵⁹⁵
- He instructed Golubović that any information about the case was to be suppressed and not made public.³⁵⁹⁶ [REDACTED].³⁵⁹⁷
- When the second truck of bodies surfaced in Lake Perucać, he instructed Kerić not to inform the investigating judge.³⁵⁹⁸
- He gave an unlawful order to Kerić to bury the bodies in Lake Perucać.³⁵⁹⁹
- He ensured that other individuals who participated in these illegal operations were remunerated.³⁶⁰⁰

1347. In respect to murders involving perpetrators from the RJB, and having regard to the admissions made, Đorđević knew or had reason to know that murders of Kosovo Albanians were being committed by his subordinates in Kosovo and that, as he acknowledged, the situation “required a full check and that all the facts needed to be established”³⁶⁰¹ and “a commission or a group” be set up to investigate it.³⁶⁰² Having failed take any measures, he is liable under Article 7(3) for these murders.

1348. Đorđević was aware of these murders in addition to wide-scale persecutory and inhumane acts that were being committed against the Kosovo Albanians by his subordinates and he not only failed to take necessary and reasonable measures to prevent or punish these crimes but also attempted to cover them up. This attitude was apparent at a meeting of the leadership of the VJ and MUP on 9 July 1999. The meeting was attended by Stojiljković, Đorđević, Stevanović, and Lukić and VJ Generals Ojdanić, Farkaš, Gajić, Krga and Vasiljević.³⁶⁰³ Stojiljković praised the successful work of the MUP, and said there were only 13 MUP members who had committed crimes, and procedures had been initiated accordingly in each case.³⁶⁰⁴

³⁵⁹⁵ Đorđević, T.10002; Golubović, T.1715, 1755-1756; P353, pp.19-20; Đorđević, T.9726.

³⁵⁹⁶ P352, p.4; Golubović, T.1710; P.353, pp.20-21.

³⁵⁹⁷ [REDACTED].

³⁵⁹⁸ Đorđević told Kerić not to advise either the investigating judge or the prosecutor. This was contrary to standard procedure (Kerić T.7761-7762). Kerić explained that he obeyed Đorđević’s command, despite his knowledge of what the law required him to do, because, “according to the principle of subordination we were obliged to respect and comply with orders from the ministry and senior officials” He noted that if he had not complied, he would have been subject to disciplinary proceedings or would perhaps have been removed or reassigned from the Ministry. Đorđević as the Chief of the Public Security Department, had this power. (Kerić, T.7811).

³⁵⁹⁹ Đorđević, T.10002.

³⁶⁰⁰ See Part V, Section(C)(1)(g)(i).

³⁶⁰¹ Đorđević, T.9723-9724. *See also* T.10002.

³⁶⁰² Đorđević, T.9723. *See also* T.10002.

³⁶⁰³ Vasiljević, T.5720. *See also* Đorđević, T.10100-10101.

³⁶⁰⁴ Vasiljević, T.5725-5726.

1349. The figure of 13 MUP perpetrators was grossly low. Đorđević knew this did not accord with the general information he had available on the scale of the crimes in Kosovo.³⁶⁰⁵ The Indictment in the *Milošević et al* case alleging widespread and systematic crimes such as rape, murder and deportation committed in Kosovo by the police and army had become public by this stage.³⁶⁰⁶ This alone should have alerted him that urgent measures were required. An obvious step would have been to request reports from SUP Chiefs about the specific crimes alleged. Đorđević did nothing.

1350. A letter from the MUP to the OSCE dated 12 May 2003 highlighted the very limited investigations and prosecutions for MUP crimes against civilians.³⁶⁰⁷ An OSCE report noted that for the prosecution of war crimes in Kosovo during and following the 1999 conflict the MUP "has largely investigated crimes committed by KLA soldiers and only a few cases where potential perpetrators were Serbian police or security forces".³⁶⁰⁸ Policemen were investigated for crimes such as aggravated theft or concealing stolen items.³⁶⁰⁹

1351. Đorđević remained in the role of Head of RJB until 30 January 2001.³⁶¹⁰ At no time after the Indictment period did he take steps to punish crimes committed in Kosovo by his subordinates. When asked:

Did you, Mr Đorđević at any time set up a commission or a body specifically charged with responsibility to investigate the allegations of crimes committed by the police in Kosovo during 1999?

He replied:

No, I did not establish any commission or body.³⁶¹¹

1352. Đorđević exercised effective control over MUP units operating in Kosovo during the Indictment period. He knew or had reason to know that his subordinate units were committing widespread crimes against the ethnic Albanian population in Kosovo. He received clear, specific and continuing notice of the criminality of MUP units. Against this backdrop of widespread criminality, he had a duty to investigate these allegations. Đorđević, however, failed to take the necessary and reasonable measures to stop such criminal activity or to punish the perpetrators. He is therefore responsible under Article 7(3) of the Statute for the crimes charged in the Indictment.

³⁶⁰⁵ See Part V, Section(C)(1)(i)(ii). See also Vasiljević, T.5728; Đorđević, T.9743, 10144; D443.P1537.

³⁶⁰⁶ P42. See also Đorđević, T.10084.

³⁶⁰⁷ P725.

³⁶⁰⁸ P726, p.13.

³⁶⁰⁹ D18; D418; D805; D19.

³⁶¹⁰ Đorđević, T.9396-9397; D396; D397; Order on Agreed Facts, p.25.

³⁶¹¹ Đorđević, T.10095-10096.

VI. SENTENCING

1353. Đorđević committed crimes whereby thousands of Kosovo Albanians were killed, thousands suffered serious abuse and injury and over 800,000 were expelled from their homes and the province. These crimes were committed on the basis of the ethnicity of the victims. Many of the victims have disappeared and remain missing. It is likely that thousands of survivors will never achieve full closure of these horrendous events.

1354. Đorđević, occupying high leadership positions, did not allow himself to be restrained in this massive and brutal campaign by the fact that the entire world was watching or by the opprobrium being expressed by leaders of the world community. Having regard to the high level of leadership of the accused as well as the scope of the crimes, lengthy prison sentences would be warranted if the accused was held liable under Article 7(1) or Article 7(3). The Prosecution submits that in order to give due consideration to the victims of these heinous crimes and to send a clear message that the international community is determined to deter ethnic cleansing, justice requires a sentence ranging from 35 years to life imprisonment.

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

ANNEX A

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Ms. Paige Petersen
Ms. Silvia D'Ascoli
Mr. Elliott Behar

Counsel for the Accused:

Mr. Dragoljub Đorđević
Mr. Veljko Đurđić





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ANNEX B


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
Mr. Chester Stamp
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
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
Appendix 1: Approximate areas of Combat Operations ordered by the Joint Command and conducted during the period of 23 March - 04 April 1999


-  Joint Command Order 455-54
 Start Date: 23-Mar-1999
 Exhibit P972

-  Joint Command Order 455-56 & 455 56/1
 Start Date: 24-Mar-1999
 Exhibit D105

-  Joint Command Order 455-63
 Start Date: 25-Mar-1999
 Exhibit P350










-  Joint Command Order 455-73
 Start Date: 26-Mar-1999
 Exhibit P971

-  Joint Command Order 455-90
 Start Date: 30 Mar 1999
 Exhibit P970

-  Joint Command Order 455-115
 Start Date: 03-Apr-1999
 Exhibit P1235



Appendix 2: Approximate areas of Combat Operations ordered by the Joint Command and conducted during the period of mid-April - May 1999

-  P1382 Joint Command Order
Start Date: 10-13 April 1999
-  P766 Joint Command Order
Start Date: 15-Apr-1999
-  P1328 Joint Command Order
Start Date: 15-Apr-1999
-  P1385 Joint Command Order
Start Date: 16-Apr-99
-  P1386 Joint Command Order
Start Date: 17-Apr-1999
-  P1384 Joint Command Order
Start Date: 18-Apr-99
-  P1383 Joint Command Order
Start Date: 18-Apr-99
-  P767 Joint Command Order
Start Date: 23-Apr-1999
-  P969 Joint Command Order
Start Date: 25-Apr-99



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ANNEX C

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[REDACTED]

THE INTERNATIONAL CRIMINAL TRIBUNAL
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ANNEX D (P01242)

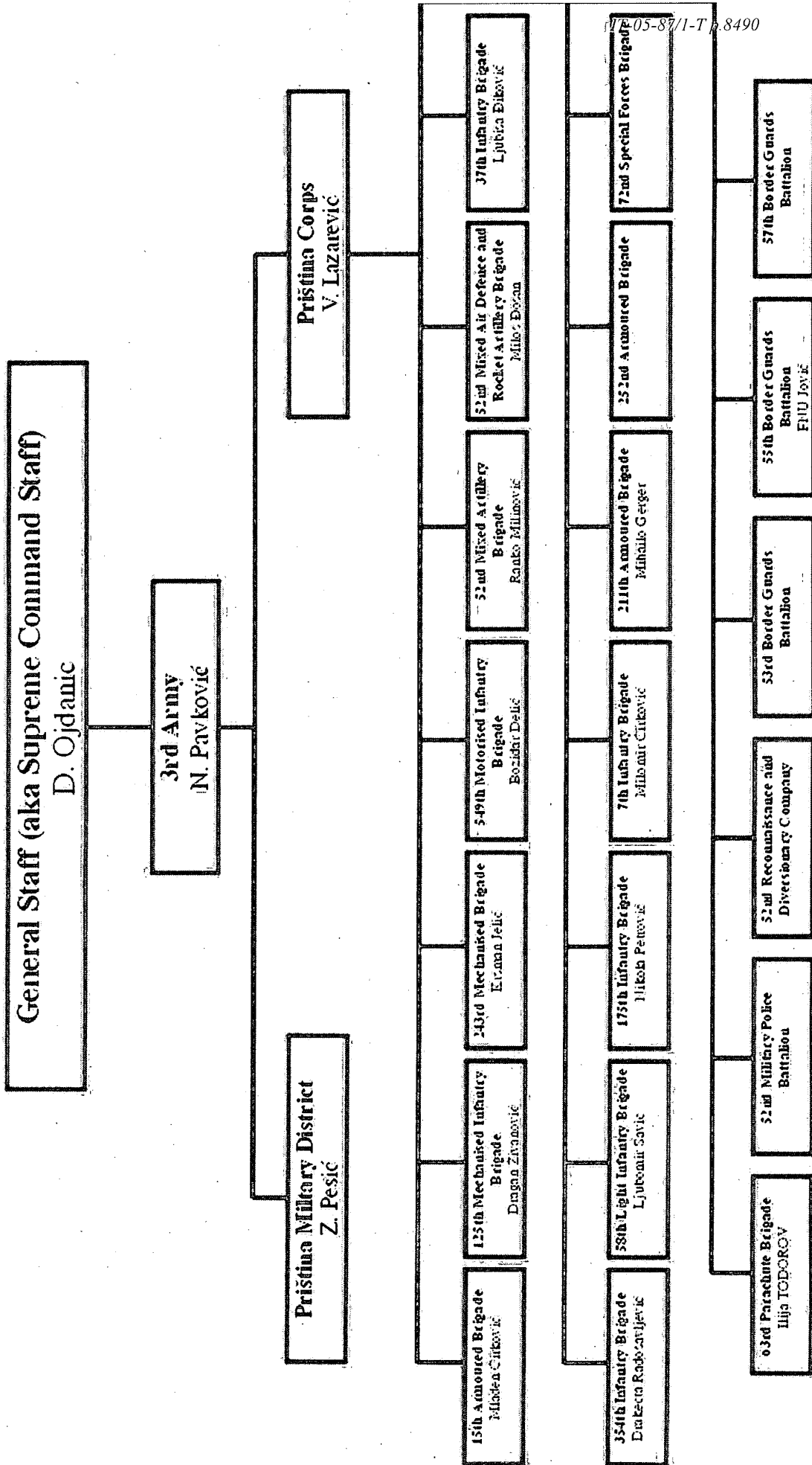
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Command Structure of the Army of Yugoslavia (VJ)



17 05-87/1-T p.8490

NOTE: This chart is included for informational purposes only and does not constitute an official command structure of the VJ.

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ANNEX E (P01037)

The Office of the Prosecutor:

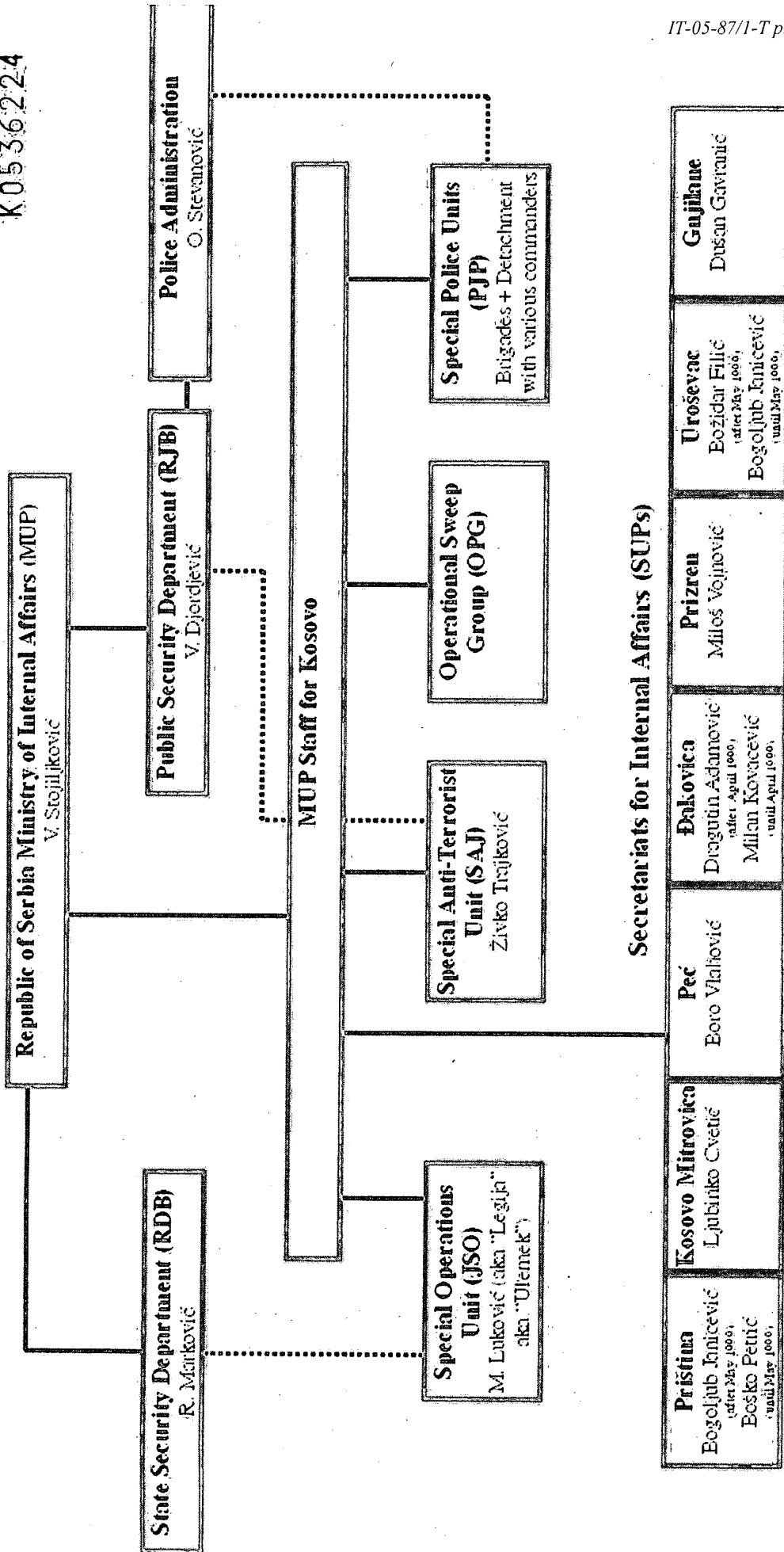
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Command Structure of the Republic of Serbia Ministry of Internal Affairs (MUP)

K0536224



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Glossary of Terms

AOR	Area of Responsibility
AP	Autonomous Province
APC	Armoured Personnel Carrier
API	Additional Protocol I to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I) of 8 June 1977
APII	Additional Protocol II to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol I) of 8 June 1977
ARB	Artillery Rocket Brigade
CO	Civilian Defence
Col	Colonel
CSB	Central Security Service
CZ	Civil Protection
ECMM	European Community Monitoring Mission
EU	European Union
Forces of the FRY and Serbia	The forces set out in paragraph 20 of the Indictment
FRY	Federal Republic of Yugoslavia
HQ	Headquarters
HRW	Human Rights Watch
ICC Statute	Rome Statute of the International Criminal Court
ICMP	International Commission on Missing Persons
ICRC	International Committee of the Red Cross
ICTY	International Criminal Tribunal for the former Yugoslavia
ID	Identification Document
IDP	Internally Displaced Person
Indictment	<i>Milutinović</i> Third Amended Indictment, 21 June 2006
Indictment period	1 January to 20 June 1999
JCE	Joint Criminal Enterprise
JNA	Old Yugoslav Army
Joint Command	Joint Command for Kosovo and Metohija
JSO	Jedinica za Specijalne Operacije, Special Operations Unit

JUL	Yugoslav Left Party
KDOM	Kosovo Diplomatic Observation Mission
KFOR	International Security Force
KiM	Kosovo and Metohija
KLA/UÇK	Kosovo Liberation Army/Ushtria Çlirimtare e Kosovës
KVM	Kosovo Verification Mission
LDB	United Democratic Movement
LDK	Lidhja Demokratike e Kosovës, Democratic League of Kosovo
LPK	Lëvizja Popullore e Kosovës, Kosovo People's movement
Ltbg	Light Infantry Brigade
Lt	Lieutenant
Mbr	Mechanized Brigade
MoD	Federal Ministry of Defence
MPBn	Military Police Battalion
Mtbr	Motorised Brigade
MUP	<i>Ministarstvo unutrašnjih poslova</i> , Ministry of Interior of the Republic of Serbia
MUP Staff	Staff of the Ministry of Interior for Kosovo and Metohija
NATO	North Atlantic Treaty Organization
October Agreements	Collectively, the Agreement on Kosovo Verification Mission; the NATO Air Surveillance Agreement (Clark-Perisić Agreement); the Record of Meeting in Belgrade (Clark-Naumann Agreement); and the Understanding Between KDOM and Ministry of Interior of the Republic of Serbia (Byrnes-Đorđević Agreement)
OKBR	Armoured Brigade
OMPF	Office on Missing Persons and Forensics of the United Nations Mission in Kosovo
OPG	Operational Sweep Group
OSCE	Organization for Security and Co-operation in Europe
OUP	Departments/Sectors of the Interior
PJP	Posebne Jedinice Policije, Special Police Unit
PrK	Prištinski korpus, Priština Corps
PS	Police Station
RDB	State Security Division of the Ministry of Interior
RJB	Public Security Sector of the Ministry of Interior
RPO	Reserve Police Squads

RSK	Republic of Serbian Krajina
SAJ	Specijalna anti-teroristička jedinica, Special Anti-Terrorist Unit
SC	Supreme Command
SC Staff	Supreme Command Staff
SDC	Supreme Defence Council
SFRY	Socialist Federal Republic of Yugoslavia
SPS	Socialist Party of Serbia
SRS	Serbian Radical Party
Statute	Statute of the International Criminal Tribunal for the former Yugoslavia
ŠTS	Šiptar Terrorist Forces
SUP	Sekretarijat za Unutrašnje Poslove, Secretariat of Internal Affairs Secretariat of the Interior
TEC	Temporary Executive Council
UK	United Kingdom
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
US	United States of America
VJ	Vojska Jugoslavije, Army of Yugoslavia
VJC	VJ Collegium
VJ General Staff	General Staff of the Army of Yugoslavia
VOK	Military Sector
VTOD	Military Territorial Detachment

List of Legal Authorities**Pleadings from Prosecutor v. Milutinović et al., Case No. IT-05-87-T**

Abbreviation used in Prosecution Final Trial Brief	Full citation
Order on Agreed Facts	<i>Prosecution v. Milutinović et al.</i> , Case No. IT-05-87-T, Order on Agreed Facts, 11 July 2006.
Indictment	<i>Milutinović</i> Third Amended Indictment, 21 June 2006
PTB	Prosecutor's Pre-Trial Brief, 10 May 2006

ICTY authorities

Abbreviation used in Prosecution Final Trial Brief	Full citation
<i>Aleksovski</i> TJ	<i>Prosecutor v. Zlatko Aleksovski</i> , Case No. IT-95-14/1-T, T.Ch., Judgement, 25 June 1999
<i>Aleksovski</i> AJ	<i>Prosecutor v. Zlatko Aleksovski</i> , Case No. IT-95-14/1-A, App.Ch., Judgement, 24 March 2000
<i>Blagojević</i> AJ	<i>Prosecutor v. Vidoje Blagojević and Dragan Jokić</i> , Case No. IT-02-60-A, App.Ch., Judgement, 9 May 2007
<i>Blagojević</i> TJ	<i>Prosecutor v. Vidoje Blagojević and Dragan Jokić</i> , Case No. IT-02-60-T, T.Ch., Trial Judgement, 17 January 2005
<i>Blaškić</i> TJ	<i>Prosecutor v. Tihomir Blaškić</i> , Case No. IT-95-14-T, T. Ch., Judgement, 3 March 2000
<i>Blaškić</i> AJ	<i>Prosecutor v. Tihomir Blaškić</i> , Case No. IT-95-14-A, App.Ch., Judgement, 29 July 2004
<i>Boškovski</i> TJ	<i>Prosecutor v. Ljube Boškovski</i> , Case No. IT-04-82-T, T. Ch., Judgement, 10 July 2008
<i>Brdanin</i> TJ	<i>Prosecutor v Radoslav Brdanin</i> , Case No. IT-99-36-T, T. Ch., Judgement, 1 September 2004
<i>Brdanin</i> AJ	<i>Prosecutor v. Radoslav Brdanin</i> , Case No. IT-99-36-A, App.Ch., Judgement, 3 April 2007
<i>Čelebići</i> TJ	<i>Prosecutor v. Zejnil Delalić, Zdravko Mucić, a.k.a. "Pavo", Hazim Delić and Esad Landžo, a.k.a. "Zenga"</i> , Case No. IT-96-21-T, T.Ch., Judgement, 16 November 1998
<i>Čelebići</i> AJ	<i>Prosecutor v. Zejnil Delalić, Zdravko Mucić, a.k.a. "Pavo", Hazim Delić and Esad Landžo, a.k.a. "Zenga"</i> , Case No. IT-96-21-A, App.Ch., Judgement, 20 February 2001

<i>D. Milošević</i> AJ	<i>Prosecutor v. Dragomir Milošević</i> , Case No. IT-98-29/1-A, App.Ch., Judgement, 12 November 2009
<i>Delić</i> TJ	<i>Prosecutor v. Rasim Delić</i> , Case No. IT-04-83-T, T.Ch., Judgement, 15 September 2008
<i>Furundžija</i> TJ	<i>Prosecutor v. Anto Furundžija</i> , Case No. IT-95-17/1-T, T.Ch., Judgement, 10 December 1998
<i>Hadžihasanović</i> Superior Responsibility AD	<i>Prosecutor v. Enver Hadžihasanović and Amir Kubura</i> , Case No. IT-01-47-AR72, App.Ch., Decision on Interlocutory Appeal Challenging Jurisdiction in Relation to Command Responsibility, 16 July 2003
<i>Hadžihasanović</i> TJ	<i>Prosecutor v. Enver Hadžihasanović and Amir Kubura</i> , Case No. IT-01-47-T, T.Ch. Judgement, 15 March 2006
<i>Hadžihasanović</i> AJ	<i>Prosecutor v. Enver Hadžihasanović and Amir Kubura</i> , Case No. IT-01-47-A, App.Ch. Judgement, 22 April 2008
<i>Halilović</i> AJ	<i>Prosecutor v. Sefer Halilović</i> , Case No. IT-01-48-A, App.Ch., Judgement, 16 October 2007
<i>Halilović</i> TJ	<i>Prosecutor v. Sefer Halilović</i> , Case No. IT-01-48-T, T.Ch., Judgement, 16 November 2005
<i>Halilović</i> AJ	<i>Prosecutor v. Sefer Halilović</i> , Case No. IT-01-48-A, App.Ch., Judgement, 16 October 2007
<i>Karadžić</i> JCE III AD	<i>Prosecutor v. Karadžić</i> , Case No. IT-95-5/18, App.Ch., Decision on Prosecution's Motion Appealing Trial Chamber's Decision on JCE III Foreseeability, 25 June 2009
<i>Kordić</i> TJ	<i>Prosecutor v. Dario Kordić & Mario Čerkez</i> , Case No. IT-95-14/2-T, T.Ch., Judgement, 26 February 2001
<i>Kordić</i> AJ	<i>Prosecutor v. Dario Kordić & Mario Čerkez</i> , Case No. IT-95-14/2-A, App.Ch., Judgement, 17 December 2004
<i>Krajišnik</i> TJ	<i>Prosecutor v. Momčilo Krajišnik</i> , Case No. IT-00-39-T, Judgement, 27 September 2006
<i>Krnojelac</i> TJ	<i>Prosecutor v. Milorad Krnojelac</i> , Case No. IT-97-25-T, T.Ch., Judgement, 15 March 2002
<i>Krnojelac</i> AJ	<i>Prosecutor v. Milorad Krnojelac</i> , Case No. IT-97-25-A, App.Ch., Judgement, 17 September 2003
<i>Krstić</i> AJ	<i>Prosecutor v. Radislav Krstić</i> , Case No. IT-98-33-A, App.Ch., Judgement, 19 April 2004
<i>Krstić</i> TJ	<i>Prosecutor v. Radislav Krstić</i> , Case No. IT-98-33-T, T.Ch., Judgement, 2 August 2001
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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

ANNEX G (P00477)

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**Map Showing
Distribution of Reported
Place of Disappearance
from Exhibit P477**

