

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

Case No. IT-05-87-T

IN THE TRIAL CHAMBER

**Before: Judge Iain Bonomy, Presiding
Judge Ali Nawaz Chowhan
Judge Tsvetana Kamenova
Judge Janet Nosworthy, Reserve Judge**

Registrar: Mr. Hans Holthuis

Date Filed: 28 July 2008

THE PROSECUTOR

v.

**MILAN MILUTINOVIĆ
NIKOLA ŠAINOVIĆ
DRAGOLJUB OJDANIĆ
NEBOJŠA PAVKOVIĆ
VLADIMIR LAZAREVIĆ
SRETEN LUKIĆ**

PUBLIC

PUBLIC REDACTED FINAL TRIAL BRIEF AND CORRIGENDUM

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Mr. Branko Lukić and Mr. Dragan Ivetić for Sreten Lukić

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1. The Prosecution hereby respectfully submits its Public Redacted Final Trial Brief with Annexes A to F. The redactions seek to protect the identities of witnesses subject to protective measures. The references to sealed exhibits cited in the Final Trial Brief have also been redacted.

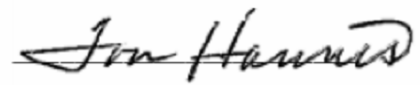
2. In order to preserve the public character of these proceedings and avoid unnecessary redactions to the main text of the brief, the Prosecution has amended the following footnotes to add reference to the public redacted versions of the cited witness statements and/or exhibits admitted under seal:

- Footnote 588 was amended to include reference to P2527,p.41;
- Footnote 634 was amended to include reference to 1D44,para.34;
- Footnotes 660-663, 665 and 667 were amended to include reference to P2883,p.4;
- Footnotes 664,668 and 669 were amended to include reference to P2883,pp.4-5;
- Footnote 698 was amended to include reference to P567;

- Footnote 703 was amended to include reference to P2551,paras.10-21;
 - Footnote 706 was amended to include reference to P2551,paras.10-15;
 - Footnote 707 was amended to include reference to P2551,paras.16-18;
 - Footnote 708 was amended to include reference to P2551,paras.19-20;
 - Footnote 714 was amended to include reference to P567,p.3;
 - The reference to “under seal” in Footnote 730 was amended to read “closed session”;
 - Footnote 743 was amended to include reference to P2548;
 - Footnote 782 was amended to include reference to P2863,para.27;
 - Footnotes 1140 was amended to include reference to P2308,p.6 and T.1072-1073;
 - Footnotes 1141 and 1142 were amended to include reference to P2308,p.6;
 - Footnote 1143 was amended to include reference to P2532,pp.2-7 and P2267,pp.2-3,5-6;
 - Footnote 1144 was amended to include reference to P2308,pp.7-8, P2532,pp.2-5 and P2267,pp.2,4-5;
 - Footnote 1145 was amended to include reference to P2308,p.8;
 - Footnote 1147 was amended to include reference to P2267,p.5 and P2532,p.6;
 - Footnote 1148 was amended to include reference to P2267,p.5;
 - Footnote 1149 was amended to include reference to P2267,p.5; and
 - Footnote 2505 was amended to include reference to P2847,paras.18-22 and P2800,para.23.
3. The Prosecution has also corrected the following typographical mistakes:
- Paragraph 186, line 3- the reference to “P1998” should read “P1198”;
 - Paragraph 823, line 7- the word “absentism” should read “absenteeism”;
 - Page 126- the following sentence was incorrectly numbered as paragraph 10: “The crimes in the Dečani municipality occurred during the period when these actions were carried out.” Paragraph 507 was amended to include this sentence;
 - Footnote 668- the reference to “T.15507-15508 (private session)” should read “T.10508”; and
 - Footnotes 1710 and 1722- the reference to exhibit P2513 should read “P2613”.

Word count: 431

Word count of Final Trial Brief: 98,819

A handwritten signature in black ink, appearing to read "Tom Hannis", written in a cursive style.

Thomas Hannis
Senior Trial Attorney

Dated this 28th Day of July 2008
The Hague, The Netherlands

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I. INTRODUCTION

1. This trial is about responsibility for a widespread and systematic campaign of terror and violence conducted by the forces of the Federal Republic of Yugoslavia and Serbia against Kosovo Albanians from 24 March 1999 to 20 June 1999. Thousands were abused and killed and over 800,000 forcibly expelled from their homes and Kosovo. The primary motivating force was to achieve Serbian rule over the province. The six accused acting individually and collectively orchestrated these events. The evidence discussed in the brief establishes that they are criminally liable for the crimes charged.

2. In a case of this magnitude it is not possible or sensible to attempt to recite in a final brief all the evidence which has been heard by the Trial Chamber relating to the issues. The Prosecution has therefore made a selection of the matters which are assessed to be of major relevance. However, if the Trial Chamber itself finds there is evidence, outside that specifically cited, which lends support to the submissions made by the Prosecution, then its omission in this brief should not be taken as an indication that it is considered less than compelling. The same applies to documents entered into evidence.

3. It is neither possible nor sensible to attempt an analysis of the worth of each of the many defence witnesses who testified. Some who are assessed to be of particular interest are discussed. The fact that many are not mentioned in this brief does not mean that the Prosecution accepts that they are credible or reliable. As a general observation a great number of them were former subordinates of the accused who carried out their orders during the material time or who were sympathizers of the policies of the accused or participants in carrying them out. Many displayed amnesia about matters that they must have known about, like the Joint Command and the role of the Serbian Ministry of Interior for Kosovo and Metohija (MUP Staff for KiM). This renders their evidence of very little value and it should be approached with extreme caution. Some only relented after documents of irresistible force were shown to them.

4. The interviews given to the Office of the Prosecutor by the accused are cited throughout the brief. With the exception of Lazarević's suspect interview, the Prosecution does not invite the Trial Chamber to rely on any of them to prove the acts and conduct of a co-accused. Because he testified and was cross-examined by all parties, the Lazarević interview is used as evidence in respect to all and each of the accused for all purposes.

5. Where reference is made to "state of war in 1999" or "war in 1999" this means the period between 24 March and 20 June 1999.

6. Reference to evidence heard in private session, exhibits admitted under seal or information potentially revealing the identity of witnesses who testified or whose statements were admitted into evidence with protective measures has been redacted in the public version of the brief.

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

II. THE JOINT CRIMINAL ENTERPRISE (JCE)

8. The accused Milan Milutinović, Nikola Šainović, Dragoljub Ojdanić, Nebojša Pavković, Vladimir Lazarević, and Sreten Lukić participated in a joint criminal enterprise (JCE) aimed at modifying the ethnic balance in Kosovo in order to ensure continued Serbian control over the province through criminal means.

9. A number of other individuals participated in the JCE, including Slobodan Milošević, Vlastimir Đorđević, and Dragan Ilić. In order to achieve the objective of the JCE, the accused worked together with many other persons, including members of command and coordinating bodies and members of the forces of the FRY and Serbia. The accused therefore participated with others who shared their intent to effect the purpose of the JCE and contributed to its fulfilment.

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

11. The common purpose of the JCE was to be achieved through a campaign of deportations, forcible transfers, murders and persecutions. Such a campaign required a concerted effort. The Kosovo Albanian population was targeted. The aim was to forcibly expel a substantial portion of the majority Albanian population from Kosovo.

12. The accused shared the common criminal purpose and intended the crimes charged. These crimes were committed pursuant to that common purpose. Alternatively, should the Trial Chamber find that the crimes in Counts 3 to 5 (murder and persecutions) were outside the common purpose, these crimes were natural and foreseeable consequences of its execution. The accused willingly took that risk and decided to participate in that enterprise.

13. The evidence from which the Trial Chamber may infer the intent of the accused to participate in the JCE is referred to throughout this brief, and detailed specifically for each accused in Section IV (C).

A. The Accused

14. Milan Milutinović was President of the Republic of Serbia from 21 December 1997 until 29 December 2002. As President of Serbia, Milutinović was a member of the Supreme Defence Council (SDC). Before becoming President, Milutinović had previously held prominent positions within the Republic of Serbia/Socialist Republic of Yugoslavia/FRY such as Minister of Foreign Affairs, Ambassador to Greece, Serbian Minister of Education and Sciences, and member of the Federal Parliament.¹

15. Nikola Šainović was Deputy Prime Minister of the FRY from February 1994 until November 2000, responsible for foreign policy and international relations. He had previously held prominent positions such as Minister of Mining and Energy in the Republican Government of Serbia, Prime Minister of Serbia, Vice-President of the federal Government and Vice-President of the Council on Foreign Economic and Political Affairs. Within the Socialist Party of Serbia he had been Vice-President and elected to its Main Board and Executive Committee.²

16. Dragoljub Ojdanić served as Deputy Chief of the VJ General Staff between June 1996 and November 1998. On 24 November 1998, Ojdanić was appointed as Chief of VJ General Staff,³ a position he held during the Indictment period.

17. Nebojša Pavković was assigned to the Priština Corps in 1994 and assumed command of the PrK on 9 January 1998. On 25 December 1998, he was appointed Commander of the Third Army.⁴

18. Vladimir Lazarević became Chief of Staff of PrK in 1998, and was appointed Commander of PrK on 25 December 1998.⁵

¹ Order on Agreed Facts, pp.10-11.

² Order on Agreed Facts, pp.11-12; P605, pp.5-13.

19. Sreten Lukić was appointed Head of the MUP Staff for KiM on 11 June 1998.⁶ He remained in this position until June of 1999.⁷

B. The mastermind behind the JCE: Slobodan Milošević

20. During the Indictment period, Slobodan Milošević, President of the FRY, was unquestionably the most powerful person in the country.⁸ He was the “one and only person controlling everything in the FRY.”⁹

21. Milošević was the leading member of the JCE. Milošević’s dominance was built on manipulation of Serbian nationalist policies – the essence of which was that Serbs must live in a territory controlled by Serbs or be vulnerable to discrimination, persecution and genocide by non-Serbs.

22. In 1986, Milošević was elected Chairman of the Presidium of the Central Committee of the League of the Communists of Serbia.¹⁰ In the late 1980s, Kosovo Serbs complained of discrimination against them by the majority Kosovo Albanian population. In the spring of 1987, Serb and Montenegrin activists in Kosovo planned a march on Belgrade to express their grievances about the situation in Kosovo. Milošević seized on this sentiment and, through State-sponsored nationalistic propaganda, exploited the complaints of Kosovo’s Serbs to further his personal power and political objectives.¹¹ Milošević’s rise to power began.

23. In the spring of 1987, Milošević travelled to Kosovo Polje and addressed the Serb demonstrators.¹² He declared to them: “No one should dare to beat you!”¹³ This statement received enormous publicity and elevated Milošević to the status of a hero in the eyes of the Serbian people.¹⁴ It became the rallying cry for Serb nationalists.¹⁵ On 28 June 1989, at the 600th

³ Order on Agreed Facts, pp.12-13.

⁴ Order on Agreed Facts, pp.13-14; P1000.

⁵ Order on Agreed Facts, p.14.

⁶ P1252. Although the date of P1252 is illegible, a related document, P1505, indicates that the date of this decision is 11 June 1998 (P1505, para.6). *See also* P948, pp.10,20-21,32; Cvetic, T.8030.

⁷ P1505; P1811.

⁸ Surroi, T.4582; Vollebæk, P2634, para.19; T.9508-9509; P2632, pp.12-14.

⁹ Petritsch, P2792, p.2.

¹⁰ Order on Agreed Facts, p.6.

¹¹ Merovci, P2588, para.8; Abrahams, P2228, p.13.

¹² Merovci, P2588, para.5.

¹³ Abrahams, P2228, p.13; Merovci, P2588, para.5; T.8567.

¹⁴ Abrahams, P2228, p.13.

¹⁵ Abrahams, P2228, p.13.

anniversary of battle of Kosovo Polje, Milošević gave another inflammatory speech in Gazimestan.¹⁶

24. On 8 May 1989, Milošević was elected President of Serbia, a post he held for eight years.¹⁷ In order to maintain his political dominance, it was imperative that Milošević retain Serb control over Kosovo. His strategy was to force Kosovo Albanians out of Kosovo and to move in Serbs in order to alter the ethnic balance in favour of Serbs.¹⁸ He manipulated the political, military, and police promotion systems to ensure that his nominees retained control.

25. All the accused shared Milošević's sentiments about Kosovo and were loyal to him. Some, such as Nebojša Pavković, had close personal ties as well.¹⁹ Milošević surrounded himself with loyal followers. During a meeting with Michael Phillips of the Kosovo Verification Mission, in November 1998, Šainović said that the Albanian population had no desire to coexist with Serbs to whom Kosovo belonged.²⁰

26. On 23 July 1997, Milošević was elected President of Yugoslavia, a position he held until October 2000.²¹ He controlled all major decisions and institutions of government.²² Milošević ordered the formation of the Joint Command in 1998,²³ which exercised command over MUP and VJ forces in Kosovo up until June 1999. The Joint Command had no source of authority in law apart from that delegated to it by Milošević. Milošević commanded the VJ in accordance with decisions taken by himself and Milan Milutinović, as two of three voting members of the SDC.²⁴

27. Acting on Milošević's orders, on or about 24 March 1999, the accused launched a large-scale and highly coordinated operation in pursuit of the goal of the JCE: the modification of the ethnic balance of Kosovo through criminal means in order to ensure continued Serbian control over the province. To this end, the VJ and MUP units acted together in a closely coordinated fashion.²⁵

¹⁶ Merovci,P2588,para.10.

¹⁷ Abrahams,P2228,p.14.

¹⁸ Merovci,P2588,para.8.

¹⁹ Vasiljević,P2600,para.21.

²⁰ Phillips,T.11840.

²¹ Abrahams,P2228,p.14.

²² Petritsch,P2792,p.2.

²³ P1317.

²⁴ P985,Art.40(2),p.7.

²⁵ See, for instance, Stojanović,T.20060;Stefanović,T.21685;Delić,T.19659-19660.

C. The plan to maintain Serb control over Kosovo

1. Historical and political background

28. Although Serbs are the minority population in Kosovo,²⁶ many Serbs consider Kosovo to be an integral part of Serbia. The majority of Serbs have a strong emotional connection to the territory which they considered to be the cradle of their culture.²⁷ Illustrative of this sentiment is Commander of the 549th Motorised Brigade Delić's statement "We all [Serbs] will protect Kosovo with our lives [...]"²⁸

29. During the 1980s, one principal grievance of Serbian nationalist circles was that the 1974 SFRY Constitution²⁹ gave Kosovo substantial autonomy³⁰ and left Kosovo Serbs vulnerable to discrimination by a government in Kosovo dominated by ethnic Albanians.³¹ The notorious 1986 Memorandum, which originated from the Serbian Academy of Science and Art, spoke of genocide of the Serbian population in Kosovo and Metohija.³²

30. By the early 1990s, the preservation of Serbian control of Kosovo had become central to Serbian policy. Milošević's ability to convince the Serbian public that he could retain control over Kosovo was key to his rise to power.³³ The containment of Kosovo Albanians' aspirations for independence or autonomy became a common goal for all major political forces in Serbia.³⁴

31. The Serbian political leadership under Milošević pursued a two-tier strategy to achieve this goal. First, through legislation to bring Kosovo under its direct control. Second, by changing the demographic structure of the province to consolidate the Serbian grip over it.

(a) Legislative changes

32. In 1988, Milošević proposed changes to Serbia's constitution that led to the abrogation of Kosovo's autonomy.³⁵ In the spring of 1989, certain "special measures" were introduced in

²⁶ P1960,p.16.

²⁷ Abrahams,P2228,p.12.

²⁸ Maisonneuve,P2772,p.73.

²⁹ P1848. The 1974 SFRY Constitution provided for devolution of power from the country's central government in Belgrade to its six constituent republics: Serbia, Croatia, Macedonia, Montenegro, Slovenia and Bosnia and Herzegovina. Serbia included two autonomous provinces – Kosovo and Vojvodina.

³⁰ Abrahams,P2228,p.13 (Within Serbia, the provinces of Kosovo and Vojvodina were given substantial autonomy and were represented *inter alia* in the SFRY's Presidency).

³¹ Abrahams,P2228,p.13.

³² Abrahams,P2228,p.13.

³³ Haxhiu,P2478,p.5. During a press conference in April/May 1990, Milošević told Haxhiu that Kosovo will never be a republic.

³⁴ Haxhiu,T.6137.

³⁵ Merovci,P2588,para.9.

Kosovo.³⁶ Responsibility for public security was assigned to the federal government.³⁷ In March 1989, the Serbian Assembly proposed amendments to Serbia's constitution that would strip Kosovo of most of its autonomy, including its control of the province's police, schools, economic policy, and choice of official language, as well as its veto powers over further changes to Serbia's constitution.³⁸

33. On 23 March 1989, the Kosovo Provincial Assembly was scheduled to vote on these proposed amendments.³⁹ In order to intimidate assembly members, tanks were positioned outside the assembly building. Secret police in civilian clothes were present in the assembly building.⁴⁰ Not surprisingly, the amendments were passed.

34. On 28 March 1989, the Serbian Assembly approved the constitutional amendments,⁴¹ and Kosovo's autonomy was effectively revoked.⁴² Serbia took complete control of Kosovo's police and courts as well as its educational, social and economic policy.⁴³ Police repression against Kosovo Albanians increased dramatically.⁴⁴

35. During the 1990s, most Kosovo Albanian language schools were closed and most of the ethnic Albanian employees at the University of Priština were fired.⁴⁵ By 1991, all Kosovo Albanian policemen had been dismissed.⁴⁶ Kosovo Albanians were also dismissed from managerial and directorial positions in the public administration, the education system, the judiciary as well as in public companies, health care institutions, and media enterprises.⁴⁷ During this period the Kosovo Albanians pursued a policy of civil resistance and established an unofficial parallel system of health care and education.⁴⁸

36. In July 1990, the SPS was established with Milošević at its helm. Milošević used the SPS majority in the federal and republic assemblies to pass legislation in furtherance of Serbian

³⁶ Rugova,P2613,p.2;P2612,pp.3-4. *See also* 1D751;Marković,T.13466.

³⁷ Abrahams,P2228,p.14;Rugova,P2612,p.130-131.

³⁸ Abrahams,P2228,p.14. *See also* P1854.

³⁹ Abrahams,P2228,p.14;Rugova,P2612,p.4.

⁴⁰ Rugova,P2612,p.130.

⁴¹ P858.

⁴² Rugova,P2613,p.2.

⁴³ The formal revocation of Kosovo's autonomy was implemented a number of Serbian such as the Law on the Termination of Work of the Assembly of SAP Kosovo and the Executive Council of the Assembly of SAP Kosovo (P1857).

⁴⁴ Abrahams,P2228,p.14.

⁴⁵ Abrahams P2228,p.14. *See also* Surroi,T.4537.

⁴⁶ Rugova,P2612,pp.4 -5.

⁴⁷ For example,P863;P867;P870;P871;P872;P873;P874;P875;P881;P882;P886;P887;P889;P891;P892;P893;P894;895;896;P897;P899;P917;P918.

⁴⁸ Abrahams,P2228,p.15.

nationalist policies in Kosovo. He relied on loyal members chosen from among the SPS main board – including Milutinović and Šainović – to implement his policies in Kosovo.

(b) Demographic changes

37. The Serbian political leadership was convinced that the ethnic demographic balance in Kosovo needed to be altered in order to retain political control over the province.⁴⁹

38. In January 1990, the SFRY assembly adopted a programme to prevent Serb and Montenegrin emigration from Kosovo. The programme accused Albanian nationalists of pursuing the goal of an “ethnically cleansed Kosovo” and called for economic assistance programmes for non-Albanians.⁵⁰ Ethnic Serbs from outside Kosovo were encouraged to move to Kosovo.⁵¹ Kosovo Albanians who wanted to retain their employment in state institutions often would have to sign a declaration that amounted to a loyalty oath towards Serbia.⁵² Restrictions were imposed on the conveyance of residential property interests from ethnic Serbs to ethnic Albanians.⁵³ In addition, in 1996, 16,000 Serbian refugees from Bosnia and Croatia were settled in Kosovo.⁵⁴

39. On 27 November 1992, the National Assembly of the Republic of Serbia adopted a “declaration on human rights and the rights of national minorities.”⁵⁵ It declared that:

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

40. This inflammatory rhetoric underlined the extreme anti-Albanian climate that led to the widespread and systematic crimes against Kosovo Albanians charged in the Indictment. Also illustrative of this climate is the 1998 proposal from the SPS provincial board of Kosovo. It claimed that over 400,000 inhabitants of Kosovo were actually emigrants from Albania and should be dealt with in accordance with international law.⁵⁶ This proposal was merely a thinly-disguised plan to deport these citizens to Albania. By 1997, it was evident that the discriminatory measures taken to increase the Serb population were insufficient to reverse the changing demographics of Kosovo. A more drastic response was required.

⁴⁹ P1012,p.30;P1348.

⁵⁰ P847. *See also* P808,p.29.

⁵¹ P847;Merovci,P2588,paras.9,14. *See also* P862.

⁵² Surroi,T.4536-4537; *See also* Merovci,P2588,pp.13-15.

⁵³ Merovci,T.8416-8418.

⁵⁴ Abrahams,P2228,p. 15.

⁵⁵ P1348.

⁵⁶ P425,p.6.

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

(a) The Serb leadership was prepared to commit crimes in Kosovo

41. Prior to the Indictment period, steps were taken to lay the foundations of the JCE.

42. At the 16th session of the SPS Main Board held on 10 June 1998, Milomir Minić, an SPS deputy in the FRY Assembly and the President of the Chamber of Citizens, in the presence of Milutinović, Šainović and Milošević, gave a speech concerning the situation in Kosovo and measures to be taken. He stated:

The number of Serbs and Montegrins in Kosovo and Metohija must remain the same today and must grow tomorrow. This would be the only lasting and real defence of Kosovo and Metohija, in terms of national and state interests.⁵⁷

43. On 24 October 1998, at a meeting with NATO representatives (including Generals Wesley Clark and Klaus Naumann) Milošević told them that a final solution to the Kosovo problem would be found by spring 1999.⁵⁸ When pressed on what he meant by this, he replied that they would do what they had done in 1946 in Drenica: “We got them together and shot them.”⁵⁹ Also at this meeting, either Šainović, or Milošević in Šainović’s presence, argued that the Kosovo problem had to be solved as Serbia would otherwise have the same problem again in 20 years, given that the birth-rate of Kosovo Albanians was higher than of Serbs.⁶⁰

44. During this period, Milošević was telling interlocutors that Kosovo Albanians numbered approximately 900,000⁶¹ – this was substantially lower than the true Kosovo Albanian population, which was estimated at 1.7 million.⁶²

45. On 19 February 1999, at a meeting with Austrian diplomats Wolfgang Petritsch and Jan Kickert and Boris Mayorski, a Russian diplomat, Milutinović is recorded in the contemporaneous Austrian diplomatic correspondence to have said that, “Bombing Serbia would lead to massacres.”⁶³ This statement was reiterated by Vladimir Štambuk, a Yugoslav Party of the Left (JUL) representative at the Rambouillet Conference. He stated: “If NATO bombs fall, there will be a massacre in Kosovo,”⁶⁴ meaning a massacre of Kosovo Albanians.

⁵⁷ P1012,p.30.

⁵⁸ Naumann,T.8259-60;P1767,p.6;P2512,pp.29-31.

⁵⁹ Naumann,T.8259-60;P1767,p.6;P2512,p.31.

⁶⁰ P1767,para.29;Naumann,T.8374-8375;P2512,p.31.

⁶¹ Naumann,P2512,pp.29-31.

⁶² P1960,p.2.

⁶³ P562;Petritsch,T.10882-10887. While Petritsch did not actually remember Milutinović saying this, he recalled the meeting and the circumstances when reading the dispatch (T.10886-10887), and testified that it was “that is very, very unlikely” that a mistake was made at the time of the dispatch (T.10882).

⁶⁴ Petritsch,P2792,p.3.

46. Just after the Rambouillet talks had collapsed, at a Serbian Radical Party (SRS) rally in Zemun, Vojislav Šešelj, a deputy Prime Minister of Serbia, stated that “If NATO bombs us, we Serbs will suffer casualties [...] but there will be no Albanians left in Kosovo.”⁶⁵

(b) Arming of non-Albanians and disarming of ethnic Albanians

47. In the summer of 1998, the VJ ordered the arming of the ethnic Serb and Montenegrin population in Kosovo.⁶⁶ Although the arming was on its face a legitimate policy to fight the Kosovo Liberation Army in 1998, armed locals were utilised to forcibly expel the ethnic Albanian population from the province during the Indictment period.⁶⁷

48. On 26 June 1998, an order from the PrK to arm and train village defence units in Kosovo was issued “to defend and protect the citizens from the *Šiptar* terrorist groups.”⁶⁸ Ethnic Serb and Montenegrins were organised into village defence groups.⁶⁹ While the VJ provided weapons,⁷⁰ the MUP formed units of armed non-Albanians.⁷¹ Joint Command orders issued in 1999 show that the armed non-Albanian population provided support to joint VJ-MUP combat operations.⁷²

49. In a parallel process, predominantly ethnic Albanian villages were disarmed in 1998.⁷³ The MUP and the VJ collected weapons in “*Šiptar* villages” throughout various municipalities.⁷⁴ The result of these processes was an increasingly vulnerable ethnic Albanian civilian population.

50. Both the arming and the disarming were integral parts of the operations of the forces of the FRY and Serbia in the summer of 1998.

(c) The 1998 operations of the VJ and the MUP and the use of excessive and indiscriminate force

51. The KLA was established in the mid 1990s to mount an armed struggle against Serbian authorities.⁷⁵ Up until June 1999, the KLA was engaged in combat with the forces of the FRY and Serbia.

⁶⁵ P980.

⁶⁶ P1582; P1415. *See also* 3D697,p.4.

⁶⁷ *See* Section III(F).

⁶⁸ P1415. “*Šiptar*” refers to Albanians from Kosovo, sometimes considered a derogatory term. *See* Surroi, T.4540-4542;Andelković,T. T.14707-14709.

⁶⁹ P1138.

⁷⁰ P1415.

⁷¹ P2804.

⁷² *See e.g.* P1966,P1968,P1970,P1878.

⁷³ P2166,p.4.

⁷⁴ P1203,p.5;P1197,p.6;P2623,p.8.

⁷⁵ Abrahams,P2228,p.15.

52. In mid-1996 and throughout 1997, the KLA launched attacks primarily aimed at Serbian police forces.⁷⁶ During this period, the KLA consisted of a small, poorly-armed force.⁷⁷ By 1998, the KLA had gained strength and was a more cohesive armed group of several thousand men.⁷⁸

53. In February 1998, the conflict between the KLA and the forces of the FRY and Serbia escalated. Reacting to KLA provocations, between 28 February and 1 March 1998, Serbian special forces attacked two adjacent Albanian villages in the Drenica region, Ćirez and Likošane.⁷⁹ This region had by then become a KLA stronghold.⁸⁰ On 5 March 1998, around 200 special police forces, including heavily-armed special operations (JSO) and anti-terrorist (SAJ) units,⁸¹ attacked the nearby village of Donji Prekaze- home of Adem Jashari, the KLA leader and founder.⁸² During the assault on the Jashari compound, 54 people were killed, including Jashari and his entire family, except for an 11-year-old girl.⁸³ In total, 83 people lost their lives in the three attacks, including 24 women and children.⁸⁴ These attacks marked a significant intensification of violence.

54. The operations sometimes involved the use of the VJ. In late March 1998, Colonel John Crosland, a British Defence attaché, saw Serb forces, including VJ units and the JSO, building up to conduct a joint strike in the Dečani area.⁸⁵ In March and April 1998, thousands of VJ and MUP units were deployed to Kosovo.⁸⁶

55. Between May and June 1998, forces of the FRY and Serbia conducted further combat operations. In May, Crosland reported that elements of the JSO and special police units (PJP) were patrolling the areas of Ponoševac, Đakovica, Peć and Dečani in a heavy-handed way. The villagers had fled to Junik. VJ units were deployed around all major garrison towns.⁸⁷ The road to Ponosevac was “carpeted” in empty cases including 40mm grenades and the village was empty. JSO and PJP units patrolled the area.⁸⁸ Villages south of Ponosevac were also deserted and houses had been sprayed in gunfire.⁸⁹ On 7 June 1998, a group of foreign diplomats touring the Dečani area

⁷⁶ Abrahams,P2228,pp.16-17.

⁷⁷ Abrahams,P2228,p.17.

⁷⁸ Zyrap, T.5934,5945,5958;P2453;P2449.

⁷⁹ P437,pp.2,27-34.

⁸⁰ Abrahams,P2228,p.17;Kadriu,P2377,p.5.

⁸¹ Crosland,P2645,para.28.

⁸² P437,pp.34-40;Crosland,P2645,para.28;5D845, p.1;Delić, T.19555.

⁸³ Crosland, P2645,para.8;Kadriu,P2377,pp.6-7.

⁸⁴ P437,p.2.

⁸⁵ Crosland,P2645,paras.18, 30.

⁸⁶ Crosland,P2645,para.32.

⁸⁷ P688.

⁸⁸ P688, para.2;Crosland,P2645,para.34.

⁸⁹ P688,para.2.

observed heavy Serbian police and military presence and extensive devastation in Dečani and Prilep. Both localities were practically deserted.⁹⁰

56. In mid-June 1998, following a meeting with Russian President Boris Yeltsin, FRY President Slobodan Milošević agreed to an international monitoring mission, the Kosovo Diplomatic Observer Mission (KDOM), which was mandated to observe and report on the security situation in Kosovo.⁹¹ Despite the deployment of KDOM in early July 1998, the use of excessive and indiscriminate force by the forces of the FRY and Serbia continued unabated.⁹²

Forces of the FRY and Serbia launched a large-scale offensive in the summer of 1998 which resulted in the use of excessive force against the civilian population

57. Pursuant to a decision adopted at the SDC on 9 June 1998, the VJ drew up the Plan to Suppress Terrorism, which provided for the engagement of VJ and MUP units in Kosovo.⁹³ The implementation of the plan began on 25 July 1998 and was carried out in stages.⁹⁴ The combat operations carried out pursuant to this plan were marked by the use of heavy-handed tactics against the Kosovo Albanian population and the wanton destruction of Kosovo Albanian villages and towns.

58. At the end of July 1998, VJ and MUP units conducted joint actions across western Kosovo, including in Junik and along the Kijevo-Mališevo, Orahovac-Mališevo and Dulje-Blace-Mališevo axes.⁹⁵ Crosland and other international observers toured western Kosovo on 28 and 29 July 1998. They saw VJ and MUP units acting in close coordination on the Peć-Mališevo road.⁹⁶ In a sitrep dated 30 July 1998, Crosland reported: “Met assault force of SAJ, PJP and VJ lined up for attack on Mališevo. Ongoing ops in Dulje. Firing all day. Junik under artillery/tank and mortar fire from 13:00 onwards. Unanswered question, where is the civilian population from Orahovac, Mališevo, approximately 30,000 missing.”⁹⁷ He later found out that these civilians had fled to the Pagaruša valley.⁹⁸ Every village on the access roads into Mališevo had suffered severe damage.⁹⁹ The houses

⁹⁰ Kickert, T.11193-11195; P2666, p.2.

⁹¹ Petritsch, T.10760-10761; Drewienkiewicz, T.7734; Byrnes, T.12129, 12133-12134, 12136; 2D371.

⁹² Petritsch, T.10718-10719; Byrnes, T.12148, 12150.

⁹³ 4D106; 1D760; P2166, p.3.

⁹⁴ P2166, p.2.

⁹⁵ P1418; P1468, pp.13, 16, 18, 22, 23, 26; 3D1001.

⁹⁶ Crosland, P2645, paras.37-38; P685, p.2; T.9807-9808.

⁹⁷ Crosland, P2645, para.37; T.9808; P685, p.3.

⁹⁸ Crosland, P2645, para.37; T.9808-9810.

⁹⁹ P685, pp.2-3.

and crops were still burning and shops had been vandalized.¹⁰⁰ Kickert, an Austrian diplomat, also toured western Kosovo in late July and early August and witnessed similar destruction.¹⁰¹

59. In early August 1998, VJ and MUP units carried out operations in the areas of Drenica and Jablanica and continued operations in Junik.¹⁰² On 7 August 1998, Crosland reported that operations were ongoing in Drenica, Junik and Jablanica areas. The devastation in these areas was widespread. Mališevo was “now completely gutted by fire and looting.”¹⁰³ Most villages along the Peć-Klina-Priština road and along the Gornja Klina-Rudnik-Rakoš road, where Serb forces had launched an offensive in late July,¹⁰⁴ had also been wantonly destroyed.¹⁰⁵ Lauša and Lipovac were under heavy smoke and from Grebenik to Komorane, villages had been “completely trashed.”¹⁰⁶ Very few civilians remained.¹⁰⁷

60. By the end of August 1998, VJ and MUP forces had shelled and burnt down about half of the villages in Dečani. The hamlet of Prilep, located on the Đakovica-Dečani road, was razed to the ground.¹⁰⁸ When internationals visited the area at the end of August, they saw elements of the VJ, the SAJ, the JSO and the PJP conducting operations, torching and firing into houses.¹⁰⁹

61. The attacks by Serb forces continued into September.¹¹⁰ On 10 September 1998, the EU-KDOM reported: “Villages along the main Peć-Priština road are, with the exception of Serbian villages, no longer inhabited.”¹¹¹ In the area east of Peć and north of Kruševac, Serb forces were conducting a large-scale operation. These actions resulted in the massive displacement of the population.¹¹² In September, elements of the 37th PJP Detachment conducted a sweep operation from the Drenica area west to the Bajgora area.¹¹³ As they moved through these areas, they torched Albanian villages,¹¹⁴ committed acts of violence against civilians and looted abandoned houses.¹¹⁵ In late September 1998, the VJ and the MUP carried out joint operations in the area of the Čičavica mountains.¹¹⁶ They surrounded and shelled villages near Vučitrn, forcing civilians to flee.¹¹⁷

¹⁰⁰ P685,p.3.

¹⁰¹ Kickert,T.11206-11207,11209;P2655,p.2.

¹⁰² P1419;P1468,pp.33-36,41-42;4D311.

¹⁰³ P685,p.2.

¹⁰⁴ P1468,pp.21,25.

¹⁰⁵ P686,p.1;Kickert,T.11207.

¹⁰⁶ P686,p.2.

¹⁰⁷ P686,p.3.

¹⁰⁸ P682,para.5;Crosland,P2645,para.41;T.9768.

¹⁰⁹ P682,para.5;Crosland,P2645,para.41;T.9812.

¹¹⁰ P1468,pp.79,81-83,85,87.

¹¹¹ P564.

¹¹² Kickert,T.11210-11215;P564.

¹¹³ K79,T.9609-9610,9677.

¹¹⁴ K79,T.9611-9617,9642-9643

¹¹⁵ K79,T.9625-9628,9631,9634-9637,9697.

¹¹⁶ P1468,pp.123,125.

62. One of the worst incidents in September 1998 took place at the Delilaj family compound in Gornje Obrinje, a village where intense fighting between MUP and VJ units and the KLA had left fourteen policemen dead.¹¹⁸ On 25 September 1998, two PJP units, the JSO and combat groups from the 125th MtbR and the 243rd Mechanised Brigade retaliated while conducting a joint action in Gornje Obrinje and Donje Obrinje.¹¹⁹ This action was completed on 26 September 1998.¹²⁰ A HRW team arrived in Gornje Obrinje on 29 September 1998 and documented the massacre.¹²¹ Serb forces killed twenty-one civilians, including six women and five children, in Gornje Obrinje.¹²² The youngest victim was only eighteen months old.¹²³ All the victims were members of the Delilaj family.¹²⁴

63. During the implementation of the Plan to Suppress Terrorism, the forces of the FRY and Serbia entered 306 populated places.¹²⁵ Thousands of VJ and MUP personnel were engaged in these operations.¹²⁶ VJ and MUP units worked in close co-ordination. They used artillery, tanks, mortars, multiple rocket launchers, armoured personnel carriers (APCs) and helicopters.¹²⁷ They shelled predominantly Kosovo Albanian towns and villages, destroyed property, and expelled and killed the civilian population from areas in which the KLA was active.¹²⁸ Typically, the role of the VJ was to provide fire support with tanks and artillery, while MUP special units entered villages on foot.¹²⁹ In addition to providing fire support, the VJ provided vehicles and APCs to the MUP, which MUP units repainted from green to blue.¹³⁰

Throughout 1998, the international community condemned the use of excessive force by forces of the FRY and Serbia in Kosovo

64. From at least March 1998 onwards, the international community publicly condemned the use of excessive and indiscriminate force by the forces of the FRY and Serbia in Kosovo.

¹¹⁷ Kadriu,P2377,p.8.

¹¹⁸ P441,pp.19-20.

¹¹⁹ Paunović,T.21873-21875;6D700.

¹²⁰ P1468,p.129;Abrahams,T.806,811;P441,p.31.

¹²¹ Abrahams,T.806-807,810-811;P441;P642,P702,P679.

¹²² P441,pp.2,34-49.

¹²³ Abrahams,T.806.

¹²⁴ Abrahams,T.811,816;P679;P642.

¹²⁵ P2166,p.4-5;P1224.

¹²⁶ P2166,p.4;P1022.

¹²⁷ Crosland,P2645,paras.19,37-38;T.9765-9766;P685,p.2;P687,paras.5-6;P2166,p.4.

¹²⁸ Byrnes,T.12141,12148,12150,12153;Crosland,P2645,para.43.

¹²⁹ Crosland,P2645,paras.16,18,45-46;K54,T.10500-10502.

¹³⁰ Crosland,P2645,para.33;T.9764;P687,item 9.

65. On 31 March 1998, the UN Security Council passed Resolution 1160, which condemned the use of excessive force by Serbian police forces against peaceful demonstrators and civilians in Kosovo, as well as all acts of terrorism committed by the KLA.¹³¹

66. International representatives repeatedly raised their concerns about the escalating violence with Serbian authorities. For example, in July 1998, an EU delegation toured areas in western Kosovo along the road leading to Peć and saw houses and unharvested fields burning. They returned to Belgrade and confronted Milošević with what they had seen.¹³²

67. On 20 July 1998, Human Rights Watch (HRW) sent requests to the VJ, the MUP and the Serbian Secretary for Information on human rights violations in Kosovo.¹³³ In October 1998, HRW documented a series of crimes perpetrated by members of the VJ and the MUP against the Kosovo Albanian population in Drenica.¹³⁴ The findings of this investigation were published in February 1999 and distributed widely to the press, including the FRY media.¹³⁵

68. UN Security Council Resolution 1199 adopted on 23 September 1998 condemned “the excessive use of force by Serbian security forces and the Yugoslav Army.”¹³⁶ The Security Council called for an immediate cessation of hostilities¹³⁷ and for immediate steps to be taken to improve the humanitarian situation and to avert the impending humanitarian catastrophe.¹³⁸ The Security Council also demanded that the security forces cease all action affecting the civilian population and that the FRY order the withdrawal of “security units used for civilian repression.”¹³⁹

69. As a result of the fighting and destruction, tens of thousands of Kosovo Albanians were internally displaced or fled the province. The UNHCR estimates that from March to October 1998, approximately 285,000 persons, roughly fifteen percent of the population, had been internally displaced within Kosovo or had left the province.¹⁴⁰

(d) Breach of peace building measures in the 1998 October Agreements

70. In the wake of UN Resolution 1199 and the ongoing international pressure to end the violence in Kosovo, Slobodan Milošević engaged in negotiations with a number of international interlocutors including Naumann, Clark and U.S. envoy Richard Holbrooke. These talks resulted in

¹³¹ P455.

¹³² Kickert, T.11201-11202; P2655, p.2.

¹³³ P540; P541; P542; P543; P544; P545; P546; P441; P437; Abrahams, P2227, pp.2-3.

¹³⁴ P441.

¹³⁵ Abrahams, P2228, p.11; T.811-812, 818.

¹³⁶ P456, p.1.

¹³⁷ P456, item.1.

¹³⁸ P456, item.2.

¹³⁹ P456, item.4(a).

a number of agreements (the October Agreements) signed by representatives of the FRY, Serbia, NATO, the OSCE, and the KDOM.¹⁴¹

71. The Agreements imposed the following restrictions on the forces of the FRY and Serbia. As regards the VJ:

- all units and equipment brought into Kosovo after February 1998 were to be withdrawn;¹⁴²
- all VJ elements remaining in Kosovo were to return to garrison, except for those augmenting the border guards or protecting certain lines of communication.¹⁴³

The MUP were to:

- dismantle checkpoints;¹⁴⁴
- remove stationary forces from certain areas;¹⁴⁵
- remove special police units deployed in Kosovo after February 98;¹⁴⁶ and
- withdraw heavy weapons or return them to the VJ.¹⁴⁷

All withdrawals and removals were to be completed no later than 1200 hours on 27 October 1998.¹⁴⁸

72. Verification of the October Agreements would be carried out by the KVM, established on 16 October 1998 by an agreement signed by Bronislaw Geremek for the OSCE and Živadin Jovanović for the FRY.¹⁴⁹ On 22 October, an agreement was signed between Clark and Perišić, which facilitated aerial surveillance by NATO of the situation in Kosovo.¹⁵⁰ The October Agreements themselves also made provision for these restrictions to be verified. VJ and MUP commanders were required to provide to KDOM/OSCE detailed weekly reports of manning, weapons, and activities of their forces.¹⁵¹

73. That the authorities of the FRY did not intend to comply with the October Agreements is evidenced by the statements of key personnel around the time of the signing of the Agreements. The day after the signing of the Agreements,¹⁵² Šainović directed the other members of the Joint

¹⁴⁰ P736.

¹⁴¹ P394;P395;P440;P454,P658.

¹⁴² P395,p.3.

¹⁴³ P395,p.3.

¹⁴⁴ P394.

¹⁴⁵ P394.

¹⁴⁶ P395,p.2.

¹⁴⁷ P395,p.3.

¹⁴⁸ P395,p.3.

¹⁴⁹ P658

¹⁵⁰ P440;P454

¹⁵¹ P395,p.3.

¹⁵² P395.

Command that “when pulling out, we must be careful enough not to let anyone find out that parts of some detachments did not pull out. There must not be any discrepancies with the information that was given already.”¹⁵³ Milutinović told attendees at a MUP Staff meeting in Kosovo on 5 November 1998 that “VJ units will not withdraw, and police forces have only been reduced by the number that has already been withdrawn.”¹⁵⁴ At a VJ Collegium meeting on 28 October 1998, Perišić noted that “the MUP has not been cut back to the level of March or the end of February 1998, and not all units of the Yugoslav Army have been withdrawn to barracks.”¹⁵⁵

74. This obstructionist attitude led to other violations of the October Agreements. At a meeting held on 27 November 1998, Ojdanić initially agreed to KVM inspections of VJ barracks and KVM monitoring of troop rotations.¹⁵⁶ Subsequently, however, the KVM experienced delays in the implementation of this agreement and on 9 December 1998, Šainović firmly rejected the KVM’s plans for inspections.¹⁵⁷ This was particularly significant since Šainović was the only individual authorised to permit inspection.¹⁵⁸ Col. Richard Ciaglinski gave evidence that inspections were obstructed. Referring to inspections in the border region, he said they were carried out, “Often with great difficulty, and towards the end not at all.”¹⁵⁹

75. In breach of the October Agreements, additional VJ units were brought into Kosovo — elements of the 37th Mtrb, the 72nd Special Brigade, the 252nd Armoured Brigade, and the 211th Armoured Brigade— in February and early March 1999.¹⁶⁰ Pavković virtually admitted this in interviews given after the war where he expressed pride in this ruse.¹⁶¹

76. The VJ also engaged in actions which were not in compliance with the October Agreements. The Agreements did not state that the VJ could not engage in combat; however, the nature of these actions contravened the provisions against the use of heavy weapons and for the majority of VJ units to return to garrison. From November 1998 until 20 March 1999, the KVM verifiers and KDOM observers noted numerous violations of the agreements including many instances of use of excessive and indiscriminate force by the MUP and VJ forces.¹⁶² For example, the Podujevo operation in December was provocative and in breach of the provisions that VJ units should stay in

¹⁵³ P1468,p.160.

¹⁵⁴ P2805, p.4. Cvetić T.8190.

¹⁵⁵ P926,p.12.

¹⁵⁶ Drewienkiewicz,T.7768-7773,T.8014;P2508,paras.63-81;P2536;P2535;P2543. Note that Drewienkiewicz modified para. 66 of his statement that it was Ojdanić who refused KVM’s request to monitor troop rotations, and instead said that he was “pretty sure” it was Lončar who quoted Ojdanić concerning monitoring troop rotations (T.7926-7927).

¹⁵⁷ Drewienkiewicz,T.7779;P2508,para.81;Lončar ,P2521,para 33.

¹⁵⁸ Lončar,P2521,para.33.

¹⁵⁹ Ciaglinski,T.6895.

¹⁶⁰ P940,p.4;5D261;P2039;P1615,p.25.

¹⁶¹ P1319,p.17;P912,p.7.

their garrisons.¹⁶³ The claim, by Lončar and others, that this was an ordinary training exercise is not credible.¹⁶⁴ At the VJC held on 30 December 1998, General Aleksandar Dimitrijević expressed his own dissatisfaction with the operations in Podujevo, which he referred to as, “the so-called pretend or real planned exercises in which this company took part in the field.”¹⁶⁵

77. In addition, VJ units engaged in offensive actions against the KLA without prior notification to the OSCE and later claimed that they were responding to KLA attacks.¹⁶⁶

78. The MUP also violated the Agreements by its failure to reduce its numbers in Kosovo and the continued use of heavy weaponry. At the VJC of 3 December 1998, Obradović reported that the MUP would not be returning the VJ’s heavy equipment that included 20 APCs and 23 mortars that were subject to the October agreements.¹⁶⁷

79. Further details on the breaches of the October Agreements are provided in Section IV(C) on the individual accused.

(e) Removal and replacement of senior officials

80. The use of the VJ outside of the established chain of command in combat operations in Kosovo, as well as the attempt to centralize command of the VJ and MUP, was met with resistance from some senior VJ and MUP officers. These opponents were systematically removed by Milošević and Milutinović and replaced by individuals willing to further the aims of the JCE. Through this process, which began in 1998 and continued in 1999, the accused Ojdanić, Pavković, and Lazarević, as well as other supportive officials, were placed in key positions from which they could contribute to the JCE. In addition, the latter two became members of the Joint Command, a body crucial to the realisation of the aims of the JCE and headed by their co-accused Šainović.¹⁶⁸

81. Within the VJ, there was strong resistance at senior levels to the use of the VJ in Kosovo outside of the established chain of command and in contravention of the law of the FRY.¹⁶⁹ There

¹⁶² Naumann,P1767,p.9;Phillips,T.11845,11852-11854;Maissoneuve,T.11058;P2772,para.18;P407.

¹⁶³ Drewienkiewicz,T.7782-7785;P2508,paras,94-97;Ciaglinski,T.6822-6824.

¹⁶⁴ Lončar,T.7623-7626;Ciaglinski,T.6842-43;P2488,p.2,para.9.

¹⁶⁵ P928,p.14.

¹⁶⁶ 3D484,p.13-15;P928,p.14;P933,p.15;P938,p.11,21,25.

¹⁶⁷ 3D557,pp.19-20.

¹⁶⁸ See Section II(C)(3)(b)(ii) (Joint Command).

¹⁶⁹ Under Article 4(4) of the 1994 FRY Law on the VJ (P984), it was the responsibility of the President of the FRY to “regulate and order readiness of the Army in case of an imminent threat of war, state of war, or state of emergency,” none of which were declared in Kosovo in 1998. Perišić complained about this unconstitutional use of the VJ in a letter to Milošević on 23 July 1998 (P717), in which Perišić urged Milošević, “to behave towards [the VJ] in a manner determined by the Constitution, the law, and the regulations.”

was also concern about the conduct of the Joint Command in relation to the VJ.¹⁷⁰ This resistance was led by the then Chief of the VJ General Staff, Perišić.¹⁷¹ Other senior officers shared Perišić's disapproval including: Dušan Samardžić, the commander of the Third Army;¹⁷² Dimitrijević, the head of the VJ Security Administration;¹⁷³ and Blagoje Grahovac, assistant to the Chief of the VJ General Staff.¹⁷⁴

82. This process of removing opponents in favour of more compliant individuals began in May 1998 and continued at least until the beginning of the NATO bombing campaign in March 1999.

- In October 1998, Jovica Stanišić was removed as head of the RDB and replaced by Radomir Marković, a man with links to the Milošević family.¹⁷⁵
- In November 1998, Perišić was removed from his position as Chief of the VJ General Staff and replaced by Ojdanić.¹⁷⁶
- In December 1998, Samardžić was re-assigned to Chief of Combat Readiness Inspection¹⁷⁷ and Pavković was promoted to replace him as Commander of the Third Army.¹⁷⁸ Another member of the JCE, Lazarević, replaced Pavković as head of the PrK.¹⁷⁹
- On 24 March 1999, Dimitrijević, another voice of dissent in the VJ, was removed from his position as head of the Security Administration of the VJ and replaced by Geza Farkaš.¹⁸⁰

83. While the Defence have asserted that senior members of the VJ were removed for legitimate reasons in accordance with military procedure,¹⁸¹ this was certainly not the opinion of those replaced. Perišić, for instance, in a public statement of 27 November 1998, complained that he "was removed [...] in an inappropriate and illegal manner" and "did not accept the invented position in the current Federal Government."¹⁸² At the VJC on 4 February 1999, Dimitrijević stated that, "certain illegal activities, so to speak, are carried out with the aim of replacing me and appointing a new chief of the administration."¹⁸³

¹⁷⁰ P717.

¹⁷¹ P717; Naumann, P2512, p.52-53; Simić, T.15695; Vasiljević, T.8634; Crosland, P2645, para.48; 3D757, p.11

¹⁷² Vasiljević, T.8925;

¹⁷³ Crosland, P2645, para.48; P2600, para.21; Vasiljević, T.8634;

¹⁷⁴ P1298.

¹⁷⁵ Mijatović, T.14526, 14565. Mijatović was himself retired on 1 January 1999, T.14512.

¹⁷⁶ P1576, pp.3-5; Fezer, T.16497-15498; P935, p.27. *See also* P925, p.10.

¹⁷⁷ P802; Simić, T.15545-15546;

¹⁷⁸ P1000, p.8; P802; P800; Simić, T.15544; Stojimirović, 4D506, para.8.

¹⁷⁹ P1288; 4D106, p.5.

¹⁸⁰ P799; Crosland, P2645, para.57; Gajić, 3D1084, p.3; Farkaš, T.16290; Fezer, T.16506-16508.

¹⁸¹ Fezer, T.16497, 16500. *See also* Farkaš, T.16291; Gajić, T.15255, 15404; Simić, T.15544-15546;

Stojimirović, 4D506, para.8.

¹⁸² P935, p.27.

¹⁸³ P932, p.7; Dimitrijević, T.26674, 26713.

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

(a) Forces operating in Kosovo

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

(i) Army of Yugoslavia (VJ)

85. The VJ was composed of the General Staff as the top level of military command subordinate to which were the following Strategic Groups: the First Army, the Second Army, the Third Army, the Air and Air Defence Forces, and the Navy. During the Indictment period, Colonel-General Dragoljub Ojdanić was the Chief of the VJ General Staff.¹⁸⁴ Units of the VJ Third Army, under the command of General Nebojša Pavković,¹⁸⁵ were operating in Kosovo.

86. The Niš Corps and the PrK were subordinate corps of the Third Army.¹⁸⁶ Beyond those Corps, the Third Army had thirty additional independent military units and institutions under its authority, such as artillery brigades, signals regiments, logistics bases, and the recruitment centre, among others.¹⁸⁷ Military Territorial Districts (VTO) were also within the organisational structure of the Third Army.¹⁸⁸ The VTO had units called Military Territorial Detachments or VTOD. By late March 1999, the personnel strength of the Third Army was approximately 61,500.¹⁸⁹

87. The area of responsibility (AOR) of the PrK was Kosovo. In 1999, Lazarević commanded the PrK.¹⁹⁰ The PrK comprised twelve brigades, each assigned to an AOR within Kosovo.¹⁹¹ Lazarević commanded and exercised control over all brigades of the PrK and other attached and subordinated units.

88. The total personnel strength of the PrK during peacetime was between 10,000 and 12,000.¹⁹² Additional units were brought into Kosovo before and during the state of war in 1999.¹⁹³ The VJ

¹⁸⁴ P796.

¹⁸⁵ P800.

¹⁸⁶ Stojimirović, T.17646-17647;4D420.

¹⁸⁷ Stojimirović, T.17647-17648;4D240.

¹⁸⁸ Stojimirović, T.17655.

¹⁸⁹ P1929, p.1.

¹⁹⁰ P801.

¹⁹¹ See 3D1116, pp.29-30, paras.47-48; P2556; 5D1370. See Annex D.

¹⁹² 3D1116, p.30, para.48.

¹⁹³ P1267; P1268; P1930.

began reinforcing the PrK in early 1999. By 24 March 1999, the PrK had approximately 14,000 men.¹⁹⁴ The personnel strength increased during the war and reached 35,000 in mid-May 1999.¹⁹⁵

89. All VJ units were equipped with camouflage uniforms with green as the predominant colour.¹⁹⁶ The VJ insignia was the double-headed eagle on a maroon background.¹⁹⁷

(ii) Ministry of Internal Affairs (MUP)

90. The Minister of Internal Affairs was responsible for the MUP's work.¹⁹⁸ In 1998 and 1999, Vljako Stojiljković was the Minister of Internal Affairs.¹⁹⁹

91. The MUP was composed of two main divisions: the Public Security Division (RJB) and the State Security Division (RDB).²⁰⁰ During the Indictment period, the RJB and the RDB were headed by Assistant Ministers Vlastimir Đorđević and Radomir Marković, respectively.²⁰¹ In Kosovo, the MUP Staff for Kosovo and Metohija (MUP Staff), headed by Major-General Sreten Lukić, brought the RJB and RDB under the direction of a central body.²⁰²

92. The seven Secretariats of Internal Affairs (SUPs) organised and controlled a number of subordinate departments known as municipal police stations (OUPs),²⁰³ which in turn controlled police stations in each of Kosovo's 29 municipalities.²⁰⁴

93. The MUP had a number of special combat units in Kosovo in 1998 and 1999.²⁰⁵ The RJB possessed two special units: the SAJ and the PJP.²⁰⁶ Formed in the early 1990's, the PJP were drawn from the ranks of the regular police of each SUP.²⁰⁷ The SAJ was a highly-specialized anti-terrorist unit.²⁰⁸

¹⁹⁴ Lazarević, T. 17969.

¹⁹⁵ Radinović, 3D1116, p.30, para.49; Lazarević, T. 17969-17971.

¹⁹⁶ P1326, numbers 1-2, 9. *See also* P1592; P1598; P1599.

¹⁹⁷ P1323.

¹⁹⁸ P1737, Art.7. *See also* P1072, Art.9.

¹⁹⁹ P3121; P2805; P1990.

²⁰⁰ P1072, Art.1. The tasks of the RJB and RDB are set out in the Rules on the Internal Organisation of the MUP. P1072, Arts.1 and 2; P1192.

²⁰¹ P1693; P1990; P2805.

²⁰² P1505. *See* Section II(C)(3)(b)(iv) (MUP Staff).

²⁰³ P1072, Art.12; Cvetić, T. 8046-8047.

²⁰⁴ P1072, Arts. 4, 8-12; Cvetić, T. 8044-8045.

²⁰⁵ Crosland, P2645, para.7; Vasiljević, P2600, para.28; Cvetić, T. 8037-8039.

²⁰⁶ Vasiljević, P2600, para.28. The PJP was originally referred to as the PJM. In 1996, the terminology changed and the term "milicija" was replaced by "policija." Paunović, T. 21845, 21901; Deretić, T. 22637.

²⁰⁷ P948, p.21, 56; Cvetić, T. 8040.

²⁰⁸ P948, pp.18, 27-28.

94. Detachments of the PJP were assigned regionally. Each detachment was composed of a number of Companies.²⁰⁹ Each SUP had at least one PJP company, which included regular and reserve components.²¹⁰ These were divided into A-formation or manoeuvre units and B-formation territorial units.²¹¹ In 1999, the PJP units deployed in Kosovo included the 122nd and 124th Intervention Brigades and the 23rd, 35th, 36th, 37th, 73rd, 85th and 86th PJP Detachments.²¹²

95. The PJP formed a heavily-armed police force equipped much like a military light infantry unit.²¹³ PJP units employed both light vehicles and APCs and, on occasion, had VJ tanks and artillery supporting them.²¹⁴

96. In 1998, the PJP were equipped with blue-and-grey urban camouflage uniforms. In late 1998 these uniforms were replaced with a green camouflage²¹⁵ which was supposed to be worn with a visible "Policija" insignia.²¹⁶ During periods in 1998 and 1999, PJP units wore ribbons attached to their shoulder epaulettes for identification.²¹⁷ Regular policemen wore blue uniforms and sometimes bullet proof vests.²¹⁸

97. PJP units included sub-units known as the Operational Sweep Groups (OPG), composed of specially-trained individuals drawn from the larger PJP units.²¹⁹ The OPG provided the SUPs with a quick reaction force for use. For example, when the main PJP unit was engaged and the requirement arose requiring a quick response.²²⁰ Goran Radosavljević, a member of the MUP Staff, was responsible for training OPG units.²²¹

98. Commanded by Colonel Zivko Trajković,²²² the SAJ was a smaller, more elite, and more lightly-armed unit than the PJP.²²³ The SAJ was created specifically for anti-terrorist operations.²²⁴

²⁰⁹ P1245.

²¹⁰ P1074,p.36;P1250;P2528,item (c).

²¹¹ Zivaljević,6D1606,para.4;Ilić,T.24376;6D802,para.17.

²¹² P1989;P1993;6D1528;5D1418;Cvetić,T.8159;Ilić,T.24322;Zivaljević,6D1606,para.6.

²¹³ Milenković,T.22947;P1074,p.37.

²¹⁴ K79,T.9614;Ilić,T.24327;P2627.

²¹⁵ K79,T.9587-9590;Milenković,T.22947;P760,p.3;P1326;P1600.

²¹⁶ K79,T.9589-9590;Zivaljević,6D1606,para.8;Milenković, T.22947.The uniforms of the former PJMs had an insignia with the word "Milicija" written on it.Paunović,T.21901.

²¹⁷ 6D667;6D237;P1596;P1191;Nikcević,T.23275;Ognjenović,T.22949-22951.

²¹⁸ P1326.

²¹⁹ P948,pp.55-57;Cvetić,T.8039.

²²⁰ P948,pp.55-56.

²²¹ P1505;Cvetić,T.8039;Joksić,T.22026, 21949;Adamović,6D1613,para.11.

²²² Joksić,T.22030-22031;P1505;Filić,T.23949;Vasiljević,P2600,para.28.

²²³ Crosland,P2645,para.13.

²²⁴ P948,pp.27-28;P1427,p.1;Adamović,T.25075. Although the SAJ appeared in some documents as part of the Priština SUP, this was primarily for administrative purposes. P1074,pp.100;P1224,p.5.

SAJ personnel wore green camouflage uniforms but with a different pattern to that of the PJP.²²⁵ The SAJ commander on the ground in Kosovo was Zoran Simović, a.k.a. Tutinać.²²⁶

99. The RDB's special operations unit (JSO) also operated in Kosovo.²²⁷ The JSO forces on the ground in Kosovo were commanded by Milan (or Milorad) Ulemek (a.k.a. Luković) (nicknamed Legija), who was the Assistant Head for Special Operations of the MUP Staff.²²⁸ He was also a former member of the paramilitary group Arkan's Tigers with experience in previous conflicts.²²⁹ The JSO was an elite armed unit and wore green camouflage uniforms.²³⁰ This unit was also known as the Red Berets or Grey Wolves.²³¹

100. Members of the Reserve Police branch stations (RPOs) were activated. The primary function of the RPO was to supplement the active duty rosters of MUP units.²³² RPOs units were used locally by the MUP as needed.²³³ These units had their own commander who liaised with the chiefs of the police stations of the area where they were based.²³⁴ In zones of combat operations, RPOs would also join regular MUP units in carrying out their tasks, including setting up ambushes and roadblocks.²³⁵ The number of reservists in an RPO depended on the size of the village.²³⁶

101. In October 1998 and during the state of war in 1999, the MUP had approximately 14,000 personnel in Kosovo.²³⁷

(iii) Other units operating in Kosovo

a. Military Territorial Units (VTOD)

102. The Military Districts (VOK) were responsible for conscription, reservists call-up, and their assignments to active VJ units.²³⁸ In addition, each VOK formed and armed Military Territorial units (VTOD) to conduct combat operations.²³⁹

²²⁵ Crosland,P2645,para.8.

²²⁶ Stoparić,P2224,paras.48,62,69;Vasiljević,T.8716.

²²⁷ Crosland,P2645,paras.11-12;Joksić,T.21950-21951;Ilić, T.24387:P2014,item 5.1.

²²⁸ P1505;Crosland,P2645,para.11;K79,T.9675;Joksić,T.22024- 22025.

²²⁹ Vasiljević,T.8704;P2600,para.33.

²³⁰ Crosland,P2645,paras.9-10;P760,p.2;P1326 ;Vasiljević,T.8701;P2600,paras.28,32.

²³¹ Vasiljević,T.8701;P2600,paras.28,32-33.

²³² Cvetić,T.8047-8055;Paponjak,T.24568-24569,24572. *See also* P1993,pp.8-9;6D802,paras.18-19.

²³³ Cvetić,T.8050.

²³⁴ Cvetić,T.8052;P948,pp.132-133.

²³⁵ Cvetić,T.8089-8091.

²³⁶ Filić,T.24017.

²³⁷ Cvetić,T.8048-8049,8197-8198;P1224,p.2. In the period between the signing of the October Agreements and the start of the 1999 conflict, the number of police officers was reduced from 14,000 to approximately 10,000. *See* 6D800,p.1;P2166,p.7.

103. The VOk for Kosovo was located in Priština.²⁴⁰ The Priština VOk was subordinated to the Third Army and was commanded in 1999 by Colonel Zlatomir Pešić.²⁴¹ The Priština VOk was divided into five sectors (VO): Priština, Peć, Prizren, Kosovska Mitrovica, and Gnjilane. Each sector would comprise one to three military territorial detachments (VTO) composed of territorial units (VTOd) from municipalities within each sector.²⁴² The tasks of these units included controlling territory, protecting the civilian population, securing military and civilian facilities, providing assistance to the MUP in training the village defence forces, and generally maintaining order.²⁴³ By the end of March 1999, the Priština VOk had a mobilized strength of about 4,000 personnel.²⁴⁴

104. On 23 March 1999 the VJ General Staff ordered the mobilization of reservists falling under the Priština VOk. Shortly thereafter, the Third Army subordinated those mobilized units to the PrK directly.²⁴⁵

105. When PrK units carried out operations in the VTOs or VTOds, these units would be attached to PrK Brigades for the duration of the operation, often working with MUP units to secure roadways, territory, or other infrastructure.²⁴⁶ Although primarily intended for defensive purposes such as securing infrastructure or repelling attack, the VTOs in Kosovo were frequently used in offensive combat operations against KLA positions.²⁴⁷

b. Civil Defence and Protection

106. Civil Defence (CO) and Protection (CZ) units were used by the VJ and MUP to support their combat actions in Kosovo in 1999.²⁴⁸ Under federal law, the Federal Defence Ministry (MoD) could organise and arm CO and CZ units.²⁴⁹ CO and CZ units were intended to fill an unarmed role.²⁵⁰ The Priština Administration of Defence was the MoD entity directly responsible for the

²³⁸ Pešić, T.7148,7163; Kusovac, T.15795. Upon completing compulsory military service, men were entered into the reserve log of their local Military Territorial District. Pešić, P2502, para.9.

²³⁹ P984; P1041; P1148.

²⁴⁰ Pešić, T.7153.

²⁴¹ Pešić, T. 7147

²⁴² Pešić, T.7159; P2600, paras.22-24.

²⁴³ Pešić, P2502, paras.16-17; T.7154.

²⁴⁴ P1929, p.5.

²⁴⁵ P1925; 4D224, item3; Pešić, T.7179-7181; Lazarević, T.18780; Stefanović, T.21729-21730; P1269, para.5.

²⁴⁶ P1269; 6D1470; Delić, T.19467.

²⁴⁷ 5D1704; Lazarević, T.18776, 18780; Pešić, P2502, para.28; P2515, para.15.

²⁴⁸ Despite the legal difference between Civil Defence and Protection, the terms were often used interchangeably. Lazarević, T.7184; Odalović, T.14390, T.14439, T.14441 (referring to himself as the Coordinator of civil protection then as the Chief of Staff of civil defence); Peraj, P2253, para.36.

²⁴⁹ Farkaš, T.16331, 16333; Lazarević, T.17900.

²⁵⁰ Odalović, T.14390; Cvetić, T.8171. See P985 Art. 59; P1065; Odalović, T.14390; Lazarević, T.18779.

organization, administration, and command of the Kosovo CO and CZ.²⁵¹ There were over 9,000 civilians in the CO / CZ in Kosovo in 1998 and 1999.²⁵²

107. In July of 1998, the Joint Command issued instructions for the defence of populated areas. Pursuant to those instructions, the Ministry of Defence issued orders subordinating units of both the CZ and CO to the MUP.²⁵³ In addition, the Law of Defence provided the possibility of subordination to a VJ commander of a battalion or higher.²⁵⁴ The commander could issue special tasks to the CO “in respect to the defence and protection of the civilian population and material property.”²⁵⁵

108. The use of CO and CZ units as combat units was contrary to the provisions of the Law on Defence.²⁵⁶ These units were intended exclusively for self defence for the protection of civilian life and property in the event of an attack.²⁵⁷ Despite this prohibition, these units undertook security tasks during joint VJ-MUP operations in Kosovo in 1998 and 1999.²⁵⁸

c. Paramilitaries

109. Paramilitaries played an important role in forcibly expelling the Kosovo Albanian civilian population from Kosovo. Notorious groups of paramilitaries that had been active in the Bosnian and Croatian conflicts went to Kosovo in 1998 and during the Indictment period.²⁵⁹

110. MUP units were supplemented with paramilitary formations. A prime example is the Skorpions group, led by Slobodan Medić (a.k.a. Boca), which was active in the Podujevo and Suva Reka areas.²⁶⁰ This group was attached to the Belgrade SAJ unit commanded by Zoran Simović (a.k.a. Tutinać). Simović reported to General Trajković, the commander of the SAJ.²⁶¹ The Skorpions were identified by others and identified themselves as a separate unit; they carried SAJ identity papers and were paid as SAJ reservists.²⁶²

²⁵¹ P1064;P1065;Radinović,T.17285-17286.

²⁵² Farkaš,T.16332;5D301.

²⁵³ P2086,para.2;P1065.

²⁵⁴ P985,Arts.61,62,63, p.11.

²⁵⁵ P985,Art.63;Lazarević,T.18827;P2809,para.3.

²⁵⁶ P985 Arts.59,61,p.10-11.

²⁵⁷ P985,Arts.59,61,p.10-11.

²⁵⁸ P1064;P1065;P2015,para.2;P2808,para.2;5D175,para.2;P931,p.23.

²⁵⁹ Gajić,T.15336;Crosland,T.9771-9772.

²⁶⁰ Vasiljević, T.8716-8717.

²⁶¹ Vasiljević, T.8716-8717.

²⁶² Stoparić,T.771,778,787, P2224,paras.41,65.

111. Approximately fifty percent of the 120 Skorpion members deployed to Kosovo had no previous combat experience.²⁶³ Days after their deployment, members of the Skorpions killed a group of women and children in Podujevo.²⁶⁴ The unit was sent back to Serbia, but some 18 days later members of this unit were redeployed with the SAJ.²⁶⁵ The Skorpions operated in Kosovo until May 1999 and were engaged in “cleaning out” Albanian villages.²⁶⁶

112. Arkan’s Tigers were also present in Kosovo.²⁶⁷ They were incorporated directly into the JSO under Legija.²⁶⁸ They wore official MUP uniforms and carried official RDB identity cards.²⁶⁹

113. The “Wolves from the Drina” led by Nedeljko Karašek, a former SAJ officer, were also partially based in Kosovo Polje during the war.²⁷⁰ They wore SAJ uniforms.²⁷¹

d. Volunteers

114. VJ units in Kosovo were supplemented with volunteers. The SC Staff created volunteer reception centres, including a centre in Bubanj Potok (later Gločka) outside of Belgrade.²⁷² It also issued orders regulating volunteer admission.²⁷³ From 23 March 1999, volunteers reported at the reception centres.²⁷⁴ They were trained from between five to ten days before being assigned to units at the brigade level.²⁷⁵

115. Volunteers deployed to Kosovo were not properly screened. Problems resulting from deficiencies in the screening process led to the deployment of paramilitaries as well as a number of volunteers with criminal backgrounds.²⁷⁶ Complaints against the volunteers included the commission of crimes such as looting and murder.²⁷⁷ Past paramilitary involvement was not a barrier to admitting an individual volunteer, if other requirements were complied with.²⁷⁸

²⁶³ Stoparić, T.702; P2224 paras.39,45;.

²⁶⁴ Stoparić, P2224, paras. 50-52,55-56.

²⁶⁵ Stoparić, P2224, para.63; T.783; 3D1055; Gajić, T.15273-15274, 15370.

²⁶⁶ Stoparić, P2224, paras.67-68; T.703-704.

²⁶⁷ Vasiljević, P2600, paras.33,40-42.

²⁶⁸ Vasiljević, P2600, paras.33,40-42; T.8703-8705.

²⁶⁹ Vasiljević, T.9000; P2600, para.42; *see also*, Gajić, T.15342.

²⁷⁰ Vasiljević, P2600, para.39; Gajić, T.15335,15364,15372,15376,15377; Farkaš, T.16351.

²⁷¹ Gajić, T.15373.

²⁷² Vasiljević, T.8853; Simić, T.15479.

²⁷³ *See e.g.* P1479; P1943; 3D481; Kosovac, T.15803-15806.

²⁷⁴ Kosovac, T.15802.

²⁷⁵ Delić, T.19667; P1938, p.2.

²⁷⁶ *See e.g.* P1479, item 8.

²⁷⁷ P1943, p.2; 5D382, items 3-4; P1938, p.2; Kostić, T.17543; Gajić, T.15332-15333.

²⁷⁸ 3D481, item 2.1; P1942, item 10; Kosovac, T.15879-15880.

116. Approximately 6,000 volunteers were mobilised by the VJ during the conflict.²⁷⁹ In addition, a group of foreign volunteers, mostly from Russia and Ukraine, were admitted as volunteers and integrated into VJ units.²⁸⁰

117. Despite orders dealing with discipline and screening procedures for volunteers,²⁸¹ the conduct and control of volunteers continued to be a serious and pervasive issue in the VJ during the 1999 conflict.

e. Local/Village Defence Forces and Armed non-Albanian Population

118. The arming of non-Albanian villagers began in mid-1998.²⁸² On 21 May 1998 the MoD issued an order requiring local department and section chiefs, in coordination with municipal leaders, to compile lists for the arming of the local populace.²⁸³ The order is explicit that those with wartime duty obligations in the VJ, MUP, VOk, or Ministry of Defence (CZ and CO) should not be included in these lists.²⁸⁴

119. On 26 June 1998, the Prk Command issued an order to distribute weapons to and train village defence units.²⁸⁵

120. Pursuant to a Joint Command order on the defence of populated areas, the Priština Defence Administration issued an order on 28 July 1998, entitled, "Instructions for the Defence of Inhabited Areas." This order organised the structure of all local defence planning in order to defend Serb villages or enclaves.²⁸⁶ The process of organising the coordination of the local defence continued throughout 1998 and 1999 with varying levels of success.

121. The formalization of the process was partly a response to the spontaneous organizing by Serbian citizens in Kosovo.²⁸⁷ These units were variously referred to as "local/municipal defence," "armed non-Šiptars," and "reserve MUP."²⁸⁸

²⁷⁹ Kosovac, T.15855.

²⁸⁰ Delić, T.19596; Kosovac, T.15810; Peraj, P2253, para.20.

²⁸¹ See e.g. P1688; P1943; 5D382.

²⁸² P1064; P2086; P1415.

²⁸³ P1259.

²⁸⁴ P1259, para.1.

²⁸⁵ P1415.

²⁸⁶ P1064; P2086.

²⁸⁷ P1259; Radinović, T.17274, T17288; Stojanović, T.20073.

²⁸⁸ P2086, para.5; P931, p.23; 5D175, para.2; Cvetić, T.8053-8055, 8089-8090.

122. These local defence units were armed in coordination with the MoD and the VJ, and the MUP also distributed several thousand weapons.²⁸⁹ Approximately 54,000 rifles were distributed in this programme.²⁹⁰

123. PrK and Joint Command orders state that “with its reinforcements and the armed non-*Šiptar* population in KiM, the Priština Corps shall support MUP forces in breaking up and destroying ŠTS in its zone of responsibility.”²⁹¹ This group, most often referred to as “armed non-*Šiptars*” or “armed non-*Šiptar* population” in military and Joint Command documents,²⁹² was generally composed of local villagers.²⁹³

124. Numerous Defence witnesses were questioned about the inclusion of the phrase “armed non-*Šiptar* population” in military orders.²⁹⁴ These witnesses were unable to provide a credible explanation as to why such documents ordered the engagement of this population in actions with MUP and VJ units. For example, General Lazarević testified that “armed non-*Šiptar* population” referred to CZ and CO forces and that the term came to existence before the war when the CZ and CO had not yet been mobilized. “So that is the term [...] which then seeped into the official documents of the corps as part of the task. And once it was defined in these terms and there were no specific tasks assigned, the operative officer in the corps command simply copied the clause from one document to another.”²⁹⁵

125. Defence witnesses were unable to explain why PrK and Joint Command orders were not simply amended during the war to include CZ or CO units, instead of the “armed non-*Šiptar* population.”²⁹⁶ That the assertions of Defence witnesses are not credible is evident in 5D1284, which refers to the “armed non-*Šiptar* population” and the CZ as two distinct groups and sets out different tasks for each group.²⁹⁷

126. The phrase “armed non-*Šiptar* population” in PrK and Joint Command orders referred to groups of armed non-Albanian civilians who were engaged in actions with MUP and VJ units.²⁹⁸ The absence of written orders setting out the tasks of the non-Albanian population suggests that

²⁸⁹ P931,p.23;Farkaš,T.16380;Stojanović,T.20072-20073;P1115.

²⁹⁰ P1468,p.24,item 2;P3121,pp.7-8.

²⁹¹ See P1966,p.2;P1968,p.2;P1969,p.2;P1970,p.2;P1971,p.2.

²⁹² See e.g P1503,p.2;P1966,p.2;P1968,p.2;P1970,p.2.

²⁹³ Lazarević,T.18422.

²⁹⁴ See Jelić,T.19070-19071;5D1284,p.2;Zivanović,T.20560-20561;Mandić,T.20930-120931,T.20935;Savić,T.21006-21008; Stefanović,T.21651-21652.

²⁹⁵ Lazarević,T.18421-18425.

²⁹⁶ See e.g Stefanović,T.21783.

²⁹⁷ 5D1284,pp.2,12.

²⁹⁸ For example, P1434,item 5.3, under the heading “blockade forces”, indicates that “the command of MUP forces will use territorially based MUP units and some of the Serbian population to cut of the following lines”. See P931,p.23.

field commanders issued verbal instructions to armed locals and directly organised these groups on the ground.²⁹⁹

(b) Co-ordination/ control of entities implementing the goals of the JCE

127. The evidence establishes beyond reasonable doubt that JCE members, through command and co-ordinating bodies, used the forces of the FRY and Serbia to carry out the *actus reus* of crimes forming part of the common criminal purpose. Through their participation in these co-ordinating bodies, JCE members pursued the goals of the JCE and secured its implementation. Notably, the accused had authority over and participated in the following bodies, in which they worked together to implement the common criminal purpose and through which they used the principal perpetrators:

- Supreme Defence Council (SDC) and Supreme Command(SC);
- VJ General Staff and Supreme Command Staff (SC Staff);
- Joint Command for Kosovo and Metohija (Joint Command); and
- Ministerial Staff for the Suppression of Terrorism (MUP Staff).

(i) SDC and SC

The SDC and SC were key entities in implementing the objectives of the JCE

128. The SDC was the highest strategic civilian body in Belgrade. It interfaced with the highest military level³⁰⁰ and was responsible for national defence and deployment of the VJ.³⁰¹ The SDC – and its war-time equivalent the SC – took a number of crucial decisions in 1998 and in 1999 in relation to the deployment and use of the VJ and subordinated units. These units committed crimes during the Indictment period in furtherance of the goals of the JCE.

129. The SDC was composed of the “top echelons of the state.”³⁰² Pursuant to Article 135 of the FRY Constitution, the President of the Republic (Milošević) and the Presidents of the member republics, namely the President of Serbia (Milutinović) and the President of Montenegro

²⁹⁹ In reference to P1975, Gergar confirmed that this Joint Command order enabled PrK field commanders to issue tasks to the armed non-Albanian population. Gergar, T.21532.

³⁰⁰ P1041, p.93 (“The General Staff of the Army is the [...] Staff organ of the Supreme Defence Council”).

³⁰¹ P985, Art.41, p.7.

³⁰² Obradović, T.14919, T.15127.

(Đukanović), were members of the SDC.³⁰³ The President of the Republic presided over the SDC³⁰⁴ and commanded the VJ in accordance with the decisions of the SDC.³⁰⁵

As the highest decision-making body, the SDC decided upon fundamental matters on the defence of the country and the use of the army

130. The Constitution, lower laws, Rules of Procedure of the SDC and SDC meeting minutes clearly set out the SDC's role as the highest decision-making body regarding use of the VJ and defence of the country.³⁰⁶

131. Article 135 of the FRY Constitution provides that in times of peace and war, the VJ shall be under the command of the President of the Republic, pursuant to decisions of the SDC.³⁰⁷ It clearly refers to "decisions of the SDC."³⁰⁸ The primacy of the decisions of the SDC in commanding the army is further enshrined in the two subordinate laws – the Law on the VJ³⁰⁹ and the Law on Defence.³¹⁰ Pursuant to Article 41 of the Law on Defence, the President of the SDC shall ensure the implementation of the decisions of the SDC.³¹¹

132. The SDC's decision-making power is also evident in its Rules of Procedure.³¹²

133. In addition, the minutes of SDC meetings held between 1997 and 1999 demonstrate that the SDC regularly made decisions.³¹³ SDC members presented and discussed proposals, and adopted concrete decisions and conclusions on a variety of matters. The following is a selection of decisions taken and conclusions adopted by the SDC on crucial military and personnel issues that had an immediate impact on the situation in Kosovo:

³⁰³ 1D139, Art. 135, p. 44; Vasiljević, T. 8635.

³⁰⁴ 1D139, Art. 135, p. 44.

³⁰⁵ P985, Art. 41(2), p. 7.

³⁰⁶ Radinović, T. 17240 (The Constitution, the Law on the VJ and the Law on the Defence stipulate that the head of state commands the army in keeping with the decisions of the SDC).

³⁰⁷ 1D139, p. 44; See Vasiljević, T. 8641.

³⁰⁸ 1D139, p. 44.

³⁰⁹ P984, Art. 4, p. 2.

³¹⁰ P985, Art. 41, p. 7.

³¹¹ P985, Art. 41, p. 7.

³¹² On 23 March 1999, the Rules of Procedure of the SDC 1992 (P2622) were replaced by Rules of Procedure of the Supreme Defence Council 1999 (P1738). Following the rules change, the SDC adopted all decisions with consensus (P1738, Art. 4). In contrast, previously decisions were adopted when "the majority of Council members are present." (P2622, Art. 7). In addition, while SDC sessions were to be convened by the Chairman, either at his own initiative or at the proposal of other SDC members (P2622, Art. 4), after the rule change, the Federal MoD and Chief of the VJ General Staff (or their representatives) could also propose that a session be held (P1738, Art. 3). The article also stipulated their mandatory attendance for a session to be held. See P2622, Arts. 2, 3, 7, p. 3; P1738, Art. 4, p. 3.

³¹³ P1573, 4D106, P1575, P1576, P1000, P1577.

- During the seventh session in November 1998, the SDC decided on the suggested increase of seventy per cent in comparison to the military budget in 1998, thereby enabling the VJ to conduct extensive combat operations in 1999.³¹⁴
- During the sixth session on 4 October 1998, the UNSC Resolution 1199 and its potential military implications for the defence of the country were discussed in great detail.³¹⁵
- During the fifth session, in June 1998,³¹⁶ the Chief of the VJ General Staff, Perišić, stated, “in case of a threat of aggression from outside, we should start with mobilisation, on which the SDC and other federal organs need to decide,”³¹⁷ thus confirming the decision-making power of the SDC. The next conclusion was the decision to intervene militarily in case of further escalation of terrorist activity in the region.³¹⁸

134. On 29 October 1998, during the meeting of the Operations Inter-Departmental Staff for the Suppression of Terrorism in Kosovo, Pavković reported that the Plan to Suppress Terrorism in Kosovo that provided for the engagement of the MUP and VJ was drawn pursuant to, *inter alia*, a Decision adopted at the Fifth Session of the SDC on 9 June 1998.³¹⁹ This Decision put into motion the use of excessive and indiscriminate force by the VJ and the MUP in 1998.

135. Several witnesses testified to the SDC’s role as the highest strategic decision-making body in the country in relation to the deployment of the VJ and defence of the country. Vasiljević, Deputy Head of the VJ Security Administration, testified that the SDC was the primary body during peacetime.³²⁰ Lt-General Obradović, Assistant Chief of General Staff for Operations and Staff Affairs, testified that war plans devised by his sector were sent first to the SDC and then to Milošević for approval.³²¹ This evidences the SDC’s authority and hierarchy pertaining to national defence. Momir Bulatović, initially President of the Republic of Montenegro and then the Federal Prime Minister, testified that the SDC made the most important strategic decisions.³²²

136. The minutes also demonstrate that SDC members were intimately familiar with the situation in Kosovo, and regularly discussed it and VJ personnel matters during SDC meetings.³²³ In light of this overwhelming evidence, Ratko Marković’s testimony that the SDC did not adopt “decisions”

³¹⁴ P1576, pp.1-3.

³¹⁵ P1575; P2831.

³¹⁶ 4D106; 1D760.

³¹⁷ 1D760, p.9.

³¹⁸ 4D106, pp.1-2; 1D760, p.10.

³¹⁹ P2166, p.3; 4D106, p.1, item.1; 1D760; Lazarević, T.18389-18390; Dimitrijević, T.26593.

³²⁰ Vasiljević, T.8635-8636.

³²¹ Obradović, T.14919.

³²² Bulatović, T.13822, 13860-13862.

³²³ P1000, pp.1-4. *See also* P1573, p.5.

but only issued “conclusions” which were only binding in a political and moral sense is not credible.³²⁴ Assertions that the SDC was an “advisory body” are similarly not credible.³²⁵ The SDC was the strategic body that could and did make decisions on the highest state level relating to the VJ and the defence of the country.

The SDC decided on personnel matters

137. The removal of VJ generals was ultimately the decision of the FRY President.³²⁶ At the seventh session of the SDC, Milošević asserted this right but noted that the opinion of the SDC was sought and that he would always consult them.³²⁷ Removals and promotions of VJ generals were discussed at sessions of the SDC.³²⁸ As Chief of the VJ General Staff, Ojdanić made recommendations to the SDC on VJ personnel issues.³²⁹ The SDC minutes provide concrete evidence that JCE members Milošević and Milutinović removed individuals who were unwilling to further the goals of the JCE from key positions and replaced them with other accused who had shown their commitment to implementing these goals.³³⁰

138. At the seventh session, in November 1998, Perišić was replaced as Chief of the VJ General Staff by Ojdanić.³³¹ Milošević, as President of the SDC proposed the replacement of Perišić. This decision was taken by majority, with Milošević and Milutinović agreeing and the third voting SDC member, Đukanović, opposing and insisting that the minutes establish his negative vote on the replacement of Perišić.³³²

139. A similar situation of Milošević and Milutinović agreeing on an important personnel decision with Đukanović dissenting arose again during the Eighth SDC session on 25 December 1998.³³³ This concerned the potential promotion of Pavković to the position of Commander of the Third Army.³³⁴ Đukanović expressed doubts on whether such a promotion would be appropriate against the background of “conflicting information coming from Kosovo in recent months regarding the involvement of the Priština Corps.”³³⁵ Đukanović noted that according to information coming from Montenegro, the PrK’s actions “were not always in accordance with the constitutional

³²⁴ Marković, T. 13022.

³²⁵ T. 12855.

³²⁶ P984, art. 151; 1D139, art. 136.

³²⁷ P1576, p. 5.

³²⁸ P1576, pp. 3-5; 4D106, pp. 4-7; P1000, pp. 5-10.

³²⁹ P1000. See 1D139, Art. 136; P984, Art. 16; Order on Agreed Facts, p. 13. See also P1738, Art. 4.

³³⁰ P1573, pp. 3-4. See 4D106, p. 5.

³³¹ P1576, pp. 1, 3.

³³² P1576, pp. 3-5.

³³³ P1000; 1D761.

³³⁴ P1000, p. 8.

³³⁵ P1000, p. 9; 4D761, pp. 21-22.

role of the Army and the decisions of the SDC,” and that, against this background a reconsideration of the expediency of the promotion of Pavković could be warranted.³³⁶

140. Both Milošević and Milutinović rejected Đukanović’s remarks about the actions of the PrK in Kosovo as unfounded. According to Milošević, no complaints existed about the PrK whatsoever, either from abroad or from any side.³³⁷ However, these complaints must have existed as Milutinović suggested that reports of alleged lack of discipline and unconstitutional actions by the PrK were usually “inflated.”³³⁸ Although Ojdanić had information that corroborated Đukanović’s concerns,³³⁹ he simply stated, “Personally, I am convinced that he is going to be successful in performing this duty.”³⁴⁰ Milošević then presented and the SDC “adopted” a final position on the issue stating that the VJ operated in accordance with the Rules of Service in Kosovo and that the PrK carried out its tasks “very successfully.”³⁴¹

141. These minutes illustrate the dominance of the JCE participants at the meetings. Milošević and Milutinović, twice (first in relation to Perišić and then Pavković) overruled justified queries of the third SDC member (Đukanović), without adequately addressing them.³⁴² Finally, the discussion pertaining to Pavković’s promotion and the SDC’s position on the PrK’s operations in Kosovo illustrate the respective roles of JCE participants Milošević, Milutinović and Ojdanić in using the SDC to further the aims of the JCE by permitting the criminal behaviour of the PrK in Kosovo to continue during the Indictment period.

During the war, the SDC became the Supreme Command and continued to further the goals of the JCE.

142. Upon the declaration of a state of war,³⁴³ the SDC became a constituent part of the SC.³⁴⁴ The VJ General Staff became the SC Staff,³⁴⁵ which was headed by Ojdanić, Chief of the SC Staff.³⁴⁶ The President of the Republic, Milošević, was the Supreme Commander of the SC.³⁴⁷ Milošević had the overall command of the VJ, through the SC Staff.³⁴⁸ Orders issued during the

³³⁶ P1000,pp.9-10,21-22.

³³⁷ P1000,p.10;4D761,p.23.

³³⁸ P1000,p.10;4D761,p.23.

³³⁹ 3D484,pp.14-15.

³⁴⁰ 1D761,p.20.

³⁴¹ P1000,p.10. See 4D761,pp.24-25.

³⁴² P1576,pp.3-5;P1000,p.10.

³⁴³ P991.

³⁴⁴ Obradović,T.15128.

³⁴⁵ Smiljanić,T.15783;Andelković,T.16424-16425.

³⁴⁶ Vasiljević,P2600,para.9;T.8643.

³⁴⁷ Simić,T.15598-15599;P1010, p.3.

³⁴⁸ Vasiljević,T.8642-8643.

state of war make reference to the Supreme Commander.³⁴⁹ It is logical that the SC was composed of the members of the SDC. Thus, Milošević, Milutinović and Đukanović were members of the SC,³⁵⁰ that was served by the SC Staff (headed by Ojdanić).

143. The change in SDC Rules of Procedure on the eve of the war shows that members of the SDC contemplated its existence during the war.³⁵¹ The legal framework, namely Article 135 of the FRY Constitution, envisages the continuation of the work of the SDC during wartime.³⁵² Further, on 26 March 1999, during a briefing of the SC Staff, Ojdanić said, “make me a map for me for the Supreme Defence Council.”³⁵³ On 28 March 1999, at another briefing, General Branko Gajić refers to assessing a certain proposal in the presence of the SDC.³⁵⁴ Moreover, during the NATO bombings, combat reports sent from the SC Staff to the SDC demonstrate that the SDC operated during the war.³⁵⁵ Witness testimony also supports this position. Colonel Spasoje Mučibabić testified that the SDC became part of the SC.³⁵⁶

144. During the relevant time, the SDC/SC took general strategic decisions regarding military operations in Kosovo and the defence of the country. For example, during the VJC of 9 April 1999, Ojdanić instructed his subordinates to report on the destruction of the VJ defence capabilities following the NATO bombing so that such information could be provided to the SC.³⁵⁷ This underlines the SC’s role’s in the war effort. In addition, during a meeting of the MUP Staff on 7 May 1999, Šainović also referred to the “Supreme Command” and “Supreme Commander” in the context of a task assigned to police commanders by the SC.³⁵⁸ During briefings to the Chief of the SC Staff, the SC Staff referred repeatedly to the SC in the course of their daily work,³⁵⁹ thus evidencing their close working relationship. Finally, there are scores of orders issued by the SC Staff,³⁶⁰ which proves the existence of the SC.

145. The SC Staff reported to the very top of the chain of command, namely to Milošević, the Supreme Commander of the SC.³⁶¹ The SC Staff transformed decisions of the SC into orders and

³⁴⁹ P1200,p.3, last para;P1319,p.4;P1495,paras.1, 3;P1480.

³⁵⁰ Radinović,T.17260-61;Andelković,T.16426;Mučibabić,T.16579;Obradović,T.15128.

³⁵¹ P1738.

³⁵² P985,Art.40(2), p.7.

³⁵³ 3D580,p.4.

³⁵⁴ 3D581,p.3.

³⁵⁵ Ivković,3D1117,para.16;*see also* P1481,p.11.

³⁵⁶ Mučibabić T.16579. *See also* Simić,T.15710-15711.

³⁵⁷ P929,pp.38-39.

³⁵⁸ P1996,para.3;*see also*,6D802.

³⁵⁹ 3D603,p.1;3D611,p.1;3D626,p.3;3D722,p.1;P1495,introductory paragraph;4D406,p.2;3D913,p.3;P1907,p.1. *See also* 3D913,p.3.

³⁶⁰ *See* 3D490;3D491;5D174;P1920;P1460;P1495;P1480.

³⁶¹ Vasiljević,T.8663-8664;Radinović,3D1116,para.136;Gajić,T.15417;Čurčin,T.16979;Radinović,T.17254;P1480; P929,p.12; P1922.

tools of command,³⁶² that it then issued down the chain of command.³⁶³ The directive of the SC Staff dated 9 April 1999 illustrates the workings of the SC.³⁶⁴ Not only did it contain general strategic measures³⁶⁵ but also set forth specific tasks for each individual army command.³⁶⁶ Pursuant to this directive, Ojdanić ordered all army commands to organise communication and cryptographic protection of information “on the level of the SDC and the General Staff” with Milutinović and Đukanović, among others.³⁶⁷ This demonstrates that all relevant army commands also reported to other members of the SC, namely Milutinović³⁶⁸ and Đukanović.

146. While some Defence witnesses accepted that the SC existed, testimony on its composition was often contradictory.³⁶⁹ The existence of a SC composed of members of the SDC, and the SC Staff, headed by Ojdanić, is proved by the evidence set out above. Denial of the SC leads to the implausible position that no body commanded the war effort.³⁷⁰ It is clear that the political leadership, headed by Milošević and Milutinović, continued to exercise authority during the war through the SDC/SC.

147. As the most powerful strategic civilian body that interfaced with the highest military level, the SDC and the SC played a key role in the commission of the crimes charged in the Indictment. By taking decisions relating to the defence of the country, the deployment of the VJ and the appointments of Ojdanić, Pavković and Lazarević to the respective positions that they held during the Indictment period, these entities played a significant role in implementing the goals of the JCE.

(ii) VJ General Staff and SC Staff

The VJ General Staff and its war-time equivalent, the SC Staff, were key entities in implementing the objectives of the JCE.

148. The VJ General Staff was the VJ’s highest military level in the chain of command. At the level of the VJ General Staff, the military interfaced with the SDC, the civilian leadership in

³⁶² Radinović, T.17248; P1010, p.3.

³⁶³ See e.g. 3D490; 3D491; 5D174; P1920; P1460; P1495; P1480.

³⁶⁴ P1481.

³⁶⁵ P1481, pp. 4-5.

³⁶⁶ P1481, pp. 5-7.

³⁶⁷ P1481, p.11.

³⁶⁸ Radinović, 3D1116, p.125, para.136; T.17263.

³⁶⁹ See e.g. Krga, T.16841-16843, 16906-16910; Simić, T.15598-15560, 15603-15610. Defence witnesses who testified that the SC comprised only of Milošević and the VJ General Staff include Gajić (T.15296, 15434-15437) and Smiljanić (T.15782-15784).

³⁷⁰ T.12310-12311.

Belgrade.³⁷¹ During a state of war, the VJ General Staff became the SC Staff,³⁷² which was headed by Ojdanić, Chief of the SC Staff.³⁷³

149. At the relevant times, the VJ General Staff and its war-time equivalent, the SC Staff, planned, ordered, coordinated and commanded the VJ and subordinated units that committed the crimes charged in the Indictment.

150. The authority of the VJ General Staff and its war-time equivalent the SC Staff is not disputed. The VJ General Staff was the highest expert and staff organ for the preparation and engagement of the VJ.³⁷⁴ It determined matters such as recruitment, the organisation and establishment of commands, units and institutions of the VJ.³⁷⁵ The large-scale combat operations that were conducted during the Indictment period by the VJ and units subordinated to it would have been impossible without the role played by the VJ General Staff under the command of the Chief of the VJ General Staff. The VJ General Staff developed plans, directives, orders and other instruments of command³⁷⁶ that were indispensable to any military operation. These were issued on the authority of the Chief of the VJ General Staff.

151. The VJ General Staff was composed of the Chief of the VJ General Staff (Ojdanić), the deputy Chief and other high-ranking VJ members who were responsible for defence matters such as the air force, the ground forces, navy, operations, logistics, security and intelligence.³⁷⁷ The land forces subordinate to the VJ General Staff in 1999 included the First, Second and Third Armies.³⁷⁸ These commanders of the armies, the air force, the anti-aircraft defence and the navy were responsible to the Chief of the VJ General Staff, as were the commanders of units and temporary compositions immediately subordinate to him.³⁷⁹ The VJ General Staff ensured that orders, instructions and other tools of command were implemented down the chain of command to VJ units.³⁸⁰

152. During the war, the SC Staff replaced the VJ General Staff.³⁸¹ The SC Staff met daily during the war.³⁸² Meetings were chaired by Ojdanić, Chief of the SC Staff or a replacement officer.³⁸³ At

³⁷¹ P1041,p.93.

³⁷² Smiljanić,T.15783;Andelković,T.16424-16425.

³⁷³ Vasiljević,P2600,para.9;T.8643.

³⁷⁴ P1041,p.97;P984,Art.5;Vasiljević,P2600,para.9.

³⁷⁵ P984,Art.5.

³⁷⁶ See 4D99;3D690;5D261;3D669;3D749;3D750;3D751.

³⁷⁷ Vasiljević,P2589,p.9.

³⁷⁸ Vasiljević,P2600,para.12.

³⁷⁹ P1041,p.97.

³⁸⁰ P984,Art.6;Vasiljević,P2600,para.15.

³⁸¹ Vasiljević,P2600,para.9;T.8643;Smiljanić,T.15783;Andelković,T.16424-16425.

³⁸² Vasiljević,P2600,para.11.

daily briefings, the SC Staff, in line with its position as the most authoritative VJ organ, addressed key military matters arising during the war. These included matters relating to the VJ chain of command and communication system,³⁸⁴ cooperation with the MUP,³⁸⁵ legal and disciplinary matters, and the work of judicial organs.³⁸⁶ Subordinate commands reported daily to the operations centre of the SC Staff.³⁸⁷ There was also direct line of communication between the SC Staff/Ojdanić and the Federal MUP, usually via telephone.³⁸⁸

153. The VJ General Staff and its war-time equivalent the SC Staff were the VJ's highest commanding body during the Indictment period. These entities planned, directed, coordinated and ordered military operations conducted by the VJ and its subordinate units that resulted in the crimes charged in the Indictment. By executing the various decisions and orders of the FRY President, and other commanding organs, these bodies played a key role in implementing the objectives of the JCE.

(iii) Joint Command

154. The Joint Command was a coordinating body with authority derived from FRY President Milošević to command and control the civilian, military, and MUP organisations in Kosovo. The VJ and MUP leadership in Kosovo were members of the Joint Command. They attended Joint Command meetings where they advised Šainović, the Head of the Joint Command, on the security situation and gained his authorisation to proceed with combat or other security-related operations. This body was established in June 1998 and operated until June 1999.

155. The Joint Command did not supplant the authority of the VJ or MUP internal chains of command. Rather, it existed concurrently with the system that was in place for these organisations in Kosovo.³⁸⁹ At the highest level, the chains of command met in Belgrade: the civilian leadership, the VJ General Staff/SC Staff, and the MUP. In Priština, the Joint Command brought them together and ensured that they operated in a coordinated manner consistent with the political goals established by Milošević and members of his inner circle in Belgrade.

The Joint Command was established in June 1998

³⁸³ Vasiljević, P2600, para. 11.

³⁸⁴ 3D580, p.4 (Colonel Mučibabić); 3D582, p.3 (Andelković); 3D583, p.6 (Obradović); 3D585, p.3 (Ilić); 3D587, item.7, p.4; 3D635, item.9, p.3.

³⁸⁵ 3D580, p.2 (Grahovac); 3D587, item.3, p.1; 3D588, item.20, p.4; 3D591, p.3 (Teržić); 3D592, p.2 (Ojdanić), items.3, 6, pp.3-4 (Ojdanić).

³⁸⁶ 3D582, p.3 (Ristić); p.6 (Ojdanić), p.7 (Obradović); 3D625, p.2, item.8; 3D622, pp.2-3, items. 8, 14; 3D615, item. 9, p.3.

³⁸⁷ Vasiljević, P2600, para. 17.

³⁸⁸ Andelković, T.16401.

³⁸⁹ Cvetić, T.8194-8195.

156. Milošević formed the Joint Command in June 1998. Its establishment, however, is not reflected in any official record of the Republic of Serbia or the FRY.³⁹⁰

157. On 9 June 1998, the SDC decided to intervene militarily in Kosovo in case of further escalation of terrorist activity in the region.³⁹¹ Pursuant to this decision, the VJ drew up the Plan to Suppress Terrorism, which provided for the engagement of VJ and MUP units in Kosovo in extensive combat operations involving a number of VJ brigades and MUP special units.³⁹² Prior to this the VJ and the MUP had been involved in combat operations in Kosovo but on a smaller scale.

158. On 10 June 1998, at the 16th Session of the SPS, Milošević appointed a three-member Working Group, composed of Minić, Duško Matković and Zoran Anđelković, to coordinate political developments in Kosovo.³⁹³ Milošević noted that the composition of this team should be expanded.³⁹⁴

159. On 21 July 1998, Milošević convened a meeting in Belgrade to discuss the security situation in Kosovo. Present at this meeting were Milutinović, Šainović, Matković, Minić, Anđelković, General Dimitrijević, General Samardžić, then Third Army commander, General Perišić, and General Pavković attended on behalf of the VJ, while Vlajko Stojiljković, the MUP Minister, General Đorđević and General Lukić represented the MUP. Pavković presented a plan for combat actions to be carried out in the summer, which consisted of several stages. President Milošević said this plan would be implemented and the plan was adopted.³⁹⁵

160. The following day, Joint Command meetings began in Priština. Milošević's desire to see the Working Group expanded was fulfilled at the first recorded meeting of the Joint Command,³⁹⁶ which was attended by Minić and Anđelković, as well as Šainović, Pavković, Lukić, Đorđević, David Gajić and Colonel Milan Đaković.³⁹⁷ Although Matković was not present at this initial meeting, the notes of meetings of the Joint Command show that he attended subsequent Joint Command meetings.³⁹⁸

³⁹⁰ In P1317, the FRY government stated that "the joint command for Kosovo and Metohija was formed on the order of the FRY President in June 1998 without any specific document."

³⁹¹ 4D106;1D706.

³⁹² P2166,p.3.

³⁹³ Anđelković,T.14651;Minić,T.14753;Matković,T.14586-14587.

³⁹⁴ P1012,p.79.

³⁹⁵ Matković,T.14634-14637;4D100;4D101;4D102.

³⁹⁶ P1468,p.2.

³⁹⁷ P1468,p.2. *See also* Minić,T.14748;Vasiljević,T.8726.

³⁹⁸ *See, eg,* P1468,pp.6,35,50,68.

161. Colonel Đaković, the Head of the PrK Operations Department in 1998, was the note taker for the VJ at Joint Command meetings. P1468 is his notebook of notes of Joint Command meetings held between 22 July and 30 October 1998.³⁹⁹ On 22 July 1998, Pavković asked Đaković to accompany him to a meeting with the MUP and take notes.⁴⁰⁰ Pavković later instructed him to refer to this meeting in his notes as the “Joint Command” so that “our organs would know that these questions had been agreed upon with members of the MUP.”⁴⁰¹ Đaković testified that he and Pavković had first agreed to use the term “Joint Command” in an order of 6 July 1998 to denote “the command of the MUP Staff and the command of the Priština Corps, no one else.”⁴⁰²

162. From 22 July 1998 onwards, the meetings between representatives of the VJ, the MUP and Milošević’s officials from Belgrade were referred to as the Joint Command.⁴⁰³ These meetings were initially held at the TEC building and later moved to other locations, including the basement of the Grand Hotel in Priština which was also used by the VJ.⁴⁰⁴

163. Several VJ officers testified that they first became aware of the existence of the Joint Command around June or July 1998. Momir Stojanović, the Head of the PrK Security Department, first heard of this body in mid-June 1998 from Đaković, who told him that it referred to meetings of the PrK and MUP to exchange information and coordinate action.⁴⁰⁵ Milan Kotur, then Chief of Infantry of the PrK, also first heard the term from Đaković, around June or July 1998.⁴⁰⁶ The establishment of the Joint Command was also announced at the MUP Staff. Ljubinko Cvetić, the SUP Chief of Kosovska Mitrovica, recalled that at a MUP Staff meeting on 10 July 1998, either the assistant MUP Minister or the head of the RDB informed SUP chiefs that “it had been agreed at the highest level to set up a Joint Command for all formations of the army and police to coordinate activities between the army and the police.”⁴⁰⁷

164. Milošević exercised control over the Joint Command first through Minić, who initially presided over meetings,⁴⁰⁸ and later through Šainović, the person with the responsibility to ensure that the objectives of the JCE – and those of Milošević in particular – were implemented in Kosovo.⁴⁰⁹ Throughout October 1998, Šainović headed the Joint Command, issuing orders⁴¹⁰ and

³⁹⁹ Đaković, T.26366. From 21 to 30 October 1998, Colonel Ratko Tešević, Đaković’s deputy, took the notes at Joint Command meetings. Đaković, T.26366.

⁴⁰⁰ Đaković, T.26381.

⁴⁰¹ Đaković, T.26381. *See also* Kotur, T.20714-20715.

⁴⁰² Đaković, T.26381-26382.

⁴⁰³ Đaković, T.26378.

⁴⁰⁴ Đaković, T.26383-26385; Vasiljević, P2600, para. 79.

⁴⁰⁵ Stojanović, T.19761-19762.

⁴⁰⁶ Kotur, T.20714-20715.

⁴⁰⁷ Čvetić, T.8077.

⁴⁰⁸ *See, eg,* P1468, pp.4,8,18,23,32,33,40,43,50,64,97,99-100,101,112.

⁴⁰⁹ P717. *See also* Cvetić, T.8078.

drawing conclusions at the end of the meetings.⁴¹¹ He remained in the position of Head of the Joint Command during the Indictment period.⁴¹²

165. Notwithstanding the absence of formal legal basis, JCE members accepted the Joint Command as a part of the system by which forces of the FRY and Serbia were tasked to conduct operations in Kosovo. The members of the JCE used the Joint Command to implement their goals.

The Joint Command commanded and controlled the actions of the forces of the FRY and Serbia

166. The Joint Command commanded and controlled the actions of the VJ and the MUP and attached units operating in Kosovo.⁴¹³ This body was responsible for ensuring that the military, MUP, and other armed organisations (such as armed non-Albanian civilians) conducted their activities, in a coordinated fashion, in accordance with political objectives set in Belgrade. It “had the force of a mini Supreme Command.”⁴¹⁴

167. A major part of the Joint Command’s duties involved planning and coordinating joint VJ and MUP operations in Kosovo. These operations included a number of actions conducted concurrently over a large area of Kosovo and involved numerous VJ brigades, MUP special units and attached units. According to Đaković, the Joint Command was an element of coordination between the army and the MUP.⁴¹⁵

168. P1468 provides much insight into this body. Although these notes are not an exact record of Joint Command meetings held in 1998, they provide an accurate reflection of the topics discussed and of how the meetings were conducted.⁴¹⁶

169. Joint Command meetings were held in the evenings on an almost daily basis.⁴¹⁷ They followed a relatively standard format that entailed members of the VJ, MUP (RDB and RJB), and civilian representatives briefing on activities that had occurred and planning upcoming activities. Both Pavković and Lukić were in regular attendance at these meetings and reported on the actions

⁴¹⁰ P1468, pp.136,141,142,145,148,149,153,154,156,160,161,164.

⁴¹¹ P1468, pp.137,145,157,161.

⁴¹² Vasiljević, P2589, pp.43,137; P2600, paras.77-84.

⁴¹³ Vasiljević, P2600, para.47; Cvetić, T.8051-8052, 8194-8195; Pešić, P2502, para.32.

⁴¹⁴ Vasiljević, P2600, para.47; P2589, p.27.

⁴¹⁵ Đaković, T.26392.

⁴¹⁶ Đaković, T.26374-26375. According to Đaković, he mostly recorded “the questions or issues that related to the security, brief reports by Generals Pavković and Lukić regarding the situation in the units of the Priština Corps and the units of the Ministry of the Interior, and comments made by other participants in the meeting.” Đaković, T.26374.

⁴¹⁷ P1468. Although they denied being members of the Joint Command, Matković, Minić and Anđelković conceded that they attended almost daily meetings with representatives of the VJ and the MUP in Priština. Matković, T.14594-14597, 14644, 14646-14647; Anđelković, T.14655, 14684-14685, 14689; Minić, T.14748, 14751, 14754.

carried out by their units.⁴¹⁸ Lazarević also attended some of the meetings.⁴¹⁹ Other VJ and MUP officers were present at meetings.⁴²⁰

170. Minić and Šainović provided direction to the VJ and the MUP as well as to civilians in lower positions, like Anđelković.⁴²¹ On 23 July 1998, the former Chief of the VJ General Staff, General Perišić, complained to Milošević about the authority vested in Minić and Šainović over the VJ:

3(b) The attempt by the civilian part of the Staff to command the Corps. The Corps commander is responsible for assessing the situation and for planning VJ and MUP operations in cooperation with the civilian part of the staff and the MUP, for forwarding it to ŠAINOVIĆ and MINIĆ for them to distribute assignments to all except the Priština Corps. In practice, the commander of the Priština Corps plans what he has been ordered to, and this is at the request of ŠAINOVIĆ and MINIĆ and the MUP, and so turns into something like a service of theirs, for planning and execution.⁴²²

171. Between late July and October 1998, the Joint Command was in charge of implementing the Plan to Suppress Terrorism, pursuant to the decision adopted by the SDC.⁴²³ P1468 shows that this plan was implemented in stages. All combat actions carried out pursuant to this plan were discussed and reported at the Joint Command.⁴²⁴ As part of the implementation of this plan, the Joint Command organised local defence units, armed the non-Albanian population⁴²⁵ and disarmed the Albanian population.⁴²⁶ As described elsewhere in this brief, the implementation of this plan in the summer of 1998 resulted in the use of excessive and indiscriminate force which led to crimes against the Kosovo Albanian population.

172. Joint Command orders were enforced by subordinate units. For example, an order of 7 July 1998 from the 125th Motorised Brigade, with the title “Ban on operations without the knowledge and approval of the Joint Command for KiM,” was issued “Pursuant to the Order of the Joint Command for KiM, Strictly Confidential No. 1104-6 of 6 July 1998.”⁴²⁷ Đaković said that the 6 July 1998 order was the first order entitled “Joint Command” that he prepared. Pavković issued it on the basis of an order of the Third Army Commander.⁴²⁸

173. The evidence shows that Joint Command exercised authority over units engaged in combat actions. For example, on 31 July 1998, the PrK Commander requested more detailed instructions

⁴¹⁸ See, e.g., P1468, pp. 9-10, 14-19, 20, 22, 25, 36-37, 106. See also 4D91.

⁴¹⁹ Lazarević, T. 18791; P1468, pp. 117-119, 119-120, 121-122, 124.

⁴²⁰ V. Obradović, T. 17403; Milosavljević, T. 14378; Mladenović, T. 17602; Jetković, T. 20382.

⁴²¹ See, e.g., P1468, pp. 4, 7, 27, 33.

⁴²² P717, p. 2 (emphasis in original).

⁴²³ P2166, p. 3.

⁴²⁴ See, e.g., P1468, pp. 4, 8, 11, 24, 30-31, 33, 35-36, 40-41, 45, 47, 51, 79, 162-163; P1435, p. 1; P2166, p. 2, 9; Đaković, T. 26405-26407.

⁴²⁵ P2086; P1064; P2166, p. 4. See also P1468, pp. 24, 29, 66, 153, 163.

⁴²⁶ See, e.g., P1468, pp. 50, 57, 62, 86, 88, 89, 94, 96, 120.

⁴²⁷ P2113. See also P1418, 5D841.

from the Third Army Commander to ensure that PrK operations conformed to a decision made by the Third Army Commander at a Joint Command meeting.⁴²⁹ A 1 August 1998 request from the PrK to the Third Army Command sought authorisation to proceed with a decision made at a meeting of the Joint Command the previous evening.⁴³⁰ In a 7 August 1998 report, the Commander of the 15th Armoured Brigade commented: “MUP /Ministry of the Interior/ units were engaged by decision of the Joint command for KiM /Kosovo and Metohija/ along the following axes[...].” He added:

[p]revious operations by MUP and VJ /Yugoslav Army/ units were carried out with the knowledge and approval of the joint command for KiM and there was no deviation from orders...

[...]VJ (BG-15/2 and 3) and Serbian MUP units along the above-listed axes fully carried out the tasks set by the joint command for KiM. [...]During the operations, there was complete co-ordination, cooperation and fire support in terms of target, time and place.⁴³¹

174. On 10 August 1998, Pavković issued a decision on the joint engagement of VJ and MUP in combat operations in the Glodane area which stated: “Combat operations will be commanded by the Joint Command for KiM from the PrK Forward Command Post in Đakovica.”⁴³² At a Joint Command meeting on 12 August 1998, Pavković and Lukić reported on this action.⁴³³

175. The notes of the Joint Command meeting of 12 August 1998 record General Đorđević reporting that “Vokša and Slup to be worked on, and the army is to join.”⁴³⁴ The notes of the following day record: “Vokša and Slup- today preparations of the 5th and 8th Od MUP and support of the 6th and the Od from the VJ BG.”⁴³⁵ On 14 August 1998, Lazarević issued an order for a joint MUP-VJ action in Slup and Vokša, which stated that the Joint Command would command the action.⁴³⁶

176. On 19 September 1998, at the Joint Command, Lazarević reported: “The plan for Čičavica has been made.”⁴³⁷ That day Pavković issued an order for a joint VJ-MUP action in the Čičavica area, which engaged part of the Serbian population to set up a blockade.⁴³⁸

⁴²⁸ Đjaković,T.26378,26381.

⁴²⁹ P1418.

⁴³⁰ P1419. *See also* P1468,pp.33-35.

⁴³¹ P1423.

⁴³² P1427,p.3.

⁴³³ P1468,p.49.

⁴³⁴ P1468,p.51.

⁴³⁵ P1468,p.53;IC-199,p.3.*See also* P1468,p.54.

⁴³⁶ P1428,p.3;5D1175.

⁴³⁷ P1468,p.121.

⁴³⁸ P1434,item 2.

177. A communications plan issued in the summer of 1998 (P1052)⁴³⁹ shows that the VJ, the MUP and the Joint Command were part of the same radio frequencies.⁴⁴⁰ This is further evidence that the operations associated with the 1998 Plan to Suppress Terrorism were conducted with Joint Command oversight. P1052 indicates that the Joint Command's call-sign was "Paštrik." Zivanović said that "Paštrik" was a general term for the administration station; it was not used by any units.⁴⁴¹ In reference to P1052, several witnesses confirmed that the other call-signs listed in this document were used by VJ and MUP units during that time period.⁴⁴²

178. The Joint Command produced daily situation reports on VJ and MUP activities.⁴⁴³ Đaković explained that these reports were drafted at the PrK Command with input from the MUP. They were logged with the PrK reference number "1142" and "were always sent to the three mainstays, the MUP, the DB and the army."⁴⁴⁴ 3D1004 indicates that these reports were also shared with the PrK Security Department.⁴⁴⁵

179. The Joint Command received direction from the FRY President and from authorities in Belgrade.⁴⁴⁶ In October 1998, the Joint Command issued a "Report and Conclusions on The Implementation of the Plan for Stamping out Terrorism in KiM" in which operations by the VJ and MUP in September 1998 were analysed. The report included President Milošević in its distribution and made reference to the counter-terrorism plan adopted pursuant to a decision by the SDC.⁴⁴⁷ This establishes that the Joint Command had an authoritative position in the chain of command.

180. The first phase of the Joint Command's work drew to an end after the signing of the October Agreements. On 26 October 1998, Joint Command members made plans to store their documents.⁴⁴⁸ On 29 October 1998, at one of the last recorded Joint Command meetings, Minić told those present: "The fight against terrorism continues, only with the different measures and methods[...]. Let us see your proposals concerning the measures." Pavković commented: "We have to take into account how to use the armed population and how to involve it in the defence of

⁴³⁹ Cvetić, T.8109-8110. The call-sign for the SAJ in P1052 is Brazil (P1052, p.2). P1426, a report of the 125th Mtbr dated 8 August 1998, refers to the *Brazil* group. In relation to this document, Zivanović said that "Brazil" was a reference to the SAJ. Zivanović, T.20541-20542.

⁴⁴⁰ P1052.

⁴⁴¹ Zivanović, T.20554-20555.

⁴⁴² Cvetić, T.8109-8110; V. Marinković, T.20295; Delić, T.19636.

⁴⁴³ P1203; P1651; P1206; P1204; P1655; P948, pp.38, 113.

⁴⁴⁴ Đaković, T.26428-26431.

⁴⁴⁵ 3D1004, p.2, item 3.

⁴⁴⁶ Vasiljević, P2589, p.139. *See e.g.* P1468, pp.63, 64, 75, 130.

⁴⁴⁷ P1011, p.72.

⁴⁴⁸ P1468, p.161.

communications.” Minić then added “I think that this Command should stay and work with the same people until the end of the year and meet in accordance to the need.”⁴⁴⁹

The Joint Command continued to function after October 1998

181. The decision to extend the work of the Joint Command was taken at the meeting of Operations Inter-Departmental Staff for the Suppression of Terrorism in KiM, held on 29 October 1998 in Belgrade. Several attendees assessed the first phase of the Joint Command’s work. Speaking on behalf of the Joint Command, Pavković presented the implementation of the Plan to Suppress Terrorism and stated that it is the assessment of the Joint Command that this Plan had been carried out “thanks to[...] (2) well-organised coordinated action and cooperation between MUP and VJ units and other factors and organs of authority during the conduct of combat operations.”⁴⁵⁰ Lukić submitted a report on the work of the Joint Command for KiM, commending VJ and MUP forces for their successful professional co-operation.⁴⁵¹

182. Minić proposed that the “Operations Staff should provide an assessment of how successfully the Joint Command for KiM has fulfilled the authorisations conferred upon it.” Pavković then presented the tasks to be performed by the Joint Command in the forthcoming period.⁴⁵²

183. The minutes also record that: “Milan Milutinović supported the proposal for consideration of the continued status of the Joint Command. Milutinović believes that the Joint Command should continue functioning for a while, although thought should be given to whether it should continue in its present membership or whether some changes should be made.”⁴⁵³

184. Šainović agreed that “the present composition” of the Joint Command “should be re-evaluated” and that “the number of people thus engaged should be reduced and better prepare them for a more effective actions in new conditions.”⁴⁵⁴ Milošević concluded the meeting by pointing “to the continued need for the functioning of the Joint Command.”⁴⁵⁵

185. At the MUP Staff meeting of 5 November 1998, President Milutinović informed those present that the Joint Command would continue to function. While explaining the implications of the implementation of the October Agreements, Milutinović indicated that “with regard to the

⁴⁴⁹ P1468,p.163.

⁴⁵⁰ P2166,p.7.

⁴⁵¹ P2166,p.7.

⁴⁵² P2166,pp.9-10.

⁴⁵³ P2166,p.12.

⁴⁵⁴ P2166,p.13.

⁴⁵⁵ P2166,p.15.

Yugoslav army and the police, everything remains the same as it has been until now (a joint command....)”⁴⁵⁶

186. Additional evidence in the Trial Record proves that the Joint Command continued to function after October 1998. The contents of two operative reports of the Joint Command of November 1998, P1197 and P1198, show that the Joint Command continued to be involved in day-to-day operations and events.⁴⁵⁷ In reference to P1197, Đaković said that he wrote the first Joint Command operational report on 10 July 1998 and that P1197 was report number 134 (1142-134).⁴⁵⁸ P1197 and P1198 were addressed to “Milomir Minić, personally.” Minić acknowledged receiving these reports.⁴⁵⁹

187. While Stojanović, the PrK Security Chief, initially denied ever sending reports to the Joint Command, when confronted with his report dated 11 November 1998 addressed to the Joint Command, he conceded that he prepared a handful of these reports; his last report was from mid-November 1998.⁴⁶⁰ Stojanović said he attended a meeting with Pavković and Đaković and MUP members. After this meeting, Đaković told him that he should write up the information he had received from the MUP and that he should give it the title “Joint Command.”⁴⁶¹ Radojko Stefanović said that he first heard of the term “Joint Command” in January 1999, when he took over from Đaković as Head of the Operations Department.⁴⁶² Stefanović recalled that before the SC Staff issued its order on MUP re-subordination on 18 April 1999, he saw around 15 or 20 orders bearing the heading “Joint Command.”⁴⁶³

188. During the VJC of 21 January 1999, Ojdanić referred to the Račak incident as an operation ordered by “this joint staff, command” and expressed concern about not knowing the truth about the incident.⁴⁶⁴ Dimitrijević also referred to the “Joint Command” at this meeting when speaking about anti-terrorist operations in Kosovo.⁴⁶⁵

189. Not only are there numerous independent sources identifying a Joint Command in 1999, its existence made sense for coordination purposes alone.

⁴⁵⁶ P2805,p.4.

⁴⁵⁷ P1197;P1198. *See also* P1203;P1651;P1206;P1204;P1655.

⁴⁵⁸ Đaković, T.26428-26429.

⁴⁵⁹ Minić, T.14788-14790.

⁴⁶⁰ Stojanović, T.20043-20044.P2945,p.10. *See also* 3D1004,p.2,item 3. Đaković said that Stojanović did not send reports directly to the Joint Command. All reports went through Đaković, T.26428.

⁴⁶¹ Stojanović, T.20044-20046.

⁴⁶² Stefanović, T21793-21794.

⁴⁶³ Stefanović, T.21680.

⁴⁶⁴ P939,p.11,12,para.3.

⁴⁶⁵ P939,pp.26-27.

Once the state of war was declared, the Joint Command coordinated and commanded the actions of the VJ and the MUP in furtherance of the goals of the JCE

190. Once the state of war was declared in 1999, the MUP was reluctant to submit to full subordination to the VJ for combat operations. Instead, it undertook combat tasks set out in plans and orders drafted by the VJ but issued on the basis of Joint Command decisions. “The Joint Command compensated for the possible absence of official subordination of the MUP to the VJ by ensuring that coordination for joint operations occurred: in effect the Joint Command effected *de facto* coordination and cooperation.”⁴⁶⁶

191. The Joint Command was not merely a coordinating body, as Defence witnesses claimed.⁴⁶⁷ The Joint Command orders issued in 1999 begin with a clear statement of the aim under the sub-heading “ORDER.”⁴⁶⁸ This sub-heading and the orders’ contents also provide an unambiguous sense of the executive authority of the Joint Command. The most explicit statement of the Joint Command’s authority is in the following statement at the end of each order: “The Joint Command for KiM is to command and control all forces from the sector of Priština during the execution of combat operations.”⁴⁶⁹

192. Several Defence witnesses argued that any reference to a “Joint Command” in orders issued in 1999 should be read only as a reference to the PrK,⁴⁷⁰ and that this was just an “unfortunate wording” which had nothing to do with the reality on the ground.⁴⁷¹ Lazarević, however, said that orders bearing the heading “Joint Command” were authentic despite being unsigned. They were logged in the PrK log-book and sent on to PrK units.⁴⁷²

193. The Joint Command was not the PrK Command. Had the two been the same entity, it is unlikely that the PrK combat report of 25 April 1999 would have stated that “Operations of combing the terrain and breaking up ŠTS continue in line with the decision of the Joint Command for KiM.”⁴⁷³ A similar reference in a Third Army combat report of 29 April 1999 supports this argument.⁴⁷⁴

⁴⁶⁶ Vasiljević, P2600, para. 46.

⁴⁶⁷ Kosovac, T.15883; Krga, T.16870-16871; Điković, T.19881; Mandić, T.20925-20926; Čurčin, T.17047.

⁴⁶⁸ P3049; P1966; P2031; P2015; 1967; P1968; P1969; P2003; P1970; P1971; P1972; P1973; P1878; P1974; P1975; P1976; P1977.

⁴⁶⁹ See P1975, p.6.

⁴⁷⁰ Zivanović, T.20570; Điković, T.19880.

⁴⁷¹ Stefanović, T.21666, 21796.

⁴⁷² Lazarević, T.17935.

⁴⁷³ P2016, p.2.

⁴⁷⁴ P2017, p.2.

194. In 1999, the PrK Operations Department, headed by Colonel Radojko Stefanović, acted as a staff for the Joint Command and drafted Joint Command orders.⁴⁷⁵ These were entered into the PrK log-book and assigned a 455 PrK reference number.⁴⁷⁶ The PrK Command Staff fulfilled the role of a command staff for the Joint Command with regards to planning and co-ordinating combat operations. Such staffs are standard features of larger military formations. As an example of this practice, the SC had an expert Staff – the VJ General Staff.

195. Further evidence of the authority exercised by the Joint Command is the fact that VJ and MUP units implemented its orders. At the level of the VJ, the PrK Command sent Joint Command orders to field commanders for implementation.⁴⁷⁷ Typically, field commanders would receive excerpts of these orders with a map of the area where their units were to be deployed. They then issued their own orders to their units.⁴⁷⁸ For example, Jelić said that on the basis of P1972, a Joint Command order received from the PrK Command in April 1999, he drafted his own order. “Every document sent by the PrK command was considered to be an order and was implemented all the way down the chain of command.”⁴⁷⁹ Similarly, General Živanović, the commander of the 125th Motorised Brigade, said that he received Joint Command orders in an envelope from the PrK Command. He received the first one in July 1998 and the last one on 15 April 1999.⁴⁸⁰ When shown P1975, Colonel Savić recalled receiving this Joint Command order along with other annexes in an envelope from the PrK command. He interpreted the heading to mean “a Joint Command of forces of the MUP and the army.”⁴⁸¹

196. Joint Command orders were unsigned. The VJ Rules of Correspondence required that orders be signed.⁴⁸² The fact that field commanders implemented orders bearing no signature shows that they treated them as official documents and, as professional officers, they must have been aware of the basis for the Joint Command and its authority given the absence of such fundamental criteria such as a signature of a superior and the title of their superior unit. They treated these orders as having the authority of the PrK command behind them.

⁴⁷⁵ Savić, T.20998-20999.

⁴⁷⁶ Stefanović, T.21777. Documents bearing the number 455 would relate to the same topic as the first document with this number, P2808 (Stefanović, T.21778). This log number was used from 16 February 1999 onwards. Lazarević, T.18609-18613. *See also* Vasiljević, T.8823.

⁴⁷⁷ Savić, T.21000-21001; P1423, item 4.

⁴⁷⁸ Jelić, T.18865, 18867, 18874; P1423, item 4; P2042, item 15; P2043, item 7; 5D1285 (in reference to the action ordered in P1972); P2616, p.1 (in reference to the action ordered in P1967, p.3).

⁴⁷⁹ Jelić, T.18867, 18874, 19028-19029; P1969, P1972. Jelić said that, as a rule, documents containing orders from his superiors contained both a signature and a stamp, while Joint Command orders were neither signed nor stamped. Jelić, T.18868-18869.

⁴⁸⁰ Živanović, T.20463-20466; P1968.

⁴⁸¹ Savić, 5D1392, para.15; T.20996; P1975. Referring to P1995, Delić stated that, despite bearing the heading “Joint Command for Kosovo,” he always knew that such documents came from the commander of the PrK. Delić, T.19353.

⁴⁸² P1548, p.24, Art. 65.

197. The MUP Staff was responsible for the implementation of Joint Command orders to the MUP.⁴⁸³ Lukić, the head of the MUP Staff Kosovo and a member of the Joint Command, ensured that those orders were implemented down the MUP chain of command.⁴⁸⁴

198. Joint Command orders also engaged the “armed non-*Šiptar* population”.⁴⁸⁵ As discussed elsewhere in this brief, pursuant to these orders, field commanders had authority to engage the armed non-Albanian population in certain tasks, such as securing certain facilities and roads.⁴⁸⁶

199. Military authorities in Belgrade were aware of the existence and role of the Joint Command during the 1999 conflict. On 17 April 1999, Ojdanić sent a list of suggestions concerning operations to be conducted by units of the Third Army.⁴⁸⁷ In direct reference to a Joint Command order of 15 April 1999, Ojdanić identified to the Third Army some potential shortcomings in the Joint Command's plan. These suggestions are an acknowledgement by the SC Staff of the role and authority of the Joint Command regarding the use of VJ units in Kosovo and a recognition of FRY Presidential authority vested in the Joint Command.

200. That the Joint Command continued to function in 1999, as it did in 1998, is further demonstrated by Pavković's 25 May 1999 report to the SC Staff, where he requested that measures be taken to address problems with MUP subordination to the VJ. The report mentioned that the situation in the absence of direct subordination would continue to involve the MUP Staff for Kosovo commanding MUP units through the Joint Command “as has so far been the case.”⁴⁸⁸

201. The above evidence not only establishes that the Joint Command continued to operate in 1999, but also proves that it was the body that commanded and controlled the actions of all forces on the ground during the state of war. Although the composition of the Joint Command changed in 1999, as Minić and Matković were no longer in Kosovo,⁴⁸⁹ Lukić, Pavković and Lazarević remained members of the Joint Command. As described elsewhere in the brief, Pavković and Lukić were in charge of planning and coordinating the use of VJ and MUP units in joint actions during the 1999 conflict. Their actions were crucial to the proper implementation of the joint command orders. Lazarević's PrK Command Staff functioned as Staff for the Joint Command. Lazarević's role was to ensure that Joint Command orders were executed on the ground level by his units.

⁴⁸³ Cvetić, T.8075; Daković, T.26381,26392.

⁴⁸⁴ See Section II(C)(3)(b)(iv) (MUP Staff).

⁴⁸⁵ For example, P1975, p.2 states: “engage the armed non-*Šiptar* population to secure military facilities and communication lines and to protect and defend the non-*Šiptar* population.” See P1966, p.2; P1968, p.2; P1969, p.2; P1970, p.2; P1971, p.2; P1972, p.2; P1973, p.2; P1974, p.2; P1976, p.2; P2003, p.1; P2015, p.2.

⁴⁸⁶ Gergar, T.21532. See 5D1284, p.2.

⁴⁸⁷ P1487.

⁴⁸⁸ P1459.

⁴⁸⁹ Minić, T.14755,14787; Matković, T.14597.

202. Šainović remained the Head of the Joint Command in 1999. In reference to Pavković's 25 May 1999 report to the SC, Vasiljević testified in the *Milošević* case that "the executive command was in the hands of Mr. Šainović down there, who was there for that purpose, to coordinate the activities of the army and the MUP."⁴⁹⁰ Šainović had the authority to coordinate the operations of MUP and VJ forces.⁴⁹¹ This was corroborated by Pavković, who two years after the war in Kosovo gave a press conference, posted on the VJ's official internet site, in which he identified the existence and partial role of the Joint Command during the state of war:

The Police had their own headquarters, headed by their own officers, and the cooperation with the Army was coordinated through political actors in joint command, formed for the purpose. Therefore, the information to what the police force units were doing can best be provided by the police commanders and the members of the Joint Command in charge of them.⁴⁹²

As was the case during the summer offensive in 1998, Šainović was in Priština in 1999 to ensure that the VJ and the MUP acted in a coordinated fashion, pursuant to the strategic goals of Serbian leadership in Belgrade.

203. Joint Command members continued to meet up until June 1999. General Vasiljević attended a Joint Command meeting at the Grand Hotel in Priština at the beginning of June 1999.⁴⁹³ Those present included Stojanović, Šainović, Anđelković, Đorđević, Stevanović, Lukić, Pavković, and Lazarević. Pavković invited Vasiljević to the meeting and told him that it was a meeting of the Joint Command.⁴⁹⁴ Vasiljević said that Lukić, Lazarević and Pavković provided briefings on the activities of the VJ and the MUP in the previous 24 hours. After these briefings, Šainović instructed those present to "do as we've planned" and said that the actions discussed should be carried out in the next three to four days. Vasiljević had the impression that Šainović's word was final and that these meetings occurred daily.⁴⁹⁵ In his testimony during the Šainović Defence, Vasiljević confirmed his prior testimony and said that "this was a meeting of the Joint Command which was used as an expression everywhere." Šainović was the most senior person at the meeting and, after the generals described the operations that they planned to carry out, Šainović said the tasks should be completed within three to four days.⁴⁹⁶ Vasiljević's account of this meeting is consistent with his *Milošević* testimony.⁴⁹⁷ Vasiljević's contemporaneous notes of this meeting further corroborate his evidence.⁴⁹⁸

⁴⁹⁰ Vasiljević, P2589, p.43.

⁴⁹¹ Vasiljević, P2589, pp.43, 137.

⁴⁹² P1281, p.2 (emphasis added).

⁴⁹³ Vasiljević, P2600, paras. 77-84; T.8817.

⁴⁹⁴ Vasiljević, P2600, para.80; T.8817, 8823.

⁴⁹⁵ Vasiljević, P2600, paras. 81-82; T.8954.

⁴⁹⁶ Vasiljević, T.14505-14509; 2D387; P2600, para.81.

⁴⁹⁷ Vasiljević, P2589, p.17.

⁴⁹⁸ P2862.

204. Anđelković and Stojanović also testified about this June 1999 meeting. Although both denied that this was a meeting of the Joint Command, they generally corroborated Vasiljević's account on the topics discussed and those present at the meeting.⁴⁹⁹ Stojanović said that no one referred to this meeting as the Joint Command.⁵⁰⁰ This is consistent with Vasiljević's account. He was told by Pavković outside the meeting that this was a Joint Command meeting. Stojanović stressed that Šainović's presence in the meeting was not a matter of routine. When Šainović and Anđelković entered the room, everyone stood up as a mark of respect.⁵⁰¹ This description also accords with that of Vasiljević. Stojanović denied telling Vasiljević about the existence of the Joint Command.⁵⁰² He also denied sending reports to the Joint Command, but later retracted this testimony when confronted with his own report from November 1998 addressed to the Joint Command.⁵⁰³ On these aspects, Stojanović is not credible.

205. The Joint Command implemented and executed the goals of the JCE. As described in Section III(H), its orders are directly linked to the crimes alleged in the Indictment.⁵⁰⁴ The Joint Command issued orders for operations in the areas of Orahovać, Suva Reka, and Velika Kruša;⁵⁰⁵ Malo Kosovo (Vucitrn);⁵⁰⁶ Drenica (Srbica);⁵⁰⁷ and Bajgora area (Vucitrn/Kosovska Mitrovica),⁵⁰⁸ among other locations. These orders led to crimes charged within the Indictment.

206. The Joint Command operating in Kosovo in 1998 and 1999 brought two separate organisations under the direction of a central body to ensure that their activities were coordinated and complementary. As joint operations became more common and complex and the situation in Kosovo deteriorated in the summer of 1998, a better system to coordinate VJ and MUP actions was required, particularly one with civilian representation to oversee the implementation of strategic goals set in Belgrade. This was a key consideration behind the establishment of the Joint Command. This was also the reason why the Joint Command continued to function during the state of war when resubordination of the MUP to the VJ for combat operations was proving problematic.

⁴⁹⁹ Stojanović, T.19802-19803; Anđelković, T.14663-14664.

⁵⁰⁰ Stojanović, T.19802.

⁵⁰¹ Stojanović, T.19803.

⁵⁰² Stojanović, T.19804.

⁵⁰³ Stojanović, T.20043-20044.P2945,p.10. *See also* 3D1004,p.2,item 3. Đaković said that Stojanović did not send reports directly to the Joint Command. All reports went through Đaković, T.26428.

⁵⁰⁴ *See* P2615.

⁵⁰⁵ P2015.

⁵⁰⁶ P1967.

⁵⁰⁷ P1968;P2031.

⁵⁰⁸ P1975.

(iv) MUP Staff***The MUP Staff played a key role in furthering the goals of the JCE***

207. The MUP Staff was the body in charge of co-ordinating and managing the work of MUP units engaged in combat actions in Kosovo. This body was responsible for organising the involvement of MUP units in combat actions, including joint actions with the VJ. During the Indictment period, the MUP Staff planned and co-ordinated the activities of MUP units in furtherance of the JCE. During the course of joint actions with the VJ and attached units, MUP units committed the crimes charged in the Indictment.

At all times relevant to the Indictment, the MUP Staff was headed by Sreten Lukić. This body brought together both branches of the MUP in Kosovo in one headquarters

208. The MUP Staff was based in Priština. From June 1998 through June 1999, it was headed by Major-General Sreten Lukić.⁵⁰⁹ A decision of 15 May 1998 signed by the Head of the RJB, Vlastimir Đorđević, set out its mandate.⁵¹⁰ An 11 June 1998 “Decision on the composition of the Staff,” also signed by Đorđević, appointed Lukić as head of the MUP Staff for one year and specified the fourteen-member composition of this body.⁵¹¹ In early 1998 the MUP Staff was responsible to the Head of the RJB in Belgrade.⁵¹²

209. As of June 1998, the MUP Staff was expanded to include both branches of the MUP in Kosovo. In a decision of 16 June 1998, the then MUP Minister, Vlajko Stojiljković, superseded Đorđević’s 15 May 1998 decision and expanded the MUP Staff to include “the chiefs of the secretariats for internal affairs, centres and branches of the RDB in the AP of Kosovo and Metohija.”⁵¹³ The expanded MUP Staff included the Head of the RDB in Kosovo, David Gajić,⁵¹⁴ as Assistant Head, and the JSO commander, Milorad Luković (Legija),⁵¹⁵ as Assistant Head for Special Operations.⁵¹⁶ Given the changes to its composition, the Head of the Staff, Lukić, became answerable directly to the MUP Minister.⁵¹⁷ The fact that the 16 June 1998 decision was issued by the MUP Minister, instead of the Chief of the RJB, shows that only the MUP Minister was empowered to expand the MUP Staff and give Lukić authority over both branches of the MUP in

⁵⁰⁹ P1252;P1811;P948,pp.10,20-21,32. See also Cvetić,T.8030,8066.

⁵¹⁰ P1251.

⁵¹¹ P1252. Although the date of P1252 is illegible, a related document, P1505, indicates that the date of this decision is 11 June 1998 (P1505,para.6). See also Cvetić,T.8030.

⁵¹² P1251,item.5.

⁵¹³ P1505,item.1.

⁵¹⁴ Z.Mijatović,T.14527;Joksić,T.21944,T.22019. Gajić was also an assistant Head of the RDB. Đaković,T.26370-236371.

⁵¹⁵ Z.Mijatović,T.14526-14527;Crosland,P2645,para.11;K79,T.9675-9676.

⁵¹⁶ P1505,item.1.

⁵¹⁷ P1505,item.3.

Kosovo. Such authority allowed Lukić to coordinate the work of all special units, including the RDB's JSO unit, during their engagement in combat actions in municipalities throughout Kosovo.

The role of the MUP Staff was to plan, organise and control the activities of MUP units engaged in combat actions in Kosovo

210. As Head of the MUP Staff, Lukić had authority over the SUPs in Kosovo. "They reported to the MUP Staff in Priština and the Ministry of the Interior in Belgrade."⁵¹⁸ More generally, Lukić had authority over MUP special units in Kosovo (PJPs, SAJ and JSO) during their engagement in combat actions.⁵¹⁹ The decision on the deployment of special police units to Kosovo was made at the level of the MUP Ministry in Belgrade.⁵²⁰ Once deployed to Kosovo, the MUP Staff had the role of directing and organising their operations.⁵²¹ "They were manoeuvring forces and would be under the command of the MUP Staff."⁵²²

211. The terms of Lukić's mandate gave him authority over organisational units in Kosovo. His authority is evidenced in the MUP Staff's mandate, which, pursuant to Stojiljković's 16 June 1998 decision, was

To plan, organise and control the work and engagement of the organisational units of the Ministry, and also sent and attached units, in suppressing terrorism in the AP of Kosovo and Metohija.

Also, the Staff is tasked with planning, organising, directing and coordinating the activities of the organisational units of the Ministry in Kosovo and Metohija in carrying out complex security tasks.⁵²³

Stojiljković's decision of 31 May 1999, which renewed Lukić's appointment as Head of the Staff for a year, set out the Staff's mandate in identical terms.⁵²⁴

212. Lukić was aware of and understood the scope of his mandate. He was the person best placed to explain the role of the MUP Staff. In his interview to the OTP, he described its role as follows:

The Staff has to [...] effectively it had [...] to co-ordinate, plan and direct the organisational units, in other words, secretariats and attached units, primarily focusing on curbing and preventing terrorism [...] The primary task of all forces, forces, all police units, including their parent secretariats, was to curb terrorism. The task of the Staff was to co-ordinate the work of these units, and in this part these units, the special police units, had practically dual responsibility: to the commander and, at the same time, to the head of the Staff, or rather, the Staff itself.⁵²⁵

213. The evidence set out below demonstrates that, at all times relevant to the Indictment, the MUP Staff carried out its mandate set out in Stojiljković's 16 June 1998 decision.

⁵¹⁸ Cvetić,T.8045;P1044,p.3,item.5.

⁵¹⁹ Cvetić,T.8073-8075;P2555;P1251,item 2;P1505,item 2;P1811,item 2.

⁵²⁰ See e.g. 6D682;6D683;6D684;6D685;6D686;6D687.

⁵²¹ Cvetić,T.8074-8075,T.8194-8195;K25,P2439,p.20.

⁵²² Cvetić,T.8034.

⁵²³ P1505,item.2.

The MUP Staff operated within a functional chain-of-command

214. The MUP Staff operated within a functional chain-of-command. The MUP leadership in Kosovo met regularly in 1998 and 1999. As a rule, MUP Staff meetings were held at least once a month, or more frequently, if required.⁵²⁶ These meetings were usually attended by SUP chiefs and commanders of special units.⁵²⁷ At times, more senior MUP members were present, such as: MUP Minister Stojiljković; the head of the RJB, General Đorđević; the head of the Police Administration in the Ministry, General Stevanović; and the head of the RDB, Rade Marković.⁵²⁸ Other RDB representatives were also present.⁵²⁹

215. At MUP Staff meetings, Lukić and other senior MUP Generals, such as General Đorđević or General Stevanović, explained the actions to be carried out and issued tasks to those present. All attendees would be familiarised with the plans for actions to be carried out and would be informed of the tasks to follow.⁵³⁰ Topics on the agenda included recent and ongoing operations and cooperation between the MUP and the VJ. MUP units also fed information and submitted requests up the chain of command.⁵³¹ Information on developments on the ground was exchanged and discussed in detail, allowing police commanders to deploy their forces in a planned and co-ordinated manner.

216. That the MUP Staff operated within a functional chain of command is further demonstrated by, among other things, the well-established reporting procedures in place. General Lukić and his headquarters staff were kept well informed of MUP activities on the ground and in turn reported to the MUP Ministry in Belgrade.⁵³² Information was provided to the MUP Staff to allow it to carry out its tasks. Through the reporting procedures in place, those in regular and close contact with the MUP Staff, such as the military and civilian leadership, had an increased level of awareness of the situation on the ground.

217. MUP regulations dictated how its units were to report information up the chain-of-command and indicated that all SUPs were to send dispatches to the MUP Staff and the MUP Ministry in Belgrade.⁵³³ These regulations were complied with. All SUPs sent periodic dispatches, including

⁵²⁴ P1811,item.2.

⁵²⁵ P948,p.41.

⁵²⁶ Cvetić,T.8080.

⁵²⁷ Adamović,T.24976. See P1993;P2805;6D798;6D800;6D802;P3122;P1991;P3130;P1996.

⁵²⁸ P1991;P1990,P1989;P1996;P1993;P3121.

⁵²⁹ See e.g. P2805;P1990;P1989.

⁵³⁰ Adamović,T.24976-24977. See P3121,p.3;P1990,pp.2,5-6;P1989,p.4;P1996,p.11;P1993,p.8.

⁵³¹ See P1996,pp.4-9;P1993,pp.2-7;P1989,pp.1-3;P1991,pp.4-7.

⁵³² P948,pp.126-127.

⁵³³ P1044,p.3,item.5.

daily reports, to the Staff in Priština and to Belgrade.⁵³⁴ The MUP Staff was also copied in dispatches sent by the SUPs directly to Belgrade, such as dispatches on combat operations.⁵³⁵ SUP Chiefs had the duty to call the MUP Staff Head every morning to report on the latest events.⁵³⁶ Special telephone lines existed to facilitate communication.⁵³⁷ These reporting procedures were not modified after the establishment of the Joint Command.⁵³⁸

218. Information was also relayed up the MUP chain-of-command to Belgrade. Lukić was required to report daily to the MUP Minister.⁵³⁹ Based on situation reports from the SUPs, the MUP Staff compiled and sent daily situation reports to, among others, the Office of the MUP Minister, the Head of the RJB, the Head of the RDB, and Assistant Ministers Lieutenant-General Stevanović and Major-General Misić.⁵⁴⁰ These reports included information on terrorist attacks, serious criminal offences, and other relevant daily occurrences.⁵⁴¹ This regular reporting fulfils one of the key criteria for a functional chain of command and shows that the MUP Staff was part of the system in place in Kosovo to control the work and engagement of the organisational units of the Ministry.

In accordance with its mandate, the MUP Staff co-ordinated the work of the SUPs and of special units during their engagement in combat actions

219. The MUP Staff co-ordinated the work of the SUPs and the engagement of special police units in combat actions.⁵⁴² This body adopted plans on the use of special units in combat activities and laid down the basic tasks and locations at which those units would be engaged.⁵⁴³ Goran Radosavljević, a member of the MUP Staff, was responsible for training special units.⁵⁴⁴

220. To facilitate co-ordination and for administrative purposes, PJP detachments were assigned to each of the seven SUPs in Kosovo,⁵⁴⁵ and detachment commanders were members of the SUP Collegiums.⁵⁴⁶ SUP chiefs were responsible for PJP units in the areas of their SUPs and, in some instances, were responsible for MUP-only operations falling within the area of one SUP.⁵⁴⁷ Command of special units, however, was more complex than simple subordination to a SUP. There

⁵³⁴ Cvetić,T.8045,8190-8193;Filić,T.23946.

⁵³⁵ Cvetić,T.8192-8193;P1989,p.4.

⁵³⁶ Cvetić,T.8081-8084,8147.

⁵³⁷ Cvetić,T.8084,8147-8148. Cvetić said that although NATO bombed the PTT building in March, telephone communications were later restored,T.8148.

⁵³⁸ Cvetić,T.8159-8160,8194-8195.

⁵³⁹ P1505,item.3;P948,pp.126-127. See Adamović,T.24993.

⁵⁴⁰ See e.g. P1228;P1100;P1693;M.Mijatović,T.22464.

⁵⁴¹ P1228.

⁵⁴² P948,p.41;Cvetić,T.8073-8075.

⁵⁴³ Cvetić,T.8074-8075.

⁵⁴⁴ P1505,item.1;Cvetić,T.8039;Joksić,T.21949,22025-22026;Adamović,6D1613,para.1.

⁵⁴⁵ P1074,p.36;P2528,item (c);P3130,para.10;Gavranić,T.22764-22766.

⁵⁴⁶ P3122,p.8;P1996,p.11;P1993,p.8,item.5.

⁵⁴⁷ K25,P2439,p.20.

were requirements for co-ordination with the VJ, operations covering an area encompassing more than one SUP, concurrent operations in more than one SUP, and operations involving other MUP special units, such as the SAJ and the JSO. Here the MUP Staff played a key role.

221. When combat actions were conducted, the MUP Staff determined the allocation of MUP units and assets.⁵⁴⁸ SUP units would submit requests for additional units to the MUP Staff.⁵⁴⁹ For example, during the course of a VJ-MUP action in Orahovac and Prizren municipalities on 25 and 26 March 1999, the Niš PJP unit operating in the Prizren SUP's area requested additional support, which was provided through the deployment of elements of the 23rd PJP units from the SUP Đakovica. Four companies from the SUP Đakovica were placed under the command of SUP Prizren for this action.⁵⁵⁰

222. While Defence witnesses claimed that the SUPs acted independently of MUP Staff,⁵⁵¹ the evidence shows that the MUP Staff had a direct impact on the work of the SUPs. For example, 6D773 is a dispatch sent by Lukić to the Peć and Đakovica SUPs instructing the SUPs to "send civilians from the Đurdevdan operation back to their places of residence." Adamović confirmed that only Lukić would have had the authority in the MUP Staff to issue such an order.⁵⁵²

223. On 2 November 1998, Lukić chaired a MUP Staff meeting attended by all SUP chiefs and PJP commanders. He addressed the recently-concluded KVM verification agreement and ordered SUP chiefs to inform the Staff of all terrorism-related events. He also informed those present that the Staff would take on the role of planning, while SUPs would return to their regular peace-time duties.⁵⁵³

224. At a MUP Staff meeting on 2 December 1998, Lukić instructed SUP chiefs to submit a plan for the prevention of terrorism by 7 December 1998.⁵⁵⁴ That these instructions were complied with is illustrated by the fact that after this meeting the Priština SUP Chief instructed the Glogovac OUP chief, Petar Damjanac, to prepare an anti-terrorist plan for his OUP. Damjanac submitted his plan for approval to his SUP on 4 December 1998.⁵⁵⁵ At a subsequent MUP Staff meeting of 21 December 1998, the Priština SUP Chief Petrić reported that the Glogovac prevention plan was being implemented.⁵⁵⁶ Other SUP Chiefs provided similar reports regarding their municipalities.⁵⁵⁷

⁵⁴⁸ K25,P2439,pp.20-21. *See also* P1990,p.3.

⁵⁴⁹ K25,P2439,p.20.

⁵⁵⁰ K25,P2439,p.21.

⁵⁵¹ Vučurević,T.23214;Bogunović,T.25156;Vojvonić,T.24149-24150.

⁵⁵² Adamović,T.25003;6D778.

⁵⁵³ P3130,paras.9-10.

⁵⁵⁴ P3122,p.8.

⁵⁵⁵ Damjanac,T.23792-23794;P3116.

⁵⁵⁶ P1991,p.4.

After hearing these reports, General Stevanović told those present “You made plans to combat terrorism and submitted them to the Staff. It is the assessment of the Staff that they are mostly being implemented.”⁵⁵⁸

225. The following excerpts from the minutes of MUP Staff meetings show that the MUP Staff had to approve the plans for the use of PJP units:

- At a MUP Staff meeting of 21 December 1998, General Stevanović, instructed SUP chiefs that “Broader actions towards terrorist bases should be planned by the Ministry Staff, however, the initiative should be with the Secretariats, who should make preparations and compile recommendations of the Activity Plan. All plans should be based on the principles of a police operation.”⁵⁵⁹
- At the MUP Staff meeting of 7 May 1999, General Stevanović stated that “After the end of some of the larger actions, such as the Budakovo-Jezerce one, each SUP will be expected to work independently on organising anti-terrorist actions in their own areas. The plan must be approved by the Staff and will be carried out /together with/ manoeuvre detachments.”⁵⁶⁰
- At a meeting of 11 May 1999, General Stevanović stated that “Every SUP and OPJP will establish a priority list of antiterrorist actions with detailed plans which will be approved by the Staff.”⁵⁶¹

226. Gavrančić, the SUP chief of Gnjilane, said he received instructional dispatches from the Staff about how his SUP should act.⁵⁶² In reference to P1993, he accepted that anti-terrorist plans were approved by the Staff, although he did not have personal experience of this.⁵⁶³ Filić, the Deputy Chief of Priština SUP, said that the Staff’s role was to assist the SUPs in complicated security situations.⁵⁶⁴

227. Defence MUP expert, Branislav Simonović, claimed that it was “mission impossible” to implement Stojiljković’s 16 June 1998 decision as the MUP rules and regulations would not have allowed the Staff to carry out its mandate.⁵⁶⁵ Simonović had no experience with the functioning of the MUP Staff in Kosovo. Prior to testifying in these proceedings as a police expert, he had never studied the work of the MUP in Kosovo. His knowledge of the MUP was in fact limited to

⁵⁵⁷ P1991,pp.4-7.

⁵⁵⁸ P1991,p.9.

⁵⁵⁹ P1991,p.10.

⁵⁶⁰ P1996,p.11.

⁵⁶¹ P1993,p.7.

⁵⁶² Gavrančić,T.22755-22756.

⁵⁶³ Gavrančić,T.22792-22793.

⁵⁶⁴ Filić,T.23986.

community policing.⁵⁶⁶ In preparing his expert report, he did not research or study how the Kosovo MUP Staff actually functioned in 1998 and 1999.⁵⁶⁷ His claim that MUP Staff could not have any influence over the work of MUP units in Kosovo⁵⁶⁸ is negated by the evidence examined above. Simonović's expert evidence is of little value and should be disregarded.

The MUP Staff co-ordinated, organised and managed the engagement of MUP units in joint combat actions with the VJ

228. The most significant change to the way in which the MUP Staff operated in Kosovo arose when the Joint Command was established in June 1998. The Joint Command co-ordinated the engagement of MUP units and of other armed organisations, such as the VJ, in combat operations.⁵⁶⁹ The Head of the MUP Staff, Lukić, was a member of the Joint Command and met regularly with the other members of the Joint Command, such as Pavković, to plan operations to be conducted jointly by VJ and MUP units in Kosovo.⁵⁷⁰ Once authority to proceed was issued by the Joint Command, they would each task their subordinates to provide the required units and to liaise with their respective counterparts in the VJ and MUP at the VJ brigade or PJP detachment level, where the ground level details of the plan would be finalised. Lukić's role was to ensure that Joint Command plans involving MUP units were carried out. He would determine units needed for specific actions and task his subordinates to provide the required personnel.⁵⁷¹

229. Đaković, the Head of the PrK Department for Operations, described how joint VJ-MUP actions were co-ordinated.⁵⁷² Đaković would liaise with a member of the MUP Staff, usually Adamović, to obtain information about the strength and location of MUP forces.⁵⁷³ Based on this information, the PrK Command drew up specific plans for joint actions. Đaković said that he could not have carried out his tasks without the assistance of Adamović and other MUP organs.⁵⁷⁴ Đaković would then provide the MUP Staff with an excerpt of the map of the action that pertained to MUP units to be engaged,⁵⁷⁵ which the PJP detachment commanders would use to prepare their own orders.⁵⁷⁶

⁵⁶⁵ Simonović, T.25520-25521,25534-25536,25545.

⁵⁶⁶ Simonović, T.25628-25629.

⁵⁶⁷ Simonović, T.25595.

⁵⁶⁸ Simonović, T.25600.

⁵⁶⁹ P948, p.36. *See also* Vasiljević, P2600, paras.47-49.

⁵⁷⁰ P948, pp.48-49, 72.

⁵⁷¹ Cvetić, T.8075,8080,8194-8195.

⁵⁷² Đaković, T.26392,26436.

⁵⁷³ Đaković, T.26397; Adamović, T.24978,25020; M.Mijatović, T.22438-22439.

⁵⁷⁴ Đaković, T.26397; M.Mijatović, T.22441-22442; P948, p.42.

⁵⁷⁵ Đaković, T.26393-26394,26398; M.Mijatović, T.22444; P948, p.84.

⁵⁷⁶ Đaković, T.26398.

230. According to Adamović, he distributed the excerpts of PrK maps to the specific units to be engaged in the actions.⁵⁷⁷ Adamović said that Lukić appointed him as the contact person to liaise with the PrK to carry out this task.⁵⁷⁸ After an action was completed, either the SUPs or the unit commanders would report directly to the Staff. This is how Adamović knew where units were located when he needed to inform the PrK.⁵⁷⁹

231. Cvetić confirmed that the MUP Staff forwarded orders to unit commanders participating in certain operations. Detachment commanders directly commanded their units and reported to the MUP Staff on the activities undertaken.⁵⁸⁰

232. Lukić explained that “planning of tasks when drafting documents necessary for carrying out, preventing terrorist groups or dispersing terrorist groups, in other words, planning only in the sense of creating maps, orders, engaging forces, that was done by the PrK and these tasks were carried out jointly by the army and the police.”⁵⁸¹ He said that the MUP Staff and all the commanders of specific units would receive extracts of the tasks to be carried out.⁵⁸² Operational commanders in charge of the action would report to the Staff on the fulfilment of the tasks assigned.⁵⁸³

233. Contrary to the assertions of Defence witnesses,⁵⁸⁴ the MUP Staff did not function merely as a “postbox” to pass communications through to MUP units. Given the system in place to coordinate joint combat actions, such actions could not have been carried out without the involvement of the MUP Staff. Đaković said that “the MUP staff and the Priština Corps command formed the Joint Command, because we dealt together with any issues related to coordination or concerted action.”⁵⁸⁵ He added that “the army commander would not allow the army units to move if this had not been co-ordinated fully regarding the support to the MUP.”⁵⁸⁶ Cvetić confirmed that Lukić was a member of the Joint Command. “As for the tasks discussed at the Joint Command, he was the person implementing those tasks via the staff. And then, in return, he would report on the activities of the staff to the Joint Command.”⁵⁸⁷

234. Although he didn’t have first-hand experience with the MUP Staff, K25 said that co-ordination with the VJ for operations in Kosovo was done at the level of the MUP Staff. He based

⁵⁷⁷ Adamović,T.24978;Đaković,T.26525;6D1618;Mijatović,T.22444.

⁵⁷⁸ Adamović,T.24978.

⁵⁷⁹ Adamović,T.25074-25078.

⁵⁸⁰ Cvetić,T.8193-8194.

⁵⁸¹ P948,p.42.

⁵⁸² P948,p.84.

⁵⁸³ P948,p.57.

⁵⁸⁴ Adamović,T.24979;Mijatović,T.22546.

⁵⁸⁵ Đaković,T.26392.

⁵⁸⁶ Đaković,T.26436-26437.

⁵⁸⁷ Cvetić,T.8080.

this assertion on the fact that the SUP boundaries did not correspond to the AORs of PrK brigades and “therefore coordination measures would logically have to occur above SUP and the most logical level would be the MUP Staff.”⁵⁸⁸

235. To ensure co-ordination at the ground level, the MUP Staff issued instructions requiring MUP units to liaise with their counterparts in the VJ in carrying out joint combat operations.⁵⁸⁹ According to Mijatović, the Deputy Head of the MUP Staff, co-ordination on the ground between the VJ and the MUP worked well.⁵⁹⁰ Orders drafted by the PrK that involved joint actions were addressed to the MUP Staff for implementation.⁵⁹¹ For example, on 20 April 1999, General Lukić passed on a copy to his subordinates (SUP Chiefs and commanders of special units) of an order from Pavković on the treatment of refugees. Lukić instructed his subordinates to get in touch with the commanders of the VJ.⁵⁹² Pavković’s order was addressed to the Commander of the PJP Staff.⁵⁹³

236. The Trial Record is replete with examples demonstrating that co-ordination existed between the MUP Staff and the VJ organs when conducting joint actions. For instance, as described in Section II(C)(2)(c), in the summer of 1998, the MUP took part in large-scale combat operations with the VJ in Kosovo. The minutes of the MUP Staff meeting of 22 July 1998 record that one of the issues on the agenda was “defining tasks in the implementation of the Global Plan.”⁵⁹⁴ At a meeting on 28 July 1998, attended by Minister Stojiljković and Rade Marković, Lukić reported that

The second stage of the global plan has been carried out, in accordance with the established schedule, with ten detachments. Actions were carried out in coordination with the Yugoslav Army (he gave a detailed explanation about the locations at which actions had been carried out and about [what] had been achieved showing axes of action and other things on a topographic map). He stressed that the next task was to liberate and capture Drenica.⁵⁹⁵

The actions in Drenica were carried out shortly thereafter. A UK diplomatic report dated 5 and 6 August of 1998 reported that the VJ and MUP conducted joint operations in the Drenica and Junik areas, which had resulted in wanton destruction of civilian areas, and that large MUP convoys were seen returning triumphant to Priština after these actions.⁵⁹⁶

⁵⁸⁸ K25,P2439,p.21 [REDACTED];P2527,p.41.

⁵⁸⁹ See e.g.P1989,p.4 (Stevanović) “Conduct co-operation on with the VJ through the commander on the ground and inform the Staff of any problems”;P1993,p.8 (Stevanović) “Co-operation with the VJ is carried out based on a map of military zones of responsibility. If co-operation is disrupted, submit a written report on the problems to the Staff HQ.”

⁵⁹⁰ Mijatović,T.22464.

⁵⁹¹ P2014 was sent “to the command of the MUP” and sets out tasks for the MUP. See also P2809,p.2.

⁵⁹² P2012.

⁵⁹³ P1766,p.2.

⁵⁹⁴ 6D798;Mijatović,6D1492,para.47.

⁵⁹⁵ P3121,p.3.

⁵⁹⁶ P686;Crosland,P2645,para.38.

237. In February 1999, the VJ and MUP leadership in Belgrade began planning large-scale combat operations in Kosovo. The MUP Staff held a meeting on 17 February 1999 which was attended by the highest MUP leadership: Stojiljković, Đorđević, Marković, and Stevanović. Milosav Vilotić, the then RDB co-ordinator for Kosovo, RDB department chiefs, SUP chiefs and PJP and SAJ detachment commanders were also present. At this meeting, the attendees addressed preparations and reactions in the event that NATO should decide to attack. Lukić reported that

A plan of the RJB /Public Security Department/ has been worked out to prevent and thwart entry of NATO troops in our territory. The Staff plans, when it is ordered, to carry out three mopping operations in the Podujevo, Dragobilja and Drenica areas and has allotted around 4,000 policemen, around 70 policemen of the operative /pursuit?/ group and around 900 police reservists. On Saturday, 20 February 1999, a meeting of the Staff will be held with all Police Unit Detachments commanders for further consultations about their engagement. Meeting have been held with all the RPO[...]⁵⁹⁷

The areas identified for these actions (Mališevo (Dragobilja) and Drenica) correspond to those envisaged in Lazarević's order of 16 February 1999 (P2808),⁵⁹⁸ thereby confirming co-ordination. Đaković confirmed that he gave Adamović a format of an order to assist members of the MUP in drafting their own order for the actions envisaged in P2808.⁵⁹⁹ Mijatović said that the PrK planned these actions and the MUP Staff furnished information on the units that were to be engaged. These actions were carried once the NATO bombing began.⁶⁰⁰

238. At the same 17 February 1999 meeting of the MUP leadership Stojiljković, the MUP Minister, told those present "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."⁶⁰¹

239. The offensive planned in February 1999 was implemented down both chains of command in late March 1999 through a series of Joint Command orders. Pursuant to these orders, and in furtherance of the goals of the JCE, VJ and MUP units carried out joint combat actions in late March 1999 in the areas of Orahovać, Suva Reka, and Velika Kruša;⁶⁰² Malo Kosovo (Vucitrn);⁶⁰³ Drenica (Srbica);⁶⁰⁴ and Bajgora area (Vucitrn/Kosovska Mitrovica),⁶⁰⁵ among other locations. As discussed in Section III(H), these actions led to the crimes alleged in the Indictment.

240. By April 1999, VJ and MUP units were conducting large-scale combat operations across Kosovo. The minutes of the MUP Staff for 4 April 1999 record the Chief of the Peć SUP making

⁵⁹⁷ P1990,p.1.

⁵⁹⁸ P2808,p.4.

⁵⁹⁹ Đaković,T.26389-26390;6D716.

⁶⁰⁰ Mijatović,T.22241-22242.

⁶⁰¹ P1990,p.3.P2808,p.14 and P1990,p.3 both refer to jamming OSCE/NATO communication systems.

⁶⁰² P2015.

⁶⁰³ P1967.

⁶⁰⁴ P1968;P2031.

⁶⁰⁵ P1975.

comments implying that combat operations had taken place in his AOR and more would occur in the areas of Ištok and Rugovo. Other SUP Chiefs and PJP commanders made comments from which it can be inferred that combat operations were widespread.⁶⁰⁶ General Stevanović and Šainović identified these operations as the first stage of anti-terrorist operations which was to end 4 April 1999.⁶⁰⁷

241. A 15 April 1999 Joint Command order directed the VJ and MUP to conduct combat operations in the areas of Jezerce and Budakovo.⁶⁰⁸ On 7 May 1999, preparations for the Budakovo-Jezerce operation were discussed at a MUP Staff meeting. Šainović commented that “After Operation *Jezerce*, there will no longer be a large terrorist stronghold, except for 30 to 40 smaller-scale strongholds numbering 500 to 700 terrorists in areas in which the Secretariats themselves will destroy and completely neutralise them.”⁶⁰⁹ On 9 May 1999, the PrK reported joint combat activities with the MUP in Budakovo village (549th Mtbr) and other localities.⁶¹⁰ On 11 May 1999, at a MUP Staff meeting, commanders of the 124th and 35th PJP detachments reported on the successful completion of the Jezerce operation.⁶¹¹

242. On 4 May 1999, Lazarević issued an order to PrK units to conduct an operation in the Bajgora area with MUP units, including the 35th PJP Detachment.⁶¹² At the 7 May 1999 MUP Staff meeting, Bogunović, the Deputy Chief of Kosovksa Mitrovica, reported on the Bajgora operation. At a subsequent meeting on 11 May 1999, Colonel Prljkević, the 35th PJP Detachment Commander, reported that “operation on Bajgora went well.”⁶¹³

243. On 12 May 1999, the 37th Infantry Brigade was conducting mopping up operations in the Srbica area.⁶¹⁴ Around the same time, at the MUP Staff, PJP unit commanders were reporting on operations to mop up KLA in Đakovica, Dulje, Srbica, Bajgora, and other parts of Kosovo.⁶¹⁵

244. To say, as the Lukić Defence does, that MUP Staff had no authority over MUPs units and was merely an auxiliary body is untenable. The evidence described above demonstrates that the MUP Staff carried out the tasks envisaged in Stojiljković’s 16 June 1998 decision. The MUP Minister provided the MUP Staff with a concrete mandate. Had Stojiljković not intended for the Head of the MUP Staff to exercise his mandate, he would not have renewed this mandate in

⁶⁰⁶ P1989,pp.1-2.

⁶⁰⁷ P1989,p.4.

⁶⁰⁸ P1976.

⁶⁰⁹ P1996,p.2.

⁶¹⁰ P2006,p.2.

⁶¹¹ P1993,pp.4-5. *See also* K25,P2439,p. 6.

⁶¹² 6D704;Savić,5D1392,para.19.

⁶¹³ P1993,p.4.

⁶¹⁴ P2007.

identical terms on 31 May 1999.⁶¹⁶ Stojiljković would have also not commended Lukić for excelling “in successful command and control of the MUP units engaged in the prevention of terrorism in Kosovo” when recommending him for promotion in May 1999.⁶¹⁷

(v) Co-ordination of the VJ and the MUP

245. According to Article 17 of the FRY Law on Defence, during a state of war, MUP units and organs carrying out combat assignments shall be subordinated to the VJ officer commanding combat operations.⁶¹⁸

246. Once the state of war was declared on 24 March 1999, the MUP did not submit to full subordination to the VJ for combat operations. Rather, MUP units engaged in joint combat actions on the basis of Joint Command decisions.⁶¹⁹ Between 18 and 20 April 1999, Ojdanić, Pavković and Lazarević issued orders on the subordination of the MUP to the VJ, indicating that up to that period, the subordination had not occurred.⁶²⁰

247. Although the subordination of the MUP to the VJ was not strictly adhered to, the evidence conclusively demonstrates that the VJ and MUP acted in close coordination during the Indictment period. The VJ planned and drafted combat orders (including Joint Command orders) and liaised with members of the MUP Staff to carry out joint tasks.⁶²¹ As described elsewhere in the brief, the *modus operandi* of combat operations involved both VJ and MUP participation.

248. Lazarević said that he participated in coordination meetings with members of the MUP Staff to “define precisely the coordination between the army and the police.”⁶²² VJ and the MUP officers would then go back to their own headquarters to draft their respective plans.⁶²³ PrK brigade commanders said that they coordinated combat actions with SUP chiefs and commanders of special MUP units on the ground.⁶²⁴ That coordination existed is further evidenced by the fact that, when combat actions were carried out, joint checkpoints were set up in the area of deployment of the

⁶¹⁵ P1993,p.5.

⁶¹⁶ P1811. This decision superseded the 16 June 1998 decision. P1811,p.2.

⁶¹⁷ 1D680.

⁶¹⁸ P985, article 17.

⁶¹⁹ Section II(C)(3)(b)(iii).

⁶²⁰ P1460;P1722;P1267.

⁶²¹ Đaković,T.26392,26436.

⁶²² P950,pp.227-229.

⁶²³ P950,pp.227-230.

⁶²⁴ Delić,T.19659-19660,19342-19343;Mitić,T.20850-20851;5D1390,para.36;Jelić,T.18866;Vojnović,T.24178-24179,24204-24205,24236.

units.⁶²⁵ These checkpoints were set up on the basis of an agreement between the MUP and the VJ.⁶²⁶ Coordination between the VJ and the MUP was essential to carry out the common plan.

D. The implementation of the JCE in 1999

249. Following the pattern that emerged in 1998, the JCE members implemented the common criminal purpose to modify the ethnic composition of Kosovo through the commission of crimes charged in the Indictment. Instead of searching for a peaceful settlement, JCE members prepared for the Spring offensive, in the course of which numerous crimes were committed by the forces of the FRY and Serbia.

1. Obstruction of negotiations with Kosovo Albanians

250. It was manifest from the events of 1998 that direct negotiations between the Kosovo Albanian and Serbian parties were unlikely to achieve any lasting settlement. Petritsch in particular thought there was a lack of sincerity in the Serbian efforts in negotiating a peaceful solution to the Kosovo conflict in 1998:

- In spring 1998, invitations to talks were sent to Kosovo Albanian representatives in the aftermath of the Jashari incident, in which “there was a whole family razed.”⁶²⁷
- On 11 March 1998, an invitation to talks was made just one day prior to the proposed date for the meeting.⁶²⁸
- In November 1998, Milutinović held several meetings with Kosovo Albanians who were not credible representatives of the region.⁶²⁹ The more credible representatives of Kosovo would only agree to meet with the FRY and Serbian authorities in the presence of international mediators.⁶³⁰ Such mediation, however, was rejected.⁶³¹

251. Commenting on the 1998 negotiations as a whole, Petritsch stated that what the Serbian government wrote in their declarations did not correspond to what actually happened on the

⁶²⁵ Lazarević, T.18015-18017; Stefanović, T.21742-21743; 5D84, item 5; Điković, T.19900-19901; 5D1031; 5D1032; Damjanac, T.23785.

⁶²⁶ 5D376; Lazarević, T.18017.

⁶²⁷ Petritsch, T.10786-10788.

⁶²⁸ 1D78; Petritsch, T.10775.

⁶²⁹ Petritsch, T.10816-10817.

⁶³⁰ Petritsch, T.10815.

⁶³¹ Petritsch, T.10819.

ground.⁶³² Tanić stated that the aim of the negotiation process was to provoke a war⁶³³ and that Milošević was never sincere about reaching agreement.⁶³⁴

252. The Rambouillet talks were the culmination of international pressure to bring the two sides together to arrive at a mutually agreed solution under the auspices of international mediators. Against the backdrop of an escalation of violence in Kosovo, including the incident at Račak, the Contact Group in London, on 29 January 1999, summoned the parties for further negotiations at Rambouillet in France.⁶³⁵ The parties would refine the draft proposals presented earlier by Hill, Petritsch and Mayorski, which contained elements of substantial autonomy for Kosovo while recognising the territorial integrity of the FRY. By issuing a list of non-negotiable principles at the outset of the conference, the Contact Group clearly indicated that it viewed the talks as a continuation of the negotiations conducted by the Contact group in 1998 and the talks proceeded on this basis.⁶³⁶ The talks were presided over by the British and French foreign minister. Over the course of the negotiations other high-ranking foreign officials attended the negotiations, including the Secretary of State of the United States and the German Minister of Foreign Affairs.

253. Initially there were obvious attempts on the part of the Serbian delegation to obstruct the proceedings. At the opening ceremony they refused to meet with the Kosovo Albanians claiming this was because of the presence of the KLA.⁶³⁷ Yet credible talks could not have taken place without the participation of the KLA. The Serbian delegation did later seek a face-to-face meeting with the KLA for the signing of the non-negotiable principles. However, given that these principles were included in the Contact Group's invitation to both sides, the offer to meet to sign the principles was intended to waste time and side-step the issues of immediate concern.⁶³⁸ The Austrian Embassy Final Report on the Kosovo Negotiations in Rambouillet was critical of the conduct of the FRY/Serbian delegation, describing the "cunning manoeuvres, delaying and stalling tactics on the part of the Yugoslav/Serb side which was only as co-operative as necessary, to justify criticism but not air strikes on the Federal Republic of Yugoslavia."⁶³⁹

254. Both Milutinović and a member of the Serbian delegation, Štambuk, on separate occasions threatened that there would be a massacre in Kosovo if NATO bombed.⁶⁴⁰ In addition, as discussed

⁶³² Petritsch, T.10804-10805; P556; 1D86; 1D202.

⁶³³ Tanić, T.6723.

⁶³⁴ Tanić, [REDACTED]; 1D44, para.34.

⁶³⁵ P979.

⁶³⁶ 1D18, p.414.

⁶³⁷ Petritsch, T.10844.

⁶³⁸ Petritsch, T.10846.

⁶³⁹ P2658; *see also*, P2560, p.9.

⁶⁴⁰ Petritsch, P2792, p.3; T.10727-10729, 10879, 10882; P562, p.2.

in Section II(D)(2) hereof, during this period the Serbs were in the process of a military escalation in Kosovo, reinforcing units in breach of the October Agreements.

255. Notwithstanding the manoeuvres and threats, there was strong pressure from the international mediators and some progress was achieved. After protracted negotiations both delegations finally indicated that they would be ready for a settlement, provided they were allowed to return to their respective homes for further consultations. The Interim Agreement for Peace and Self-Government in Kosovo, “Rambouillet Agreement”⁶⁴¹ was presented to the two sides on 23 February 1999, the intention being that this would form the basis of the Paris discussions two weeks later. According to Petritsch, at the conclusion of the Rambouillet Conference on 23 February it was assumed that apart from relatively minor areas requiring refinement, the political part of the accords was settled, namely that Kosovo’s autonomy would be enhanced while at the same time maintaining the sovereignty of the FRY, and therefore these matters did not need to be the subject of negotiation in Paris.⁶⁴² In his letter to Hill, Petritsch and Mayorski of 23 February, Marković referred to the “major progress[...] achieved in the talks in Rambouillet in defining political solution on substantial self-government of Kosovo and Metohija, respectful of sovereignty and territorial integrity of the Republic of Serbia and of the FR of Yugoslavia.”⁶⁴³ Similarly, in a public statement of 23 February, Milutinović exclaimed that, “we are in favour of a truly extended autonomy.”⁶⁴⁴

256. Notwithstanding these assurances, by the time their delegation left Rambouillet the Serbs had launched a campaign to denounce the negotiations.⁶⁴⁵ Petritsch stated that “obviously something happened” between the end of the Rambouillet conference on 23 February and the meeting in Paris on 15 March.⁶⁴⁶ This change in attitude was demonstrated by a joint letter from Milutinović and Marković to all members of the contact Group on 5 March. In the letter, Milutinović states that, an “unprecedented campaign has been set in motion to have the representatives of political parties of Albanian Separatist movement, even before 15 March and the continuation of the agreed talks, sign the text of the non-existent “Agreement” of 23 February.”⁶⁴⁷ Moreover, at a meeting on 8 March, attended by Milošević, Milutinović, Petritsch and Joschka Fischer, Petritsch described that he sensed a “total change in the attitude” of the Serbian side.⁶⁴⁸

⁶⁴¹ P494.

⁶⁴² Petritsch, T.10701-10702, 10933.

⁶⁴³ P625.

⁶⁴⁴ 1D586, p.3; Marković, T.13215-13216

⁶⁴⁵ Petritsch, P2792, p.5.

⁶⁴⁶ Petritsch, T.10758.

⁶⁴⁷ 1D99. *See also* 1D591, 1D592, 1D593, 1D594, 1D595.

⁶⁴⁸ Petritsch, P2793, p.22.

According to Petritsch, Milutinović referred to the agreement as “fake”, “in a very polemic manner”.⁶⁴⁹

257. Undoubtedly Milutinović went to the Paris talks in mid-March with instructions from Milošević to refuse acceptance of any aspect of the peace proposal and backtrack on any compromise they had agreed to in February. According to Petritsch, “it was clear that the negotiations were dead.”⁶⁵⁰

258. There was no good cause to justify the belligerent attitude of the Serbian side, which resulted in the derailment of the negotiation process. There was a suggestion by the Defence in cross-examination of Petritsch that there was unfairness in the procedure at Rambouillet as Chapters two, five and seven (the implementation chapters) of the Rambouillet Accords were handed over to the Serbian side on the morning of 23 February, the day when they were obliged to signify their willingness to proceed with the talks in Paris.⁶⁵¹ Thus Mayorski, the Contact Group member from Russia, refused to associate himself with Chapters two and seven. However, Petritsch testified that according to Christopher Hill, who was responsible for the preparation of the implementation chapters, they were actually delivered on 18 February.⁶⁵² In any case this was not good cause for reneging on the previous understandings of the Paris leg of the talks. As Petritsch explained, it was clear to all the parties that, the political framework having largely been agreed upon, it was necessary to make provisions for the implementation of any final agreement reached and that these Chapters were intended to be the subject of the Paris talks.

Unless everything is agreed, nothing is agreed, that is still the formula and I have to repeat it, but it was clear that we had finished negotiating this part and that we then in the next step go into the implementation chapters of the agreement, including the modalities and the invited international civilian and military presence in Kosovo, and that you need to keep in mind is the Contact Group statement with -- including Russia. That is very important to stress. There is no disagreement on the part of the Contact Group, that there is a civilian and a military part and the implementation issue is going to be negotiated in the second round of the talks.⁶⁵³

The Serbian delegation was therefore at liberty to put their concerns or objections to any of the elements in the implementation chapters on the agenda for further negotiations at the Paris round.

259. Another issue raised by the Defence is that the transparency of the talks and the Rambouillet Agreement were undermined by a “side letter” from the delegation of Kosovo to US Secretary of State Albright dated 23 February 1999. It stated in part: “First we acknowledge your view that the agreement allows and does not preclude a referendum in Kosova which will demonstrate the will of

⁶⁴⁹ Petritsch, P2793, p.25

⁶⁵⁰ Petritsch, P2792, p.5.

⁶⁵¹ Petritsch, T.10921.

⁶⁵² Petritsch, T10694, 10922. Marković in his testimony stated they had not received all of the chapters, even by 20 February (T.13200-13201) but Petritsch clarified this, saying they handed over the chapters on 18 February but the Serbian side formally refused to accept them (T.10925-10926.)

⁶⁵³ Petritsch, T.10757. *See also* P2814.

the people in Kosova[...]'⁶⁵⁴ Petritsch asserted that the three Contact Group negotiators were in no position to exercise any control over the discussions that individual foreign ministers had with members of the delegations. These documents were never part of the official Rambouillet process and were not a part of the Rambouillet Agreement.⁶⁵⁵ To attribute the failure of the Rambouillet talks to the side letter is a lame excuse; it is unavoidable that parties involved in complex negotiations such as those at Rambouillet will bring varying negotiating styles and will engage in discussions and consultations with interested parties if they deem them useful.

260. Hence the only basis for the disruptive posture of the Serbian delegation was that they intended to derail the negotiation process and destroy the possibility that it may bring about a peaceful resolution of the Kosovo crisis.

2. Preparation of the Spring offensive

261. While the Serb side made a show of negotiating at Rambouillet and Paris, plans were being made for an offensive in Kosovo. In early 1999, the VJ and MUP leadership in Belgrade began planning large-scale combat operations in Kosovo in the spring.

262. The deployment of large numbers of VJ and MUP units and their engagement in complex operations required advance planning by the VJ (Ojdanić) and MUP Ministry (Stojiljković, Đorđević, Marković, Stevanović) in Belgrade, and the Joint Command (Šainović, Pavković, Lazarević, and Lukić) in Priština. These operations resulted in the crimes alleged in the Indictment, especially the massive displacement of Kosovo Albanian civilians as VJ and MUP units swept through large parts of the territory where many of the Indictment sites are located.

263. The concerted nature of the military operations demonstrated the existence of a plan. The planning ensured that the large number of VJ and MUP units needed to achieve the objectives were employed in a coordinated manner. During the VJC on 21 January 1999, a plan of operation against the KLA during the spring was discussed in detail.⁶⁵⁶ On 17 February 1999, the MUP Staff held a meeting which was attended by the high level MUP leaders including MUP Minister Stojiljković, Đorđević, Marković, and Stevanović. Stojiljković said:

The Republic of Serbia is determined not to allow military forces on our territory. If they carry out their threats, they will issue an ultimatum and then conduct an aggression. They want to bring in their troops, but without any casualties. We are counting on phases of pressure. Within two or

⁶⁵⁴ ID18,p.467; Petritsch,T.10917-10919.

⁶⁵⁵ Petritsch,T.10917-10919. There is also no evidence that the Serbian delegation was aware of this side letter at the relevant time. Thus this issue amounts to nothing more than an *ex post facto* justification of the derailment of the talks.

⁶⁵⁶ P939,pp.24-26.

three days of an attack, we have to put our plans in motion and use the time to mop up the territory from terrorists.⁶⁵⁷

At this meeting, Lukić reported on MUP Staff plans on three mopping up operations in the Podujevo, Dragobilja and Drenica areas.⁶⁵⁸ The areas identified for these actions (Mališevo (Dragobilja) and Drenica) correspond to those envisaged in Lazarević's order of 16 February 1999 (P2808),⁶⁵⁹ thereby confirming that the Spring offensive engaged both the VJ and the MUP.

264. By late February 1999, VJ and MUP units conducted joint actions in several areas of Kosovo. K54 [REDACTED] testified that an operation was carried out by the VJ on 28 February 1999 in Ljubižda Has.⁶⁶⁰ 300 soldiers were deployed.⁶⁶¹ According to him, some soldiers returned [REDACTED] with the bodies of six Albanians.⁶⁶² The Albanians had apparently been caught in a VJ ambush and had been dead for three days.⁶⁶³ He also testified about a large-scale offensive carried out two weeks later in a village 7-8 kilometres south of the Prizren/Žur road, which he later confirmed to be Jeskovo.⁶⁶⁴ Approximately 1,000 VJ and 300 MUP personnel were involved in the operation which involved completely surrounding the village.⁶⁶⁵ Deliç ordered over the radio for firing to start as soon as the first shell hit the village.⁶⁶⁶ When the VJ and MUP units entered the town, Deliç gave the order to "[...]kill anyone you find there."⁶⁶⁷ The village was then "cleared" and K54 saw seven bodies in civilian clothes.⁶⁶⁸ PJP forces returned the next day to clear up the bodies and they confirmed that 30 terrorists had been killed in the operation.⁶⁶⁹ K82 also testified about this operation in Jeskovo, though he stated that it took place in February 1999 rather than March 1999.⁶⁷⁰

265. According to Drewienkiewicz, by late February/mid March 1999, the VJ and the MUP were "definitely on the offensive [...]"⁶⁷¹ Once the NATO bombing began, the Spring offensive was implemented down both the VJ and MUP chains of command through a series of Joint Command orders. Pursuant to these orders, and in furtherance of the goal of the JCE, VJ and MUP units carried out joint combat actions in late March 1999 in the areas of Donja Drenica;⁶⁷² Malo

⁶⁵⁷ P1990,p.3.

⁶⁵⁸ P1990,p.1.

⁶⁵⁹ P2808,p.4. See also 3D690,5D245 which precede P2808.

⁶⁶⁰ [REDACTED] P2883,p.4.

⁶⁶¹ [REDACTED] P2883,p.4.

⁶⁶² [REDACTED] P2883,p.4.

⁶⁶³ [REDACTED]; P2883,p.4.

⁶⁶⁴ [REDACTED]; P2883,pp.4-5.

⁶⁶⁵ [REDACTED] P2883,p.4.

⁶⁶⁶ K54,T.10505 (private session).

⁶⁶⁷ [REDACTED] P2883,p.4.

⁶⁶⁸ [REDACTED] K54, T.10508;P2883,pp.4-5.

⁶⁶⁹ [REDACTED] P2883,pp.4-5.

⁶⁷⁰ [REDACTED] K82,T.11747; P2863,para.6.

⁶⁷¹ Drewienkiewicz,P2508,para.190.

⁶⁷² P2031;P2042,pp.1-2;P2616,pp.1-9.

Kosovo;⁶⁷³ the Drenica sector;⁶⁷⁴ and Orahovać, Suva Reka, and Velika Kruša,⁶⁷⁵ among other localities. Joint Command orders issued on 22, 24, and 28 March 1999 evidence the implementation of this plan.⁶⁷⁶ The operations occurred in areas where the majority of ethnic Albanians were concentrated. Confirmation that those operations were carried out can be found in the war diaries and reports of the PrK brigades involved in the combat actions.⁶⁷⁷

266. By April 1999, VJ and MUP units were conducting large-scale combat operations across Kosovo. The minutes of the MUP Staff for 4 April 1999 record comments on widespread combat operations.⁶⁷⁸ Stevanović and Šainović identified these operations as the first stage of anti-terrorist operations which was to end 4 April 1999.⁶⁷⁹ During the VJC on 9 April 1999, Čurčin confirmed that a PrK operation with reinforcements to crush the KLA had been executed.⁶⁸⁰

267. On its face, the Spring offensive was a legitimate operation against the KLA. However, its true purpose was the commission of crimes against Kosovo Albanians in furtherance of the common purpose of the JCE. The NATO bombing campaign provided the perfect window of opportunity to the members of the JCE to carry out their plans. That the Spring offensive was a cover for the furtherance of the JCE is corroborated by a post operation analysis dated 25 April 1999 to the PrK Command where Điković, Commander of the 37th Infantry Brigade, complained that VJ tactics in Kosovo were like “using an elephant to kill a fly.”⁶⁸¹

3. The scale of crimes committed and the number of victims

268. The “crime-base” evidence shows that a plan must have existed. The numbers of ethnic Kosovo Albanians deported, the scale of destruction of ethnic Kosovo Albanian villages, the general pattern of killings and deportation observed throughout provinces in Kosovo, the military methods used, the concerted and organised way in which refugee columns were directed through and out of the province and the routine removal of identification documents demonstrate beyond doubt that the FRY and Serbian forces were implementing their actions following a common plan.

⁶⁷³ P1966;P1967.

⁶⁷⁴ P1968;P2043,p.1;P2045,p.1.

⁶⁷⁵ P2015;P1981;P1995.

⁶⁷⁶ P1966;P1967; P2031; P1968; P1969; Lazarević, T.18619.

⁶⁷⁷ P2042;P2616,pp.1-9;P2043,p.1;P2045,p.1;P2046,pp.1-2;Jelić, T.19028-19031;6D231 (map of Suva Reka); IC-144 (map of Suva Reka showing areas of deployment in accordance with P1969).

⁶⁷⁸ P1989,pp.1-2.

⁶⁷⁹ P1989,p.4.

⁶⁸⁰ P929, p.11.

⁶⁸¹ P2591,p.2.

269. An estimated 10,000 Kosovo Albanians were killed and about 800,000 Kosovo Albanians were forced to leave Kosovo in the Indictment period.⁶⁸² The scale of crimes committed and the sheer numbers of crime victims could not have resulted from individual acts of violence committed randomly by individual members of the FRY and Serb forces. Such crimes were the consequence of a carefully planned and executed concerted campaign against the ethnic Kosovo Albanian population in Kosovo. The continued use of the heavy-handed tactics used in Kosovo in 1998 and use of armed groups with known criminal propensity

270. Despite knowledge of the commission of crimes against Kosovo Albanians as a result of the heavy-handed tactics used in Kosovo in 1998, the accused took no effective actions to adjust the combat tactics. The accused failed to take any steps that officials in their positions would and should normally have taken in response to the reports they received. For instance, investigations of the units concerned, the immediate withdrawal of units involved in crimes from the operational positions, or the breaking up of such units and redeployment of its members to different units and the replacement of the commanding officer would have been reasonable responses to concerns that discipline is failing or units are committing crimes.

271. The accused were fully aware of the criminal propensity of paramilitary formations operating with the forces of the FRY and Serbia. Paramilitaries played an important role in forcibly expelling the ethnic Albanian population from Kosovo.⁶⁸³ Many notorious groups of paramilitaries that had been active in the Bosnian and Croatian conflicts came to support the Serbian cause in Kosovo in 1998 and during the Indictment period.⁶⁸⁴ Despite being aware of their criminal propensity, the accused not only tolerated the presence of paramilitaries in Kosovo, but also actively engaged them in combat actions with VJ and MUP units.

4. Steps were not taken to punish those responsible for crimes committed in Kosovo

272. The accused deliberately refrained from punishing perpetrators who had committed crimes against the Albanian population because they intended these crimes to occur. This created an environment permissive of criminal behaviour which encouraged and instigated the crimes charged in the Indictment in order to implement the common purpose.

The military justice system focused on crimes against the VJ

⁶⁸² P1506, pp.8, 10-11; P2438, p.4.

⁶⁸³ Section III(F).

⁶⁸⁴ Gajić, T.15336, T.15371; Crosland, T.9771, Kosovac, T.15859; Vasiljević, T.8709; 3D1116; P1902, para.1; P2224, para.49, 67.

273. There were very few investigations and prosecutions for crimes against civilians during the Indictment period. In September 2002, the Federal Ministry of Justice reported that only seven VJ members were charged with rape or other sexual assaults committed in 1999. All of them were privates— high-level VJ members were not prosecuted.⁶⁸⁵

274. The VJ military justice system focused on crimes against the VJ by its members. The VJ regularly punished cases of failure to respond to call up and evasion of military service, but failed to prosecute crimes against civilians. For example:

- Reports of the Third Army Command Organ for Legal Affairs on work of the military prosecutor between 23 April 1999 and 30 May 1999 show that investigations and prosecutions were limited to minor offences, in particular violations of military discipline.⁶⁸⁶
- A report on criminal proceedings conducted before war-time military courts of the Command of the PrK dated 15 May 1999 referred to cases against 87 members of the VJ. There was only one conviction for murder, while all other cases concerned mainly crimes committed against the VJ, such as desertion, failing or refusing to obey orders, with a few cases concerning theft and robbery.⁶⁸⁷
- According to a SC Staff report dated 21 June 1999, 88 per cent of the crimes investigated were for the crime of wilful abandonment and desertion. Only 12 per cent were perpetrators of “other crimes.”⁶⁸⁸ Such “other crimes” involved mainly theft in the VJ and against civilians, with a few incidents of rape and “crimes against limb and life.”⁶⁸⁹
- In April 2002, the VJ reported that between 1 June 1998 and 27 June 1999, criminal proceedings were initiated against 305 individuals. Of these, the majority were charged with property crimes; only 38 investigations were initiated for crimes such as murders, rape and violations of international law.⁶⁹⁰ This is confirmed by the OSCE Report on War Crimes Before Domestic Courts dated October 2003. The report stated that the Serbian judiciary had only tried few members of the security forces for serious crimes such as murder or war crimes.⁶⁹¹

⁶⁸⁵ P845.

⁶⁸⁶ P1912;P1939;P1940;P1941.

⁶⁸⁷ P1182.

⁶⁸⁸ P953;P2826;Gojović,T.16743-16744. *See also* P962.

⁶⁸⁹ P953;P2826;Gojović,T.16743-16744.

⁶⁹⁰ P829;P830.

⁶⁹¹ P846,p.47.

275. Lakić Dorović experienced this atmosphere of impunity while serving as a military prosecutor at the Priština Military District. He testified that he was repeatedly obstructed by VJ security organs while attempting to conduct investigations and criminal proceedings in relation to crimes committed by the VJ against civilians. This included the disappearance and theft of files from court.⁶⁹²

The MUP prosecuted very few cases of crimes against civilians

276. The MUP's letter to the OSCE dated 12 May 2003 shows that MUP investigations and prosecutions of crimes against civilians committed by the MUP were very limited.⁶⁹³ The OSCE reported that during 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."⁶⁹⁴ The few investigations conducted against Serbian police or security forces were initiated only because the public had learnt about the crimes and the MUP had no choice but to conduct investigations.⁶⁹⁵

277. By failing to take adequate steps to prevent their subordinates from committing crimes or to punish them for the crimes they had committed, the accused created an atmosphere of impunity which encouraged and instigated the crimes charged in the Indictment with a view to implement the common purpose.

5. Investigations obstructed and crimes concealed

278. The objectives of the JCE involved the commission of numerous murders which naturally raised the question of the disposal of the bodies. JCE members engaged in extensive operations to conceal the bodies of their victims and to prevent adequate investigations of crime sites where these bodies were unearthed.

(a) It was planned at a high level

279. The operations to hide murdered civilians were planned and coordinated at a high level. In March 1999, Milošević held a meeting attended by Stojiljković, Đorđević, and Marković. Đorđević raised the issue of clearing up the terrain in Kosovo and Milošević ordered Stojiljković to take

⁶⁹² Dorović, P2671, paras. 27, 37-38, 52-53.

⁶⁹³ P831.

⁶⁹⁴ P846, p. 13.

⁶⁹⁵ P846, p. 13.

measures to remove all traces which could indicate the existence of the evidence of the crimes committed.⁶⁹⁶

280. In order to carry out the task, the problem of clearing up the terrain in Kosovo was discussed at a meeting of the collegium of the Republic of Serbia MUP. The aim was the removal of the remains of civilian victims who could become potential objects of ICTY investigations.⁶⁹⁷ Stojiljković ordered Đorđević and Ilić to dispose of the bodies.⁶⁹⁸ Ilić went to Kosovo to carry out this task,⁶⁹⁹ while Đorđević made arrangements for the disposal of the bodies once they arrived in Serbia.⁷⁰⁰ The evidence shows that Lukić, as head of the MUP Staff for Kosovo, also played a key role in these activities.⁷⁰¹

281. Obrad Stevanović in his work notebook made a record of another high level meeting in Milošević's office attended by Stevanović and Šainović in May 1999, where Milošević again discussed task of "Mopping up the terrain." The section in the notebook where Milošević spoke, commences: "no corpse, no crime."⁷⁰²

(b) Unearthing Graves in Kosovo

282. Bodies that had initially been buried throughout Kosovo were disinterred by MUP officers and civilians from both mass and individual graves and loaded onto trucks to be transported to places where they were better concealed.⁷⁰³ The evidence of this activity include: 1) over one hundred bodies of civilian men, women, and children were unearthed from two mass graves at a military firing range outside Prizren;⁷⁰⁴ (2) twenty bodies of civilian men and women were exhumed from the garbage dump in Suva Reka;⁷⁰⁵ (3) over one hundred people were exhumed from a mass grave near the Bistražin Bridge;⁷⁰⁶ (4) several weeks before the end of the war, MUP dug up over one hundred individual graves at the public cemetery in Brekovac;⁷⁰⁷ (5) MUP exhumed

⁶⁹⁶ [REDACTED] P567.

⁶⁹⁷ P567.

⁶⁹⁸ [REDACTED] P567.

⁶⁹⁹ Vasiljević, P2589, pp.17-18.

⁷⁰⁰ Golubović, T.7412-7415; K84, T.5202-5203 (closed session).

⁷⁰¹ See Section IV(C)(6)(a)(i)(3).

⁷⁰² P1898, p.106. Vasiljević, T.8828-8829; P2600, p.20, para.72.

⁷⁰³ K72, [REDACTED] T.5324-5334; IC86; Gjogaj, P2317, pp.1-2,4; T.3727-3740; IC42; P120; P2551, paras.10-21.

⁷⁰⁴ Gjogaj, P2317, pp.1-2; T.3727-3737, 3739-3740; IC42; P120.

⁷⁰⁵ Gjogaj, P2317, p.4; T.3737-3739.

⁷⁰⁶ K72, [REDACTED] T.5324-5327; P2551, paras.10-15.

⁷⁰⁷ K72, [REDACTED] T.5328-5332; IC86; P2551, paras.16-18.

roughly ten individual graves in the village of Guška.⁷⁰⁸ Many of the bodies were transported vast distances; over 800 were reburied in clandestine mass graves in Serbia.⁷⁰⁹

(c) The Burial Sites in Serbia

283. In April 1999, one of these trucks containing over eighty bodies of ethnic Albanian civilian men, women, and children was discovered in the Danube River in Serbia.⁷¹⁰ Đorđević directed the local MUP and Bor SUP to prepare the bodies to be transferred.⁷¹¹ The bodies were taken to Batajnica by MUP drivers and buried in SAJ firing range at the *13 Maj Centre* by MUP employees.⁷¹² In accordance with Đorđević's orders, the truck was hidden then destroyed with explosives.⁷¹³ The case was noted to be a state secret and closed.⁷¹⁴

284. The matter escaped public scrutiny until May 2001 when a magazine published an article about the discovery of the refrigerator truck containing bodies in the Danube.⁷¹⁵ [REDACTED]

[REDACTED] These mass graves contained human remains of over 800 bodies⁷¹⁹ of Kosovo Albanians killed during the Indictment period and include individuals whose names appear on schedules to the Indictment.⁷²⁰ There was evidence of attempts to burn the bodies at all the grave sites.⁷²¹

285. Numerous truckloads of bodies from Kosovo were buried in mass graves throughout the *13 Maj Centre* SAJ training grounds at Batajnica.⁷²² The trucks had to pass through both a VJ and a

⁷⁰⁸ K72, [REDACTED] T.5333-5334;P2551,paras.19-20.

⁷⁰⁹ Fulton,T.5019,5032;Stereberg,T.8215-8216; [REDACTED] Dunjić,T.5248,5253,5256,5259,5264;P942,pp.24-25; P2410,pp.6-7;P2389,paras.13-14;P2405,pp.6,9,13;P2476,pp.19,22,24-29,32-34,37,38;P139-P156,P159;P168;P182; P2395-P2407.

⁷¹⁰ Golubović, T.7411-7412;Radojković, T.7432-7433,7436-7438;P565-P568; P594-P603.

⁷¹¹ Golubović,T.7405,7409-7410,7412-7413,7415;Radojković, T.7439-7440,7452.

⁷¹² Protić,T.11308,11315,11320-11322,11354,11384;Radojković,T.7448-7452;Golubović,T.7412-7414,7416,T.7423.

⁷¹³ Golubović,T.7416-17;Radojković,T.7441-7443,7452-7454;Protić,T.11320-11322; P600;P603.

⁷¹⁴ [REDACTED] P567,p.3.

⁷¹⁵ [REDACTED] Golubović,T.7421,T.5184-5185;P565;P566. There had been a similar article in the same publication on 15 September 1999, but no action was taken as a result of it.

⁷¹⁹ Fulton,T.5019,5032;Stereberg,T.8215-8216; [REDACTED] Dunjić,T.5248,5253,5256,5259,5264; P942,pp.24-25; P2410,p.6-7;P2389,paras.13-14;P2405,p.6,9,13;P2476,pp.19,22,24-29,32-34,37,38;P139-P156,P159;P168;P182; P2395-P2407.

⁷²⁰ Alonso,P2486;Stereberg,T.8203,8217,8225-8226;Baraybar,P2794,paras.16-17;P139-P188;P213-P226;P942-P944;P2476; [REDACTED] P2375.

⁷²¹ Aleksandrić,P2412,paras.9,12;Dunjić,T.5256,5259;P942,pp.22-23;P2410,pp.4-5;P2476,pp.20-21,24-26,28,29,paras.53,55,58-59,61,62,65;P2405,p.6,9,13;P139-P156;P182.

⁷²² [REDACTED] K88,T.10448-10450; [REDACTED] Protić,T.11323,11328; P2816,pp.4-5;P2824,p.18; P2476,pp.28-29,paras.60,62.

MUP checkpoint, suggesting that the MUP and VJ were aware of the mass burials.⁷²³ At Batajnica, the bodies were placed by MUP officers in mass graves on the firing range itself.⁷²⁴ After the burials were completed, the grounds were remodelled in order to conceal the graves.⁷²⁵ In total, over 700 Kosovo Albanian bodies were exhumed; among them were victims from Meja, and Suva Reka.⁷²⁶

286. The remains of approximately seventy-five bodies of Kosovo Albanians, including the victims of the Izbica massacre, were exhumed near the SAJ training grounds in Petrovo Selo.⁷²⁷ An overwhelming majority of the individuals were civilians; only four bodies wore uniforms.⁷²⁸ Multiple individuals had blindfolds and ligatures tying their wrists or ankles together.⁷²⁹

287. In April 1999, bodies were found floating in the Drina River and in a refrigerator truck nearby. The process that ensued was strikingly similar to the incident of the truck found in the Danube. Again Đorđević, or another high level MUP official in Belgrade, ordered the Užice SUP to collect and bury all the bodies in a mass grave.⁷³⁰ There was a minimum of forty-eight individuals⁷³¹ all of whom met their deaths by gunshot wounds.⁷³² There was also evidence of an attempt to burn the bodies.⁷³³

(d) The victims were Kosovo Albanians who had been murdered during the Indictment period

288. The bodies buried in Serbia were exhumed and examined beginning in 2001. The Belgrade Forensic Institute conducted the initial forensic analysis.⁷³⁴ The Institute of Toxicology in Madrid, Spain, performed DNA analysis on a number of the Batajnica remains and established that they were civilian victims from Suva Reka.⁷³⁵ The International Commission on Missing Persons (ICMP) also performed DNA analysis which resulted in the positive identification of the majority of the victims.⁷³⁶ The Office on Missing Persons and Forensics, a department of UNMIK (OMPF), conducted forensic inspections and established the cause of death, issued death certificates, and

⁷²³ [REDACTED] Dunjić, P2389, para. 5.

⁷²⁴ [REDACTED] T.11817; P588; P589.

⁷²⁵ P2476, pp. 26, 29, paras. 54, 66.

⁷²⁶ Alonso, T.6664, 6680-668; P2486; Deda T.1402; Protić, T.11308, 11315, 11320-11322, 11354; Radojković, T.7448-7452; Golubović, T.7412-7414, 7416, 7423.

⁷²⁷ Sterenberg, T.8203, 8216; P2476, pp. 31, 34, para. 17; [REDACTED]

⁷²⁸ P2476, p. 34, paras. 16-19.

⁷²⁹ P2476, pp. 33-35, paras. 14-15, 20, 23.

⁷³⁰ K84, T.5202-5203 (closed session); [REDACTED].

⁷³¹ [REDACTED] Sterenberg, T.8216; P2476, pp. 37, 38, paras. 1, 18.

⁷³² P2476, p. 40, para. 19.

⁷³³ P2476, p. 40, paras. 21-22.

⁷³⁴ Baraybar, P2794, paras. 16-17, 32-38; pp. 24-66; P943; P944; P2394; P2454.

⁷³⁵ Alonso, T.6664, 6680-668; P2486.

⁷³⁶ Sterenberg, T.8203, 8217, 8225-8226; [REDACTED] P2476, P2375.

finally returned the remains to surviving family members in Kosovo.⁷³⁷ In respect to cause of death, Jose-Pablo Baraybar of the OMPF found that they were overwhelmingly the result of gunshot injuries inflicted on persons that were not participating in combat activity.⁷³⁸ The inescapable inference is that forces of the FRY and Serbia murdered these persons during the execution of the JCE.

289. The copious evidence relating to the circumstances of the exhumation of these human remains, their identification including by DNA analysis, post mortem examinations and evidence of the murder or the dates the victims were reported missing in Kosovo is summarized in a chart submitted by the Prosecution which is attached hereto as Annex C.

(e) Further evidence of attempts to conceal crimes

290. The clandestine mass graves in Serbia are not the only attempt to hide evidence of the murders. In many municipalities, bodies were burned after they were killed.⁷³⁹ For example, in Trnje, murdered civilians were hidden in a small mass grave.⁷⁴⁰ Civilians killed in Suva Reka, were first hidden in a firing range outside Prizren before they were reburied in Batajnica, Serbia.⁷⁴¹ The debris and human remains from the Batusha barn massacre in Mala Kruša were dynamited and then disposed of in the Drina river.⁷⁴² In Ćirez and Gornja Klina, Srbica bodies were thrown into wells.⁷⁴³ In Kotlina, Kačanik municipality, victims were herded into wells and shot; explosives were then used to disguise the presence of bodies.⁷⁴⁴ The discussion of the crime base evidence covers many other examples of this activity.

6. The rewards for those supportive of the objectives of the JCE

291. The participants in the JCE were rewarded by Milošević for carrying out the goals of the JCE. As a result of their loyalty to Milošević and their adherence to his political aims, they gained authority and power. Many commanders and senior officers of the VJ and the MUP, as well as those whose units implemented the goals of the JCE, were promoted and/or commended for their actions in Kosovo.

⁷³⁷ Baraybar, P2794, pp.2-7, 25-26; T.11002-11006, T.11020-11022; 6; P943, P944, P2394, P2454, P2798.

⁷³⁸ Baraybar, T.11015-11019; P2794, p.38-39.

⁷³⁹ See e.g. Baccard, P1809, pp.37-39; Deda, T.1415:3-12; Popaj, P2446, p.10; T.5677;

Hoti, T.4151, 4161; Kadriu, P2377, p.13, para.67; Avdyli, T.4374-4375; Shabani, P2263, p.4; Pnishi, P2236, p.5.

⁷⁴⁰ [REDACTED] K82, [REDACTED] T.11747, 11752-11753.

⁷⁴¹ Gjogaj, 3739:12-3740:5 P2317; K83, T.3955-3959; Berisha, T.3611-3614; P133, p.6.

⁷⁴² Latifi, T.4965-4966; Ramadani, T.4297-4299; Baccard, T.10118; P2747; P1809; P110; P100-P102; P110; P112; Avdyli, P2341; T.4373-4375, 4377-4379; P2342.

⁷⁴³ [REDACTED]; 5D726, p.9; P383-P385; [REDACTED] P2548.

⁷⁴⁴ Loku, T.51-52; P2296, p.6.

292. Milutinović remained the President of Serbia until 29 December 2002. Šainović kept his post of Deputy Prime Minister of the FRY until a new government was formed in 2000.⁷⁴⁵

293. Ojdanić was appointed Federal Minister of Defence and Pavković was promoted to replace Ojdanić as Head of the VJ General Staff in February 2000.⁷⁴⁶ Lazarević replaced Pavković as commander of the Third Army in March 2000. Lazarević was promoted to Colonel General in December 2000. In early 2002, he was appointed to the VJ General Staff as Assistant for Ground Forces.⁷⁴⁷ Every commander and many senior officers supporting combat unit commanders (e.g. Chiefs of Staff) from the Chief of the VJ General Staff through the VJ chain of command to Brigades in Kosovo, was promoted and/or commended for their roles in Kosovo.⁷⁴⁸

294. Similarly, in the MUP, key MUP officials were commended for their participation in the 1999 Kosovo conflict, including: the Head of the RJB, Đorđević, and the Head of the Police Administration, Stevanović, PJP commanders, SUP chiefs, and MUP Staff members.⁷⁴⁹ Lukić was promoted to the rank of Lieutenant General in May 1999.⁷⁵⁰ He was awarded the Order of the Yugoslav Flag of the First Degree by Milošević on 7 July 1999 and was later appointed Assistant Minister and Chief of the RJB in January 2001.⁷⁵¹

295. As described elsewhere in the brief, many participants in the JCE attained the positions they held during the Indictment period by their demonstrated loyalty to Milošević and their willingness to implement measures to achieve the objectives of the JCE.

III. THE CRIMES

A. Existence of an armed conflict

296. An armed conflict between the KLA and armed forces of the FRY and Serbia existed on the territory of Kosovo during the Indictment period. In addition, from 24 March 1999 to 20 June 1999, a state of armed conflict existed between the forces of the FRY and Serbia and NATO.

⁷⁴⁵ Order on Agreed Facts, pp.10,12.

⁷⁴⁶ Order on Agreed Facts, pp.13,14.

⁷⁴⁷ Order on Agreed Facts, p.14.

⁷⁴⁸ P1018.

⁷⁴⁹ P1368.

⁷⁵⁰ 1D680.

⁷⁵¹ P1368;P1528;P1609;P948, pp.12-13.

297. The KLA was established to conduct an armed struggle to achieve the independence of Kosovo.⁷⁵² In 1997 and 1998, the KLA trained in Albania and smuggled weapons from Albania across the state border into Kosovo.⁷⁵³

298. By April 1998, a conflict existed between the KLA and the forces of the FRY and Serbia in Kosovo.⁷⁵⁴ By mid-July 1998, the KLA controlled about half of the territory of Kosovo.⁷⁵⁵ The conflict escalated in 1999.

299. At least from the spring of 1998 onwards, the KLA was a well-organised military force.⁷⁵⁶ The KLA had a General Staff,⁷⁵⁷ a formal structure with a clear chain of command where commanders were able to issue orders,⁷⁵⁸ rules setting out the military code of conduct,⁷⁵⁹ and distinctive insignia.⁷⁶⁰ The KLA also possessed uniforms, KLA emblems, logos and its own flag,⁷⁶¹ and had developed a communication system.⁷⁶²

300. The KLA was organized into seven zones of responsibility and had commanders and deputy commanders in charge of each of these zones.⁷⁶³ KLA Zone Commanders had a duty to report to the KLA General Staff.⁷⁶⁴

301. Forces of the FRY and Serbia consisted principally of the VJ and the MUP.⁷⁶⁵

B. Nexus between the armed conflict and the crimes

302. The evidence establishes that the crimes charged were closely related to the armed conflict that existed in Kosovo during the Indictment period. The perpetrators were members of the forces of the FRY and Serbia. The victims were not taking active part in hostilities at the time of the crimes.

C. The widespread and/or systematic nature of the attack

303. Each of the crimes against humanity charged formed part of a widespread and/or systematic attack directed against a civilian population. The forces of FRY and Serbia attacked ethnic Albanian

⁷⁵² Zyrapi, T. 6018.

⁷⁵³ 3D738; Zyrapi, T. 5980-5981.

⁷⁵⁴ Zyrapi, T. 6017.

⁷⁵⁵ Zyrapi, T. 6017-6018.

⁷⁵⁶ P2449; Zyrapi, T. 5934-5935.

⁷⁵⁷ 3D990; Zyrapi, T. 5932-5935, 5941-5942.

⁷⁵⁸ 4D38; 4D40; 6D77; P2457; Zyrapi, T. 5969.

⁷⁵⁹ P2449.

⁷⁶⁰ Zyrapi, T. 5975-5976.

⁷⁶¹ P2449; Zyrapi, T. 5975-5976, 6269-6270; P1093, p. 2.

⁷⁶² Zyrapi, T. 5981-5982.

⁷⁶³ Zyrapi, T. 5967; P2469; IC107.

⁷⁶⁴ P2449; P2461; Zyrapi, T. 5946-5947.

⁷⁶⁵ See Section II(C)(3)(a).

villages throughout the province of Kosovo during the Indictment period. The Kosovo Albanian civilian population was targeted. The evidence establishes the widespread mistreatment, killings and expulsions of Kosovo Albanian civilians, resulting in a large number of victims.

304. The attack on the villages throughout the province of Kosovo was conducted in a systematic way. Forces of FRY and Serbia shelled village after village, burnt houses, killed livestock, mistreated, expelled and killed ethnic Albanians civilians. These attacks followed a pattern of crime. The repetition of similar criminal conduct during the Indictment period was not accidental. It was the direct result of high-level planning by members of the JCE.

D. Civilian population

305. The attack was directed against the Kosovo Albanian civilian population as such. Kosovo Albanian civilians, including women, children and elderly villagers, were systematically mistreated, killed and expelled from their villages. The Kosovo Albanian civilian population, and not the KLA, was the primary, and by no means incidental, target of this attack.

E. The acts of the accused formed part of the attack and the accused were aware that their acts formed part of the attack

306. The accused planned and implemented the attack on the Kosovo Albanian population and were among the main participants in the JCE, the purpose of which involved carrying out this attack. As a result, their acts, by their nature and consequences, formed part of this attack. The accused were clearly aware of the attack on the civilian population and that they were carrying out the crimes against humanity charged in furtherance of it.

F. Discriminatory intent for persecutions

307. The crimes committed against Kosovo Albanians pursuant to the campaign were carried out with the intent to discriminate on racial, religious and/or political ground within the meaning of Article 5(h) of the Statute. The general pattern of crime establishes the persecutory and discriminatory nature of these attacks.

G. Pattern of crimes

308. Once the NATO bombing began on 24 March 1999, the forces of the FRY and Serbia launched a campaign to forcibly expel the Kosovo Albanian population from Kosovo. This campaign resulted in killings, deportation, forcible transfers, cruel treatment, looting, the destruction of cultural property and sexual assaults.

309. VJ and MUP units acted with a high degree of coordination during the expulsions. VJ forces would first shell a village, and then MUP units would enter, going from door to door expelling residents. In many municipalities, including Peć,⁷⁶⁶ Priština,⁷⁶⁷ Đakovica,⁷⁶⁸ Kosovska Mitrovica,⁷⁶⁹ Gnjilane,⁷⁷⁰ and Suva Reka,⁷⁷¹ Kosovo Albanian residents were given ultimatums to abandon their homes within several minutes, or be killed. In Srbica the VJ gave the local Serbs 24 hours to expel the Albanian refugees who had been staying in the village, or face death themselves.⁷⁷²

310. The killing of civilians was a key component of the campaign. The forces of the FRY and Serbia killed numerous Albanian civilians to expedite the expulsions through intimidation and fear. Civilians would quickly flee an area after witnessing or hearing about the murders of family members⁷⁷³ or neighbours.⁷⁷⁴ Several VJ insiders testified that they were ordered to kill civilians, and did so regardless of the victims' age or sex.⁷⁷⁵ Prominent Kosovo Albanians were particularly targeted.⁷⁷⁶ The victims of the murders charged were persons taking no active part in hostilities.

311. The refugees would frequently be channelled to transit areas from which the forces of the FRY and Serbia would organize the expulsions. Trains, buses and trucks were arranged in different municipalities to transport refugees to border crossings. In Priština and Uroševac, the refugees were herded onto trains and transported to the Macedonian border.⁷⁷⁷ In Peć, the MUP seized buses from a private company and drove the refugees to the Albanian and Montenegrin borders.⁷⁷⁸ In Srbica, local Serbs organized buses for the refugees pursuant to VJ orders.⁷⁷⁹ Many refugees travelled in their own vehicles or walked for days to reach border points.

312. During the expulsions, forces of the FRY and Serbia committed the following acts:

- Looted and burnt property belonging to the Kosovo Albanian population. The widespread destruction was intentional. Numerous homes, schools, and buildings were severely damaged or destroyed in villages where there had been no fighting.⁷⁸⁰ Serb homes remained

⁷⁶⁶ Konaj,P2372,p.3.

⁷⁶⁷ Bala,P2262,p.7.

⁷⁶⁸ Haxhibeqiri,T.1169.

⁷⁶⁹ Hajrizi,P2320,p.4.

⁷⁷⁰ Shabani,P2263,p.3.

⁷⁷¹ H.Berisha,P2326,p.3.

⁷⁷² Morina,P2523,p.77.

⁷⁷³ See e.g. Hyseni,P2270,pp2-3;Raka,P2301,para.22;T.3526-3527.

⁷⁷⁵ K73,T.3327,3382(closed session);K83,T.3949-3951;K90,P2640,paras.59-60.

⁷⁷⁶ See e.g. Hajrizi,P2319,pp.3.5;Halimi,T.4446,4460.

⁷⁷⁷ Kabashi,P2250,p.5;Russo,P2261,p.7;Bala,P2262,p.7;Bucaliu,T.2989-2992.

⁷⁷⁸ Zatriqi,P2347,pp.2,7;T.4417,4422-4423.

⁷⁷⁹ Morina,P2523,p.77.

⁷⁸⁰ Latifi,P2381,p.2;T.4962-4963;Halimi,T.4460;Zatriqi,P2347,p.3;T.4418;Ramadani,T.4310.

untouched.⁷⁸¹ A VJ insider confirmed that his unit was ordered to burn houses belonging to Kosovo Albanians.⁷⁸²

- Attacked Kosovo Albanian cultural, historic, and religious buildings. Out of the 607 Islamic mosques in Kosovo, at least 225 were damaged or destroyed during the Indictment period.⁷⁸³ Numerous mosques, including those in Suva Reka, Celina/Celinë, Bela Crkva, and Vuçitrn, were damaged or destroyed on or around the Muslim holiday of Bajram, 28 March 1999.⁷⁸⁴
- Sexually harassed and assaulted numerous female Kosovo Albanians during the attacks on their villages or during their transit to the borders.⁷⁸⁵ The rapes were not isolated acts committed by individuals, but were intended to terrorise the population and push people to flee their homes.
- Threatened and mistreated Kosovo Albanian civilians, frequently engaging in unnecessary acts of cruelty,⁷⁸⁶ and used ethnic slurs and derogatory language against Kosovo Albanians, making it clear that they were motivated by prejudice.⁷⁸⁷

313. The columns of refugees were directed to the border to facilitate their expulsion in an organised manner. At border points, MUP and VJ seized the identification documents from the refugees in order to make it impossible for them to return to Kosovo. They also removed licence plates of tractors and other vehicles crossing the borders.⁷⁸⁸ This practice of “identity cleansing” shows that the forces of the FRY and Serbia intended for Kosovo Albanian civilians to permanently leave Kosovo because without identifying documents, they would not have been able to return easily, or at all.

314. The killing and migration patterns strongly suggest that these acts were not the result of random acts of violence by government forces. According to Dr. Patrick Ball, both the migration flows and killings took place in well-defined peaks, during roughly the same periods and in the same places, indicating that they both resulted from a common cause.⁷⁸⁹ Based on his statistical

⁷⁸¹ Zatriqi,P2347,p.3;T.4418;Ramadani,T.4310;Sweeney,T.4821.

⁷⁸² K82, [REDACTED] P2863,para.27

⁷⁸³ Reidlmayer,T.5434-5435.

⁷⁸⁴ Popaj,T.5650,5678-5680,5685;P1773;P1800;P1792;H.Berisha,P2326,p.3;Kadriu,P2377,p.12.

⁷⁸⁵ K24,P2548,pp5-7; [REDACTED]
[REDACTED] Rrahmani,P2239.

⁷⁸⁶ See e.g. Xhafa,P2274,p.3;Mazrekaj,P2374,p.22-23;Kadriu,P2377,p18-20;Sadiku,T.1920-1921; Kryeziu,P2514,p.9; K24,P2548,pp.5-7.

⁷⁸⁷ See e.g. Kabashi,P2250,p.4;Hajrizi,P2320,p.4;Bala,P2262,p.8.

⁷⁸⁸ See e.g. Malaj,P2232,p.7;Berisha,P2326,p.4;Kryeziu,P2514,p.10;Krasniqi,P2378,p.14;Konaj,P2372,p.5.

⁷⁸⁹ P1506,pp.8-13.

analysis, Ball concluded that the observed patterns were not consistent with periods of NATO bombing and KLA activity, but rather is consistent with the hypothesis that Yugoslav forces conducted a systematic campaign of killings and expulsions.⁷⁹⁰

315. As a result of the attacks carried out by the forces of the FRY and Serbia, hundreds of thousands of Kosovo Albanian refugees fled from Kosovo. According to UNHCR, more than 860,000 ethnic Albanians fled the province during the Indictment period.⁷⁹¹ Several hundred thousand more were internally displaced.

316. The evidence establishes that the accused planned and organised the deportation of the Kosovo Albanian population. The same patterns of attacks occurred throughout the entire territory of Kosovo during the Indictment period. Such a widespread and systematic expulsion of Kosovo Albanians could not have been the result of random acts of violence at the hands of a few rogue elements. The destruction of property, harassment, beatings, rapes, and murders committed by forces of the FRY and Serbia were anything but random. They were carefully calculated to rid the province of its Kosovo Albanian inhabitants.

317. The forces of the FRY and Serbia committed the crimes set out below as part of carefully organised and coordinated operations aimed at forcibly expelling the Kosovo Albanian civilian population. These forces were either members of the JCE because they shared the common criminal purpose or were used by the members of the JCE to carry out the *actus reus* of the crimes, which formed part of the common criminal purpose.

H. The crimes charged

1. Orahovac/Rahovec municipality

Celina/Celinë

318. On 25 March 1999, forces of the FRY and Serbia surrounded the village of Celina/Celinë with tanks and armoured vehicles.⁷⁹² Most of the villagers fled to a nearby forest before the army and police arrived.⁷⁹³ Serb forces entered the village, looted everything of value, and set fire to houses and the local school.⁷⁹⁴

⁷⁹⁰ P1506, pp.6,10,18-19.

⁷⁹¹ P2438, p.4.

⁷⁹² Jemini, P2338, p.8; T.4232; Salihi, P2336, p.2.

⁷⁹³ Salihi, P2336, p.3.

⁷⁹⁴ Jemini, P2338, p.9; Salihi, P2336, p.2-3.

319. Soldiers stayed in Celina/Celinë for about two days.⁷⁹⁵ They entered the house of Agim Jemini, mayor of Celina/Celinë, interrogated his family, robbed them, and then shot and killed five members of the Jemini family.⁷⁹⁶

320. On or around 26 March 1999, approximately 40 policemen armed with assault rifles forced thousands of civilians to come out of the forest where they were hiding.⁷⁹⁷ The police separated the men from the women and children, and then ordered them to hand over money and identity documents.⁷⁹⁸ The police burnt these documents and killed one man.⁷⁹⁹ Some villagers were beaten.⁸⁰⁰ The men were then marched towards Prizren and eventually forced to go to Albania.⁸⁰¹

321. On or about 28 and 29 March 1999, several villagers returned to Celina/Celinë and saw that houses in the village had been burnt.⁸⁰² Sabri Popaj found 84 bodies of women and elderly men. All the victims had been shot.⁸⁰³

Nogavac/Nagavc

322. On or about 26 March 1999, a large group of Kosovo Albanians fled to a hill near the village of Nogavac/Nagavc, seeking shelter from attacks on nearby villages.⁸⁰⁴ On 28 March, Serbian forces surrounded the villagers and took their identity cards and money.⁸⁰⁵

323. On the morning of 2 April 1999, forces of the FRY and Serbia attacked Nogavac/Nagavc. The ethnic Albanian population fled to Velika Kruša, and then on to Albania.⁸⁰⁶ When Sabri Popaj went to Nogavac/Nagavc the next day, he found it completely deserted and saw that roof tiles and windows of most of the houses were damaged.⁸⁰⁷

Bela Crkva/Bellacërkë

324. In the early hours of 25 March 1999, Serb VJ and police attacked Bela Crkva/Bellacërkë⁸⁰⁸ and set fire houses in the village.⁸⁰⁹ The population hid in to nearby fields and woods.⁸¹⁰ Many

⁷⁹⁵ Jemini,P2338,p.9.

⁷⁹⁶ Jemini,P2338,pp.5,10;T.4281,4237-4239; *See also* IC60;P2339.

⁷⁹⁷ Salihi,P2336,p.3;T.4206,4220-4221.

⁷⁹⁸ Salihi,2336,p.3-4;T.4206.

⁷⁹⁹ Salihi,P2336,p.4.

⁸⁰⁰ Salihi,P2336,p.4.

⁸⁰¹ Salihi,P2336,p.4.

⁸⁰² Popaj,P2446,pp.8,10;T.5677-5678;Jemini,P2338,p.11.

⁸⁰³ Popaj,P2446,pp.9-10;T.5677.

⁸⁰⁴ Hoti,T.4145-4146.

⁸⁰⁵ Hoti,T.4158-4159.

⁸⁰⁶ Hoti,T.4155.

⁸⁰⁷ Popaj,P2446,p.10.

⁸⁰⁸ Zhunijqi,P2331,p.2;T.4100-4101;Popaj,P2446,pp.2-3;T.5651-5652;P93,pp.5-11.

⁸⁰⁹ Zhunijqi,P2331,p.2;Popaj,P2446,p.3;T.5654.

residents fled along the Belaja River and sought shelter near a railway bridge.⁸¹¹ As the policemen approached the bridge, they opened fire, killing at least 12 persons including 10 women and children.⁸¹²

325. The police ordered the remaining villagers out of the streambed, and separated out the men and older boys. The men were ordered to strip to their underwear. The policemen robbed them of all documents and valuables.⁸¹³ The women and children were ordered to follow the railway track towards the nearby village of Zrze/Xërxë.⁸¹⁴ A doctor from Bela Crkva/Bellacërkë attempted to speak with the police commander, but he was shot dead, as was his nephew.⁸¹⁵ The police ordered the remaining men and older boys back into the streambed and then opened fire on them, killing approximately 65 of them.⁸¹⁶ A number of persons, including survivors, witnessed this incident.⁸¹⁷ The police then moved off in the direction of Celina/Celinë.⁸¹⁸ These police forces also killed six men found hiding in an irrigation ditch in the vicinity.⁸¹⁹

326. A British forensic team conducted exhumations in Bela Crkva/Bellacërkë in late June to early July 1999 and recovered more than 50 bodies. The cause of death of the victims was determined to be gunshot wounds.⁸²⁰

Mala Kruša/Krusë e Vogel and Velika Kruša/Krushë e Mahde (Batusha barn)

327. On the morning of 25 March 1999, forces of the FRY and Serbia surrounded Mala Kruša/Krusë e Vogel village with tanks, armoured cars and artillery weapons.⁸²¹ These forces started shooting and burning houses.⁸²² A number of villagers were killed: some were shot and others were burnt in their homes.⁸²³

328. That same morning, forces of the FRY and Serbia attacked the neighbouring village of Velika Kruša/Krushë e Mahde.⁸²⁴ The villagers fled and spent the night of 25 March in a valley,

⁸¹⁰ Zhuniqi,P2331,p.2;Popaj,T.5654.

⁸¹¹ Zhuniqi,P2331,pp.2-3;T.4102-4103;Popaj,P2446,pp.3-4;IC54;IC91.

⁸¹² Zhuniqi,P2331,p.3;Popaj,P2446,pp.3-6;T.5664. See Annex C, Schedule B.

⁸¹³ Zhuniqi,P2331,p.4;Popaj,P2446,p.4;T.5664.

⁸¹⁴ Zhuniqi,P2331,p.4.

⁸¹⁵ Zhuniqi,P2331,p.4. These were Dr. Nisim Popaj and Shendet Popaj. See Annex C, Schedule B.

⁸¹⁶ Zhuniqi,P2331,p.4;Popaj,P2446,p.4. See Annex C, Schedule B.

⁸¹⁷ Popaj,P2446,p.4-5;T.5661-5662;Jemini,P2338,p.11;T.4239-4240.

⁸¹⁸ Popaj,P2446,p.4.

⁸¹⁹ Popaj,P2446,p.4;T.5661;IC92.

⁸²⁰ P97;Baccard,T.10165;P1809.

⁸²¹ Ramadani,T.4284-4285;M.Krasniqi,P2341,p.8;T.4372.

⁸²² Ramadani,T.4285-4286;M.Krasniqi,P2341,p.8.

⁸²³ Ramadani,T.4291-4292,4308;P2357,p.4,group II;Hoti,T.4149-4150,4152.

⁸²⁴ Hoti,T.4141-4142.

from where they saw Velika Kruša burning and saw Serb forces head to that village.⁸²⁵ Because they were being shot at in the valley, the villagers headed to Nogavac/Nagavc, where numerous other refugees had gathered.⁸²⁶

329. On 26 March 1999, Serbian forces continued to loot and set houses on fire in Mala Kruša/Krusë e Vogel.⁸²⁷ A group of policemen forced the villagers who had sought shelter in the woods to come out.⁸²⁸ They also located villagers who had found refuge in the house of Sedje Batusha. The police separated out the men and ordered the women and children to “go to Albania.”⁸²⁹

330. After beating the men and taking their identity documents and valuables,⁸³⁰ the police directed the men into a cowshed – the Batusha barn. The police first shot them, and then set the barn on fire burning those inside.⁸³¹ Approximately 103 Kosovo Albanian men and boys were killed.⁸³² Six people, including Lufti Ramadani and Mehmet Avdyli/Krasniqi, survived this massacre.⁸³³

331. From his hiding place in the woods, Krasniqi saw Serb soldiers in the village collecting hay and putting it on the dead bodies to burn them.⁸³⁴ VJ vehicles left Mala Kruša/Krusë e Vogel after two or three days.⁸³⁵

332. Ali Hoti, a doctor from the village of Velika Kruša/Krushë e Mahde, was in Nogavac/Nagavc until 2 April 1999 and treated several injured people.⁸³⁶ On or about 27 March, he helped Mehmet Krasniqi, a survivor of the Batusha barn massacre. Krasniqi’s hands and face were burnt. Krasniqi told Hoti that Serbian forces had shot and burned about 100 men in Mala Kruša.⁸³⁷

333. A large number of refugees passed through the Mala Kruša railway station from 25 March to 27 March 1999. They were not only people from Mala Kruša/Krusë e Vogel but also people from other villages and regions.⁸³⁸ During the entire day of 26 March 1999, refugees were coming out of

⁸²⁵ Hoti, T.4144.

⁸²⁶ Hoti, T.4143; Zhuniqi, P2331, p.6.

⁸²⁷ Ramadani, T.4290-4291.

⁸²⁸ M.Krasniqi, T.4373.

⁸²⁹ Ramadani, T.4294; M.Krasniqi, P2341, p.8; T.4394.

⁸³⁰ Ramadani, T.4295; M.Krasniqi, P2341, p.8; T.4396-4397.

⁸³¹ Ramadani, T.4300; M.Krasniqi, P2341, pp.8-9. *See also* P100; IC64; IC65; Sweeney, P2383, p.5.

⁸³² P2357; M.Krasniqi, P2341, pp.10-12. *See Annex C, Schedule C. See also* P1809; P110.

⁸³³ *See Annex C, Schedule C. See Ramadani, T.4300-4302, 4307; P2357; M.Krasniqi, P2341, p.9; T.4374-4376. See also* P2343; Sweeney, T.4814-4815, 4829, 4837; P2383, pp.3, 6, 7-9. P114; P115.

⁸³⁴ M.Krasniqi, T.4375.

⁸³⁵ Ramadani, T.4304.

⁸³⁶ Hoti, T.4146; M.Krasniqi, T.4375-4576.

⁸³⁷ Hoti, T.4148-4149, 4151.

⁸³⁸ K25, P2439, p.11.

the areas of VJ-MUP operation of Mala Kruša/Krusë e Vogel and Velika Kruša/Krushë e Mahde.⁸³⁹ Women and children were taken by PJP units to the Mala Kruša//Krusë e Vogel railway station, and from there they were taken away in buses.⁸⁴⁰

334. During the operations in the Mala Kruša/Krusë e Vogel and Velika Kruša/Krushë e Mahde areas, PJP units handed over the refugees to the local policemen, and the policemen then separated the men from the women and children.⁸⁴¹ K25, a PJP member, testified he handed over about 5,000 people (men, women and children) to the local police.⁸⁴²

335. Those who survived these various attacks in Orahovac/Rahovec municipality left for the Albanian border. At the border, Serb forces stripped them of their identification documents,⁸⁴³ telling them they would not need documents anymore, and that “Kosovo is Serbian land.”⁸⁴⁴ Policemen were at the border, while military forces were on the roads.⁸⁴⁵

336. Throughout the municipality of Orahovac/Rahovec, forces of the FRY and Serbia burned and looted houses, shops, cultural monuments and religious sites belonging to Kosovo Albanians. Several mosques were destroyed, including those in Bela Crkva/Bellacërkë,⁸⁴⁶ Brestovac/Brestovc,⁸⁴⁷ Velika Kruša/Krushë e Mahde,⁸⁴⁸ and Celina/Celinë.⁸⁴⁹

337. Sabri Popaj testified that the mosques of Celina/Celinë, Bela Crkva/Bellacërkë and Rogovo/Rogovë were blown up on or around 28 March 1999.⁸⁵⁰ He heard the explosion of the Bela Crkva/Bellacërkë mosque.⁸⁵¹ Serbian police blew up the Celina/Celinë mosque with explosives.⁸⁵²

Forces of the FRY and Serbia were responsible for the crimes in Orahovac/Rahovec municipality

⁸³⁹ K25,P2439,p.11.

⁸⁴⁰ K25,P2439,p.11.

⁸⁴¹ K25,P2439,p.9.

⁸⁴² K25,P2439,p.9.

⁸⁴³ Popaj,P2446,p.12;T.5753;Hoti,T.4157.

⁸⁴⁴ Hoti,T.4157.

⁸⁴⁵ Hoti,T.4157.

⁸⁴⁶ P1792;P98.

⁸⁴⁷ P1775;P1793;Riedlmayer,T.5480-5481.

⁸⁴⁸ P1776;P1794;Riedlmayer,T.5481.

⁸⁴⁹ P1773;P1800;Riedlmayer,T.5465-5466.

⁸⁵⁰ Popaj,T.5650,5678-5680;P2446,p.11. *See also* Riedlmayer,T.5472;P1773;P1774;IC97;IC96;P1792;P1800;P1806.

⁸⁵¹ Popaj,P2446,p.11;T.5678-5679.

⁸⁵² Jemini,T.4241-4242;Popaj,T.5680-5681;P2446,p.11;P1800;P2445;IC89;IC90.

338. Witnesses identified VJ and MUP units as perpetrators of the crimes in Orahovac municipality, both through the uniforms they wore and through the fact that some of the soldiers and policemen committing crimes were known to victims and witnesses.

339. In late March 1999, forces identified as “the police and the army”⁸⁵³ were in the village of Bela Crkva/Bellacërkë. [REDACTED] VJ troops passed through Bela Crkva/Bellacërkë on or about 25 March 1999,⁸⁵⁴ and [REDACTED] police units were present in the Orahovac area during an operation at the end of March 1999.⁸⁵⁵ Delić also confirmed the presence of VJ troops in Bela Crkva/Bellacërkë.⁸⁵⁶ Major Vuković said that VJ troops and tanks went through Bela Crkva/Bellacërkë.⁸⁵⁷

340. The forces that entered Bela Crkva/Bellacërkë on 25 March 1999 and set the houses on fire were identified as “Serb forces” wearing light blue uniforms and camouflage army uniforms.⁸⁵⁸ Local policemen were responsible for the killings at the Belajla streambed. Some local policemen were known to the witnesses.⁸⁵⁹

341. The forces that entered the village of Celine on 25 March 1999, and looted and burned the houses were identified as Serb military and policemen, wearing respectively green/brown and blue camouflage uniforms with the Yugoslav white double-headed eagle insignia.⁸⁶⁰ Agim Jemini, mayor of Celina/Celinë, recognised two commanders as soldiers from Orahovac.⁸⁶¹

342. The forces that surrounded and looted the village of Mala Kruša were identified as Serbian army and police.⁸⁶² The army was in the outskirts of the village and on the main road, while the police were inside the village,⁸⁶³ and police that marched the men to the Batusha barn, shot them and then set the place on fire.⁸⁶⁴ Lufti Ramadani recognised amongst them some Serb villagers from Mala Kruša, namely Bosko Stanković, Stanko Nikolić, Bosko Cvetković, and Rade Nikolić.⁸⁶⁵ Mehmet Avdyli/Krasniqi also recognized some of the Serbs who perpetrated the massacre at the Batusha barn.⁸⁶⁶

⁸⁵³ Popaj, T.5752.

⁸⁵⁴ SD1, T.20199-20200 (private session).

⁸⁵⁵ SD1, T.20194 (private session).

⁸⁵⁶ Delić, T.19354-19355.

⁸⁵⁷ Vukovic, T.21376-21378, 21381; *See also* IC-176.

⁸⁵⁸ Popaj, T.5653-5654; P2446, p.3.

⁸⁵⁹ P2333; P2335, p.4; Popaj, P2446, pp.3,7; Zhuniqi, T.4107, 4125; P2331, p.3.

⁸⁶⁰ Salihi, P2336, pp.2-3; Jemini, P2338, pp.5,8; T.4233-4234, 4265-4273; *See also* P1323.

⁸⁶¹ Jemini, P2338, p.8; T.4234-4235, 4277.

⁸⁶² Ramadani, T.4284-4286.

⁸⁶³ Ramadani, T.4317.

⁸⁶⁴ Ramadani, T.4295-4300; M.Krasniqi, T.4373.

⁸⁶⁵ Ramadani, T.4300-4301.

⁸⁶⁶ 6D89, pp.2-3.

343. Serbian military forces also surrounded and then set on fire the village of Velika Kruša.⁸⁶⁷ They were described as wearing multi-coloured camouflage uniforms.⁸⁶⁸

344. K25 showed the deployment of VJ, MUP and PJP units in part of the Orahovac/Prizren area on a map, including the villages of Bela Crkva/Bellacërkë, Celina/Celinë, Mala Kruša and Nogavac/Nagavc.⁸⁶⁹ He stated that on 25 March 1999, sub-units of the 23rd PJP Detachment received oral orders to go to Mala Kruša to hold the blockade line from there to Rogovo while the mop-up operation was conducted from “the other direction” (i.e. the direction of Bela Crkva, Zrze/Xërxë, Orahovac and Velika Hoča).⁸⁷⁰ K25 also confirmed that in Kosovo the 23rd PJP wore green camouflage uniforms, while the local MUP and local PJP wore blue camouflage uniforms.⁸⁷¹

345. There is overwhelming evidence showing that the crimes committed in the Orahovac/Rahovec municipality by the forces of the FRY and Serbia were part of an organised operation and that there was coordination between the participating forces.

346. VJ and MUP units involved in the operations in Orahovac/Rahovec municipality in late March and April 1999 included: the VJ 549th Mtbr (combat groups 1, 2, 5, 6 and 7) commanded by Deliç; the 243rd Mechanised Brigade, commanded by Jeliç;⁸⁷² the 5th company of the Prizren PJP; the 37th and 23rd PJP Detachments; and the 4th company of the Đakovica PJP.⁸⁷³ Deliç and Jeliç were direct subordinates of Lazareviç, while the PJP commanders were coordinated through the MUP Staff by Lukiç.

347. Documentary evidence shows that, on 23 March 1999, the Joint Command issued an order to “support MUP forces in crushing and destroying ŠTS in the general area of Orahovac, Suva Reka and Velika Kruša sector.”⁸⁷⁴ The order explicitly assigned tasks to units of the 549th Mtbr for the villages of Bela Crkva/Bellacërkë, Celina/Celinë, Velika Kruša and Mala Kruša.⁸⁷⁵

348. The Joint Command order was implemented at the brigade level, confirming joint actions of the VJ, MUP and PJP in those villages.⁸⁷⁶ Specific tasks for VJ units in cooperation with their MUP colleagues included “destroy the ŠTS in Mala Kruša,” “carry out an energetic attack and search the village of Bela Crkva[...] destroy ŠTS in the village of Celina and the village of Nogavac. Seal off

⁸⁶⁷ Hoti, T.4141-4142, 4144.

⁸⁶⁸ Hoti, T.4142.

⁸⁶⁹ P109.

⁸⁷⁰ K25, P2439, p.7.

⁸⁷¹ K25, P2439, p.20; T.4674; *See also* P1326.

⁸⁷² P2015, p.3, paras.5.1, 5.2; P1995, p.3, para.2.

⁸⁷³ P1981, pp.2-4, paras.5.4, 5.5; P1995, p.3, para.2; K25, P2439, p.20.

⁸⁷⁴ P2015, p.2.

⁸⁷⁵ P2015, p.3.

⁸⁷⁶ P1981, pp.2, 4-5.

Velika Kruša.”⁸⁷⁷ [REDACTED]

[REDACTED]

[REDACTED]

349. Additional documentary evidence in the Trial Record confirms that:

- VJ and MUP forces had full control in the area of Prizren/Orahovac.⁸⁷⁹
- The operations in the relevant area continued from 25 March until at least 29 March 1999.⁸⁸⁰
- Coordinated actions between the VJ and the MUP forces were functioning well.⁸⁸¹
- The “Joint Command of the MUP and the VJ forces” commanded these actions.⁸⁸²

350. Delić’s post-action report of 30 March 1999 noted that the forces engaged had included approximately 1000 VJ and 1020 MUP. The armament used had included 21 tanks, six 122mm howitzers, four multiple rocket launchers and several armoured vehicles.⁸⁸³

351. The practice of “identity cleansing” used against refugees expelled towards Albania further confirms the existence of a plan behind every operation. Kosovo Albanian refugees were in fact deprived of their identity documents and forced to remove the licence plates from their vehicles before being allowed to cross the border to Albania.⁸⁸⁴

352. The destruction of houses and cultural property all over the Orahovac municipality was also part of the common plan to change the ethnic composition of Kosovo:

- The mosques in Celina/Celinë and Bela Crkva/Bellacërkë were blown up on or around 28 March 1999.⁸⁸⁵
- Only the Albanian houses in Mala Kruša were completely burned and destroyed, while the Serb and Roma houses of the village were undamaged when some witnesses returned to the village on or about 15 June 1999.⁸⁸⁶

⁸⁷⁷ P1981,items 5.4,5.5.

⁸⁷⁸ [REDACTED]

⁸⁷⁹ P1995,p.1.

⁸⁸⁰ P1995,p.1.

⁸⁸¹ P1995,p.3.

⁸⁸² P1995,p.5.

⁸⁸³ P1995,p.3.

⁸⁸⁴ Popaj,P2446,p.12;T.5753;Hoti,T.4157.

⁸⁸⁵ Popaj,T.5650,5678-5680,5685. See P1773;P1800;P1792.

⁸⁸⁶ Ramadani,T.4310;Sweeney,T.4821-4823. See also P2384.

2. Prizren municipality

353. On 25 March 1999, forces of the FRY and Serbia surrounded and shelled Pirane.⁸⁸⁷ Police set houses on fire and burned down almost the entire village.⁸⁸⁸ The minaret of the village mosque was shelled.⁸⁸⁹ A majority of the residents fled to Mamuša village, while others moved to Srbica village.⁸⁹⁰

354. On 8 April 1999, soldiers and paramilitaries arrived to Srbica village and ordered the local Serbs to expel their ethnic Albanians neighbours within 24 hours.⁸⁹¹ The next day local Serbs arranged buses on which all the refugees were driven to Zur/Zhur, on the Albanian border.⁸⁹² Before crossing the border into Albania, the refugees had their identity documents confiscated by Serb police.⁸⁹³

355. On 26 March 1999, forces of the FRY and Serbia shelled Landovica.⁸⁹⁴ Several persons were killed.⁸⁹⁵ After the shelling, soldiers and police entered the village and went from house to house and proceeded to kill more persons.⁸⁹⁶ The villagers fled.⁸⁹⁷ The next day 20 to 30 VJ soldiers returned and destroyed Landovica mosque with explosives.⁸⁹⁸

356. On 28 March 1999, forces of the FRY and Serbia attacked the Prizren suburb of Dušanovo⁸⁹⁹ with tanks and armoured vehicles.⁹⁰⁰ All the main streets were sealed off⁹⁰¹ and villagers fled.

357. Police broke into the home of Rexhep Krasniqi and told everyone to leave for Albania.⁹⁰² The police beat and robbed those in the house.⁹⁰³ Police and military personnel set the neighbourhood houses on fire.⁹⁰⁴

⁸⁸⁷ Latifi, T.4962; P2381, p.2; P2382, pp.14,16.

⁸⁸⁸ Latifi, P2381, p.2; T.4962-4963.

⁸⁸⁹ Latifi, T.4962-4963, 5007-5009.

⁸⁹⁰ Latifi, P2381, p.3.

⁸⁹¹ Morina, P2522, p.4.

⁸⁹² Morina, P2522, p.5; P2523, pp.34-36.

⁸⁹³ Morina, P2523, pp.35-37; P2522, p.5.

⁸⁹⁴ Morina, P2522, p.2; P2523, pp.14-5.

⁸⁹⁵ Morina, P2522, pp.2-3; P2523, p.15.

⁸⁹⁶ Morina, P2522, p.3.

⁸⁹⁷ Morina, P2522, p.3; P2523, p.22-24.

⁸⁹⁸ Morina, P2522, pp.3-4; P2523, pp.27-29, 59. *See* Riedlmayer, T.5508; P1789, p.54.

⁸⁹⁹ Kryeziu, T.7543; R.Krasniqi, T.4922.

⁹⁰⁰ Kryeziu, P2514, p.9; T.7547; P1325, numbers 2,6,10,14.

⁹⁰¹ R.Krasniqi, P2378, p.13.

⁹⁰² R.Krasniqi, P2378, p.13; T.4949-4950.

⁹⁰³ R.Krasniqi, P2378, p.13; T.4928.

⁹⁰⁴ R.Krasniqi, P2378, p.14; T.4930.

358. En route to the Albanian border, Hysni Kryeziu and his family were forced out of their car by the police, who robbed them, took their identity documents and their car.⁹⁰⁵ The Kryeziu family walked 40 km to the border to Albania. On the road, they saw soldiers robbing other refugees.⁹⁰⁶ At the Morina border crossing, policemen demanded money from the refugees, confiscated their identity documents, and removed license plates of their cars.⁹⁰⁷

359. On 25 April 1999, Serbian forces launched a large-scale offensive in the area of Srbica village, and from there they started shelling the villages of Pirana, Retimlje, Donji Retimlje, and Randobrava.⁹⁰⁸

Forces of the FRY and Serbia were responsible for the crimes in Prizren municipality

360. VJ and MUP units operating in Prizren from March through June 1999 included the VJ's 549th Mtrb, commanded by Delić, and MUP units including the 5th PJP Company from Prizren, the 4th PJP Company from Đakovica, and the 37th PJP Detachment from Niš.⁹⁰⁹

361. The evidence confirms that VJ and MUP units carried out joint combat actions in late March 1999 in the Prizren/Orahovac areas.⁹¹⁰ An order of 23 March 1999 signed by Delić implemented P2015, a Joint Command order of the same day, and tasked a combat group of the 549th Mtrb to engage in combat action in Pirane village with the 37th PJP Detachment.⁹¹¹ The tasks were to block the area and take control of Pirane village.⁹¹² This confirms the presence of VJ and MUP forces in the Prizren area, with specific combat tasks.

362. The beginning of the joint VJ-MUP operations coincide with the crimes committed in the Prizren area and with the attacks on the villages of the municipality. There simply were no other significant armed forces in that area at the time the crimes in the Indictment were committed.

363. Several witnesses identified both VJ and MUP forces as perpetrators of the crimes in Prizren municipality, both through the uniforms they wore and through the fact that some of the soldiers and policemen committing crimes were known to victims and witnesses.⁹¹³ One witness identified the forces that surrounded and shelled Pirane on 25 March 1999 as Serb military and police.⁹¹⁴

⁹⁰⁵ Kryeziu, P2514, p.9; T.7544, 7566-7567.

⁹⁰⁶ Kryeziu, P2514, p.9.

⁹⁰⁷ Kryeziu, P2514, p.10; R. Krasniqi, P2378, p.14.

⁹⁰⁸ Latifi, P2381, p.3; P2382, p.18.

⁹⁰⁹ P1981, p.2; P1995.

⁹¹⁰ P2015, pp.1-2; P1981, p.4, para.5.4.

⁹¹¹ P1981, p.4, para.5.4.

⁹¹² P1981, pp.4-5, para.5.6.

⁹¹³ See e.g. Latifi, P2381, p.3; T.4960-4961, 4964, 4993; Kryeziu, P2514, pp.9-10.

⁹¹⁴ Latifi, P2381, p.2; T.4960-4961.

364. The army, paramilitaries and police attacked Landovica on 26 March 1999.⁹¹⁵ Delić confirmed that on 26 March, his units fired on the mosque in Landovica.⁹¹⁶

365. Serbian police and military were engaged in Dušanovo on 28 March 1999.⁹¹⁷ Further, it was the police who stopped fleeing Albanian civilians threatening and robbing them, taking their IDs and cars.⁹¹⁸ A witness recognised one of the perpetrators as Milos Scekić, a local Serb police commander.⁹¹⁹

366. The forces that entered Srbica village on 8 April 1999 and ordered the local Serbs to expel the Albanian refugees were identified as Serbian military and paramilitary troops.⁹²⁰

367. K54, a VJ member, was deployed in the Prizren municipality and assigned to a combat unit under the authority of Delić. He confirmed that, on 25 March 1999, his unit received orders to clean all Albanian villages and to order people to leave Kosovo and go to Albania.⁹²¹ He admitted civilians were killed during those actions.⁹²² He was stationed in a village called Medvece close to Mamuša and was tasked with blocking the area near Mamuša.⁹²³ The battalion commander gave orders to kill all the civilians in the village.⁹²⁴ [REDACTED]

368. Colonel Mitić, commander of the Prizren Military Department, acknowledged the coordination of activities between VJ and MUP forces during the war.⁹²⁶ Coordination was carried out with the 549th Mtbr, the 55th Border Battalion, and the chief of the Prizren District and MUP organs.⁹²⁷ Delić and Miloš Vojnović, Head of the Prizren SUP, also confirmed frequent meetings to coordinate the VJ and the MUP.⁹²⁸

369. Other documentary evidence in the Trial Record proves that:

⁹¹⁵ Morina, P2522, p.2; P2523, pp.8, 11-17.

⁹¹⁶ Delić, T.19391.

⁹¹⁷ Kryeziu, P2514, p.9; T.7546; Krasniqi, P2378, p.13; T.4923-4924, 4951.

⁹¹⁸ Kryeziu, P2514, p.9; T.7544.

⁹¹⁹ Kryeziu, P2514, p.9; T.7544.

⁹²⁰ Morina, P2522, p.4.

⁹²¹ K54, P2883, p.5.

⁹²² K54, P2883, p.5.

⁹²³ K54, P2883, p.5.

⁹²⁴ K54, P2883, p.5.

⁹²⁵ [REDACTED]

⁹²⁶ Mitić, 5D1390, para.36; T.20850.

⁹²⁷ Mitić, T.20850-20851.

⁹²⁸ Delić, T.19344-19345; Vojnović, T.24178-24179, 24204-24205, 24236.

- VJ and MUP forces had “full control of the territory from the Prizren-Zrze road up to the Suva Reka –Orahovac road”,⁹²⁹
- Joint operations in the relevant areas occurred between 25 March and at least 29 March 1999;⁹³⁰ and
- Coordinated actions between the VJ and the MUP forces were functioning well.⁹³¹

370. Checkpoints at the borders facilitated the confiscation of both identity documents and car or tractor plates from the departing Kosovo Albanian refugees in order to prevent their eventual return from Albania. Witnesses who fled from the Prizren municipality confirmed this practice.⁹³²

3. Srbica/Skenderaj municipality

371. On 25 March 1999, forces of the FRY and Serbia shelled several ethnic Albanian villages in Srbica/Skenderaj municipality, including Vojnike/Vocnjak, Leocina/Lecine, Kladernica/Klladernicë, Turicevac/Turicec and Izbica/Izbicë.⁹³³ Houses, shops and mosques were destroyed, including the mosque in the village of Cirez/Qirez.⁹³⁴

Cirez/Qirez

372. Forces of the FRY and Serbia attacked Cirez/Qirez in late March 1999. Some soldiers and paramilitaries held a group of women and children captive for several hours in a barn.⁹³⁵ The women were sexually assaulted,⁹³⁶ and at least eight of them were killed.⁹³⁷ Their bodies were thrown into three wells.⁹³⁸ MUP forces later came to the barn and ordered the remaining villagers to leave Cirez/Qirez and head to Kozhice.⁹³⁹

Izbica/Izbicë

373. As a result of the attacks throughout Srbica municipality, on or about 28 March 1999, thousands of civilians fled to the village of Izbica, where they gathered in a meadow.⁹⁴⁰ The

⁹²⁹ P1995,p.1.

⁹³⁰ P1995,p.1.

⁹³¹ P1995,p.3,item 2.

⁹³² Latifi,P2381,p.3;Kryeziu,P2514,p.10.

⁹³³ Draga,P2244,p.2;T.2364-2365;Januzi,P2524,pp.2-4;P2525,para.3.

⁹³⁴ Salihu,P2255, p.5; T.1993-1994;P1778;P1801.

⁹³⁵ Rrahmani,P2239,p.5;K24,P2548,pp.4-5;

⁹³⁶ Rrahmani,P2239,pp.6-7;K24,P2548,p.6;

⁹³⁷ Rrahmani,P2239,pp.6-7;P383;P384.

⁹³⁸ Rrahmani,P2239,p.8;K24,P2548,p.9.

⁹³⁹ K24,P2548,p.7.

⁹⁴⁰ Thaqi,P2246,pp.2-3. Draga estimated that there were over 20.000 people in the meadow, P2244,p.3;T.2349-2350.

refugees, mostly elderly men, women, and children,⁹⁴¹ put up large white sheets believing that by doing so, they would not be attacked.⁹⁴² They remained out in the open for a few days.⁹⁴³

374. On the evenings of 26 and 27 March, the refugees heard constant shelling and gunfire, and saw soldiers set fire to houses in Izbica.⁹⁴⁴ On the morning of 28 March, a mixed group of VJ soldiers⁹⁴⁵ and MUP⁹⁴⁶ entered Izbica. They surrounded the villagers and approached them, demanding money.⁹⁴⁷ After stealing their valuables, the soldiers separated the men from the women and children.⁹⁴⁸ The women were told that they were going to Albania.⁹⁴⁹ Over 100 men were ordered to sit in rows along the road. The soldiers harassed the men, telling them “Where is NATO now? Where is Clinton?” The men were forced to throw their traditional caps (*plis*) in the mud and put them back on.⁹⁵⁰

375. Thaqi, a local villager, heard the VJ commander⁹⁵¹ tell his soldiers “Everybody knows their duty, now do it!”⁹⁵² Januzi, another villager, heard the commander order his soldiers not to leave any man alive.⁹⁵³ The commander then divided the men into two groups.⁹⁵⁴ Around 30 men were marched to a irrigation canal⁹⁵⁵ and a second larger group was taken to a nearby hill.⁹⁵⁶ Soldiers shot both groups of men, killing at least 116.⁹⁵⁷ Only a few survived.⁹⁵⁸ Two elderly disabled women were sitting on a tractor-trailer in the meadow. The soldiers set fire to the tractor and burned the women to death.⁹⁵⁹ The soldiers then ordered the remaining villagers to head to Klina/Klinë, from where the villagers travelled on to Đakovica/Gjakovë and eventually crossed into Albania.⁹⁶⁰

⁹⁴¹ Draga, T. 2350.

⁹⁴² Draga, T. 2350.

⁹⁴³ Thaqi, P2246, p. 3; Draga, T. 2351; P2244, p. 3.

⁹⁴⁴ Januzi, P2525, p. 6; Thaqi, P2246, p. 3.

⁹⁴⁵ Thaqi, P2246, p. 3; Draga, T. 2351-2352.

⁹⁴⁶ Thaqi, P2246, p. 4.

⁹⁴⁷ Thaqi, P2246, pp. 3-4; Draga, T. 2353; Januzi, P2525, p. 6.

⁹⁴⁸ Thaqi, P2246, p. 4; Draga, T. 2353; Januzi, P2525, pp. 6-7.

⁹⁴⁹ Thaqi, P2246, p. 4.

⁹⁵⁰ Thaqi, P2246, p. 4; Draga, T. 2355-2356; P2244, p. 4.

⁹⁵¹ Thaqi, P2246, p. 4.

⁹⁵² Thaqi, P2246, p. 4.

⁹⁵³ Januzi, P2525, p. 7.

⁹⁵⁴ Thaqi, P2246, p. 4; Januzi, P2525, p. 7.

⁹⁵⁵ Thaqi, P2246, pp. 4-5.

⁹⁵⁶ Draga, P2244, p. 4; Januzi, P2525, p. 7; Thaqi, T. 2297-2302; P2246, pp. 12-13.

⁹⁵⁷ Draga, T. 2354; P2244, p. 4; Januzi, P2525, p. 7; P224; Thaqi, T. 2297-2300; P2246, pp. 4-6, 12-13; Loshi, P2436, pp. 8-9, 13-38; P232.

⁹⁵⁸ Draga, T. 2358; P2244, p. 5; Thaqi, P2246, p. 5.

⁹⁵⁹ Draga, T. 2360-2361; P2244, p. 5.

⁹⁶⁰ Fazliu, P2241, pp. 3-5.

376. Several days later, some villagers returned to Izbica to bury the dead.⁹⁶¹ Liri Loshi, a local doctor, filmed the massacre sites and the burials of the victims.⁹⁶² Loshi smuggled his video into Albania and provided it to ICTY investigators in Tirana and to the press.⁹⁶³

377. After the news of the massacre broke in the international media, VJ and MUP authorities were compelled to investigate the incident.⁹⁶⁴ VJ forces went to Izbica and exhumed the bodies of the victims in late May 1999.⁹⁶⁵ Gordana Tomasević from the Belgrade Military Medical Academy was sent to Kosovo and examined the bodies. Tomasević was given only three or four days to examine all 101 bodies.⁹⁶⁶ No one paid or asked for her forensic reports.⁹⁶⁷

378. In 2001, the remains of 20 of the victims of the Izbica massacre were discovered in a mass grave at Petrovo Selo, in Serbia proper.⁹⁶⁸ Once the victims were identified through DNA analysis, the OMPF conducted forensic examinations to establish the cause of death.⁹⁶⁹ Based on the pattern of injuries observed on skeleton fragments, Jose Pablo Baraybar, the head of OMPF, concluded that the victims had died from gunshot wounds.⁹⁷⁰

Forces of the FRY and Serbia were responsible for the crimes in Srbica municipality

379. During the period surrounding the Izbica massacre, VJ and MUP units conducted joint operations in Srbica municipality. Pursuant to a Joint Command order, Lazarević ordered his units in the area to engage in joint actions with the MUP. His subordinates on the ground reported on the progress made in carrying out their assigned tasks.⁹⁷¹

- In an operations report of 27 March 1999, Điković, the 37th Infantry Brigade commander, reported to Lazarević that the brigade was to “Continue with the planned activities in line with the decision to smash and destroy ŠTS in the Drenica sector.”⁹⁷²
- In a 28 March 1999 combat report, Điković asked Lazarević for instructions on what to do with the thousands of civilian refugees that his brigade was expecting to encounter in the Voćnjak village sector, outside Izbica.⁹⁷³

⁹⁶¹ Thaqi, P2246, p.6; Draga, T.2356, 2360-2362; P2244, p.5.

⁹⁶² Loshi, P2436, pp.13-38; P232.

⁹⁶³ Loshi, P2436, pp.14-15.

⁹⁶⁴ P950, pp.484-489; P948, pp.160-161; 6D115.

⁹⁶⁵ Draga, T.2362, 2364.

⁹⁶⁶ Tomasević, P2490, pp.8-9.

⁹⁶⁷ Tomasević, T.7025-7030, 7034-7035; P2490, para.21.

⁹⁶⁸ See Annex C, Schedule F.

⁹⁶⁹ Baraybar, P2794, pp.5-6.

⁹⁷⁰ Baraybar, P2794, pp.33-40.

⁹⁷¹ P2031; P1968; P2043; P2044; P2045; P2046; P1969; P2047.

⁹⁷² P2045, p.2.

⁹⁷³ P2046, p.2, item 9.3.

- On the day of the massacre, the Joint Command ordered the 37th Mtbr that “upon completion of the task in Drenica[...] take control of Srbica.”⁹⁷⁴
- Implementing this order, Lazarević issued an order that same day instructing units of the 125th Motorised Brigade, 15th Armoured Brigade, 243rd Mechanised Brigade, 549th Motorised Brigade, and 37th Infantry Brigade to “re-group” and prepare for their next task: “after completeing the task in the Drenica sector [...] occupy the general area of Srbica.”⁹⁷⁵
- On the same day, the 125th Mtbr reported that three combat groups were involved in coordianted combat operations in Drenica, pursuant to Lazarević’s order.⁹⁷⁶
- On 29 March, the 37th Infantry Brigade reported that the KLA did not carry out any operations against members of their unit while they carried out their scheduled activities. This report contains no mention of the thousands of refugees referred to in the combat report of 28 March.⁹⁷⁷
- On 29 March 1999, units of the 125th Mtbr reported that they had successfully completed combat operations and were “regrouping” and preparing for their next tasks.⁹⁷⁸

4. Suva Reka/Suharekë municipality

380. On 20 March 1999, VJ and MUP forces launched an attack on several villages in Suva Reka municipality, including Rreshtan, Sllapuzhan, Peqan, Semetish, Studençan, Samadrexhe, Dobërdolan, Bllacë, Greiçec, Budakovë, and Krushicë. These attacks were not only directed at KLA positions but also targeted ordinary civilians and resulted in considerable civilian casualties. Following these attacks, thousands of civilians fled to Pagaruša and Belanica.⁹⁷⁹

381. When the NATO bombing started on 24 March 1999, local police and VJ began patrolling the streets of Suva Reka town⁹⁸⁰ and set up sniper and mortar positions around town.⁹⁸¹

382. During the following days, police officers went from house to house, threatening, assaulting and killing Kosovo Albanian residents, and removing many of the people from their homes at

⁹⁷⁴ P1969,pp.3,8, item 5.5.

⁹⁷⁵ 5D339.

⁹⁷⁶ P2616,pp.8-9.

⁹⁷⁷ P2047.

⁹⁷⁸ P2616,p.11.

⁹⁷⁹ Zogaj,P2322,pp.2-3;P2323,p.3;Fondaj,P2283,p.3.

⁹⁸⁰ H.Berisha,P2282,p.2;T.3876-3878;3922-3923;IC46.

⁹⁸¹ H.Berisha,P2326,p.2;P2325,pp.12-13;T.3606-3609;IC40.

gunpoint.⁹⁸² Houses belonging to Kosovo Albanians were looted and set on fire.⁹⁸³ On or around 26 March 1999, soldiers dynamited the minaret of the Suva Reka mosque.⁹⁸⁴

383. By 31 March 1999, approximately 80,000 Kosovo Albanians displaced from different villages in Suva Reka and other municipalities had gathered in Belanica.⁹⁸⁵ The KLA left the village at the end of March 1999.⁹⁸⁶ On 1 April 1999, a large convoy of VJ, MUP and paramilitaries arrived outside Belanica and shelled this village and neighbouring villages.⁹⁸⁷ Serb police surrounded the refugees and forced them to hand over their valuables and money. The police also killed a number of refugees⁹⁸⁸ and set fire to the houses.⁹⁸⁹ They then forced refugees to leave Belanica and head to Albania.⁹⁹⁰ At the Albanian border, Serb policemen took the refugees' identity cards.⁹⁹¹

384. On 21 May 1999, paramilitaries and regular policemen expelled the residents remaining in Suva Reka.⁹⁹² This expulsion had clearly been organised in advance as transport was arranged for those who did not have their own transport.⁹⁹³ At Kukeš and Morina border crossings, the police confiscated the refugees' ID cards and the licence plates of their cars.⁹⁹⁴

Murder of the Berisha family

385. On 26 March 1999, VJ and MUP forces surrounded the vicinity of the Berisha family compound in the town of Suva Reka. Tanks were positioned close to the houses of the Berisha family.⁹⁹⁵

386. Shyrete Berisha testified that on 25 March 1999, police looted her home and forced her family to leave.⁹⁹⁶ A heavy-wheeled vehicle with a gun mounted on top was parked outside her house.⁹⁹⁷ Policemen also ordered other members of the Berisha family out of their homes. The men were separated from women and children. Six men were shot dead.⁹⁹⁸ The Berisha family was

⁹⁸² H.Berisha, T.3609-3610, 3713-3715; P2326, pp.2-3; T.3600; P2325, pp.18-19; Zogaj, P2322, p.3; T.3781-3782, 3803-3804; S.Berisha, T.3879-3886.

⁹⁸³ H.Berisha, P2282, p.3; S.Berisha, T.3912-3914.

⁹⁸⁴ H.Berisha, P2326, p.3; P2325, p.15; T.3614-3617; Riedlmayer, T.5460-5463, 5507-5508; P1807.

⁹⁸⁵ Zogaj, P2322, p.4; T.3778-3780; IC44; Fondaj, P2283, p.3; T.3827-3828.

⁹⁸⁶ Zogaj, T.3783; Zyrapi, T.5996-6006; P2457; IC105.

⁹⁸⁷ Zogaj, P2322, p.4; P2323, p.4; P2324, p.11; Fondaj, P2283, p.3.

⁹⁸⁸ Zogaj, P2322, pp.4-7, 9; P2324, pp.15-16.

⁹⁸⁹ Zogaj, P2322, p.4.

⁹⁹⁰ Zogaj, P2323, pp.5-6; P2324, p.18; Fondaj, P2283, p.4; T.3832-3833.

⁹⁹¹ Zogaj, P2323, p.8; Fondaj, P2283, p.5.

⁹⁹² H.Berisha, P2282, p.5.

⁹⁹³ H.Berisha, P2282, pp.5-6; P2326, p.4.

⁹⁹⁴ H.Berisha, P2326, p.4.

⁹⁹⁵ S.Berisha, T.3887-3889; IC45 (tanks were positioned behind numbers 1 and 2 in the marked photo).

⁹⁹⁶ S.Berisha, T.3879-3886.

⁹⁹⁷ S.Berisha, T.3884-3886.

⁹⁹⁸ S.Berisha, T.3892-3897; K83, T.3943-3945.

herded into a coffee shop by Serb policemen, who shot all those inside.⁹⁹⁹ The police later threw explosives into the shop.¹⁰⁰⁰ At least 44 members of the Berisha family were killed and others seriously wounded.¹⁰⁰¹ The police loaded the bodies of the victims onto a truck and drove them in the direction of Prizren.¹⁰⁰² Three injured persons, thrown in among the bodies, jumped off the truck *en route* to Prizren.¹⁰⁰³

387. The human remains of the Berisha family members were later exhumed from two locations: at a firing range site in Prizren municipality and at the SAJ training centre at Batajnica, outside Belgrade. That the bodies were originally buried at the firing range and then later moved to Batajnica is clear from the evidence relating to the killing of Jashar Berisha. Part of his body was found at the Prizren firing range and another part at Batajnica.¹⁰⁰⁴

Forces of the FRY and Serbia were responsible for the crimes in Suva Reka

388. Various VJ and MUP units were stationed in Suva Reka town.¹⁰⁰⁵ They conducted joint patrols.¹⁰⁰⁶ The MUP had a police station (SUP) in Suva Reka town. The Commander of the 37th PJP Detachment had his headquarters at the Balkan Hotel.¹⁰⁰⁷ The VJ had a base at Birać outside the town.¹⁰⁰⁸

389. On 23 March 1999 the Joint Command ordered the 549th Mtbr to support the MUP in an operation to take place on 25 March 1999 in the Orahovac, Suva Reka, and Velika Kruša sectors.¹⁰⁰⁹ That day, Delić issued an order implementing the Joint Command order,¹⁰¹⁰ and instructed the 5th combat group of his brigade to deploy to Raštane, outside Suva Reka town, with two companies from the 37th PJP (Niš) Detachment.¹⁰¹¹

390. The crimes at Suva Reka took place during the course of this joint action. K83 participated in this operation and said that the operation was set in motion when “Čegar 1” or Colonel Mitrović,

⁹⁹⁹ S.Berisha, T.3897-3901; P189; K83, T.3945-3951; IC47; IC48.

¹⁰⁰⁰ S.Berisha, T.3901-3902; K83, T.3952-3955; IC49.

¹⁰⁰¹ S.Berisha, T.3870-3873, 3903-3907; P2346; P2344. *See* Annex C, Schedule D.

¹⁰⁰² S.Berisha, T.3903, 3907; K83, T.3955-3961.

¹⁰⁰³ S.Berisha, T.3907-3908.

¹⁰⁰⁴ K83, T.3962-3965. *See* Annex C, Schedule D.

¹⁰⁰⁵ K83, T.3930.

¹⁰⁰⁶ H.Berisha, P2326, p.2.

¹⁰⁰⁷ K83, T.3999; K79, T.9644 (private session).

¹⁰⁰⁸ H.Berisha, T.3661.

¹⁰⁰⁹ P2015.

¹⁰¹⁰ P1981.

¹⁰¹¹ P1981, item 5.1.

commander of the 37th PJP Detachment, came to the police station in Suva Reka.¹⁰¹² PJP members and policemen from the police station in Suva Reka started searching houses across the street from the police station.¹⁰¹³

391. The massacre of the members of the Berisha family was carried out by members of the MUP from Suva Reka.¹⁰¹⁴ These killings were not random killings:

- Tanks were parked outside behind the Berishas' houses hours before the assault, which clearly indicates that the operation was planned.
- The killings took place during the operations that started with the arrival of the commander of the 37th PJP Detachment.
- The police told members of the Berisha family to stay outside the coffee shop and later more policemen arrived and told them to enter it.¹⁰¹⁵
- Prior to the massacre, Sladan Cukarić, head of the patrol, was in radio communication planning what to do.¹⁰¹⁶
- Only 15 or 20 minutes after the massacre occurred, Boban Vuksanović, the mayor of Suva Reka and the head of the civil defence, arrived with a truck to remove the bodies,¹⁰¹⁷ which indicates that he must have known in advance that the massacre would take place.
- As the bodies were being loaded onto the truck, police officers brought Jashar Berisha in a car from the police station to the coffee shop and shot him dead.¹⁰¹⁸
- The massacre took place only a few hundred meters from the police station, so the explosions and shooting must have been audible there. Numerous people saw the bodies were being loaded onto trucks. Residents of Suva Reka later talked about the massacre.¹⁰¹⁹

392. The destruction of the mosque in Suva Reka was also part of a plan to intimidate and harass the Kosovo Albanian population in Suva Reka. The mosque was damaged on 28 March 1999,

¹⁰¹² K83,T.3933-3940; [REDACTED]

[REDACTED] Vojnović testified that this was the code-name for Colonel Mitrović:

Vojnović,T.24242. *See also* Cvetić,T.8110.

¹⁰¹³ K83,T.3940-3941.

¹⁰¹⁴ S.Berisha,T.3892-3894;K83,T.3944-3948,3949-3951.

¹⁰¹⁵ S.Berisha,T.3899-3900.

¹⁰¹⁶ K83,T.4005.

¹⁰¹⁷ K83,T.3956-3958.

¹⁰¹⁸ K83,T.3959-3961,4001.

¹⁰¹⁹ K83,T.4002-4004.

Bajram day, when the police was still forcing Kosovo Albanians out of Suva Reka.¹⁰²⁰ There was no legitimate military purpose in the destruction of the minaret.

393. The crimes in Belanica took part during the course of a VJ-MUP operation in that area.

- On 31 March 1999 the forces of the FRY and Serbia broke through the frontlines at Gajrak and Banja and in the early morning on 1 April 1999 the KLA withdrew to the north of Belanica.
- The KLA ordered the civilian population to move out of the area for security reasons. The refugees decided to remain in Belanica. A few hours later the refugees in Belanica saw heavy vehicles and combat equipment arrive and they were surrounded by men in various uniforms.
- As the KLA had just been forced out of the area, these forces must either have been part of the advancing Serb lines or forces that were there as part of a tactical manoeuvre to secure the area.
- The post-operation report of the 549th Mtr of 3 April 1999 refers to a joint operation the PJP and the 15th Armoured Brigade in Belanica village on 1 April 1999.¹⁰²¹

5. Peć/Pejë municipality

394. On 27 and 28 March 1999, VJ, MUP, and armed Serb civilians attacked the town of Peć and forcibly expelled its Kosovo Albanian population.¹⁰²² Preparations for the mass expulsion began several days earlier when local Serb police illegally requisitioned buses and trucks from civilians from a private company. These vehicles were used to deport many of the local residents.¹⁰²³ MUP and armed local Serbs patrolled the streets.¹⁰²⁴

395. On 27 March 1999, some 20 fully-armed and masked paramilitary troops entered the neighbourhood of Karagaq, shot at Albanian houses and gave residents a five-minute ultimatum to leave their homes and go to Montenegro. The paramilitaries yelled “You asked for Clinton, call

¹⁰²⁰ H.Berisha,P2326,p.3.

¹⁰²¹ P2002,p.3.

¹⁰²² Zatriqi,P2347,pp.2-3;T.4414-4417;Konaj,P2372,pp.3-5.

¹⁰²³ Zatriqi,P2347,pp.2,7;T.4417,4422-4423.

¹⁰²⁴ Zatriqi,P2347,p.3;T.4414.

them now, let them rescue you.”¹⁰²⁵ MUP pinzgauers and a VJ tank were seen in town during these expulsions.¹⁰²⁶ Houses were burnt and shooting continued throughout the night.¹⁰²⁷

396. On 28 March 1999, police went from house to house and expelled the remaining residents from their homes.¹⁰²⁸ Crowds of Kosovo Albanian civilians gathered in the streets of Peć where police and armed Serb civilians ordered them to go to Montenegro.¹⁰²⁹ MUP, VJ, and paramilitaries were stationed at the entrance of every street, blocking access to the town. MUP and armed Serb civilians at various junctions directed the convoys towards Montenegro or Albania.¹⁰³⁰

397. Thousands of Kosovo Albanians in Peć were ordered into the centre.¹⁰³¹ A MUP officer ordered only women and children onto buses and trucks.¹⁰³² Throughout that day, different groups of residents were driven to Prizren.¹⁰³³ The drivers shouted “Go to Albania, this is not your place, this is Great Serbia.”¹⁰³⁴ In the evening, three tanks arrived to Peć town.¹⁰³⁵

398. In Prizren, the refugees were transferred onto other buses which took them to the border town of Vrbnica.¹⁰³⁶ They walked across the border where they were searched by the police. Before crossing the border, the refugees were forced to throw their identification documents into a large box, which also contained license plates.¹⁰³⁷

399. By 2 April 1999, much of Peć had been burnt.¹⁰³⁸ Kosovo Albanians who returned in July 1999 found many Albanian houses completely burnt while Serb properties remained undamaged.¹⁰³⁹

Forces of the FRY and Serbia were responsible for the crimes in Peć municipality

400. MUP and VJ forces were identified as perpetrators of the crimes in Peć municipality, both through their equipment and uniforms as well as through the fact that some of them were known to witnesses.

¹⁰²⁵ Konaj,P2372,p.3.

¹⁰²⁶ Konaj,T.4915-4916;P1325,p.1,nos.2-3.

¹⁰²⁷ Konaj,P2372,p.4.

¹⁰²⁸ Zatriqi,T.4415-4416,4420-4421.

¹⁰²⁹ Konaj,P2372,p.4;Zatriqi,P2347,p.3.

¹⁰³⁰ Paponjak,T.24579;Konaj,P2372,p.4;T.4889-4890;Zatriqi,P2347,p.3;T.4417,4424-4425.

¹⁰³¹ Konaj,P2372,p.4;Paponjak,T.24552-24553,24573.

¹⁰³² Konaj,P2372,pp.4-5.

¹⁰³³ Konaj,P2372,p.4;T.4912-4914.

¹⁰³⁴ Konaj,P2372,p.5.

¹⁰³⁵ Konaj,P2372,p.4.

¹⁰³⁶ Konaj,P2372,p.5.

¹⁰³⁷ Konaj,P2372,p.5.

¹⁰³⁸ P407,p.929.

¹⁰³⁹ Zatriqi,P2347,p.3;T.4418.

401. Peć had a Military Sector headquarters.¹⁰⁴⁰ Witnesses and military documents place the VJ in and around Peć during the deportations:

- On 23 March 1999, General Pavković ordered the 113th VTOd to mobilize in Peć.¹⁰⁴¹ The 177th VTOd was also operating in Peć in this period.¹⁰⁴²
- On 27 March VJ shelled neighbourhoods in Peć.¹⁰⁴³
- On 28 March VJ were in Peć city centre with thousands of refugees.¹⁰⁴⁴ They transferred refugees onto buses in Prizren.¹⁰⁴⁵
- Several tanks were seen during the course of the expulsions.¹⁰⁴⁶
- VJ were present at both VJ and joint VJ-MUP checkpoints throughout Peć.¹⁰⁴⁷
- An order of the Peć Military Section Command dated 30 March 1999 referred to the “moving of the population out of the zone of responsibility of the Peć VO.”¹⁰⁴⁸
- A map of VJ brigade and battle group deployment areas of Kosovo and south Serbia places the 2nd Armoured Battalion “in Peć.”¹⁰⁴⁹

402. The evidence proves the presence and coordinated involvement of MUP forces, paramilitaries and armed Serb civilians in the crimes.

403. MUP officers were present in the centre as thousands of people were deported, ordering people onto buses and trucks.¹⁰⁵⁰ MUP officers took part in the beating of multiple male refugees.¹⁰⁵¹ The chief of the SUP was informed about the thousands of people fleeing Peć.¹⁰⁵²

404. MUP member Radovan Paponjak, Head of Traffic in Peć in March 1999, denied the claims of Prosecution witnesses regarding the events in Peć. His evidence is not credible. Paponjak admitted that thousands of ethnic Albanian civilians poured into the centre of Peć around 27 March.¹⁰⁵³ He, however, denied that anyone was ordered to leave¹⁰⁵⁴ and that in the midst of the

¹⁰⁴⁰ Pesić, P2502, para. 6.

¹⁰⁴¹ P1924.

¹⁰⁴² Paponjak, T.24552.

¹⁰⁴³ Zatriqi, P2347, p. 2.

¹⁰⁴⁴ Konaj, P2372, pp. 4-5.

¹⁰⁴⁵ Konaj, P2372, p. 5.

¹⁰⁴⁶ Konaj, T.4915-4916; P1325, p. 1, nos. 2-3.

¹⁰⁴⁷ Paponjak, T.24551-24552.

¹⁰⁴⁸ 5D36/P1208, p. 1.

¹⁰⁴⁹ P1579. The 125th Mtbr had an armoured battalion in Peć.

¹⁰⁵⁰ Konaj, P2372, pp. 4-5.

¹⁰⁵¹ Konaj, P2372, p. 5.

¹⁰⁵² Paponjak, T.24574.

¹⁰⁵³ Paponjak, T.24552-24556, 24573-24575, 24579-24580.

¹⁰⁵⁴ Paponjak, T.24556, 24585-24586.

thousands of people fleeing, he was only concerned with regulating traffic.¹⁰⁵⁵ Despite being in the MUP and being able to recall numerous details about VJ reservists, Paponjak was unwilling or unable to give even an impression of the number of reservists called into the MUP.¹⁰⁵⁶

405. Paramilitary forces also took part in the expulsions. On 27 March, they mistreated and expelled residents from their homes.¹⁰⁵⁷ On 28 March, paramilitaries drove busloads of refugees out of Peć.¹⁰⁵⁸ They, along with MUP, beat men on one of the buses at a checkpoint.¹⁰⁵⁹

406. Armed local civilians were used to help support MUP and VJ forces. Able-bodied Serbs were mobilized and incorporated into either the VJ or the MUP.¹⁰⁶⁰ Local “armed non-Šiptars” were listed in a Joint Command order pertaining to Peć with one of their uses being to protect the “non-Šiptar” population.¹⁰⁶¹ On 27 March, local armed Serbs were seen along with MUP officers shooting at homes of Kosovo Albanians and, on 28 March, assisting the MUP to direct refugees out of town.¹⁰⁶²

6. Kosovska Mitrovica/Mitrovicë municipality

407. Beginning around February and continuing into March 1999, VJ forces increased their presence in the area of Kosovska Mitrovica. The forces included elements of the 37th Infantry Brigade, the 125th Motorised Brigade, and the 211th and 252nd Armoured Brigades.¹⁰⁶³ Around 17 March 1999 a large number of MUP forces were mobilised in the area of Kosovska Mitrovica/Mitrovicë, including members of the PJP brought from outside of Kosovo.¹⁰⁶⁴

408. On or about 24 March 1999, Serb police began targeting prominent Albanian figures in Kosovska Mitrovica/Mitrovicë. MUP officers from the Mitrovica SUP broke into Agim Hajrizi’s home. They shot and killed him, his son, and his mother.¹⁰⁶⁵ Latif Berisha, the chairman of the LDK for the Kosovska Mitrovica municipality, was murdered that same evening.¹⁰⁶⁶ The homes of Mahmut Halimi, a judge, and Halit Barani, a local activist, were burned.¹⁰⁶⁷

¹⁰⁵⁵ Paponjak, T.24574-24575.

¹⁰⁵⁶ Paponjak, T.24571-24572.

¹⁰⁵⁷ Konaj, P2372, p.3.

¹⁰⁵⁸ Konaj, P2372, pp.4-5.

¹⁰⁵⁹ Konaj, P2372, p.5.

¹⁰⁶⁰ Paponjak, T.24567-24569.

¹⁰⁶¹ P1878, item 2.

¹⁰⁶² Zatriqi, P2347, pp.2-3; T.4414-4415.

¹⁰⁶³ 5D26, p.1; Ćurčin, T.16943-16944; P935, p.11; Mandić, T.20908-20911; P3049, item 4; P1579.

¹⁰⁶⁴ Cvetic, T.8049-8050; Savić, 5D1392, p.5, para.25.

¹⁰⁶⁵ P995; P2335, p.1; Hajrizi, P2319, pp.3,5-8; T.4045-4053.

¹⁰⁶⁶ P995; Hajrizi, T.4045-4046; Halimi, T.4446.

¹⁰⁶⁷ Halimi, T.4460; Hajrizi, P2320, p.4.

409. From late March and into April 1999, MUP, VJ, and paramilitary forces expelled tens of thousands of ethnic Albanians from Kosovska Mitrovica.¹⁰⁶⁸ There were two major waves of expulsions: the first in late March to early April and the second in mid-April.¹⁰⁶⁹

410. On 28 March 1999, MUP, VJ, and paramilitaries forces began burning Albanian homes and expelling ethnic Albanian residents of Tavnik neighbourhood.¹⁰⁷⁰ As they expelled the population, Serbs soldiers shouted “You wanted NATO and call NATO now to come and help you. We will kill you all.”¹⁰⁷¹ Thousands of people were routed to Zhabar, a village on the outskirts of Kosovska Mitrovica town, where refugees from other villages had gathered.¹⁰⁷²

411. On 1 April 1999, the refugees in Zhabar were ordered to return to Kosovska Mitrovica town.¹⁰⁷³ Serb forces arranged buses for the Kosovo Albanian population to be transported to Montenegro. The buses left for Montenegro on 4 April. Serb forces surrounded the bus station. A Serb driver drove each bus.¹⁰⁷⁴ Just before crossing the Montenegrin border, many men were forced off the buses, mistreated, interrogated, and forced to shout “Serbia, Serbia.”¹⁰⁷⁵ Montenegrin border police seized their identity documents and told them that they would “never come back to this country again.”¹⁰⁷⁶

412. A second wave of expulsions took place in mid-April 1999. On or around 14 April 1999, Serb forces fired some rounds in the direction of Zhabar from Mitrovica town.¹⁰⁷⁷ The next day, Halimi saw the population from Suhadol, Tavnik and Shipol neighbourhoods of Mitrovica moving *en masse* to Zhabar. He heard from the refugees that soldiers, police and paramilitaries had expelled them from their homes.¹⁰⁷⁸ These forces looted and burned houses at one end of Zhabar.¹⁰⁷⁹

413. MUP, paramilitaries, and VJ expelled the refugees from Zhabar over the next two days. A first column of about 25,000 Albanians was ordered to head down the Peć/Pejë road.¹⁰⁸⁰ MUP ordered a second group to head to Albania. At the border, the police ordered the refugees to discard their identification documents and car registration plates.¹⁰⁸¹ Another column of around 8,000

¹⁰⁶⁸ Halimi, T.4456; Sadiku, P2256, paras.15,16,18; Hajrizi, P2320, p.4-5.

¹⁰⁶⁹ Hajrizi, P2319, p.8; T.4060; Sadiku, T.1893,1920; P2256, para.14; Halimi, T.4456-4457; P2616, p.13.

¹⁰⁷⁰ Hajrizi, P2320, p.4; T.4070-4072; P407, p.881.

¹⁰⁷¹ Hajrizi, P2320, p.4.

¹⁰⁷² Hajrizi, P2320, p.4; T.4054-4055.

¹⁰⁷³ Hajrizi, P2320, pp.4-5.

¹⁰⁷⁴ Hajrizi, P2320, pp.5-6.

¹⁰⁷⁵ Hajrizi, P2319, p.8; P2320, p.6; T.4060-4062.

¹⁰⁷⁶ Hajrizi, P2320, p.6.

¹⁰⁷⁷ Halimi, T.4448-4450.

¹⁰⁷⁸ Halimi, T.4448-4451, 4478-4482; Sadiku, P2256, paras.12-14.

¹⁰⁷⁹ Halimi, T.4449-4455, 4478-4482; Sadiku, P2256, paras.11; T.1893.

¹⁰⁸⁰ Halimi, T.4456.

¹⁰⁸¹ Halimi, T.4456-4460; Sadiku, P2256, para.38.

people headed to Albania under MUP escort.¹⁰⁸² The refugees passed multiple police and military checkpoints on the road.¹⁰⁸³ When they reached Klina e Perme, a MUP officer split them into two groups.¹⁰⁸⁴ One group of about 6,000 was ordered to go to the village of Zablace, where they remained for about three weeks under MUP guard.¹⁰⁸⁵ The refugees were kept in cramped conditions in abandoned houses.¹⁰⁸⁶

414. Sadije Sadiku, a 19-year-old Kosovo Albanian girl,¹⁰⁸⁷ was among the refugees in Zablace. On 6 May 1999, she went out to a field to find food and was shot by a sniper from a church where policemen were based.¹⁰⁸⁸ As a result of her injuries, Sadije Sadiku is paralysed.¹⁰⁸⁹

415. MUP forces expelled villagers and refugees from Zahac some days later.¹⁰⁹⁰ When the refugees arrived at the Albanian border, the police robbed them and destroyed their identity documents.¹⁰⁹¹

416. Of the four mosques in Kosovska Mitrovica town, Serb forces damaged three and razed one – the Ibar mosque – to the ground.¹⁰⁹²

Forces of the FRY and Serbia were responsible for the crimes in Kosovska Mitrovica

417. Witnesses identified the perpetrators of the crimes committed in the Kosovska Mitrovica municipality as members of the MUP, VJ and paramilitaries by the uniforms they wore and through the fact that some of policemen committing crimes were known to the victims.¹⁰⁹³

418. The forces of the FRY and Serbia were deployed and engaged in actions in Kosovska Mitrovica. From 24 to 31 March, the 125th Motorised Brigade war diary recorded that BG-4 was engaged in a blockade in Stari Trg.¹⁰⁹⁴

419. On 29 March 1999, the PrK Command ordered the 125th Motorised Brigade to let the refugees go anywhere, so long as it was towards the south.¹⁰⁹⁵ The next day, 30 March 1999, the

¹⁰⁸² Sadiku,P2256,paras.15,16,18. See IC9.

¹⁰⁸³ Sadiku,P2256,paras.16-20;T.1945;P2252,p.4.

¹⁰⁸⁴ Sadiku, P2256,para.20;T.1898-1899.

¹⁰⁸⁵ Sadiku,P2256,paras.20-25;T.1899-1900.

¹⁰⁸⁶ Sadiku,P2256,paras.21-24;T.1899-1900.

¹⁰⁸⁷ P3141.

¹⁰⁸⁸ Sadiku,T.1900-1901,1936,1938,1949;P2256,paras.5,25-30.

¹⁰⁸⁹ Sadiku,P2256,paras.5,25-30;T.1901.

¹⁰⁹⁰ Sadiku,P2256,paras.34-35.

¹⁰⁹¹ Sadiku,T.1902-1903;P2256,paras.36-39.

¹⁰⁹² Halimi,T.4460-4461;P1802;P1780;P1789;Riedlmayer,T.5484-5486.

¹⁰⁹³ Hajrizi,P2320,p.4;Halimi,T.4449-4451,4454-4455,4478-4482.

¹⁰⁹⁴ P2616,p.1-15;P2032,p.2.

¹⁰⁹⁵ P2616,p.12.

125th Mtbr reported seeing a large number of civilian refugees moving out of Kosovska Mitrovica.¹⁰⁹⁶

420. On 2 April, Lazarević tasked the 37th Infantry Brigade to engage in combat actions with the 252nd Armoured Brigade, the 15th Armoured Brigade and the MUP in a zone near Kosovska Mitrovica.¹⁰⁹⁷

7. Priština/Prishtinë municipality

421. Beginning on or about 24 March 1999, the VJ, MUP, armed Serb civilians and paramilitary units, including Arkan's men,¹⁰⁹⁸ expelled the ethnic Albanian residents of Priština/Prishtinë municipality.¹⁰⁹⁹ The majority of the Albanians were expelled within the first week of the start of the NATO bombing campaign. Nazalie Bala, a local resident, described the expulsions:

The citizens of Priština, for three days in succession left the city, they were forced out of the city [...] the neighbourhoods were empty, simply empty. I cannot say that the whole city was empty of people, but the majority of the inhabitants of Priština left the city during those three days[...] The overwhelming majority were forced to leave.¹¹⁰⁰

422. The preparations for the mass expulsion began weeks in advance.¹¹⁰¹ The presence of VJ and MUP units increased significantly in and around Priština/Prishtinë.¹¹⁰² The VJ deployed large numbers of tanks, trucks, APCs, and troops.¹¹⁰³ The MUP mobilised and armed Serb civilians.¹¹⁰⁴

423. From 24 March to early April 1999, MUP, VJ, paramilitary and armed Serb civilians expelled ethnic Albanian residents in Priština municipality.¹¹⁰⁵ Mixed Serb forces (VJ, MUP, and Serb civilians) went from door to door and ordered Albanians to leave their homes, threatening to kill any residents who refused to leave.¹¹⁰⁶ The forced expulsions occurred throughout Priština municipality, including in Dragodan,¹¹⁰⁷ Priština town;¹¹⁰⁸ Vranjevac/Kodra e Trimave;¹¹⁰⁹ Kodra e Diellit;¹¹¹⁰ Velanija/Velania;¹¹¹¹ the villages of Maticane/Matiqan¹¹¹² and

¹⁰⁹⁶ P2616,p.13

¹⁰⁹⁷ P2030;Diković,T.19875-19877.

¹⁰⁹⁸ Merovci,T.8434;Russo,P2261,p.4;Kabashi,T.2048-2049.

¹⁰⁹⁹ P407,pp.848,855-856,863,868,883,914,942;Bala,P2262,pp.6-8;Kabashi,P2250,pp.2-5;P2251,p.25;

Russo,P2261,pp.4-7; Haxhiu,T.6090-6097.

¹¹⁰⁰ Bala,T.2187-2188.

¹¹⁰¹ Merovci,P2588,pp.9-10,paras.38-39;Russo,P2261,pp.3-4;Bucaliu,P2299,p.3.

¹¹⁰² Bala,P2262,pp.5-6;P407,pp.820,848,868;Russo,P2261,p.3;Merovci,P2588,para.38-39,44,75.

¹¹⁰³ Russo,P2261,p.3;Merovci,P2588,para.38.

¹¹⁰⁴ Merovci,P2588,para.49;T.8439.

¹¹⁰⁵ Haxhiu,T.6090-6094;Bala,P2262,p.7;Russo,P2261,pp.4-5;Kabashi,P2250,pp.3-5;P2251,pp.25,33;T.2045-2048; K63,P2443,p.5.

¹¹⁰⁶ Russo,P2261,p.5;Bala,P2262,p.7;K63,P2443,pp.5-6; Kabashi,P2250,p.4;T.2048.

¹¹⁰⁷ Kabashi,P2250,pp.3-4;T.2045-2047;Bala,P2262,p.6.

¹¹⁰⁸ Bala,P2262,p.7.

¹¹⁰⁹ Kabashi,P2250,p.4.

¹¹¹⁰ Haxhiu,T.6090-6092.

¹¹¹¹ Russo,P2261,pp.5-6.

¹¹¹² Russo,P2261,p.5.

Kolovica/Kojlovica;¹¹¹³ and the town of Kosovo Polje/Fushe Kosove.¹¹¹⁴ The police yelled nationalistic insults such as “Get out, you asked for NATO, go to Macedonia, or Albania, anyone who does not leave, we will catch and burn. This is Serbia.”¹¹¹⁵ Serb forces drove around town firing their weapons, looting and burning Kosovo Albanian homes and shops.¹¹¹⁶ [REDACTED]

424. Those expelled from their homes were sent directly to the Priština train station.¹¹¹⁸ Thousands of residents arrived to the train station daily.¹¹¹⁹ Armed MUP, paramilitaries and armed Serb civilians guarded the exits of the station and killed those who attempted to flee.¹¹²⁰ Some people were put immediately onto buses or trains while others spent days and nights outside, waiting to be loaded on to trains.¹¹²¹

425. The MUP herded the ethnic Albanian residents of Priština onto trains in large numbers.¹¹²² Hundreds were packed in each carriage.¹¹²³ Several trains left each day to Đeneral Janković-Hani I Elezit, a village near the Macedonian border.¹¹²⁴ The Uroševac/Ferizaj railway station logbook shows that after 24 March 1999, trains were running on exceptional schedules to and from Priština.¹¹²⁵ Both the number of trains and number of carriages increased.¹¹²⁶ The trains would go towards the border full of people, and return empty.¹¹²⁷ Serb soldiers and police were onboard the trains.¹¹²⁸ Additionally, buses were also organised to transport people to Macedonia.¹¹²⁹

426. At the border, VJ soldiers ordered the refugees at gunpoint to walk along the train tracks and cross into Macedonia.¹¹³⁰ Border police tore up their identity documents before allowing them to cross the border.¹¹³¹

¹¹¹³ [REDACTED] Bala, P2262, p.6.

¹¹¹⁴ Kabashi, P2250, p.2.

¹¹¹⁵ Kabashi, P2250, p.4; K63, P2443, p.5.

¹¹¹⁶ Bala, P2262, pp.5-6; Kabashi, P2250, pp.2-3.

¹¹¹⁸ K63, P2443, p.7; K62, T.2278; Kabashi, P2250, p.5; Russo, P2261, pp.6-7; Bala, P2262, p.7.

¹¹¹⁹ Kabashi, P2250, p.5.

¹¹²⁰ Kabashi, P2250, p.5; P2251, pp.26-27; Russo, P2261, p.7; Bala, P2262, p.7.

¹¹²¹ Kabashi, P2250, p.5; Russo, P2261, p.7; Bala, P2262, p.7.

¹¹²² Kabashi, P2250, p.5; T.2051, 2053.

¹¹²³ Bala, P2262, pp.7-8.

¹¹²⁴ Russo, P2261, p.7; P1331; Kabashi, P2250, p.5; Bucaliu, P2287, p.17.

¹¹²⁵ Bucaliu, P2287, p.76; P1331.

¹¹²⁶ P1331, pp.108-122; Bucaliu, P2287, pp.14-16, 51.

¹¹²⁷ Bucaliu, P2287, p.92.

¹¹²⁸ Bucaliu, P2287, p.20; P1331, p.5; Bala, P2262, pp.7-8.

¹¹²⁹ Bucaliu, P2287, pp.52-54; Kabashi, P2250, p.5; K63, P2443, p.8.

¹¹³⁰ K63, P2443, p.8; Kabashi, P2250, pp.5-6; Bala, P2262, p.8; T.2174.

¹¹³¹ Bala, P2262, p.8; T.2174.

427. In mid-June 1999, the Emperor's mosque in Priština town was burnt down.¹¹³² According to various news sources,¹¹³³ Serbian police were responsible for the blaze.¹¹³⁴

Forces of the FR Y and Serbia were responsible for the crimes in Priština

428. The forces that participated in the expulsions in Priština were identified by witnesses as Serb police, soldiers, and local civilians, based on the uniforms they wore.

429. At the time of these crimes the VJ and MUP forces had full combat control of Priština and the surrounding areas. There were no other significant military or police forces in the area of Priština town except for the Serbian MUP, the VJ and subordinate units and personnel. Present in Priština at the time were the following individuals and commands:

- General Pavković and the Third Army Forward Command Post;¹¹³⁵
- General Lazarević and the PrK Command Post;¹¹³⁶
- General Lukić and the MUP Staff;¹¹³⁷
- Col. Zlatimir Pešić and the Military District Command;¹¹³⁸ and
- Priština SUP.¹¹³⁹

8. Đakovica/Gjakovë municipality

Đakovica town

430. From on or about 24 March 1999 through 11 May 1999, VJ and MUP forces expelled Kosovo Albanian residents from Đakovica town.¹¹⁴⁰ VJ and MUP forces went from house to house ordering Kosovo Albanians from their homes.¹¹⁴¹ MUP forces shouted instructions, such as, "Leave the house within five minutes, if you do not do so we will throw a hand grenade. The bus is waiting

¹¹³² Reidlmayer, T.5505-5506,5611,5612.

¹¹³³ Reidlmayer, T.5612.

¹¹³⁴ Reidlmayer, T.5505; P1789, p.9.

¹¹³⁵ Lazarević, T.18065-18066; Stojmirović, T.17667.

¹¹³⁶ Lazarević, T.18044,18080.

¹¹³⁷ Vučurević, T.23119.

¹¹³⁸ Pešić, T.7212.

¹¹³⁹ Vučurević, T.23119.

¹¹⁴⁰ Haxhibeqiri, [REDACTED] P2308, p.6; T.1072-1073.

¹¹⁴¹ Haxhibeqiri, [REDACTED] P2308, p.6.

for you near the church; we will send you to Albania.”¹¹⁴² In some instances people were killed.¹¹⁴³ Many of the houses and shops belonging to Kosovo Albanians were set on fire.¹¹⁴⁴ Looting was widespread, mostly carried out by paramilitaries and police.¹¹⁴⁵ On 24 March 1999, the historic quarter of Đakovica, which included the bazaar, the Hadum Mosque and the adjoining Islamic Library, were partially or totally destroyed.¹¹⁴⁶ From 2 to 4 April 1999, thousands of Kosovo Albanians living in the town of Đakovica and neighbouring villages joined “a river of people, many kilometres long,” either on foot or driving in cars, trucks and tractors, moving towards the border with Albania.¹¹⁴⁷ VJ forces directed those fleeing and controlled their passage towards the border,¹¹⁴⁸ while at checkpoints along the way most Kosovo Albanians had their identification papers seized.¹¹⁴⁹

Miloš Gilić/Millosh Giliq Street

431. On the night of 1 to 2 April 1999, forces of the FRY and Serbia launched an operation against the Qerim district of Đakovica town. Over a period of several hours, they forcibly entered houses of Kosovo Albanians, killed the occupants, and then set the houses on fire.¹¹⁵⁰ Over 50 Kosovo Albanians were killed and their houses destroyed.¹¹⁵¹

432. During that night, Serb policemen and paramilitaries attacked a house on 157 Miloš Gilić Street¹¹⁵² and fired their automatic weapons.¹¹⁵³ Twenty civilians, mostly women and children, were in the basement of that house.¹¹⁵⁴ The policemen forced them out of the basement and into the house. They shot the civilians and set fire to the house.¹¹⁵⁵ Only 10-year-old Dren Čaka managed to escape and survived the massacre.¹¹⁵⁶

¹¹⁴² Haxhibeqiri, [REDACTED] T.1169;P2308,p.6.

¹¹⁴³ [REDACTED];Rudi, [REDACTED] P2532,pp.2-7;Hani Hoxha, [REDACTED] P2267,pp.2-3,5-6;Vejsa,P2350,pp.2-3.

¹¹⁴⁴ Haxhibeqiri, [REDACTED] P2308,pp.7-8;T.1077,1102,1172-1173;Rudi, [REDACTED] P2532,pp.2-5;Hoxha, [REDACTED] P2267,pp.2.4-5;Vejsa,P2350,p.2-3.

¹¹⁴⁵ Haxhibeqiri, [REDACTED] P2308,p.8.

¹¹⁴⁶ Haxhibeqiri,T.1198-1203;Riedlmayer,T.5525-5526;P2455.

¹¹⁴⁷ Haxhibeqiri, [REDACTED] T.1103;Hoxha, [REDACTED] P2267,p.5;Vejsa,P2350,p.3;Rudi, [REDACTED] P2532,p.6.

¹¹⁴⁸ Hoxha, [REDACTED] P2267,p.5;Vejsa,P2350,p.4.

¹¹⁴⁹ Haxhibeqiri,T.1103;Hoxha, [REDACTED] P2267,p.5;Vejsa,P2350,p.3.

¹¹⁵⁰ Hoxha,P2267,pp.2-4;Vejsa,P2350,p.3.

¹¹⁵¹ Vejsa,P2350,p.3.

¹¹⁵² P276;IC7;Hoxha,T.1542-1543;Vejsa,T.4079;IC24, letter H;Čaka,T.2632-2633.

¹¹⁵³ Hoxha,P2267,pp.3-4;Vejsa,P2350,pp.2-3;Čaka,T.2638-2639,2655;P2254,p.7 n.12,p.8 n.14.

¹¹⁵⁴ Vejsa,P2350,p.4;Čaka,T.2635.

¹¹⁵⁵ Vejsa,P2350,p.3;K74,P2532,p.5;Čaka,T.2644-2645;P2279. See Annex C, Schedule G.

¹¹⁵⁶ Čaka,T.2630-2631,2645-2646,2650-2651;IC26;P2278.

433. On 2 April 1999, residents of the Qerim district joined a convoy leaving the town.¹¹⁵⁷ The police and the army were on every street corner. At the exit of Đakovica town, MUP policemen seized the identification documents of the refugees.¹¹⁵⁸ The refugees crossed the border at Qafa e Prushit into Albania.¹¹⁵⁹

Korenica

434. Around mid-March 1999, police forces accompanied by tanks surrounded the village of Korenica.¹¹⁶⁰

435. On 25 March 1999, VJ forces entered the villages of Deva and Babaj, and killed eight civilians.¹¹⁶¹ On 27 or 29 March 1999, VJ forces expelled civilians in Guška village.¹¹⁶² They escorted the villagers to Korenica.¹¹⁶³

436. On 4 April 1999, the police came to Korenica. Police officers ordered the villagers to leave within three hours and head to Albania.¹¹⁶⁴ The villagers were later ordered to return to Korenica.¹¹⁶⁵

437. On 27 April 1999, Serb soldiers, paramilitaries and police entered Korenica and again expelled the villagers.¹¹⁶⁶ The soldiers beat and robbed them.¹¹⁶⁷

438. Lizane Malaj was one of the villagers expelled from her home. As she left Korenica, she saw her house burning.¹¹⁶⁸ Three of her male family members were killed during the expulsion.¹¹⁶⁹ Merita Deda, another villager, was separated from the men of her family and expelled from her home. As she was leaving, she heard multiple gunshots coming from her house.¹¹⁷⁰ In 2001, the bodies of three of her male relatives were exhumed from a mass grave at Batajnica, in Serbia proper.¹¹⁷¹

¹¹⁵⁷ Hoxha,P2267,p.5;T.1548-1549;K74,P2532,p.6; [REDACTED]

¹¹⁵⁸ Hoxha,P2267,p.5;Vejsa,P2350,p.3;T.4082.

¹¹⁵⁹ Hoxha,P2267,p.5;Vejsa,P2350,p.3.

¹¹⁶⁰ Malaj,P2232,p.4.

¹¹⁶¹ Deda,P2233,p.2.

¹¹⁶² Deda,P2233,p.2;T.1399.

¹¹⁶³ Deda,P2233,p.2-3;T.1426.

¹¹⁶⁴ Malaj,P2232,p.4;T.1307-1308.

¹¹⁶⁵ Malaj,P2232,pp.4-5.

¹¹⁶⁶ Malaj,P2232,pp.5,11;T.1300-1311,1330-1331;Deda,P2233,p.3;T.1400-1401,1429.

¹¹⁶⁷ Deda,P2233,p.3;T.1400-1401.

¹¹⁶⁸ Malaj,P2232,p.12.

¹¹⁶⁹ Malaj,P2232,pp.5,12;T.1314-1315. *See* Annex C, Schedule H.

¹¹⁷⁰ Deda,P2233,p.3;T.1401-1402.

¹¹⁷¹ Deda,T.1402. *See* Annex C, Schedule H.

439. Military, paramilitary, and police forces escorted the convoy of about 300-400 people on the main road towards Đakovica town.¹¹⁷² After passing Prizren town, the police directed the convoy to the border. The refugees walked the whole night to reach the border.¹¹⁷³ At the border, the police and the VJ seized their identification documents and removed the licence plates of vehicles.¹¹⁷⁴

Meja

440. On the morning of 27 April 1999, VJ and police forces expelled the residents of Meja.¹¹⁷⁵ Soldiers and policemen mistreated and killed some villagers.¹¹⁷⁶

441. Police forces with armoured vehicles, VJ soldiers and paramilitaries were at the check-point on the Meja-Orize and Đakovica-Junik roads.¹¹⁷⁷ They seized identification documents from the refugees. Some men were sent to the nearby school building¹¹⁷⁸ and later to a bridge where these forces shot them.¹¹⁷⁹

442. Nike Peraj, a VJ officer, was at the check-point on the Meja-Orize road. He saw the bodies of four men outside the school.¹¹⁸⁰ Near a second police check-point, he saw another 20 bodies.¹¹⁸¹ The bodies bore gunshot wounds inflicted at close range.¹¹⁸²

443. During the course of 27 April 1999, forces of the FRY and Serbia killed at least 344 people in the Meja area. In 2001, the human remains of approximately 300 of these victims were exhumed from mass graves at Batajnica.¹¹⁸³

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

444. The forces that entered the village of Korenica on 27 April 1999, and ordered people to leave to Albania were identified as Serb military and paramilitary by witnesses.¹¹⁸⁴ On the way to Đakovica there were many VJ soldiers around the convoy when it passed Meja.¹¹⁸⁵ Police were

¹¹⁷² Malaj,P2232,p.5.

¹¹⁷³ Malaj,P2232,p.6;T.1314,1377-1378.

¹¹⁷⁴ Malaj,P2232,p.7.

¹¹⁷⁵ Pnishi,P2236,pp.2-3;T.1443.

¹¹⁷⁶ Pnishi,P2236,pp.3-4;T.1443,1445,1447.

¹¹⁷⁷ Pnishi,P2236,p.4.

¹¹⁷⁸ Pnishi,P2236,p.4.

¹¹⁷⁹ Pnishi,P2236,p.4;T.1448.

¹¹⁸⁰ Peraj,P2253,p.11,para.69;T.1574-1575,1577-1579;IC8 (mark no.2 indicates the check-point in Orize).

¹¹⁸¹ Peraj,P2253,p.11,para.73;T.1574-1575,1577-1579;IC8 (mark no.1 indicates the check-point in Meja).

¹¹⁸² Peraj,P2253,p.12,para.74.

¹¹⁸³ P2414;P2415;P2416;P942. *See* Annex C, Schedule H.

¹¹⁸⁴ Malaj,P2232,pp.5-11;T.1310,1318-1319,1321-1322;Deda,P2233,pp.3-4;T.1427-1428.

¹¹⁸⁵ Deda,P2233,pp.3-4.

patrolling the road.¹¹⁸⁶ Witnesses confirmed that Milutin Prašćević, a local policeman, was among the policemen who came to Korenica on 4 April 1999 and expelled them.¹¹⁸⁷

445. The forces that surrounded and entered Meja village on 27 April 1999 were identified as VJ and police forces,¹¹⁸⁸ including Russian soldiers.¹¹⁸⁹ Pnishi also recognised local MUP officers amongst those forces,¹¹⁹⁰ including Predrag Stojanović, the police officer who killed seven young men at the bridge in Jahoc on 27 April 1999.¹¹⁹¹

446. Documentary evidence shows that both the VJ and the MUP (PJP) were deployed to and involved in operations in the Meja area of the Đakovica municipality in late April 1999. In particular, engaged units were the VJ 125th Mtrb,¹¹⁹² elements of the 63rd Parachute Brigade, 52d MPBn,¹¹⁹³ the 2nd Battalion of the 549th Mtrb,¹¹⁹⁴ and the MUP PJP 73rd Territorial Detachment, one company of which was deployed in the Ponoševač, Korenica, and Smonica villages area.¹¹⁹⁵ Nike Peraj showed on a map the deployment of VJ and MUP units along the Đakovica-Decane road.¹¹⁹⁶

447. Those forces and actions were coordinated by General Lazarević and Lieutenant-Colonel Goran Jeftović (Staff Officer for PrK operations) from Đakovica.¹¹⁹⁷ By the end of April 1999, Lazarević was in fact based at the Đakovica forward command post, together with other members of the PrK Command, and was there directing the operations on the ground in the Carragojs Valley, and receiving reports from the command post where Novica Stanković and Milan Kotur were operating.¹¹⁹⁸ Colonel Kotur was deployed to a command post at the Catholic Church northwest of the Ošek village, from where he had a clear view of the Carragojs valley to direct the Meja operation. The MUP command post was located in the Dervish prayer house in the Dužnje village.¹¹⁹⁹

448. Overall, several forces and units were engaged in the area of Meja. There were VJ troops, Šešelj units, Arkan units, MUP and other reservist members.¹²⁰⁰ Members of paramilitary units

¹¹⁸⁶ Dedaj, P2233, p.5.

¹¹⁸⁷ Malaj, P2232, p.4; T.1307-1308.

¹¹⁸⁸ Pnishi, P2236, p.2.

¹¹⁸⁹ Pnishi, P2236, p.3; T.1444.

¹¹⁹⁰ Pnishi, P2236, p.3.

¹¹⁹¹ Pnishi, P2236, p.9; T.1448.

¹¹⁹² P2023; P2024.

¹¹⁹³ [REDACTED] P326.

¹¹⁹⁴ K90, P2640, paras.48-50; [REDACTED]

¹¹⁹⁵ P2023, p.2.

¹¹⁹⁶ Peraj, P2253, p.10, paras.64-65; T.1570-1574; P325; P326; P328.

¹¹⁹⁷ Peraj, P2253, p.10, para.65; T.1580-1581.

¹¹⁹⁸ Peraj, P2253, p.14, para.91; T.1580.

¹¹⁹⁹ Peraj, P2253, p.10, para.63; P326; IC8.

¹²⁰⁰ Pnishi, P2236, p.5; Peraj, P2253, p.12, para.80.

were recognisable from their clothing: they wore black, green and brown camouflage trousers, their faces were painted with black polish. Some wore balaclavas.¹²⁰¹

449. As stated by Nike Peraj, already at the beginning of March 1999, the Military Security Commander of the VJ PrK, Colonel Momir Stojanović, told him about a cleansing plan that Serbian forces would carry out against the Kosovo Albanian population in Đakovica municipality.¹²⁰² In April 1999, Peraj also attended an informal meeting which took place in a private house in Đakovica town, near the barracks. During the meeting, Stojanović ordered Nikola Mičunović (VJ Major Commanding the reservist units of the Territorial Defence) and MUP Colonel Kovačević (who commanded the MUP station in Đakovica) to carry out an operation in the Carragojs Valley, where at least 100 “heads” had to be eliminated and all houses burned, as a revenge for the killing of MUP officer Milutin Praščević several days earlier.¹²⁰³ Only few days before the massacre in the Meja area, Nikola Mičunović (a.k.a. Dragan) told Peraj that “the valley of Carragojs was going to pay a very high price.”¹²⁰⁴

450. Defence witnesses challenged Peraj’s account on various points,¹²⁰⁵ but they were not credible or accurate in their allegations,¹²⁰⁶ nor did they offer any alternative and valid explanation as to the sequence of events and the crimes committed as a consequence of those combat operations. For example, although Stojanović denied he ever said those words Peraj attributed to him, or ever participated to the informal meeting in Đakovica mentioned by Peraj,¹²⁰⁷ his explanation and answers in that regard were not convincing. Furthermore, he admitted that, generally speaking, he did participate in the preparation of plans for combat actions of PrK units, in the sense of providing information and knowledge about the locations, plans, and strength of the Albanian terrorists.¹²⁰⁸ It is not credible that, as the Chief of the Security Department in the PrK Command in 1999, Stojanović did not know about or participate in the planning of the Meja operation.

451. The evidence shows that, by at least 25 April 1999, the VJ and the MUP had deployed their units to the area northwest of Meja, towards Junik.¹²⁰⁹ On or about the early morning hours of 27 April 1999, forces of the FRY and Serbia launched an attack in the Carragojs, Erenik and Trava

¹²⁰¹ Peraj,P2253,p.14,para.90.

¹²⁰² Peraj,P2253,p.9,para.57.

¹²⁰³ Peraj,P2253,p.10,para.59.

¹²⁰⁴ Peraj,P2253,p.9,para.58.

¹²⁰⁵ See, e.g.,Petrović,5D1396,paras.15-32;T.21080-21082,21088-21091;Jevtović,T.20407-20409;Stojanović,T.19787-19788;Vintar,5D1394,pp.5-6,paras.19-22,30.

¹²⁰⁶ See, e.g.,Vintar,T.21049-21051,21053-21056,21059-21060.

¹²⁰⁷ Stojanović,T.19787-19788.

¹²⁰⁸ Stojanović,T.19840.

¹²⁰⁹ P2023;P2024.

Valleys, in order to drive the Kosovo Albanian population out of the area. Peraj confirmed that this operation went from Junik to the direction of Đakovica, and that paramilitary units were located in Meja.¹²¹⁰ Throughout the entire day, villagers – under the direct threat of VJ and MUP members – left their homes and joined several convoys of refugees.

452. Additionally, Saša Antić, Company Commander in a unit attached to the 125th Mtbr, stated that on 27 and 28 April 1999 he was located with his unit along the road of the Dobroš and Korenica villages, having received the task to prevent a flow of terrorists in the area.¹²¹¹ For that task, which started on the morning of 27 April 1999, Antić used two platoons from his company (40 to 50 men in total) and went along the Dobroš village — Ramoc village axis. Also MUP PJP companies from Đakovica and Prizren were present, and were located on the right-hand side of the axis.¹²¹²

453. In its 27 April 1999 combat report, the Commander of the 125th Mtbr, Dragan Živanović, referred to a column of “Šiptar civilians” in the valley running from Junik to Meja (northwest of Đakovica).¹²¹³ His assessment was that:

they want to pull out from the sector of operations of our forces in the general area of the Ramoc [north of Korenica] facility.¹²¹⁴

454. VJ and MUP units forced the villagers to leave the area.¹²¹⁵ In the 27 April 1999 combat report of the 125th Mtbr, the task of the VJ forces for the following day was to “continue mopping up the general area of Reka in a concerted action with the MUP.”¹²¹⁶ Peraj also stated that, on 28 April 1999, VJ and MUP forces continued pushing civilians down the valley, in the south-east direction.¹²¹⁷

455. [REDACTED] on 27 and 28 April 1999, joint VJ and MUP forces were clearing out the villages from Dobroš to Korenica and expelling them “from the baby in the cradle to the elderly people in wheelchairs.”¹²¹⁸ Many of the Kosovo Albanian men driven out by this sweep ended up being taken in by the police outside Korenica and executed.¹²¹⁹

¹²¹⁰ Peraj, P2253, pp. 10-11, para. 66.

¹²¹¹ Antić, 5D1443, p. 6, para. 22; T. 21143-21144.

¹²¹² Antić, 5D1443, p. 6, para. 23; T. 21153-21155; IC172.

¹²¹³ P2024, p. 2.

¹²¹⁴ P2024, p. 2.

¹²¹⁵ Malaj, P2232, pp. 5, 11; T. 1330-1331; Deda, P2233, p. 3; T. 1400-1401; Pnishi, P2236, p. 2; T. 1443.

¹²¹⁶ P2024, p. 3, item 6.

¹²¹⁷ Peraj, P2253, p. 10, para. 65.

¹²¹⁸ K73, T. 3327, 3382 (closed session).

¹²¹⁹ K90, P2640, paras. 55-66.

456. Although Defence witnesses denied that the VJ and the MUP were engaged in activities to “mop up” or push Kosovo Albanians down the Carragojs Valley towards Meja,¹²²⁰ the evidence is clear about what resulted from those combat activities: more than 300 Kosovo Albanians were killed and a large number of villagers were displaced from that area.

457. That the crimes committed in the Meja area were part of an organised operation and of high level planning is also evidenced by the fact that VJ and MUP forces tried to conceal the dead bodies. As witnessed by Peraj, the day after the Meja massacre, two civilian trucks transported piles of bodies towards Đakovica town. A police jeep escorted the trucks.¹²²¹ On 29 April 1999, Peraj saw two more trucks driving towards Đakovica from Meja. Although those were covered with tarpaulins, Peraj could see some body parts underneath it.¹²²²

458. Further evidence that VJ and MUP forces intended for the crimes in the Meja area to occur is the fact that the bodies of over 300 victims were exhumed from mass graves at Batajnica. As Stojanović said, there was no investigation of that massacre even after media reports concerning the bodies found in Batajnica.¹²²³ Also Perović (Chief of the Security Organ of the 52nd Light Artillery Rocket Battalion, stationed at the Đakovica garrison) testified that no investigations were conducted into the allegation of serious crimes committed against Albanian civilians in the Carragojs Valley.¹²²⁴ Stojanović and Perović’s allegations that they did not know nor hear anything about crimes committed in that area are not credible, given their respective positions and involvement in the operations in the Đakovica municipality.

9. Gnjilane/Gjilan municipality

Žegra/Zhegër

459. By mid-March 1999, large numbers of MUP, paramilitary and VJ arrived in Žegra/Zhegër. Forces in APCs and tanks patrolled the area daily.¹²²⁵ Additional troops continued to arrive to Žegra/Zhegër throughout March 1999.¹²²⁶

¹²²⁰ Jevtović, T.20407-20409; Antić, 5D1443, para.29; T.21156.

¹²²¹ Peraj, P2253, p.13, para.86.

¹²²² Peraj, P2253, p.13, para.88.

¹²²³ Stojanović, T.19848, 19851-19853.

¹²²⁴ Perović, T.21097-21098.

¹²²⁵ Shabani, P2263, pp.2-3; P2264, pp.7-13; T.2688-2689, 2741-2746; P1326.

¹²²⁶ Shabani, T.2682; P2264, p.17; K81, T.7071-7072.

460. On 28 March 1999, Serb families in Žegra/Zhegër marked their doors with a white cloth.¹²²⁷ On 28 or 29 March, paramilitaries and local Serbs searched the village for prominent Albanians.¹²²⁸ They attempted to locate the president of LDK, Tahir Tahiri, and killed his brother.¹²²⁹

461. The VJ, assisted by local Serbs, and MUP forces, expelled the ethnic Albanian population of Žegra/Zhegër in late March 1999.¹²³⁰ VJ soldiers went from house to house and expelled villagers. They shot at and injured several residents.¹²³¹ Serb forces in APCs drove through the village firing machine guns at houses.¹²³² Most of the villagers fled to the mountains.¹²³³ Many of those hiding in the mountains returned to the outskirts of the village approximately ten days later.¹²³⁴ They found that their homes had been burned.¹²³⁵ No Serb homes were burned.¹²³⁶

462. About 1,200 people fled Žegra/Zhegër in later March.¹²³⁷ The Gnjilane SUP chief, Dušan Gavrančić, confirmed that there was a mass departure of civilians around this time.¹²³⁸ Residents from other villages, including Ribnik/Rimnik, Delekar, Budrika/Burrke E Eperme, Mogila/Mogille, Nosalje/Nosalë and Vladovo/Lladovë, were also expelled by Serb forces.¹²³⁹ These refugees left for Macedonia.¹²⁴⁰

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

463. In mid March, the OSCE-KVM reported a heavy military presence including armoured vehicles just south of Gnjilane/Gnjilan.¹²⁴¹ The 175th Infantry Brigade, commanded by Colonel Nikola Petrović, was deployed in Vladovo/Lladovë and in Žegra/Zhegër from at least late March

¹²²⁷ Shabani,P2263,p.2;P2264,pp.3-4.

¹²²⁸ Shabani,T.2683-2684;P2280, para.5. Shabani named the local Serbs who provided the list of prominent Albanians. K81 corroborated Shabani's evidence, K81,P2526,p.8.

¹²²⁹ Shabani,P2263,p.3;T.2683,2685; K81,P2526, p.7.

¹²³⁰ K81,T.7085;Shabani,T.2682.

¹²³¹ Shabani,P2263,p.3.

¹²³² Shabani,P2263,p.3;P2280,para.8.

¹²³³ Shabani,P2263,p.3.

¹²³⁴ Shabani,P2263,p.4.

¹²³⁵ Shabani,P2280,para.19.

¹²³⁶ K81,P2526, p.8;Shabani,P2280,para.19.

¹²³⁷ Shabani, P2263,pp.3-4;P2280,para.8;T.2684-2685;P2264,p.19;K81,P2526,p.8. K81 saw VJ troops in dark green uniforms and people fleeing Žegra/Zhegër around this time.

¹²³⁸ Gavrančić, T.22700-22701.

¹²³⁹ Shabani,P2263,p.4;P2264,pp.22-23.

¹²⁴⁰ Shabani,P2263,pp.4-5;P2264,pp.23-24.

¹²⁴¹ P407,p.812.

until 4 or 5 April,¹²⁴² when the civilian population was expelled.¹²⁴³ VJ and MUP reports confirm that VJ soldiers killed and mistreated Albanian civilians in Žegra/Zhegër during this time.¹²⁴⁴

464. VJ volunteer, Franjo Glončak, was in Žegra/Zhegër during the expulsions with members of the 175th Infantry Brigade.¹²⁴⁵

465. On 13 April 1999, a Joint Command Order tasked the Niš Corps, the 252nd Armoured Battalion and the 175th Infantry Brigade, with the assistance of armed non-Albanians, to support the MUP in combat actions in the area.¹²⁴⁶ At least one PJP company was involved in this mid-April operation.¹²⁴⁷

10. Uroševac/Ferizaj municipality

466. Between 24 March and 14 April 1999, VJ and MUP forces came to villages in Uroševac/Ferizaj municipality, including Biba/Bibe,¹²⁴⁸ Staro Selo/Fshati I Vjeter,¹²⁴⁹ Pojatistë/Pojatishme.¹²⁵⁰ Serb forces expelled the residents¹²⁵¹ and burned their homes.¹²⁵² The residents of Pojatistë/Pojatishme,¹²⁵³ Mirosavlje/Mirosalë,¹²⁵⁴ and Sojevo fled as VJ soldiers in tanks and APCs entered. Civilians were killed during these attacks.¹²⁵⁵

467. Soldiers routed the refugees to Uroševac/Ferizaj town.¹²⁵⁶ Outside Uroševac/Ferizaj town, policemen directed the refugees to Macedonia.¹²⁵⁷

468. Other refugees from Staro Selo/Fshati I Vjeter,¹²⁵⁸ Sojevo/Sojevë,¹²⁵⁹ Slatina/Sllatine,¹²⁶⁰ Pojatistë/Pojatishme,¹²⁶¹ Mirosavlje/Mirosale,¹²⁶² and other villages¹²⁶³ were sent to

¹²⁴² Glončak, T. 21115; 5D1395, paras. 4-5.

¹²⁴³ Shabani, P2264, p. 15; P2263, pp. 3-4; P2280, paras. 8-10; T. 2682-2684.

¹²⁴⁴ Gavranic, T. 22688, 22690-22691, 22700-22701; 6D335; 6D333; Glončak, T. 21115, 21133-21134; 5D1395, paras. 17.

¹²⁴⁵ Glončak, T. 21115; 5D1395, para. 4.

¹²⁴⁶ P1971, pp. 2-4.

¹²⁴⁷ Gavranic, T. 22786-22787.

¹²⁴⁸ Hyseni, T. 3096; Jelic, T. 18946.

¹²⁴⁹ Bucaliu, P2298, p. 2; P2287, pp. 21-23; T. 2981-2982; P1325; P1326.

¹²⁵⁰ Krasniqi, P2269, pp. 2-4; T. 3063, 3071.

¹²⁵¹ Hyseni, P2270, p. 10; Bucaliu, P2298, pp. 4-5.

¹²⁵² Bucaliu, P2287, pp. 25, 33-34, 71; F. Krasniqi, P2269, p. 4; Hyseni, P2270, p. 10; Bucaliu, P2287, p. 25, 88; T. 2984-2985, 3035; P2298, p. 3.

¹²⁵³ F. Krasniqi, P2269, pp. 2-4; T. 3063, 3071.

¹²⁵⁴ F. Krasniqi, P2269, p. 5.

¹²⁵⁵ F. Krasniqi, P2269, pp. 3-4; T. 3079; Bucaliu, P2298, pp. 4-5; P2287, pp. 29-30; T. 2988-2989; Hyseni, P2270, pp. 3, 10; T. 3097-3099, 3136-3137.

¹²⁵⁶ F. Krasniqi, P2269, pp. 5-6.

¹²⁵⁷ F. Krasniqi, P2269, p. 6; T. 3055.

¹²⁵⁸ Bucaliu, P2298, p. 5; P2299, p. 3; P2287, pp. 29-30; T. 2988-2989.

¹²⁵⁹ Hyseni, P2270, p. 2-3; T. 3099.

¹²⁶⁰ Hyseni, P2270, pp. 3, 11; T. 3100-3101; IC 33 marks the villages of Biba/Bibe, Sojevo/Sojevë and Slatine/Slatina.

Uroševac/Ferizaj town. VJ soldiers controlled the town.¹²⁶⁴ Soldiers and police were present at the train station.¹²⁶⁵ The refugees were boarded onto trains and buses and transported to Macedonian border crossing at Đeneral Janković/ Hani I Elezit.¹²⁶⁶ There were policemen onboard the trains.¹²⁶⁷

469. VJ officers met multiple times with the railway station chief of Uroševac/Ferizaj prior to the expulsions.¹²⁶⁸ The Uroševac/Ferizaj train log shows that trains stopped at the Uroševac/Ferizaj station for much longer than usual. Bucaliu, a railway worker, explains that the stops were due to the large number of people boarding the train.¹²⁶⁹ This train also stopped for a long period of time at the border to allow the passengers to disembark.¹²⁷⁰

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

470. MUP, VJ, paramilitaries, and armed non-Albanians acted in co-operation to expel the Kosovo Albanian population from Uroševac/Ferizaj.¹²⁷¹ Prior to the expulsions there was a build up of both MUP and VJ forces, which were strengthened with reservists, volunteers, and RPOs.¹²⁷² Checkpoints were erected and there were frequent MUP patrols.¹²⁷³

471. The 243rd Mechanised Brigade was deployed in Uroševac/Ferizaj¹²⁷⁴ and was reinforced with volunteers and VTOs.¹²⁷⁵

472. The 243rd Mechanised Brigade was heavily engaged in combat operations in villages of the Uroševac/Ferizaj municipality.

- On 27 March 1999, Pavković ordered the 252nd Armoured Brigade to perform reconnaissance with the 243rd Mechanised Brigade in the region.¹²⁷⁶

¹²⁶¹ F.Krasniqi,P2269,p.2.

¹²⁶² F.Krasniqi,P2269,p.2.

¹²⁶³ Hyseni,P2270,pp.3,11;F.Krasniqi,P2269,p.2.

¹²⁶⁴ Bucaliu,P2299,p.4.

¹²⁶⁵ Bucaliu,P2299,p.4.

¹²⁶⁶ Hyseni,P2270,pp.3-4,11;Bucaliu,P2287,pp.18-19,30-31;P2299,pp.4-5;F.Krasniqi,P2269,p.6.

¹²⁶⁷ Bucaliu,P2287,p.20;T.2991.

¹²⁶⁸ Bucaliu,P2299,pp.2-3;P2287,pp.10-11.

¹²⁶⁹ Bucaliu,T.3001;P1331,pp.124-125.

¹²⁷⁰ Bucaliu,T.3002.

¹²⁷¹ Hyseni,T.3093.

¹²⁷² Hyseni,P2270,p.9;T.3092;Filić,T.24019-24022;P2803,p.4,item 6.

¹²⁷³ Hyseni,P2270,p.9.

¹²⁷⁴ Jelić,T.18848,18966,19125;5D1337;IC141.

¹²⁷⁵ P2021,p.7;Jelić,T.18878-18879,19077.

¹²⁷⁶ 5D337,item 4.

- On 1 April 1999, VJ soldiers moved into the school in Sojevo/Sojevë.¹²⁷⁷ On 2 April, about 40 soldiers and four or five tanks entered in Staro Selo/Fshati I Vjeter.¹²⁷⁸ On 4 April, a large convoy of military vehicles including four large trucks towing cannons fired upon the villages of Rahovicë/Rahovica and Zlitarë/Zllatare.¹²⁷⁹
- On 6 April, the 243rd Mechanised Brigade and PJP sealed off Kamena Glava and “mopped up” the village.¹²⁸⁰
- On 8 April, M-84 tanks and M60 APCs entered Miroslavlje/Mirosale.¹²⁸¹ Around 10 April over 70 soldiers were in Biba/Bibe.¹²⁸²

473. Several joint VJ and MUP actions took place in March and April 1999. In late March and early April, BG-1 and a reinforced tank company supported MUP forces in its tasks, including “mopping up” terrain.¹²⁸³ On 13 April 1999, the Joint Command tasked two VJ brigades, an unspecified number of MUP units, and armed non-Albanians to participate in an action in the area between Gnjilane/Gjilan and Uroševac/Ferizaj. In addition to other tasks the non-Albanians were ordered to protect the non-Albanian population.¹²⁸⁴ On 13 April 1999, the VJ acted in concert with PJP units in Uroševac/Ferizaj.¹²⁸⁵

11. Kaçanik municipality

474. Between March and May 1999, forces of the FRY and Serbia launched a series of attacks against several villages in the Kačanik municipality, which resulted in the deaths of more than fifty civilians.

Kotlina/Kotlinë

475. On the morning of 8 March 1999, Serb forces shelled the village of Ivaja, and destroyed several homes and set fire to the mosque.¹²⁸⁶ There was no KLA presence in the village itself.¹²⁸⁷

476. The following morning, Serb forces fired two rockets over the Albanian village of Kotlina/Kotlinë, in Kačanik/Kaçanik municipality.¹²⁸⁸ Fearing an imminent attack by Serb forces,

¹²⁷⁷ Hyseni,P2270,p.10.

¹²⁷⁸ Bucaliu,T.2982.

¹²⁷⁹ F.Krasniqi,P2269,p.2.

¹²⁸⁰ P2021,p.12.

¹²⁸¹ F.Krasniqi,P2269,p.5.

¹²⁸² Hyseni,P2270,p.3.

¹²⁸³ P2021,pp.7,9,10.

¹²⁸⁴ P1976,p.2.

¹²⁸⁵ 6D736,item 1.2.

¹²⁸⁶ Loku,P2296,p.2; T.3152;4D12,p.6; P1787;Riedlmayer,T.5478-5479.

the villagers, including women, children, and the elderly, fled in the direction of the border town of Globočica. Some of the men hid in the outskirts of the village.¹²⁸⁹ The VJ and the police fired in the direction of the column, forcing the villagers to head back to Kotlina/Kotlinë.¹²⁹⁰ Serb forces looted and set fire to houses in Drešec neighbourhood.¹²⁹¹

477. On the morning of 24 March 1999, Serbs forces returned to the outskirts of Kotlina/Kotlinë and opened fire on the village.¹²⁹² The shells landed outside the village in what seemed to be an attempt to prevent local residents from fleeing.¹²⁹³ The men fled into the hills, while the women and children gathered in an open field. From a vantage point, Hazbi Loku, a local villager, saw police and soldiers enter the village¹²⁹⁴ and saw a tank on top of a hill firing over the village.¹²⁹⁵ These forces captured a group of around 20 unarmed men in a wooded area,¹²⁹⁶ took them to the field and beat them.¹²⁹⁷ Loku saw Serb policemen take one of the men, Idriz Kuči, away.¹²⁹⁸ The rest of the captured men were taken in the direction of the local clinic.¹²⁹⁹

478. Later that day, two military lorries arrived to the village. Around 400 women and children were loaded onto the lorries and driven to Kačanik town. Serb police ordered the remaining villagers to follow the lorries on foot at gunpoint: “if you don’t walk, we will kill you here on the road.”¹³⁰⁰

479. Once the population had been expelled, a group of soldiers and policemen led the captured men at gunpoint to the northern part of the village.¹³⁰¹ From his hiding place, Loku saw the soldiers and policemen beat the prisoners with sticks and throw them down wells shafts. Loku then heard shots followed by a loud explosion and saw smoke billowing from the wells.¹³⁰²

480. Before leaving Kotlina/Kotlinë, Serb forces set fire to the houses and the local school.¹³⁰³ Loku and other villagers returned to discover the bodies of two local men, Idriz Kuči and Vejsel

¹²⁸⁷ Loku,T.3209;4D12,p.6.

¹²⁸⁸ Loku,P2296,p.2;4D12,p.7.

¹²⁸⁹ Loku,P2296,pp.2-3;4D12,pp.9-10.

¹²⁹⁰ Loku,P2296,p.3;T.3238;4D12,p.10.

¹²⁹¹ Loku,P2296,p.3;4D12,pp.11,13.

¹²⁹² Loku,P2296,p.4;T.3210;4D12,pp.17-18;4D13,p.41.

¹²⁹³ Loku,P2296,p.4;T.3210.

¹²⁹⁴ Loku,T.3158;4D12,pp.19-20.

¹²⁹⁵ Loku,T.3211;P2296,p.4.

¹²⁹⁶ Loku,P2296,pp.4-6;T.3158-3159,3198-3199.

¹²⁹⁷ Loku,P2296,p.5.

¹²⁹⁸ Loku,P2296,p.5.

¹²⁹⁹ Loku,T.3154,3159,3215-3216.

¹³⁰⁰ Loku,P2296,p.5;T.3156-3157;4D12,pp.23,25.

¹³⁰¹ Loku,T.3158-3160,3161,3229;4D12,pp.25-26;P2296,pp.6,9 (marked as “gropa” on the map);P360;4D16,p.1.

¹³⁰² Loku,P2296,pp.5-6;T.3158-3160;4D12,pp.25-26.

¹³⁰³ Loku,P2296,p.6;T.3165-3167;P48;P49;P50.

Vlashi, in a neighbour's house. Both bodies bore gunshot wounds. The villagers also found a third man, Zymer Loku, who was seriously injured. He later died from his injuries.¹³⁰⁴

481. The residents of Kotlina/Kotlinë travelled across the mountains to Macedonia.¹³⁰⁵

482. In early September 1999, an Austrian forensic team exhumed 22 bodies from the two wells and three bodies from the mosque courtyard in Kotlina/Kotlinë.¹³⁰⁶ The autopsy reports showed that the victims recovered from the wells had died from the explosions and gunshot wounds. Those found at the mosque had died from gunshot wounds.¹³⁰⁷ Most of the victims were later buried at the schoolyard.¹³⁰⁸

483. Serb police and soldiers were responsible for this massacre. Loku described the perpetrators as policemen in blue camouflage uniforms and bullet-proof vests and VJ soldiers in green camouflage VJ uniforms and green berets. Some of the policemen wore balaclavas. Others had the words "Policija" written on their vests.¹³⁰⁹

484. The victims were civilians not engaged in hostilities. There was no KLA activity in Kotlina/Kotlinë on the day of the attack. There were no KLA members in the village.¹³¹⁰ At the time of the attack, there was no outgoing fire from the village. The Serbian police had confiscated all weapons in the village.¹³¹¹

485. During the war, the mosque of Kotlina/Kotlinë was damaged.¹³¹²

Kaçanik/Kaçanik town

486. On or about 27 and 28 March 1999, Serb forces attacked the town of Kačanik.¹³¹³ Around 20 to 30 policemen and two soldiers took up positions in a lime factory and fired on the houses across the river.¹³¹⁴ Isa Raka, a local resident, observed the shooting. His pregnant wife was hit by gunfire. Other residents were also wounded or killed by the shooting.¹³¹⁵ Raka was informed by others who were fleeing town that the police had begun expelling residents from their homes and

¹³⁰⁴ Loku,P2296,pp.5-6;4D12,pp.22-23. See Annex C, Schedule K.

¹³⁰⁵ Loku,P2296,p.6; T.3157.

¹³⁰⁶ Loku,T.3161-3162;P361;P49,P50.

¹³⁰⁷ See Annex C, Schedule K.

¹³⁰⁸ Loku,T.3167-3171. Three persons were buried at the local cemetery known as "martyrs' cemetery". 3D72;T.3187-3193.

¹³⁰⁹ Loku,P2296,p.5.

¹³¹⁰ Loku,T.3184-3185,3191;4D13,pp.30-31,41.

¹³¹¹ Loku,P2296,p.4;T.3167,3174-3175;4D12,p.18;4D13,p.41.

¹³¹² P1786;Riedlmayer,T.5477-5478.

¹³¹³ Raka,P2301,para.12;T.3519-3520.

¹³¹⁴ Raka,P2301,paras.14-15;T.3520-3521,3523-3524;P2310;IC38;IC39.

¹³¹⁵ Raka,P2301,paras.17-21;T.3525-3526.

had killed a civilian.¹³¹⁶ Before the police arrived to their neighbourhood, Raka's family, along with hundreds of other residents, fled to the nearby forests. They later travelled across the mountains into Macedonia.¹³¹⁷ Raka's wife succumbed to her injuries in Skopje.¹³¹⁸

Slatina/Slatinë, Vata

487. On or about 13 April 1999, a large number of soldiers surrounded the village of Slatina and the hamlet of Vata with Pragas and military lorries.¹³¹⁹ The soldiers shot with Pragas and hand-weapons into the villages.¹³²⁰ The shooting went on until the early afternoon.¹³²¹ At least 13 civilians were shot dead.¹³²² In several neighbourhoods, the soldiers burned houses.¹³²³ Over the next days, the population fled to Macedonia.¹³²⁴

Stagovo/Stagovë

488. From the end of March 1999 onwards, displaced persons from Kačanik town and nearby villages gathered in Stagovo.¹³²⁵

489. On or about 21 May 1999, VJ and MUP forces surrounded the village of Stagovo.¹³²⁶ They shot at and set fire to houses.¹³²⁷ They looted and burned most of the village, damaging the local mosque.¹³²⁸ At least 12 people were killed.¹³²⁹

Dubrava/Lisnaje

490. On or about 25 May 1999, soldiers with Pragas and APCs surrounded the village of Dubrava/ Lisnaje.¹³³⁰ The villagers were ordered to gather at the local school and leave the village.¹³³¹ The soldiers burned houses and killed four civilians during this action.¹³³² In addition,

¹³¹⁶ Raka,P2301,para.22;T.3526-3527.

¹³¹⁷ Raka,P2301,p.4,paras.22-25;T.3526-3527.

¹³¹⁸ Raka,P2301,p.4,para.27;T.3528.

¹³¹⁹ Lami,P2271,p.3.

¹³²⁰ Lami,P2271,pp.3-4.

¹³²¹ Lami,P2271,p.4.

¹³²² Lami,P2271,pp.4-5;T.3260-3263;P364,P365. *See* Annex C, Schedule K.

¹³²³ Lami,P2271,p.5.

¹³²⁴ Lami,P2271,p.5.

¹³²⁵ Dashi,T.4522.

¹³²⁶ Dashi,T.4605.

¹³²⁷ Dashi,T.4613-4614.

¹³²⁸ Dashi,T.4616.

¹³²⁹ Dashi,T.4615-4616;P368;P369. *See* Annex C, Schedule K.

¹³³⁰ Vishi,P2284,p.3;T.3555-3556.

¹³³¹ Vishi,P2284,p.4.

¹³³² Vishi,P2284,p.4;T.3554,3558-3559;P2306. *See* Annex C, Schedule K.

four members of the Qorri family were killed while trying to escape to the woods.¹³³³ The local population fled to Macedonia.¹³³⁴

491. [REDACTED]

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

492. Kačanik municipality was in the AOR of 243rd Mechanised Brigade, commanded by General Jelić, Lazarević's direct subordinate. Jelić's brigade was involved in actions in support of the MUP in Kotlina/Kotlinë, Slatina/Sllatinë, Stagovo/Stagovë and Dubrava/Lisnaje at the times the crimes charged occurred.

493. Jelić planned and ordered the action on Kotlina/Kotlinë on 24 March 1999.¹³³⁶ Units of 243rd Mechanised Brigade using heavy weaponry participated in the action in support of two PJP companies.¹³³⁷ While Jelić claimed that only MUP forces entered the village,¹³³⁸ Loku, a survivor and an eyewitness of this killing, also saw Serb soldiers in Kotlina/Kotlinë.¹³³⁹

494. Jelić's post-combat report dated 24 March 1999 stated that "26 terrorists were liquidated" in this action.¹³⁴⁰ Jelić claimed that those killed were KLA members and collateral casualties. However, given the circumstances surrounding these killings, Jelić conceded that they were an inhumane act.¹³⁴¹ These were in fact not legitimate killings of persons engaged in combat actions. The victims were thrown down wells and their bodies blown up with explosives.

495. While Jelić claimed that he did not know anything about killings at Slatina on 13 April 1999,¹³⁴² his post-combat report stated that "14 terrorists were liquidated" during a joint action with the MUP.¹³⁴³ Jelić conceded that a joint VJ-MUP action took place in Slatina on 13 April 1999 and that during this action, the 243rd Mechanised Brigade provided mortar support to PJP units carrying out a blockade.¹³⁴⁴ These killings occurred during the course of this action.

¹³³³ Vishi,P2284,p.4;T.3558;P2306; [REDACTED]. See Annex C, Schedule K.

¹³³⁴ Vishi,P2284,p.4.

¹³³⁶ Jelić,T.19112-19113,18978-18980;6D1465.

¹³³⁷ Jelić,T.18988;6D1465;6D1466.

¹³³⁸ Jelić,T.18988-18989.

¹³³⁹ Loku,T.3158;4D12,pp.19-20.

¹³⁴⁰ 6D1466.

¹³⁴¹ Jelić,T.19116.

¹³⁴² Jelić,T.18917-18918.

¹³⁴³ 6D736.

¹³⁴⁴ Jelić,T.18917,19007-19008.

496. Jelić claimed that his units were not involved in the attack on Dubrava on 25 May 1999.¹³⁴⁵ That his evidence is not credible is demonstrated by his own post-combat report of 26 May 1999, which stated that the 243rd Mechanised Brigade was engaged in an action in Dubrava to support the MUP.¹³⁴⁶

497. The 243rd Mechanised Brigade and MUP units also took part in the attack on Stagovo. Lazarević's combat report to the Third Army Command of 22 May 1999 stated that the village of Stagovo was sealed off by forces of the 243rd Mechanised Brigade on 21 May 1999.¹³⁴⁷ Jelić conceded that his brigade was engaged in an action with the MUP in Stagovo.¹³⁴⁸

498. In relation to the attack on Kačanik, Raka said that the policemen at the lime factory wore blue camouflage and soldiers wore green-brown camouflage uniforms. He recognised the local deputy police chief among the policemen at the factory and said he appeared to be in charge of the action.¹³⁴⁹ Jelić said that a MUP action took place in Kačanik town around 27 to 28 March 1999. He heard about this from the Uroševac SUP chief.¹³⁵⁰

499. A combat report of 30 March 1999 of the 57th Border Battalion reported that the previous day a large column of civilian vehicles was moving from Kačanik towards the border crossing at Đeneral Janković/ Hani I Elezit.¹³⁵¹

12. Dečani/Dečan municipality

500. On or about the end of March 1999, Serbian forces surrounded and attacked several villages in Dečani/Dečan municipality. On 26 March 1999, police forces entered the village of Drenoc/Drenovac and expelled the villagers.¹³⁵² The villagers sought refuge in the village of Beleg.¹³⁵³

501. On or about 29 March 1999, Serb forces surrounded and shelled the village of Beleg.¹³⁵⁴ Serb police, soldiers and paramilitaries went from house to house and told villagers to leave

¹³⁴⁵ Jelić, T.18918-18920.

¹³⁴⁶ Jelić, T.19015-19017.

¹³⁴⁷ 6D1313, p.2, item 2.1.

¹³⁴⁸ Jelić, T.19023-19025.

¹³⁴⁹ Raka, P2301, para.13; T.3519-3520.

¹³⁵⁰ Jelić, T.18912.

¹³⁵¹ 5D1221, item 4.

¹³⁵² K58, P2550, p.12.

¹³⁵³ Mazrekaj, P2374, p.20; K58, P2550, pp.12-13.

¹³⁵⁴ K58, P2550, p.13; T.7470-7471.

immediately.¹³⁵⁵ The villagers were first taken to a basement and later escorted to a nearby field.¹³⁵⁶ Serbian forces separated the men from the women and children.¹³⁵⁷ They took the men to the basement of a building, ordered them to undress and confiscated their valuables.¹³⁵⁸ The women were later also taken to a basement and forced to hand over their valuables.¹³⁵⁹ Around 50 men were taken away and have not been seen since.¹³⁶⁰

502. The women and children were held overnight in several rooms of a house.¹³⁶¹ During the course of the night, Serb soldiers and paramilitaries removed around 20 girls and young women from the rooms.¹³⁶² The soldiers sexually assaulted at least three of them.¹³⁶³

503. On 30 March 1999, a police commander ordered the villagers to leave Beleg and head to Albania.¹³⁶⁴ Hundreds of villagers left in a convoy to the border.¹³⁶⁵ Three APCs led the convoy.¹³⁶⁶ On the Đakova bridge, police and soldiers seized identification documents from the villagers.¹³⁶⁷

504. When the residents of Beleg returned to the village after the war, they found that all the houses had been burned down.¹³⁶⁸

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

505. Both the VJ and the MUP (PJP) were involved in operations in the Dečani/Dečan municipality at the end of March 1999.¹³⁶⁹

506. The forces that entered the village of Beleg were identified by witnesses as Serbian police, soldiers and paramilitaries based on the uniforms they wore and because they were known to the witnesses.¹³⁷⁰ Witnesses saw APCs, Pragas, tanks and different military vehicles in Beleg.¹³⁷¹

507. VJ and MUP units were conducting combat actions in the general area of Dečani/Dečan and in specific villages of the municipality surrounding Dečani/Dečan town and the village of Beleg.¹³⁷²

¹³⁵⁵ K58,P2550,p.13.

¹³⁵⁶ K20,P2669,p.3;K58,T.7473;Mazrekaj,T.5810.

¹³⁵⁷ K58,P2550,p.14.

¹³⁵⁸ K20,P2669,pp.3-4;P2670,pp.13-14;K58,P2550,pp.14-15;T.7471;Mazrekaj,P2374,pp.22-23.

¹³⁵⁹ K58,T.7473;K20,P2669,p.4;Mazrekaj,P2374,p.23.

¹³⁶⁰ K58,P2550,p.16;T.7472;K20,P2670,p.22.

¹³⁶¹ K20,P2669,p.4;P2670,pp.14-15;K58,P2550,pp.15-16.

¹³⁶² [REDACTED] K58,P2550,p.16;T.7467.

¹³⁶³ K20,P2669,pp.4-5;P2670,pp.18-21;K58,P2550,p.16;T.7468.

¹³⁶⁴ K20,P2669,p.6;P2670,p.22.

¹³⁶⁵ K20,P2669,p.6;Mazrekaj,T.5812.

¹³⁶⁶ Mazrekaj,P2374,pp.24-25;T.5811.

¹³⁶⁷ Mazrekaj,P2374,p.25;T.5813.

¹³⁶⁸ K20,T.10060 (closed session).

¹³⁶⁹ P2616,p.10;5D344.

¹³⁷⁰ Mazrekaj,P2374,pp.20,22;T.5833-5835;K20,P2669,pp.2-3;P2670,p.8;T.10058 (closed session);P1326; K58,T.7464.

¹³⁷¹ K20,P2669,p.2;P2670,p.10;Mazrekaj,T.5844-5850.

Pursuant to orders of Lazarević, on 29 March 1999, units of the 125th Motorized Brigade provided support to MUP forces in the Dečani/Dečan sector.¹³⁷³ On 30 March 1999, Lazarević ordered the 252nd Armoured Brigade to: “Secure the full control of the territory and rout and destroy the ŠTS” in [...] Dečani/Dečan village.¹³⁷⁴ He further ordered to “organise the defence”, in coordinated action with the MUP, in a number of villages including Drenoc/Drenovac village.¹³⁷⁵ The crimes in the Dečani municipality occurred during the period when these actions were carried out.

13. Vučitrn/Vushtrri municipality

508. On or about 27 March 1999, forces of the FRY and Serbia burnt buildings in the town of Vučitrn/Vushtrri, including the main mosque in the town.¹³⁷⁶ Surrounding buildings were also set on fire.¹³⁷⁷

509. On 28 or 29 March 1999, Serb forces launched an offensive from the Rashice area, outside the village of Gornja Sudimlja/Studime e Epërme in Vučitrn municipality.¹³⁷⁸ Villagers fled to the hills to escape. Serb forces burnt houses in Donja Sudimlja/ Studime e Poshteme to prevent villagers from returning.¹³⁷⁹

510. On 1 April 1999, Serb police expelled the Kosovo Albanian population of Vučitrn/Vushtrri town from their houses and beat those who refused to leave.¹³⁸⁰

511. On or about 2 May 1999, forces of the FRY and Serbia broke through the KLA lines in the northern areas of Meljenica and Llap¹³⁸¹ and advanced south in the direction of the village of Gornja Sudimlja/Studime e Epërme. During the course of this action, a number of Kosovo Albanian villages were attacked, north-east of the town of Vučitrn/Vushtrri, including Skrovna/Skromë, Slakovce/Sllakofc, Ceceli/Cecelija and Gornja Sudimlja/Studime e Epërme, forcing the population to flee.¹³⁸²

¹³⁷² P2616,pp.10-11;P2802,pp.3-4.

¹³⁷³ P2616,p.10.

¹³⁷⁴ 5D344,p.1.

¹³⁷⁵ 5D344,p.1.

¹³⁷⁶ Kadriu,P2377,p.12;Riedlmayer,T.5441-5445,5527-5528;P2456; IC87;IC88.

¹³⁷⁷ Kadriu,P2377,p.12;P1788;P1799,p.2.

¹³⁷⁸ Gerxhaliu,P2275,para.6;T.2499-2500;IC22.

¹³⁷⁹ Gerxhaliu,P2275,para.6.

¹³⁸⁰ Kadriu,P2377,p.13.

¹³⁸¹ Gerxhaliu,P2275,para.11;T.2506-2507.

¹³⁸² Kadriu,P2377,p.14.

512. Approximately 30,000 refugees formed a convoy and headed down the “Studime Gorge” road in the direction of Vučitrn/Vushtrri town.¹³⁸³ Serb forces advanced from the north and shelled the convoy. Serb forces also fired from positions in Rashice and Saraçak, south of the convoy.¹³⁸⁴ Serb forces stopped the convoy midway between the village of Gornja Sudimlja/Studime e Epërme and the village of Donja Sudimlja/Studime e Poshteme.¹³⁸⁵ The convoy was not stopped for any legitimate purpose. Serb forces did not attempt to search for weapons.¹³⁸⁶ Soldiers, paramilitary, and police forces approached the convoy¹³⁸⁷ and demanded money from the refugees.¹³⁸⁸

513. Another column of Serb soldiers in APCs and jeeps approached the convoy from the north.¹³⁸⁹ They got out of their vehicles and started to demand money. Those who could not pay were shot in front of their families.¹³⁹⁰ Gerxhaliu, a refugee in the convoy, overheard two Serbs discussing how many people they had killed and agreeing that they should continue until they had killed 100.¹³⁹¹ Serb forces killed approximately 104 Kosovo Albanian refugees in the convoy.¹³⁹²

514. At least one PJP unit took part in the operation.¹³⁹³ Gerxhaliu saw police vehicles moving up the road from the area of Vučitrn.¹³⁹⁴

515. Serb forces then ordered the refugees to proceed in the direction of Vučitrn and split the convoy in two parts.¹³⁹⁵ Serb forces then led a group of more than one thousand refugees through Donja Sudimlja to an agricultural co-operative situated outside Vučitrn/Vushtrri.¹³⁹⁶ Witnesses saw many policemen on the way to the agricultural co-operative.¹³⁹⁷ At the agricultural co-operative, the refugees were housed in cramped hangars.¹³⁹⁸

¹³⁸³ Kadriu,P2377,p.15;Gerxhaliu,P2275,para.11; Xhafa,P2274,para.4;T.2431-2432. *See* P2386.

¹³⁸⁴ Gerxhaliu,P2275,para.12.

¹³⁸⁵ Kadriu,P2377,p.15;Gerxhaliu,P2275,para.12;T.2509-2510;IC22. Xhafa,P2274,para.5;T.2425-2426,2431;IC20.

¹³⁸⁶ Xhafa, P2260, pp.19-21.

¹³⁸⁷ Kadriu,P2377,p.16;Gerxhaliu,P2275,paras.15-17;Xhafa,P2274,para.5.

¹³⁸⁸ Gerxhaliu,P2275,paras.15-17.

¹³⁸⁹ Gerxhaliu,P2275,para.18.

¹³⁹⁰ Gerxhaliu,P2275,paras.18-20.

¹³⁹¹ Gerxhaliu,P2275,para.21.

¹³⁹² *See* Annex C, Schedule I.

¹³⁹³ 3D70,para.1,mentions PJP being involved in operations in the municipalities of Kosovska Mitrovica and Vučitrn, in the Bajgora and Šalja area. Gerxhaliu confirmed that these were the areas where Serb forces broke the KLA frontline on 2 May 1999 (T.2622;IC22).

¹³⁹⁴ Gerxhaliu,P2275,para.24;T.2603-T.2604,2618.

¹³⁹⁵ Kadriu,P2377,p.16;Gerxhaliu,T.2581.

¹³⁹⁶ Kadriu,P2377,p.16;Xhafa,P2274,para.10.

¹³⁹⁷ Xhafa,P2274,para.10.

¹³⁹⁸ Kadriu,P2377,p.16;Xhafa,P2274,para.10.

516. The refugees remained in the agricultural compound overnight.¹³⁹⁹ On 3 May 1999, Serb police separated Kosovo Albanian men from women, children and the elderly, loaded the men onto trucks and drove them to the Smrekovnica/Smrakoncë prison in the Vuçitrn municipality.¹⁴⁰⁰

517. At the Smrekovnica/Smrakoncë prison, the men were mistreated, beaten, and held in cramped and inhumane conditions for several weeks.¹⁴⁰¹ Police officers from the Vuçitrn police station took part in the beatings.¹⁴⁰² On or about 23 May 1999, after weeks of detention in inhumane conditions, many of the men were transported by bus to the village of Zur/Zhur, near the Albanian border, and ordered to cross the border into Albania. Before allowing the men to cross the border, Serb police seized their IDs and demanded money from the refugees.¹⁴⁰³

518. In July 1999, a French forensic team exhumed the bodies of 97 victims of the convoy massacre from a local cemetery in Gornja Sudimlja/Studime e Epërme.¹⁴⁰⁴ The forensic reports show that most of the victims died from gunshot wounds fired at close range.¹⁴⁰⁵

Forces of the FRY and Serbia were responsible for the crimes in Vuçitrn municipality

519. On 24 March 1999, the Joint Command ordered several VJ units to support the MUP in an operation in the Malo Kosovo area, including in an area north of Vuçitrn municipality.¹⁴⁰⁶

520. On 15 April 1999, the Joint Command ordered the 211th Armoured Brigade, the 15th Armoured Brigade, and the 58th Light Infantry Brigade, to support the MUP in an operation to start on 25 April 1999 in the Bajgora-Bare sector.¹⁴⁰⁷ Serb forces launched the operation in the Bajgora area, north-east of Kosovska Mitrovica municipality, and then moved south to Vuçitrn municipality. This operation continued at least through 2 May 1999.¹⁴⁰⁸ As the troops moved south, they attacked Kosovo Albanian villages. This offensive resulted in the displacement of the civilian population to the south-eastern part of Vuçitrn municipality.¹⁴⁰⁹ The crimes in Vuçitrn municipality took place during this operation.

¹³⁹⁹ Kadriu,P2377,p.17.

¹⁴⁰⁰ Kadriu,P2377,p.17-18;Xhafa,P2274,para.11;T.2423;P2260,pp.14-15.

¹⁴⁰¹ Kadriu,P2377,pp.18-20;T.5074-5075;Xhafa,P2260,p.15.

¹⁴⁰² Kadriu,P2377,pp.18-20.

¹⁴⁰³ Kadriu,P2377,p.20.

¹⁴⁰⁴ See P331,P332,P333,P334;P1809,p.18.

¹⁴⁰⁵ See Annex C, Schedule I.

¹⁴⁰⁶ P1967.

¹⁴⁰⁷ P1975.

¹⁴⁰⁸ P2619;P2572,pp.57-63;5D1437,paras.2,8. Also Savić,5D1392,p.4,para.17;T.21009.

¹⁴⁰⁹ Kadriu,P2377,p.14;P2619,p.4;P2572,pp.62-63.

521. VJ and MUP units were the only units deployed in the area where the convoy massacre occurred. The 211th Armoured Brigade,¹⁴¹⁰ the 15th Mechanised Battalion,¹⁴¹¹ the 58th Light Infantry Brigade,¹⁴¹² and the 35th PJP Detachment¹⁴¹³ 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. IC-184 depicts the location of the mortar unit of this brigade and the direction in which the mortar opened fire.¹⁴¹⁴ PJP units conducted a sweep operation from north to south of Vučitrn municipality.¹⁴¹⁵ The column of refugees was encircled from every direction. These units controlled the area where the massacre occurred. There simply were no other significant armed forces in the area at the time the convoy massacre was committed.

522. MUP forces participated in the arrests and mistreatment of the refugees. Witnesses identified members of the Vučitrn OUP at the agricultural compound and at Smrekovnica prison.¹⁴¹⁶ A Vučitrn OUP of 3 May 1999 reported the arrest by policemen of 887 “terrorists” on 2 May, who were taken to the Smrekovnica prison, and the “voluntary” departure of 17,000-19,000 inhabitants from Vučitrn.¹⁴¹⁷

523. Lukić was informed about the completion of actions in Bajgora. At the MUP Staff meeting of 7 May 1999, Bogunović reported on this operation and said that 827 “terrorists” were being held at the Smrekovnica prison.¹⁴¹⁸ PJP commanders engaged in the Bajgora action reported on its completion at the MUP Staff meeting of 11 May 1999.¹⁴¹⁹

I. Conclusion

524. The Prosecution has proven beyond reasonable doubt that each crime charged was committed and that each crime was committed pursuant to the common criminal purpose of the JCE. In the alternative, some of the crimes charged were the natural and foreseeable consequences of the execution of the common criminal purpose.

525. Each crime committed was a crime against humanity. For each crime charged in paragraph 77 of the Indictment (count 5), the Prosecution has established the elements necessary to prove

¹⁴¹⁰ P1975,para.5.1;5D1329 (implementing P1975);Gergar,T.21487.

¹⁴¹¹ P1975,para.5.2; Savić,T.20975-20977;IC169 (red line shows the position of the 15th Armoured Brigade and the blockade set up pursuant to para.5.2 of P1975). See P2572,p.57;5D1438,items 2,8;5D1439,items 2,8.

¹⁴¹² P1975,para.5.3;IC169 (the red line marked between Mitrovica and Vučitrn shows the position taken by the 58th Ltbg). See also 5D1436.

¹⁴¹³ P1993,p.4.

¹⁴¹⁴ IC184;Gergar,T.21522021524.

¹⁴¹⁵ 5D1329;IC169.

¹⁴¹⁶ Xhafa,P2274,para.10;Kadriu,P2377,pp.18-20.

¹⁴¹⁷ P1231.

¹⁴¹⁸ P1996,p.5.

¹⁴¹⁹ P1993,pp.2,4.

persecutions as a crime against humanity. It has also proved the elements of the crimes of deportation (count 1), other inhumane acts (forcible transfer) (count 2), and murder as a crime against humanity (count 3). In addition, the murders charged were also a violation of the laws and customs of war contrary to Common Article 3 and punishable under Article 3 of the Statute (count 4).

IV. 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

526. Participation in a JCE is a form of “commission” under Article 7(1) of the Statute.¹⁴²⁰ A conviction under this mode of responsibility requires a finding that each of the accused participated in the JCE. The accused in this case did not physically commit any crimes but participated in the JCE as co-perpetrators. 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.¹⁴²¹ Nor is the participant in a JCE required to be physically present when and where the crime is being committed.¹⁴²²

527. The elements for the first form of JCE are:¹⁴²³

- A plurality of persons;¹⁴²⁴
- The existence of a common design, plan or purpose which amounts to or involves the commission of a crime provided for in the Statute;¹⁴²⁵
- Each accused participated in the common design, plan or purpose;¹⁴²⁶
- The accused as co-perpetrators shared the intent to effect the common design, plan or purpose.¹⁴²⁷

¹⁴²⁰ *Kvočka* AJ,para.79;*Vasiljević* AJ,para.101.

¹⁴²¹ *Kvočka* AJ,para.99.

¹⁴²² *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.

¹⁴²³ *Stakić* AJ,para.64. See also *Kvočka* AJ,para.81;*Vasiljević* AJ,para.100.

¹⁴²⁴ *Stakić* AJ,para.69 (referring to a plurality of persons that acted together in the implementation of a common goal).

¹⁴²⁵ *Stakić* AJ,para.64 (referring to *Tadić* AJ,para.227).

¹⁴²⁶ *Stakić* AJ,para.64 (referring to *Tadić* AJ,para. 227).

¹⁴²⁷ *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,paras.82-83;*Stakić* AJ,para.65;*Vasiljević* AJ,para.97;*Tadić* AJ,para.196.

(a) Plurality of persons

528. JCE liability requires a plurality of persons.¹⁴²⁸ They need not be organised in a military, political, or administrative structure.¹⁴²⁹ It is not necessary to identify by name each of the persons involved as long as they are identified by reference to that category as a group.¹⁴³⁰ In *Krajišnik*, the Trial Chamber held that it is neither desirable nor necessary to specify fully the membership of the JCE.¹⁴³¹ Instead, the Trial Chamber must be convinced that the accused was sufficiently connected and concerned with persons who committed crimes pursuant to the common objective in various capacities, or who procured other persons to do so.¹⁴³²

529. A JCE may exist even if none or only some of the physical perpetrators are part of it.¹⁴³³ 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.¹⁴³⁴ This is a matter of evidence.¹⁴³⁵

530. 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.¹⁴³⁶ 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.¹⁴³⁷ The existence of this link should be assessed on a case-by-case basis.¹⁴³⁸

(b) Common Purpose

531. It is necessary to prove the existence of a common purpose which amounts to or involves the commission of a crime provided for in the Statute.¹⁴³⁹ There is no need for this purpose to have

¹⁴²⁸ *Stakić* AJ, para.69 (referring to a plurality of persons that acted together in the implementation of a common goal).

¹⁴²⁹ *Stakić* AJ, para.64 (referring to *Tadić* AJ, para.227).

¹⁴³⁰ *Brdanin* AJ, para.430. See also *Limaj* AJ, paras.99,104.

¹⁴³¹ *Krajišnik* TJ, para.1086.

¹⁴³² *Krajišnik* TJ, para.1086.

¹⁴³³ *Krajišnik* TJ, para.883.

¹⁴³⁴ *Brdanin* AJ, paras.410,418-419.

¹⁴³⁵ *Brdanin* AJ, para.418.

¹⁴³⁶ *Brdanin* AJ, para.410.

¹⁴³⁷ *Brdanin* AJ, para.413.

¹⁴³⁸ *Brdanin* AJ, para.413.

¹⁴³⁹ *Stakić* AJ, para.64 (referring to *Tadić* AJ, para.227).

been previously arranged or formulated; it may materialise extemporaneously and be inferred from the facts.¹⁴⁴⁰ An explicit agreement among the JCE participants is not required.¹⁴⁴¹

532. Each accused must have participated in the common purpose.¹⁴⁴² This participation need not involve the commission of a specific crime (for example, murder, extermination, torture), but may take the form of assistance in, or contribution to, the execution of the common purpose.¹⁴⁴³ It is sufficient for the accused to have committed an act or an omission which contributes to the common criminal purpose.¹⁴⁴⁴ Although an accused's contribution to the JCE need not be necessary or substantial, it should at least be a significant contribution.¹⁴⁴⁵

(c) Mens Rea

533. In JCE I the co-perpetrators possess the shared intent to effect the common purpose, and the crimes at issue fall within that common purpose.¹⁴⁴⁶ The accused and the other members of the JCE must have intended that the crimes at issue be committed.¹⁴⁴⁷ Intent may be inferred from the circumstances.¹⁴⁴⁸ The inference that the JCE members were motivated by the requisite intent may be drawn even where those individuals are not precisely identified.¹⁴⁴⁹ An individual's conduct may be a relevant factor in establishing his or her intent.¹⁴⁵⁰

534. 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 common purpose.¹⁴⁵¹

535. The requisite *mens rea* for this form of JCE is twofold.¹⁴⁵² First, the accused must have the intention to participate in and contribute to the common criminal plan, design or purpose.¹⁴⁵³

¹⁴⁴⁰ *Stakić* AJ, para.64 (referring to *Tadić* AJ, para.227).

¹⁴⁴¹ *Krajišnik* TJ, para.883.

¹⁴⁴² *Stakić* AJ, para.64 (referring to *Tadić* AJ, para.227).

¹⁴⁴³ *Stakić* AJ, para.64.

¹⁴⁴⁴ *Kvočka* AJ, para.187.

¹⁴⁴⁵ *Simba* AJ, para.303 (referring to *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.

¹⁴⁴⁶ *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, paras.82-83; *Stakić* AJ, para.65; *Vasiljević* AJ, para.97; *Tadić* AJ, para.196.

¹⁴⁴⁷ *Stakić* AJ, para.65; *Tadić* AJ, para.228.

¹⁴⁴⁸ *Kvočka* AJ, para.243; *see also* para.237 (where Prosecution relies upon proof of state of mind of an accused by inference, that inference must be only reasonable inference available on the evidence).

¹⁴⁴⁹ By analogy to *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 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*).

¹⁴⁵⁰ *Kvočka* AJ, para.213.

¹⁴⁵¹ *Kvočka* AJ, para.83.

¹⁴⁵² *Kvočka* AJ, para.83.

¹⁴⁵³ *Kvočka* AJ, para.83.

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.¹⁴⁵⁴ 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.¹⁴⁵⁵ The crime must be shown to have been foreseeable to the accused in particular.¹⁴⁵⁶

536. 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.¹⁴⁵⁷

2. Ordering

537. The elements of ordering under Article 7(1) of the Statute are:

Actus Reus

The accused, as a person in a position of authority, instructed another person to commit an offence.¹⁴⁵⁸

Mens Rea

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.¹⁴⁵⁹

538. Ordering does not require a formal superior-subordinate relationship but it must be established that the accused possessed the authority to order.¹⁴⁶⁰ The order can be explicit or

¹⁴⁵⁴ *Stakić* AJ, para.65.

¹⁴⁵⁵ *Tadić* AJ, para.228; *Vasiljević* AJ, para.101.

¹⁴⁵⁶ *Stakić* AJ, para.65.

¹⁴⁵⁷ *Brdanin* AJ, para.411.

¹⁴⁵⁸ *Kordić* AJ, para.28.

¹⁴⁵⁹ *Blaškić* AJ, para.42; *Kordić* AJ, paras.29,30.

¹⁴⁶⁰ *Kordić* TJ, para.388.

implicit; no particular form is required. It is not necessary that the order be given directly to the individual executing it.¹⁴⁶¹

3. Planning

539. The elements of planning under Article 7(1) of the Statute are:

Actus Reus

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.¹⁴⁶²

Mens Rea

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.¹⁴⁶³

540. The existence of a plan can be proved by circumstantial evidence.¹⁴⁶⁴

4. Instigating

541. The elements of instigation under Article 7(1) of the Statute are:

Actus Reus

The accused prompted another person to commit the offence.¹⁴⁶⁵ The instigation was a factor substantially contributing to the conduct of the other person(s) committing the crime.¹⁴⁶⁶

Mens Rea

The accused acted with direct intent or with the awareness of the substantial likelihood¹⁴⁶⁷ that a crime would be committed in the execution of that instigation.¹⁴⁶⁸

¹⁴⁶¹ *Blaškić* TJ, para.282.

¹⁴⁶² *Kordić* AJ, para.26.

¹⁴⁶³ *Kordić* AJ, paras.29,31.

¹⁴⁶⁴ *Akayesu* TJ, para.480; *Blaškić* TJ, para.279.

¹⁴⁶⁵ *Kordić* AJ, para.27.

¹⁴⁶⁶ *Kordić* AJ, para.27.

¹⁴⁶⁷ *Kordić* AJ, para.32.

¹⁴⁶⁸ *Kordić* AJ, paras.29,32.

542. 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.¹⁴⁶⁹

5. Aiding and abetting

543. The elements of aiding and abetting under Article 7(1) of the Statute are the following:

Actus Reus

The accused gave practical assistance, encouragement, or moral support which had a substantial effect on the perpetration of the crime.¹⁴⁷⁰

Mens Rea

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.”¹⁴⁷¹

544. The act of assistance need not have caused the act of the principal and may consist of either an act or an omission, taking place before, during or after the commission of the crime.¹⁴⁷²

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

545. Criminal responsibility under Article 7(3) requires: 1) the existence of a superior-subordinate relationship manifested in the superior’s “effective control,” 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.¹⁴⁷³

546. Superior responsibility under Article 7(3) “encompasses all forms of criminal conduct by subordinates, not only the ‘committing’ of crimes in the restricted sense of the term, but all other modes of participation under Article 7(1).”¹⁴⁷⁴ Applicable in both international and internal armed conflicts,¹⁴⁷⁵ the scope of superior responsibility under Article 7(3) of the Statute extends beyond

¹⁴⁶⁹ *Kordić* AJ, para.27.

¹⁴⁷⁰ *Blaškić* AJ, para.46.

¹⁴⁷¹ *Simić* AJ, para. 86. *See also Mrkšić* TJ, para.261 (referring to the awareness of a probability); *Ndindabahizi* AJ, para. 122 (referring to aiding and abetting a crime with awareness that a crime will probably be committed).

¹⁴⁷² *Blaškić* AJ, paras.47-48; *Aleksovski* AJ, paras.62,164.

¹⁴⁷³ *Orić* AJ, para.18.

¹⁴⁷⁴ *Blagojević* AJ, para.280.

¹⁴⁷⁵ *Hadžihasanović* Superior Responsibility AD, paras.10-36,57.

traditional “command responsibility” to both military and civilian superiors who possess authority.¹⁴⁷⁶

1. Superior-subordinate relationship

547. A “superior-subordinate” relationship exists between the superior and the subordinate where the former “possesses the power or authority in either a *de jure* or *de facto* form to prevent [the latter]’s crime or to punish the perpetrators of the crime after the crime is committed.”¹⁴⁷⁷ A superior-subordinate relationship is most obviously characterised by the hierarchical relationship that exists in a military structure on all levels,¹⁴⁷⁸ but it does not require direct or formal subordination.¹⁴⁷⁹ Furthermore, there is no requirement that the relationship between the superior and subordinate be direct, immediate or permanent in nature;¹⁴⁸⁰ superior responsibility can be triggered in cases of temporary command or re-subordination of troops.¹⁴⁸¹

548. The minimum requirement for recognition of the superior-subordinate relationship is the superior’s ability to exercise “effective control” over the subordinates, meaning “the material ability to prevent or punish” the subordinates’ offences.¹⁴⁸²

549. Indicators of effective control are more a matter of evidence than of substantive law.¹⁴⁸³ Such indicators are limited to demonstrating the power to prevent, punish, or initiate measures leading to proceedings against the alleged perpetrators.¹⁴⁸⁴ The ability to initiate criminal investigations against the perpetrators may be an indicator of effective control.¹⁴⁸⁵ The capacity to

¹⁴⁷⁶ *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.

¹⁴⁷⁷ *Čelebići* AJ,para.192.

¹⁴⁷⁸ 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.”

¹⁴⁷⁹ *Čelebići* AJ,para.303.

¹⁴⁸⁰ See *Strugar* TJ,paras.362-363.

¹⁴⁸¹ *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.

¹⁴⁸² *Čelebići* AJ,paras.196,256;*Čelebići* TJ,para.377-378.

¹⁴⁸³ *Blaškić* AJ,para.69,citing *Aleksovski* AJ,paras.73-74,*Čelebići* AJ,para.206.

¹⁴⁸⁴ *Blaškić* AJ,para.69,citing *Aleksovski* AJ,para.76.

¹⁴⁸⁵ *Halilović* AJ,para.182.

issue orders, and proof that the orders are actually followed, is yet another indicator.¹⁴⁸⁶ More than one entity can wield effective control over a unit at a particular point in time.¹⁴⁸⁷

2. Knew or had reason to know

550. 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.”¹⁴⁸⁸ 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 put him on notice – whether actual or inquiry notice – of offences by subordinates.¹⁴⁸⁹ The same state of knowledge is required for both civilian and military superiors.¹⁴⁹⁰

(a) Actual notice

551. Actual knowledge may be established through direct or circumstantial evidence.¹⁴⁹¹ 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.¹⁴⁹²

(b) Inquiry notice

552. Criminal responsibility attaches to a superior where information was available to him which would have put him on notice of the offences.¹⁴⁹³ It is not required that the superior actually acquaint himself with the information.¹⁴⁹⁴ A superior will be deemed to have reason to know when he possessed information sufficiently alarming to justify further inquiry.¹⁴⁹⁵ 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.¹⁴⁹⁶ Examples of information that may put a superior on inquiry

¹⁴⁸⁶ *Halilović* AJ, para.207.

¹⁴⁸⁷ *Aleksovski* TJ, para.106; *Blaškić* TJ, para.303.

¹⁴⁸⁸ *Čelebići* AJ, para.239.

¹⁴⁸⁹ *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).

¹⁴⁹⁰ *Krnjelac* TJ, para.94.

¹⁴⁹¹ *Hadžihasanović* TJ, para.94, citing *Čelebići* TJ, para.386; *Krnjelac* TJ, para.94; *Kordić* TJ, para.427; *Brdanin* TJ, para.278; *Strugar* TJ, para.368.

¹⁴⁹² *Čelebići* TJ, para.386; *Orić* TJ, para.319.

¹⁴⁹³ *Čelebići* AJ, para.241. See also *Blaškić* AJ, paras.62,64; *Halilović* TJ, para.67.

¹⁴⁹⁴ *Čelebići* AJ, para.239.

¹⁴⁹⁵ *Hadžihasanović* AJ, para.261; *Čelebići* AJ, para.232 (finding that “failure to conclude, or conduct additional inquiry, in spite of alarming information constitutes knowledge of subordinate offences”).

¹⁴⁹⁶ See *Čelebići* AJ, para.238; *Krnjelac* AJ, paras.154-155,171; *Blaškić* AJ, para.62.

notice include the criminal propensity or violent or unstable character of subordinates, the level of their training and instruction, and the tactical situation.¹⁴⁹⁷

553. Knowledge of past crimes can also put a superior on notice of the risk of future crimes.¹⁴⁹⁸ 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 increasing the risk of new crimes being committed.”¹⁴⁹⁹ 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.¹⁵⁰⁰

3. Failed to prevent or punish

554. 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.

(a) What measures are “necessary and reasonable”

555. 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.¹⁵⁰¹ 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.”¹⁵⁰² 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.”¹⁵⁰³

¹⁴⁹⁷ *Hadžihasanović* TJ, paras.99-100. *See also Čelebići* AJ, para.238.

¹⁴⁹⁸ *Hadžihasanović* AJ, para.30. *See also Krnojelac* AJ, para.172 (entering convictions under Article 7(3) for Krnojelac’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.”).

¹⁴⁹⁹ *Hadžihasanović* AJ, para.30.

¹⁵⁰⁰ *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”).

¹⁵⁰¹ *Čelebići* TJ, para.395; *Blaškić* AJ, para.72.

¹⁵⁰² *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.”).

¹⁵⁰³ *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.”

(b) Duty to prevent or punish involves distinct legal obligations

556. 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.¹⁵⁰⁴ 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."¹⁵⁰⁵

(i) Duty to prevent

557. In observing the duty to prevent, "a 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."¹⁵⁰⁶ The superior must undertake all measures which are necessary and reasonable to prevent subordinates from planning, preparing or executing the crimes.¹⁵⁰⁷ 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"¹⁵⁰⁸ and ensure their implementation.¹⁵⁰⁹ A superior may further be required to investigate whether crimes are about to be committed,¹⁵¹⁰ to protest against or criticise criminal action,¹⁵¹¹ to take disciplinary measures,¹⁵¹² or to report to¹⁵¹³ and/or to insist that immediate action be taken before a superior authority,¹⁵¹⁴ even if the superior lacks the formal capacity or legal competence to perform such measures personally.¹⁵¹⁵ 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 nothing,¹⁵¹⁶ for instance by simply ignoring such information."¹⁵¹⁷

(ii) Duty to punish

558. 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

¹⁵⁰⁴ 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.

¹⁵⁰⁵ Hadžihasanović AJ, para. 259.

¹⁵⁰⁶ Orić TJ, para. 328.

¹⁵⁰⁷ Orić TJ, para. 565.

¹⁵⁰⁸ 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.

¹⁵⁰⁹ Orić TJ, para. 331, citing Strugar TJ, para. 378; Halilović TJ, para. 74; Hadžihasanović TJ, para. 153.

¹⁵¹⁰ Orić TJ, para. 331, citing Strugar TJ, para. 416; Halilović TJ, para. 90.

¹⁵¹¹ Orić TJ, para. 331, citing Strugar TJ, para. 374 (referencing *High Command* case, 11 TWC 1, p. 623); Halilović TJ, para. 89.

¹⁵¹² Orić TJ, para. 331, citing Strugar TJ, para. 374 (referencing *Tokyo Judgement I*, p. 452); Halilović TJ, para. 89.

¹⁵¹³ Orić TJ, para. 331, citing Blaškić TJ, paras. 329, 335; Hadžihasanović TJ, para. 154.

¹⁵¹⁴ Orić TJ, para. 331, citing Strugar TJ, para. 374 (referencing *Tokyo Judgement I*, p. 448); Halilović TJ, para. 89.

¹⁵¹⁵ Orić TJ, para. 331.

¹⁵¹⁶ 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.

appropriate sanctions¹⁵¹⁸ or, if such action would be premature, “must at least conduct an investigation¹⁵¹⁹ and establish the facts¹⁵²⁰ in order to ensure that offenders under his or her effective control are brought to justice.”¹⁵²¹ Reporting crimes to competent prosecutorial authorities is also a reasonable measure that the superior must undertake. The superior is not required to personally conduct the investigation or dispense the punishment,¹⁵²² but must at least ensure investigation of the matter¹⁵²³ and submit a report “to the competent authorities for further investigation or sanction.”¹⁵²⁴ 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.”¹⁵²⁵ “Since the duty to punish aims at preventing future crimes of subordinates, a superior’s responsibility may also arise from his or her failure to create or sustain, amongst the persons under his or her control, an environment of discipline and respect for the law.”¹⁵²⁶

C. Individual participation of the accused

1. Milan Milutinović

(a) Milan Milutinović’s Individual Criminal Responsibility under Article 7(1) of the Statute

(i) Milutinović is responsible for the crimes charged in the Indictment as a member of the JCE

559. The evidence proves beyond reasonable doubt that Milan Milutinović was a member of the JCE charged in the Indictment and that he significantly contributed to its implementation. As President of Serbia, and therefore a key member of the political apparatus that ruled Serbia and Kosovo:

- Milutinović participated in the decision-making process of various high level bodies that controlled the forces in Kosovo, for example the SDC, where he supported the removal of officers seen as obstacles to the JCE and the promotion of others loyal to it;

¹⁵¹⁷ *Orić* TJ,para.331, citing *Čelebići* TJ,para.387.

¹⁵¹⁸ *Orić* TJ,para.336, citing *Ntagerura* TJ,para.650.

¹⁵¹⁹ *Orić* TJ,para.336, citing *Kordić* TJ,para.446;*Brđanin* TJ,para.279;*Strugar* TJ,para.378;*Halilović* TJ,paras.74,97,100.

¹⁵²⁰ *Orić* TJ,para.336, citing *Halilović* TJ,paras.97,100.

¹⁵²¹ *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.).

¹⁵²² *Orić* TJ,para.336, citing *Kvočka* TJ,para.316;*Halilović* TJ,para.100.

¹⁵²³ *Orić* TJ,para.336, citing *Halilović* TJ,para.97.

¹⁵²⁴ *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.

¹⁵²⁵ *Orić* TJ,para.336, citing *Aleksovski* TJ,para.78;*Blaškić* TJ,paras.302,335,464;*Halilović* TJ,para.100.

¹⁵²⁶ *Orić* TJ,para.336, citing *Bagilishema* TJ,para.50,referencing *Čelebići* TJ,paras.772 *et seq.*

- Milutinović supported the establishment and work of bodies implementing the JCE in Kosovo, such as the Joint Command;
- Milutinović played an obstructionist role at several meetings and conferences with Kosovo Albanian leaders and international representatives who were trying to achieve a peaceful settlement of the Kosovo crisis;
- Milutinović deliberately refrained from or omitted to do his duty to protect the civilian population from crimes; and
- Milutinović issued decrees designed to further the aims of the JCE.

560. The successful execution of the JCE required not only that its members took positive steps to implement it but also that they refrained from doing anything to hinder its implementation. Milutinović contributed to the JCE by his acts and omissions. For instance, he participated in high-level decision-makings, issued decrees and obstructed the peace process. Milutinović failed to use the powers available to him to prevent or stop the crimes despite his duty to do so, knowing that if he had acted he would have made it more difficult for the other members of the JCE to commit the crimes described in the Indictment.

561. Milutinović shared the intent of other JCE members to change the ethnic balance in Kosovo through the commission of the crimes charged. He 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.

Milutinović's power and authority

562. As President of Serbia, Milutinović was one of the most prominent and powerful political figures within the political, constitutional and legal framework of the Republic of Serbia and the FRY. Under Article 86 of the Serbian Constitution he was directly elected by the people¹⁵²⁷ and therefore had the highest degree of political legitimacy of any individual within the Serbian state. Pursuant to Article 88, he also enjoyed effective security of tenure during his term of office as, he could only be recalled by a vote of two-thirds of all members of the National Assembly and after that by a majority of the electorate. These factors enhanced his freedom of action and independence in exercising his authority.

563. Milutinović's power and authority were not derived solely from legal and constitutional provisions. In addition to his formal powers, he wielded a significant degree of *de facto* power and

influence over the bodies implementing the JCE in Kosovo. As President of Serbia and a leading member of the SPS, Milutinović was an eminent political figure in Serbia, second only to Slobodan Milošević. The scope of his power and authority can be deduced from his attendance at important meetings relating to Kosovo and the key role he played at such meetings. These included meetings with senior international players, senior local politicians both Serbian and Kosovo Albanian, and with the leading members of the JCE.

564. He was a close political confidante of Milošević, as observed by a number of international diplomats. According to Petritsch, when the Rambouillet delegations met in Paris in March 1999, Milutinović acted as Milošević's "mouthpiece" in contrast to the other members of the Serbian delegation who had been silenced.¹⁵²⁸ Merovci's assessment was that when Milutinović told him on 16 April 1999 that the international community could not divide the people in the Serbian government and that there was unity among "all of us," he was expressing his and the Serbian government's complete loyalty to Milošević.¹⁵²⁹

565. Milutinović also exerted a degree of influence over Milošević. During his interview with the OTP, Milutinović stated that he could confront and challenge Milošević without fear of the possible consequences:

I could say that Mr. Milošević – maybe because of my character, because of my previous career which was very rich, in any sense, and my experience and my honesty, that he swallow so many things which I told to him, which are – was not so pleasant and maybe that you can count it as closeness [...] I said what I had in mind, and – doesn't matter for the consequences.¹⁵³⁰

566. Milošević accepted that Milutinović shared the political authority over the bodies implementing the JCE in Kosovo. At the Seventh Session of the SDC on 4 October 1998, Milošević, while acknowledging that certain requests from the international community and in UN Resolution 1199 in relation to the situation in Kosovo were addressed to him, stated that "the Police is not within my jurisdiction – there is the President of Serbia, Milutinović, and for other things too."¹⁵³¹ Milutinović's power and authority could not get a better endorsement.

567. In addition to the formidable *de facto* power and authority that he possessed and exercised, Milutinović was invested with specific and discrete powers under the Serbian Constitution. Importantly, Article 85 of the Serbian Constitution stipulated that the President could request the Government (including the Minister of the Interior) to state its positions concerning certain issues.

¹⁵²⁷ P855,p.16.

¹⁵²⁸ Petritsch,P2792,p.3.

¹⁵²⁹ Merovci,P2588,para.68.

¹⁵³⁰ P604,pp.150-151.

¹⁵³¹ P2831,p.23.

Article 83(7) of the Serbian Constitution also gave the President broad powers to intervene in the operations of the MUP during the indictment period.¹⁵³²

568. Pursuant to Article 135 of the FRY Constitution, Milutinović, as President of Serbia, was one of three voting members of the SDC,¹⁵³³ and, as such, had significant authority over the VJ.¹⁵³⁴ Milutinović could also utilise powers invested in him by statutory law. Article 9 of the Law on Internal Affairs empowered the President of Serbia and the National Assembly to ask the Minister of the Interior to submit a report on the work of the Ministry.¹⁵³⁵ Articles 6 and 10 of the Law on the Ranks gave him significant influence and authority over members of the MUP in the assignment and appointment of persons to the rank of General.¹⁵³⁶

a. Milutinović used his position to contribute to the JCE

i. His membership of the SDC/ SC

569. The role of the SDC and its war-time equivalent the SC is discussed at Section II(C)(3)(b)(i). As a member of this body, Milutinović exercised considerable power over the VJ, in terms of planning, organisation, appointment of personnel and implementation of military and strategic policies, including the deployment and use of the VJ and its subordinated units in Kosovo in 1998 and 1999. He could block or impede proposals that were put forward to advance the JCE. On the contrary, however, Milutinović demonstrated that on critical matters he had a close convergence of views with Milošević. Through his participation in the SDC, Milutinović used the VJ to commit crimes.

570. Like Milošević, Milutinović approved the military intervention in Kosovo in the summer of 1998. Milutinović participated in the Fifth Session of the SDC, held on 9 June 1998 where Perišić provided a detailed analysis of the military and political situation in Kosovo and the situation at the border with Albania.¹⁵³⁷ The SDC concluded that, “should terrorist activities of the Albanian separatist movement escalate, the Army of Yugoslavia will intervene in adequate measure.”¹⁵³⁸ The

¹⁵³² P855,p.15.

¹⁵³³ 1D139,p.44.

¹⁵³⁴ See Section II(C)(3)(b)(i).

¹⁵³⁵ P1737,p.3.

¹⁵³⁶ P1015.

¹⁵³⁷ 4D106,pp.1-2;1D760,pp.4-10.

¹⁵³⁸ 4D106,p.2, See also P949,pp.46-51.

Plan to Suppress Terrorism implemented in the summer of 1998 was drawn up pursuant to the decision of the SDC adopted at this meeting.¹⁵³⁹

571. Milutinović also played a critical role in the appointment of members of the JCE to positions of authority within the VJ. At the Seventh Session of the SDC on 24 November, 1998, he supported Milošević in the decision to remove Momčilo Perišić from the position of Chief of the VJ General Staff and replace him with Ojdanić, another member of the JCE, in spite of spirited objections from President Đukanović of Montenegro.¹⁵⁴⁰ Milutinović was adamant in countering Đukanović, claiming that Perišić's good reputation in the international arena "should be taken with a grain of salt."¹⁵⁴¹ Milošević concluded the meeting by confirming the importance of the SDC, stating that, in future, he would always refer the most important issues relating to the VJ to the SDC.¹⁵⁴²

572. Milutinović played a similar role at the eighth SDC Session on 25 December 1998, at which he supported Milošević in the promotion of Pavković to commander of the Third Army. This, again, was against concerns raised by Đukanović, who argued that Pavković's promotion should be reconsidered because of the actions of the PrK which Pavković commanded¹⁵⁴³

573. At both the Fifth and Eighth Session of the SDC, Milutinović also supported the promotion of Lazarević, another member of the JCE, on the latter occasion to Commander of the PrK.¹⁵⁴⁴

574. Even if, as Milošević claimed, the power to appoint generals in the VJ was vested in the President of Yugoslavia,¹⁵⁴⁵ it would have been much more difficult, if not practically impossible, for Milošević to carry his proposals against the will of the majority of the SDC. By loyally supporting Milošević, Milutinović used his powers as a member of the SDC to advance the JCE.

ii. Approving the promotion of Lukić

575. The Decree on Ranks of Members of the Ministry of Internal Affairs¹⁵⁴⁶ gave Milutinović significant leverage over personnel matters within the MUP. Under Article 10 he could accept or

¹⁵³⁹ P2166,p.3.

¹⁵⁴⁰ P1576,pp.4-5.

¹⁵⁴¹ P1576,p.4.

¹⁵⁴² P1576,p.5. At this session it was also agreed that the budget of the VJ for 1999 would be 70 percent more than it had been in 1998. P1576,p.1.

¹⁵⁴³ P1000,p.10.

¹⁵⁴⁴ 4D106,p.5;P1000,p.8.

¹⁵⁴⁵ P1576,p.5.

¹⁵⁴⁶ P1015.

reject a recommendation by the Minister to the rank of General or from the rank of General to a higher rank.¹⁵⁴⁷

576. On 13 May 1999 (Security Day), acting on the recommendation of MUP Minister Stojiljković, Milutinović signed a decree promoting Lukić to Police Lieutenant General pursuant to Article 6 of the Law on Ranks.¹⁵⁴⁸ By this act he empowered and gave encouragement to Lukić, a major participant in the JCE. In his letter proposing Lukić for promotion, Minister Stojiljković commended him for the “highly positive results achieved in this field in the past period.”¹⁵⁴⁹ This coincides with the completion of several major operations in Kosovo during which many crimes had been committed by the MUP.¹⁵⁵⁰ By endorsing Stojiljković’s commendation of Lukić’s performance, Milutinović gave encouragement to the perpetrators of these crimes.

iii. His key role in high level meetings

577. Milutinović played a key role in several important high level meetings dealing with events in Kosovo, thereby facilitating the execution of the JCE.

Planning and coordination meetings with the political, military and police leadership

578. In both 1998 and during the indictment period, Milutinović attended numerous meetings with the highest political, military and police leadership where information on Kosovo was exchanged, plans for future action discussed and decisions were made. His active participation in these meetings helped to further the JCE as described below. Indeed his attendance as the President of Serbia conferred legitimacy to the decisions that were taken.

579. On 21 July, 1998, Milošević convened a meeting in Belgrade to discuss the security situation in Kosovo. Present at this meeting were Milutinović, Šainović, Matković, Minić, and Anđelković. General Dimitrijević, General Samardžić (then Third Army commander), General Perišić, and General Pavković attended on behalf of the VJ. Vlajko Stojiljković (the MUP Minister), General Đorđević and General Lukić represented the MUP. Pavković presented a plan for combat actions consisting of several stages to be carried out in the summer which was

¹⁵⁴⁷ Marković, ID682, para. 3.34.

¹⁵⁴⁸ P604, p. 186; ID680.

¹⁵⁴⁹ ID680.

¹⁵⁵⁰ See Section III(H).

adopted.¹⁵⁵¹ The execution of the plan involved the use of excessive force against the Kosovo Albanian population.¹⁵⁵²

580. On 4 May 1999, Milutinović attended a meeting at Milošević's villa on Tolsta Street, attended also by Milošević, Pavković, Lukić and Ojdanić among others. Pavković and Lukić both provided reports on the situation in Kosovo.¹⁵⁵³

581. Milutinović not only kept himself informed of events in Kosovo but sometimes displayed his leadership ability at these meetings. At the meeting on 5 November 1998, at the MUP Staff for Kosovo headquarters he issued specific instructions. For instance, he gave instructions on how to handle relations with the expected influx of OSCE representatives: "The OSCE Verification Mission [...] do not have access to Yugoslav Army and police positions."¹⁵⁵⁴ In addition, he claimed that "the local police (100 villages) have given quite good results so far and that they should remain so."¹⁵⁵⁵

Joint Command

582. Milutinović was clearly well informed about the work of the Joint Command as he participated in the decisions relevant to its continued existence and work. At the meeting of the Operations Inter-Departmental Staff for the Suppression of Terrorism in Kosovo and Metohija held on 29 October, 1998, Pavković¹⁵⁵⁶ and Lukić¹⁵⁵⁷ presented reports on anti-terrorist operations, while Minić reported on the implementation of the Plan to Suppress Terrorism.¹⁵⁵⁸ The reports included information on the arming of the Serbian and Montenegrin population and simultaneous disarming of Albanian villages.¹⁵⁵⁹ The reports were unanimously accepted by the Staff.¹⁵⁶⁰ The minutes record that "Milutinović believes that the Joint Command should continue functioning for a while, although thought should be given to whether it should continue in its present membership or whether some changes should be made."¹⁵⁶¹ He contributed to the decision for its continued existence and work.

¹⁵⁵¹ Matković, T. 14634-14637; 4D100; 4D101; 4D102

¹⁵⁵² See Section II(C)(2)(c).

¹⁵⁵³ P948, pp. 142-143; 4D406; P1696.

¹⁵⁵⁴ P2805, p. 4.

¹⁵⁵⁵ P2805, p. 4. On 23 September 1998 Milutinović attended another meeting at the MUP Staff attended by Lukić and the SUP chiefs where he gave encouragement to the members of the MUP in stating that terrorism in Kosovo had been defeated: Cvetić, T. 8189.

¹⁵⁵⁶ P2166, pp. 1-7.

¹⁵⁵⁷ P2166, pp. 1-7.

¹⁵⁵⁸ P2166, pp. 8-9.

¹⁵⁵⁹ P2166, pp. 4, 9.

¹⁵⁶⁰ P2166, p. 15.

¹⁵⁶¹ P2166, p. 12.

583. Milutinović gave further support to the continuation of the Joint Command at the meeting on 5 November 1998 at the headquarters of the MUP Staff for Kosovo. In addition to the members of the MUP Staff, this meeting was also attended by Šainović, Minić, Anđelković, Stojiljković and Radomir Marković. Lukić opened the meeting by briefing the attendees on the current security situation in Kosovo and the readiness of the police.¹⁵⁶² Milutinović told the attendees that “with regard to the Yugoslav Army and police, everything will stay the same as it has been up to now (a joint command, VJ units will not withdraw, and police forces have only been reduced by the number that has already been withdrawn).”¹⁵⁶³

Meetings with international representatives

584. Several senior international interlocutors observed that Milutinović was regularly at Milošević’s side in important meetings relating to Kosovo. For instance, Vollebæk testified that Milutinović was present in a number of meetings¹⁵⁶⁴ and that he normally would sit next to, and be very supportive of, Milošević.¹⁵⁶⁵ Petritsch considered Milutinović to be the most supportive of Milošević’s policies and the most vociferous in defending and articulating them.¹⁵⁶⁶

585. Milutinović sometimes played the role of Milošević’s deputy. Naumann’s evidence regarding the negotiations which took place on 24 October 1998 gives meaningful insight into the Milošević/Milutinović relationship insofar as matters relating to Kosovo were concerned. He stated that Milošević adjourned the meeting in order to withdraw for discussions with his advisers including Milutinović.¹⁵⁶⁷ On his return, Milošević said that he had seconded Milutinović to participate in the talks on the technical aspects of the agreement on how to reduce the numbers of VJ and MUP forces in Kosovo. This took place in the headquarters of the General Staff.¹⁵⁶⁸ The agreement reached was presented to Milošević the following morning.

Meetings with the Kosovo Albanian leadership

586. In 1998, Milutinović met several times with Kosovo Albanian personalities who, according to Petritsch, “did not represent the vast majority” of Kosovans.¹⁵⁶⁹ Such meetings obstructed any real efforts at reaching an agreement with credible representatives of Kosovo Albanians and served

¹⁵⁶² P2805,p.3.

¹⁵⁶³ P2805,p.4;Cvetić,T.8190.

¹⁵⁶⁴ Vollebæk,P2634,paras.23,39.

¹⁵⁶⁵ Vollebæk,T.9509.

¹⁵⁶⁶ Petritsch,P2792,p.5.

¹⁵⁶⁷ Petritsch,P1767,para.20.

¹⁵⁶⁸ Naumann,P2512,pp.21-22.

¹⁵⁶⁹ Petritsch,T.10816-10817.

to divert attention away from crimes being committed by the forces of the FRY and Serbia in Kosovo.

587. On 14 and 20 November 1998, invitations were sent by Milutinović to various people from Kosovo to attend political talks in Belgrade.¹⁵⁷⁰ Milutinović also made a public call to the same effect.¹⁵⁷¹ However, with the exception of Rugova, all of those invited to the talks had been approved by Anđelković.¹⁵⁷² Anđelković was the President of the TEC, the provisional government imposed on Kosovo by Belgrade and several of those who attended the meetings were also members of the TEC.¹⁵⁷³ The invitees carried no mandate from the people of Kosovo, were not credible representatives of the region, and were all seen as loyal to the Serb government.¹⁵⁷⁴ Thus the signing of the “Joint Proposal for an Agreement” on 25 November 1998 by Kosovo Albanians who were willing to meet with Milutinović was not a credible exercise to arrive at a political solution.¹⁵⁷⁵

588. Invitations to the more credible representatives of Kosovo were often made in circumstances that made them unlikely to be accepted. Many times they were given short notice of the meetings. Invitations of 19 November 1998, to Redžep Ćosja, Hidajet Hiseni, and the KLA spokesman Adem Demaći¹⁵⁷⁶ were rejected.¹⁵⁷⁷ In their joint reply Ćosja and Hiseni stated that, while committed to peace in Kosovo, “we do not believe that improvised and hasty private discussions can contribute to such a goal.”¹⁵⁷⁸ According to Demaći, Milutinović’s invitation contained several requests that were impossible to fulfil due to the short time at hand.¹⁵⁷⁹

589. A meeting did take place on 9 December 1998 in Belgrade.¹⁵⁸⁰ However, the presence of notorious radical Vojislav Šešelj at this meeting underlines the insincerity of the Serbian government, and provided added justification for the decision of Rugova and others not to attend such talks.

590. It was highly unlikely that Rugova, or any other Kosovo Albanian representative, would accept an invitation to a meeting with the Serbian government without formal international

¹⁵⁷⁰ 1D62,1D624.

¹⁵⁷¹ 1D88.

¹⁵⁷² 1D577.

¹⁵⁷³ Faik Jašari, Zejnel Abidin Keuejš, Ibro Vait and Ćerim Abazi, all members of the TEC (2D376), were all invited to the meetings in November (1D62;1D624).

¹⁵⁷⁴ Petritsch,T.10816-10817. One invitation was sent to Muharrem Ibraj, a member of the local Albanian police force, set up by the Serbian government, which is implicated in crimes, *see* Haxhibeqiri,T.1140-1142.

¹⁵⁷⁵ 1D18,p.372;1D91;1D671.

¹⁵⁷⁶ 1D66.

¹⁵⁷⁷ 1D67,1D92.

¹⁵⁷⁸ 1D67. During cross-examination, Marković seemed to agree that some of these complaints could be legitimate, T.13531.

¹⁵⁷⁹ 1D92.

mediation.¹⁵⁸¹ International representatives, including Hill, Petritsch and other ambassadors, raised this point with Milutinović and other members of the Serbian government. Their concerns were rejected.¹⁵⁸² The lack of accommodation to the Kosovo Albanian demands for international mediation hindered the shuttle diplomacy efforts of Ambassador Hill. Rather than seeking to reach agreement through the mediation of Hill, Milutinović held his own entirely separate discussions with unrepresentative Kosovo Albanians.¹⁵⁸³

591. In April 1999, Milutinović held two meetings with Rugova and other Kosovo Albanian leaders. Again, rather than being genuine attempts to reach agreements, these meetings amounted to mere sham, part of a propaganda campaign to divert attention away from crimes being committed by the forces of the FRY and Serbia in Kosovo and to discredit Rugova in the eyes of the Kosovo Albanian population.¹⁵⁸⁴ Milutinović's participation in these meetings particularly on 28 April when Rugova was forced to sign a farcical "joint" declaration, demonstrates his real power and authority and the significant role he played in contributing to the JCE.

592. Rugova had initially declined to meet with Milutinović on 16 April 1999 but agreed after the Serbian functionaries, who had come to his house, became "very aggressive."¹⁵⁸⁵ When the Kosovo Albanian representatives arrived at the Serbian Presidency building in Belgrade, journalists were already waiting to film and photograph it.¹⁵⁸⁶ A meeting with Milutinović and Šainović then took place. At this meeting, Merovci was informed that he would be allowed to go to Skopje but was also warned by Šainović that he should not tell the international community that he and Rugova were under house arrest.¹⁵⁸⁷

593. Milutinović met Rugova and Merovci again on 28 April, 1999, in Priština, with Šainović, Marković and Anđelković also present.¹⁵⁸⁸ By this time, pressure from the international community on the Serb leadership to release Rugova and his family had increased through official calls by, among others, the German and US Foreign Ministers Fischer and Albright.¹⁵⁸⁹ At the meeting, a

¹⁵⁸⁰ 1D605. The meeting was also attended by the defence witness Ratko Marković.

¹⁵⁸¹ Petritsch, T.10815.

¹⁵⁸² Petritsch, T.10819.

¹⁵⁸³ Petritsch, T.10824-10825. It is also noteworthy that Marković, during his testimony (T.13498), stated that he simply ignored Ambassador Hill in August 1998 when trying to arrange a meeting with Agani, despite Agani in his response to Marković specifically mentioning Hill in the hope that he would "help determine the exact manner and tone for continuation of the negotiations" (1D64).

¹⁵⁸⁴ Rugova, P2612, p.57.

¹⁵⁸⁵ Rugova, P2612, pp.47-48; P2613, p.11.

¹⁵⁸⁶ Merovci, P2588, para 68.

¹⁵⁸⁷ Merovci, P2588, para 68; T.8465-8466.

¹⁵⁸⁸ Merovci, P2588, para 72.

¹⁵⁸⁹ Merovci, T.8469.

joint declaration was signed between Milutinović and Rugova.¹⁵⁹⁰ According to Rugova, the declaration was aimed at compromising him politically and discrediting him in the eyes of the Kosovo Albanian public.¹⁵⁹¹

594. Rugova was put under severe pressure to sign the joint declaration. It was therefore not a genuine statement of shared aims. For four weeks prior to this, he had been under house arrest.¹⁵⁹² His repeated requests that he and his family be allowed to leave Kosovo had been refused by the Serbian leadership.¹⁵⁹³ Rugova was neither consulted on, nor given any influence over, the wording of the “joint” declaration. He was given no say, for instance, over the establishment of a Provisional Executive Council in Kosovo.¹⁵⁹⁴ Instead, he was given a pre-prepared text to sign.¹⁵⁹⁵ According to Rugova, he had no choice but to sign.¹⁵⁹⁶ This refutes the claim by Marković that “the meeting unfolded in a constructive atmosphere,”¹⁵⁹⁷ and that it was “a very cordial meeting.”¹⁵⁹⁸

iv. Obstructing efforts to reach a peaceful resolution

595. Milutinović was fully aware of the obstruction of the October agreements by the Serbian forces¹⁵⁹⁹ and encouraged it. He told the attendees at a meeting on 5 November, 1998, at the headquarters of the MUP Staff for Kosovo that “with regard to the Yugoslav Army and police, everything will stay the same as it has been up to now (a joint command, VJ units will not withdraw, and police forces have only been reduced by the number that has already been withdrawn).”¹⁶⁰⁰ The issue of the lack of cooperation with the October agreements was specifically raised at a meeting with William Walker, Michael Phillips and Milošević accompanied by Milutinović and Šainović. This was on either 24 November or 4 December, 1998.¹⁶⁰¹ Milošević was also handed a letter to this effect.¹⁶⁰²

596. This obstructionist attitude was also on display at Rambouillet. Although not formally a member of the Serbian delegation, Milutinović played an important role in the failure to reach

¹⁵⁹⁰ P416.

¹⁵⁹¹ Rugova, P2612, p.57.

¹⁵⁹² Merovci, T.8582; P2612, p.54.

¹⁵⁹³ Rugova, P2612, pp.53-54.

¹⁵⁹⁴ Rugova, P2612, p.53.

¹⁵⁹⁵ Rugova, P2612, p.53.

¹⁵⁹⁶ Rugova, P2612, pp.49-50.

¹⁵⁹⁷ Marković, T.13234.

¹⁵⁹⁸ Marković, T.13621.

¹⁵⁹⁹ See Section II(C)(2)(d).

¹⁶⁰⁰ P2805, p.4; Cvetić, T.8190.

¹⁶⁰¹ Michael Phillips, T.11841-11844, 12003-12004.

¹⁶⁰² P396.

agreement. Indeed Petritsch described Milutinović as “the fiercest critic, very cynical, very negative in general in this whole negotiations and talks.”¹⁶⁰³

597. Austrian diplomatic correspondence prepared within hours after a meeting of 19 February 1999 records Milutinović as threatening: “Bombing Serbia would lead to massacres”¹⁶⁰⁴ meaning a massacre of Kosovo Albanians.

598. This negative attitude was again in evidence when the parties reconvened in Paris on 15 March 1999. Milutinović had by then taken charge of the Serbian delegation and dominated the discussions and was acting as Milošević’s mouthpiece.¹⁶⁰⁵

v. Contributing to the JCE by omission and the creation of an environment permissive of crimes

599. Milutinović had several powers available to him that he might have used in order to guarantee compliance with the constitution or at least to make it significantly more difficult for the crimes charged to have been committed. In deliberately omitting to do so in spite of his knowledge of the crimes committed by forces of the FRY and Serbia in Kosovo in 1998 and 1999, he contributed significantly to the JCE and helped to create an environment permissive of crimes committed against the Kosovo Albanian population.

600. Milutinović had a duty to protect the safety of the civilian population. This duty arose from his position as President of Serbia under the Serbian Constitution.

601. The jurisprudence of the Tribunal, as well as international law, have accepted that the head of state or the head of a regional administration in times of armed conflict is obliged to act to prevent the commission of crimes against international humanitarian law and to ensure the safety of the population and that the omission to do so can result in criminal liability.

602. The Trial Chamber in *Martić* affirmed that a person in the highest political office and in control of the armed forces has the obligation “to prevent the commission of crimes and to ensure that all inhabitants of the territories under his authority enjoyed respect for human rights.”¹⁶⁰⁶

¹⁶⁰³ Petritsch,P2793,pp.15-16. This in respect to a meeting held with the Contact Group foreign ministers on 20 February, where the FRY/Serbian representatives, including Milutinović, indicated that they could live with the political part of the agreement, a rare occasion when Milutinović exhibited a degree of accommodation.

¹⁶⁰⁴ P562. *See also* Section II D.1.

¹⁶⁰⁵ Petritsch,P2792,p.3;P2793,pp.25-26.

¹⁶⁰⁶ *Martić* TJ,para.498.

603. Similarly, in *Simić*, the Trial Chamber considered that Simić, as President of the Crisis Staff, was obliged to try everything possible to prevent non-Serb citizens from being persecuted.¹⁶⁰⁷ This flowed from the responsibility of the Crisis Staff to ensure the safety of the population.

604. In *Blaškić*, the Appeals Chamber found that a crime can be perpetrated by omission under Article 7(1) whereby “a legal duty is imposed, *inter alia* as a commander, to care for the persons under the control of one’s subordinates.”¹⁶⁰⁸ That duty derives from such provisions as Article 14(1) of Geneva Convention III, and Article 27 of Geneva Convention IV, which provide that protected persons must be humanely treated and protected, especially against violence or threats thereof.¹⁶⁰⁹

605. The Appeals Chamber recognised that “various provisions in the Geneva Conventions impose a positive duty to act.”¹⁶¹⁰ This position is clearly reflected in Article 86(1) of Additional Protocol I (API), which states: “The High Contracting Parties and the Parties to the conflict shall repress grave breaches, and take measures necessary to suppress all other breaches, of the Conventions or of this Protocol which result from a failure to act when under a duty to do so.”¹⁶¹¹ The Appeals Chamber found that “while these obligations are technically incumbent on the States Party to the Conventions, they have resulted in the recognition of a general principle of criminal liability for omission.”¹⁶¹²

606. In addition to the provisions relied upon by the Appeals Chamber in *Blaškić*, the existence of a duty to ensure the safety of the civilian population finds further support in the Rule 87 of the ICRC Study on Customary International Law: Civilians and persons *hors de combat* must be treated humanely in armed conflict, regardless of the nature of the conflict. This Rule is based *inter alia* on Common Article 3 to the Geneva Conventions and recognised as a fundamental guarantee by both Additional Protocols, Article 75 (I) AP I and Article 4 (1) AP II.

¹⁶⁰⁷ *Simić* TJ, para.994.

¹⁶⁰⁸ *Blaškić* AJ, para.663.

¹⁶⁰⁹ *Blaškić* AJ, para.663, fn.1384.

¹⁶¹⁰ *Blaškić* AJ, fn.1385.

¹⁶¹¹ *Blaškić* AJ, fn.1385.

¹⁶¹² *Blaškić* AJ, fn.1385, citing Cassese, *International Criminal Law*, p.201. The Appeals Chamber also drew support from the Nuremberg Tribunal, which reiterated that “international law imposes duties and liabilities upon individuals”, (*Trial of the Major War Criminals Before the International Military Tribunal, Nuremberg, 14 November 1945 – 1 October 1946, vol. 22, p. 65*), “who therefore may be held personally responsible for failing to perform those duties.” *Blaškić* AJ, fn.1384.

607. This international duty upon public officials to ensure respect for fundamental rights has also been confirmed in the context of crimes against humanity by the ICTR Sentencing Judgement in the case of *Rutaganira*.¹⁶¹³

608. Under Serbian Law, the duty to protect the civilian population is directly incorporated in the presidential oath of office that Milutinović took when he was sworn in. Pursuant to Article 86 of the Serbian Constitution, on assuming office the President took an oath to “devote every effort to the preservation of the sovereignty and integrity of the territory of the Republic of Serbia, to the realisation of human and civil freedoms and rights, to the observance and defence of the Constitution and law; to the preserving of peace and welfare of all the citizens of the Republic of Serbia” and to “conscientiously and responsibly fulfil all my duties.” Defence expert Marković accepted that this oath sums up the primary role of the President, that is, *inter alia*, to “guarantee the compliance with the Constitution and the law and the respect for human and civil rights.”¹⁶¹⁴ It was mandatory that the President take that oath upon assuming his office.¹⁶¹⁵

609. Defence expert Marković argued that the oath was not a constitutional or legal norm and that non-compliance incurred no penalties.¹⁶¹⁶ However, according to the jurisprudence referred to above, the central issue is whether the President had a legal obligation to act, in this case a duty to devote every effort to prevent Kosovo Albanian citizens from being persecuted.

610. Milutinović could have tried to exert pressure on the Serbian Government to change its policies regarding Kosovo by requesting reports from the Minister of Interior regarding the reports of crimes in Kosovo. Article 85 of the Serbian Constitution stipulated that the President could request the Government to state its positions concerning certain issues.¹⁶¹⁷ Under Article 19 of the Law on Government of Serbia, the Government had to inform the President of its position within a period determined by the President that may not be shorter than 48 hours.¹⁶¹⁸ According to Marković, the purpose of Article 85 was to enable the President to be informed of the work of the Government and to exert public pressure on the Government to deal with certain issues, to get the Government to act on burning issues.¹⁶¹⁹ That Milutinović was aware of these powers is evident

¹⁶¹³ *Rutaganira* TJ, paras.78-79.

¹⁶¹⁴ Marković, ID682, para.4.5.

¹⁶¹⁵ Marković, T.12958.

¹⁶¹⁶ Marković, T.12957.

¹⁶¹⁷ P855.

¹⁶¹⁸ P1862. In addition, Article 9 of Law on Internal Affairs (P1737) stipulates that, at the request of the National Assembly and the President, the Minister must submit a report on the work of the Ministry of the Interior and on the security situation in the Republic.

¹⁶¹⁹ Marković, T.12985, 13328-13329.

from his response to news of the Jashari incident in March 1998, when he called MUP officials, including the Minister of Interior, to brief him about what had happened.¹⁶²⁰

611. In light of his knowledge of the gravity and widespread nature of the crimes, Milutinović had a duty to try everything possible to impede the perpetrators.¹⁶²¹ A President who sought to “conscientiously and responsibly fulfil all [his] duties” would have tried to take advantage of provisions of the law that could be used to prevent the calamity that befell the Kosovo Albanians. During the Indictment period he had power to intervene in the operations of the MUP in Kosovo by invoking powers under Article 83, paragraph 7, of the Serbian Constitution to adopt instruments relating to matters falling within the competence of the National Assembly, with the possibility to restrict human and civil freedom and rights and to alter the organisation, composition and powers of the Government ministries, and public prosecutor’s office.¹⁶²²

612. Milutinović exercised these powers by adopting 16 decrees during the state of war.¹⁶²³ During the subsequent ratification process he confirmed that they were adopted in accordance with Article 83 (7) of the Serbian Constitution.¹⁶²⁴ Although the 16 decrees were adopted at the proposal of the Government, he had the authority to adopt such instruments “at his own initiative” as clearly stipulated in the Article.¹⁶²⁵ Milutinović did not seek to use this provision to intervene in the operations of the MUP with a view to preventing or impeding the commission of the crimes. This omission significantly contributed to the implementation of the JCE by enabling the MUP to act without restrictions.

613. Milutinović also failed to take any steps to restrain the use of the VJ in the commission of the crimes. As President of Serbia, he could propose that a session of the SDC be convened¹⁶²⁶ and the agenda for the sessions.¹⁶²⁷ Despite having knowledge of the crimes committed by the VJ in Kosovo in 1998 and 1999, Milutinović never sought to put this issue on the SDC’s agenda. On the contrary, at the Eighth Session when President Đukanović raised concerns about the actions of the PrK, he sidestepped it by describing these reports as “inflated.”¹⁶²⁸ He blocked Đukanović’s

¹⁶²⁰ P604,pp.54-56.

¹⁶²¹ In *Simić*, the Trial Chamber considered that Simić, as President of the Crisis Staff, was obliged to try everything possible to prevent non-Serb citizens from being persecuted: *Simić* TJ, para.994.

¹⁶²² Initially defence expert Marković appeared reluctant to accept that the Serbian President had these powers: ID682, para.2.26; T.12904. Eventually he agreed he possessed them if a state of war or a state of imminent threat of war was declared by federal bodies: T.12905.

¹⁶²³ Marković, T.12925. All the decrees are listed in 1D190.

¹⁶²⁴ 1D190.

¹⁶²⁵ Marković, T.13291-13292.

¹⁶²⁶ P2622, Art.4; P1738, Art.3.

¹⁶²⁷ P2622, Art.5; P1738, Art.5.

¹⁶²⁸ P1000, p.10.

suggestion to invite independent international legal institutions including the ICTY “to investigate any eventual criminal offence against civilian population in Kosovo.”¹⁶²⁹

614. Milutinović’s failure to use his Presidential powers and authority to stop or prevent the crimes he knew were being committed contributed significantly to the creation of an environment permissive of crimes against the Kosovo Albanian population. He fostered this environment when he publicly applauded, without any qualification, the performance of the forces of the FRY and Serbia in Kosovo despite his knowledge of crimes that they were committing. For instance, on Security Day on 13 May 1999, Milutinović issued a press release expressing his “firm conviction” that all the members of the Ministry of Interior “will continue to carry out professionally, efficiently, lawfully and responsibly their tasks.”¹⁶³⁰ He did not dissociate himself from the heavy-handed tactics and, indeed, approved of them, saying at a meeting of 5 November 1998 that “had we not done what we have done so far, we would have been in a much more difficult political situation.”¹⁶³¹

vi. Furthering the JCE by the decrees he issued

615. Of the 16 decrees issued by Milutinović during the state of war two in particular were designed to contribute to achieving the aim of the JCE to alter the ethnic balance in Kosovo: the Decree on Identification Cards in Time of War¹⁶³² and the Decree on Citizens’ Domicile and Residence During the State of War.¹⁶³³

616. The Decree on Identification Cards in Time of War, which came into force on 7 April,¹⁶³⁴ provided that a person who loses his personal identity card must report the loss within 24 hours to the MUP office in the municipality in which it was lost, to which effect a certificate is issued, and within eight days must apply for a new card in the MUP office at their place of residence.¹⁶³⁵ This imposed conditions that were impossible for the Kosovo Albanians population being deported to comply with as they often had their identification cards taken from them while crossing the borders. Attempted re-entry would be more difficult if one could not prove compliance.

¹⁶²⁹ P2831,p.13. Milutinović’s opposition to the ICTY carrying out any investigation in Kosovo is also evident from the MUP Staff Meeting in Priština of 5 November 1998 as he stated that “we will not recognize the Hague Tribunal in the case of Kosovo and the Federal Republic of Yugoslavia, because this is our country’s internal affair.” (P2805,p.5). He also rejected unrestricted access for Louise Arbour, the then Chief Prosecutor of the ICTY, to investigate the incident at Račak.Naumann,P1767,p.8.

¹⁶³⁰ 1D712.

¹⁶³¹ P2805,p.5.

¹⁶³² P993,p.5.

¹⁶³³ P993,p.4.

¹⁶³⁴ P993,p.5;Marković,T.13627-13628.

¹⁶³⁵ P993,p.5.

617. For the same reason the Decree on Citizens' Domicile and Residence During the state of war set impossible conditions for the Kosovo Albanians who were expelled. It obliged all persons above the age of 14 to register changes of residence or address within 24 hours, changes of domicile within 12 hours, and deregistration of a residence or domicile had to take place immediately prior to departure.¹⁶³⁶

(ii) Milutinović shared the intent to carry out the common plan

618. Milutinović shared the intent to carry out the common purpose of the JCE. His knowledge of the crimes committed by the forces of the FRY and Serbia and his actions in commanding bodies such as the SDC and SC, demonstrate that he intended to modify the ethnic balance in Kosovo through criminal means, which included the commission of crimes charged in the Indictment.

619. Milutinović 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. In spite of his awareness of the crimes in 1998-1999, during the Indictment period, Milutinović continued to contribute to the JCE by participating in high-level decision-making meetings including those where senior officials in the MUP and VJ who supported the JCE were promoted and those who disapproved were dismissed. He supported the decisions to establish and maintain the Joint Command although he was aware of its coordinating role for the forces of the VJ and the MUP that were committing crimes. In his meetings and dealings with credible representatives of Kosovo Albanians like Rugova, and at Rambouillet in particular, he obstructed efforts to arrive at a resolution of the Kosovo problem. He blocked all proposals to permit an independent body like the ICTY to investigate crimes against the civilian population in Kosovo. This demonstrated his approval of the crimes and his intent to commit them.

620. Moreover, although he had the power to do, Milutinović deliberately and scandalously failed to "conscientiously and responsibly" do his duty as President of Serbia and "devote every effort [...] to the preserving of peace and welfare of all the citizens of the Republic of Serbia."¹⁶³⁷ He could have invoked the laws and constitution of Serbia or used his membership in the SDC to intervene to prevent or stop the crimes against the Kosovo Albanians but there is no evidence that he even tried. 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.

¹⁶³⁶ P993,p.4.

¹⁶³⁷ Taken from his oath of office, Article 86 of the Constitution of Serbia:P855.

621. Milutinović did not publicly denounce the policies of Milošević and other members of the JCE in relation to Kosovo. On the contrary, his conduct indicated that he fully agreed with them. Neither did he unequivocally dissociate himself from the excessive force employed by the forces of the FRY and Serbia in Kosovo during 1998 but rather, by lauding them for their performance without expressing any reservations he signalled his approval of their conduct. He declined to resign in protest while doing nothing to protect the victims of these large-scale crimes.¹⁶³⁸

622. Milutinović himself made statements which demonstrate that he shared the intent of the JCE. On 19 February 1999, during the Rambouillet negotiations, Milutinović held lengthy discussions with Ambassador Mayorski and Ambassador Petritsch. A dispatch which was prepared by Kickert and checked by Petritsch shortly after the event records Milutinović as stating: “Bombing Serbia would lead to massacres.”¹⁶³⁹ Petritsch testified that both Milutinović and Štambuk had made this comment but on separate occasions.¹⁶⁴⁰ Although Petritsch did not actually remember Milutinović uttering these words, he recalled the meeting and the circumstances from reading the dispatch.¹⁶⁴¹ On the possibility that there was a mistake made in the dispatch, Petritsch answered that “that is very, very unlikely.”¹⁶⁴²

623. It is noteworthy that at the meeting on 16 April 1999, when Rugova informed Milutinović that Kosovo was being emptied of people and that there was oppression and violence being committed, Milutinović’s response was that this was “the outcome of the international community.”¹⁶⁴³

624. Further, Milutinović did not distance himself from statements made in his presence by Milošević and other members of the JCE which implied that Kosovo Albanians should be killed or persecuted. For instance, Milutinović was present at the meeting where Milošević described Kosovo Albanians as “murderers,” “bandits” and “rapists,” and stated that a final solution to the Kosovo problem would be found by spring 1999. When pressed on what he meant by this, Milošević replied that they would do what they had done in 1946 in Drenica: “We got them together and shot them.”¹⁶⁴⁴

¹⁶³⁸ According to Marković: “The president can ask the government to set out its standpoints, but let me repeat, he has no instruments at his disposal to make the government change its standpoints. All he can do, if it would affect public opinion, is to resign.”, T.13333-13334.

¹⁶³⁹ P562, p.2.

¹⁶⁴⁰ Petritsch, T.10729, 10879.

¹⁶⁴¹ Petritsch, T.10886-10887.

¹⁶⁴² Petritsch, T.10882.

¹⁶⁴³ Rugova, P2612, p.48; P2613, p.11.

¹⁶⁴⁴ Nauman, T.8259-8260; P1767, p.6; P2512, p.31.

625. Neither did Milutinović oppose or distance himself from statements that implied the alteration of the ethnic balance in Kosovo. He was present at the 16th session of the SPS main board on 16 June 1998 when Minić stated that “the number of Serbs and Montenegrins in Kosovo and Metohija must remain the same today and must grow tomorrow,” this being “the only lasting and real defence of Kosovo and Metohija, in terms of national and state interests.”¹⁶⁴⁵

626. 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 the possible consequence of the implementation of the common purpose during 1999.

627. The evidence that Milutinović knew of events in Kosovo, including of crimes committed by forces of the FRY and Serbia operating in the area, prior to and during the Indictment period is abundant and incontrovertible. The mass killings and other crimes committed in Kosovo in 1998 and 1999 were of such magnitude and covered such a wide area that they could not be kept secret and were widely known.

628. That Milutinović shared the intent to carry out the objective of the JCE is evidenced, among other things, by the following factors:

- Milutinović was fully aware of events in Kosovo, including of crimes committed by forces of the FRY and Serbia operating in the area, prior to and during the Indictment period.
- Milutinović attended numerous meetings in 1998 and 1999 where he received reports on the security and political situation in Kosovo including meetings of the SPS, meetings of the SDC, and meetings with other members of the JCE including with members of the MUP.
- Milutinović also attended numerous meetings with international diplomats and Kosovo Albanian leaders where he heard complaints about crimes against Kosovo Albanians.
- Milutinović received, in his official capacity, letters, reports, and, indeed, the ICTY Indictment against him, which informed him of the crimes committed in Kosovo. At his office he had in place a system of monitoring news reports and filtering information which would have brought these allegations to his attention.

629. The following paragraphs set out some of the specific instances in evidence when Milutinović received reports or complaints about the crimes being committed against the Kosovo Albanian population by the forces of the FRY and Serbia.

¹⁶⁴⁵ PI012,p.21.

a. Milutinović knew of the crimes committed by forces of the FRY and Serbia operating in Kosovo in 1998

630. On 1 October 1998 the Deputy Minister on Information, Radmila Višić, sent him a letter on the international media coverage of an alleged massacre of Albanian civilians by Serbian police in Gornje Obrinje village.¹⁶⁴⁶ Milutinović would have seen it personally.¹⁶⁴⁷

631. At the Sixth Session of the SDC on 4 October 1998, President Đukanović suggested inviting international legal institutions to investigate alleged crimes committed in Kosovo as the “Albanians maintain that some crimes were being committed by the security forces.”¹⁶⁴⁸

632. At the same session the SDC also discussed¹⁶⁴⁹ UN Security Council Resolution 1199 that expressed grave concerns about the excessive and indiscriminate use of force by Serbian security forces in Kosovo.¹⁶⁵⁰

633. Milutinović attended a meeting on 15 October 1998, at which Javier Solana, Wesley Clark and Naumann informed Milošević, Perišić and himself about crimes being committed in Kosovo, and of NATO’s willingness to act to prevent further crimes.¹⁶⁵¹

634. At another meeting between Clark, Naumann, Milošević and Milutinović on 24 October 1999,¹⁶⁵² the NATO representatives told Milošević that the only way to prevent NATO intervention was to cease the disproportionate use of force by VJ and MUP forces in Kosovo, and to reduce their numbers in the region.¹⁶⁵³

635. Towards the end of 1998, Milutinović held several meetings with Hill at which the international community’s concerns about developments in Kosovo were raised.¹⁶⁵⁴

636. Also on 24 November 1998, Demaci, wrote to Milutinović to reject his invitation to attend a meeting in Belgrade. He put Milutinović on notice of the “negative actions of Serbian police and army” in Kosovo.¹⁶⁵⁵

¹⁶⁴⁶ P2827.

¹⁶⁴⁷ Kojić,T.13773-13774.

¹⁶⁴⁸ P2831,pp.13-15. At the Eighth Session of the SDC on 25 December 1998 Đukanović, in discussing the proposed promotion of Pavković, also pointed to information indicating that “the Priština Corps’ actions were not always in accordance with the constitutional role of the Army and the decisions of the Supreme Defence Council.”,P1000,pp.9-10.

¹⁶⁴⁹ P1575,p.2;P2831,pp.4-5.

¹⁶⁵⁰ P456. Milutinović was also aware of UNSC Resolution 1160 of 31 March 1998 on the deteriorating humanitarian situation in Kosovo.

¹⁶⁵¹ Naumann,P1767,p.2;T.8246-8248.

¹⁶⁵² Naumann,P1767,p.3;Rugova,P2512,p.17.

¹⁶⁵³ Naumann,P1767,pp.4-5;Rugova,P2512,p.18.

¹⁶⁵⁴ Petritsch,T.10800,10810;P556;1D86;1D46.

637. Milutinović's staff summarized press bulletins, foreign office briefings, news from the Internet and newspaper reports for his benefit.¹⁶⁵⁶ These included crimes being committed by Serbian forces in Kosovo.¹⁶⁵⁷ In addition, Lončar sent copies of the details of all meetings to Milutinović, as per the instruction of Šainović.¹⁶⁵⁸

b. Milutinović knew of the crimes committed by forces of the FRY and Serbia operating in Kosovo in 1999

638. Milutinović was present at a meeting held on 19 January 1999 with Clark and Naumann in the aftermath of the Račak incident, at which Milošević was informed of five to ten incidents observed by NATO/KVM in which disproportionate force had been used.¹⁶⁵⁹

639. As stated above, Milutinović's staff compiled information from various sources for his benefit. This continued in 1999. In addition, once the war began, a soldier brought daily reports from the VJ.¹⁶⁶⁰

640. Upon the declaration of a state of war, the SDC became a constituent part of the SC. As described in Section II(C)(3)(b)(i), Milutinović became a member of the SC, a position that kept him informed of developments in Kosovo. In a SC Staff Directive of 9 April 1999, Ojdanić ordered his subordinates to, "on the level of the SDC and General Staff," organize communication and cryptographic protection of information with, among other officials, the President of Serbia.¹⁶⁶¹

641. On 26 March 1999, the Prosecutor of the ICTY Arbour sent Milutinović a letter, expressing her grave concern at the violations of international humanitarian law being committed in Kosovo.¹⁶⁶²

642. Of paramount importance is the direct notice of the widespread deportations of the Kosovo Albanian population that Milutinović received from their leaders in April 1999. On 16 April,

¹⁶⁵⁵ 1D92.

¹⁶⁵⁶ 1D741, para.26; Kojić, T.13727-13728. NGOs such as Hrw also prepared reports on human rights abuses in Kosovo which were sent to "the relevant organs in the Serbian and Yugoslav Government"; Abrahams, P2228, p.12; T.818.

¹⁶⁵⁷ Kojić, T.13772-13773.

¹⁶⁵⁸ Lončar, P2521, para.57.

¹⁶⁵⁹ Naumann, P1767, p.9.

¹⁶⁶⁰ Kojić, 1D741, para.45.

¹⁶⁶¹ Kojić, 1D741, para.45. *See also* P1481, p.11.

¹⁶⁶² P399.

Rugova told him that Kosovo was being emptied of people and that there was oppression and violence committed against the people.¹⁶⁶³

643. After touring Priština on 28 April 1999, Milutinović commented that he could not understand why people were leaving. Merovci told him that people were being forced out of their homes and that his own home had been destroyed by MUP forces.¹⁶⁶⁴

644. On 22 May 1999, the ICTY Indictment against Milošević, Milutinović, Ojdanić, Šainović and Stojiljković was issued. The indictment put Milutinović on notice of the scale and specific incidents of the alleged crimes which had been committed in the region.¹⁶⁶⁵ According to Kojić, Milutinović and his staff “got the indictment off the internet or something like that.”¹⁶⁶⁶

(iii) Conclusion of JCE

645. For the reasons above, Milutinović is responsible for the crimes charged in the Indictment pursuant to Article 7(1) of the Statute as a co-perpetrator. Many of the members of the VJ, MUP and other armed organisations who directly perpetrated the crimes shared the common intention of the JCE. Where they did not, Milutinović used them to commit the crimes charged.

646. Should the Trial Chamber find that any of these crimes were outside of the common purpose of the JCE, Milutinović is nevertheless liable for them as the crimes were natural and foreseeable consequences of the implementation of the JCE. Milutinović, with the awareness that these crimes were a possible consequence of its execution, willingly took that risk and decided to participate in the enterprise.

(iv) Other forms of participation under Article 7(1)

647. Milutinović is also responsible pursuant to Article 7(1) for ordering, planning, instigating or aiding and abetting the crimes charged in the Indictment.

648. The totality of the evidence establishes Milutinović’s criminal responsibility on the basis of planning, ordering and instigating under Article 7(1) of the Statute. Among other things, his participation in a number of crucial meetings and decisions in 1998 and 1999 in relation to the establishment and work of the Joint Command and the deployment and use of the VJ and the MUP establish his criminal responsibility for planning and ordering the crimes charged. Likewise his failure to adopt any substantial measure to stop or prevent the implementation of the JCE in spite of

¹⁶⁶³ Rugova,P2612,p.48;P2613,p.11.

¹⁶⁶⁴ Merovci,P2588,para.72.

¹⁶⁶⁵ P968.

his knowledge of the crimes committed by the forces of the FRY and Serbia plus his unqualified public commendation of these forces establish his criminal responsibility for instigating these crimes. The evidence outlined above supports the inference that Milutinović intended the commission of the crimes or acted with the awareness of the substantial likelihood that the crimes would be committed in execution of the common plan.

649. Alternatively, Milutinović is responsible pursuant to Article 7 (1) for aiding and abetting the crimes charged in the Indictment. The evidence discussed above of Milutinović's several contributions to the JCE amounted to a substantial contribution to the commission of the crimes charged in the Indictment. By failing to discharge his duty to prevent the commission of the crimes charged, Milutinović aided and abetted these crimes.

650. Responsibility for having aided and abetted a crime by omission may arise where there is a legal duty to act.¹⁶⁶⁷ The accused's omission must be "directed to assist, encourage or lend moral support to the perpetration of a crime and have a substantial effect upon the perpetration of the crime (*actus reus*)."¹⁶⁶⁸ The accused must "know that his omission assists in the commission of the crime of the principal perpetrator and must be aware of the essential elements of the crime which was ultimately committed by the principal (*mens rea*)."¹⁶⁶⁹

651. Milutinović, as the President of Serbia, facilitated the widespread and systematic perpetration of the crimes charged in the Indictment by his acquiescence or his silence. His actions further contributed to the creation of an atmosphere of impunity which facilitated and encouraged the commission of the crimes charged. Had Milutinović instead intervened to block the plan to use violence to alter the ethnic balance in Kosovo, it would have been a substantial impediment to its execution. In failing to do his duty to stop or prevent the commission of these crimes, he lent substantial moral and material support to other members of the JCE and the direct perpetrators of crimes.

652. Milutinović knew of the commission of widespread crimes by the forces of the FRY and Serbia and was aware that he was assisting in the commission of such crimes.

¹⁶⁶⁶ Kojić, T.13777.

¹⁶⁶⁷ Orić AJ, para. 43 citing *Brdanin AJ*, para.274; *Galić AJ*, para.175; *Ntagerura et al. AJ*, paras.334, 370; *Blaškić AJ*, para.663.

¹⁶⁶⁸ Orić AJ, para. 43.

¹⁶⁶⁹ Orić AJ, para. 43. See also *Mrkšić TJ*, para.261 (referring to the awareness of a probability); *Ndindabahizi AJ*, para. 122 (referring to aiding and abetting a crime with awareness that a crime will probably be committed).

(b) Milan Milutinović's Individual Criminal Responsibility under Article 7(3) of the Statute

(i) Superior-Subordinate Relationship

653. Milutinović as the President of Serbia had authority in relation to the Government of Serbia, including over the Ministry of Interior and thus to the MUP. As discussed above, he could request the Government to state its positions concerning certain issues pursuant to Article 85 of the Serbian Constitution¹⁶⁷⁰ or ask the Minister of the Interior to submit a report on the work of the Ministry pursuant to Article 9 of the Law on Internal Affairs.¹⁶⁷¹ He therefore had *de facto* and *de jure* authority to make the Minister of the Interior accountable for the activities of the MUP in Kosovo and he could have exercised this authority to prevent or punish criminal conduct of the Minister who was a participant in the JCE and a co-perpetrator. Therefore, for the purposes of Article 7(3), he had effective control over the Minister of Interior and a superior-subordinate relationship existed between them.

654. As a member of SDC and the SC, Milutinović could propose that a session of the SDC be convened¹⁶⁷² and could propose items for the agenda,¹⁶⁷³ for example, the crimes committed by the VJ in Kosovo. The SDC could and on occasion did summon senior members of the VJ to attend and report on various matters.¹⁶⁷⁴ Milutinović therefore had the material ability to reprimand and discipline members of the VJ. For the purposes of Article 7(3), he had effective control over the senior members of the VJ who were participants in the JCE and a superior-subordinate relationship existed between Milutinović and them.

(ii) Milutinović knew or had reason to know that his subordinates were about to commit crimes or had done so

655. Through his activities and the political positions he held, Milutinović was certainly aware of the killings and other crimes committed by or facilitated by his subordinates in Kosovo in 1998 and 1999. The evidence that Milutinović knew or had reason to know of the crimes charged is abundant and incontrovertible as outlined in paragraphs 630-644 above.

(iii) Failure to take measures to prevent or to punish

¹⁶⁷⁰ P855,p.15.

¹⁶⁷¹ P1737,p.3.

¹⁶⁷² P2622,Art.4;P1738,Art.3.

¹⁶⁷³ P2622,Art.5;P1738,Art.5.

¹⁶⁷⁴ Ojdanić was obliged to attend SDC sessions after March 1999:P1738,Art.3.

656. Even if Milutinović did not have the power to directly impose penal or disciplinary sanctions himself, as President of Serbia his duty to prevent and punish included an obligation to initiate investigations to establish the facts and to request the competent authorities to take appropriate action. He had the authority to do this with the leadership of both the MUP and the VJ but failed to act. Milutinović personally or through the SDC never took any action to punish the leading members of the VJ for the crimes they committed or to prevent their commission. He never sought to make the Minister of the Interior accountable for the crimes of the MUP.

657. Milutinović is therefore responsible pursuant to Article 7(3) of the Statute.

2. Nikola Šainović

(a) Nikola Šainović's Individual Criminal Responsibility under Article 7(1) of the Statute

(i) Šainović is responsible for the crimes charged in the Indictment as a member of the JCE

658. The evidence proves beyond reasonable doubt that Nikola Šainović was a member of the JCE charged in the Indictment and that he significantly contributed to its implementation. Šainović functioned as Milošević's representative in Kosovo with the responsibility to implement his political objectives there. His primary role was to coordinate the activities of the VJ, MUP and other armed organisations (such as armed non-Albanian civilians) as well as Serb controlled civilian bodies. He was given extensive authority to carry out this role and he exercised this authority to further the JCE by, among other things:

- leading the Joint Command, whereby he was directly involved in planning, preparing and ordering operations of the forces of the FRY and Serbia prior to and during the Indictment period;
- participating in the obstruction of the implementation of the October Agreements;
- acting as the political head of the Serbian delegation at Rambouillet when last minute efforts to secure a peaceful solution were obstructed.

659. Šainović shared the intent of other JCE members to change the ethnic balance in Kosovo through the commission of the crimes charged. He 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.

Šainović's power and authority

660. Šainović was a senior member of the FRY government and headed various important bodies responsible for Kosovo:

- Šainović was a Deputy Prime Minister of the FRY¹⁶⁷⁵ with responsibility for foreign policy and international relations.¹⁶⁷⁶
- Šainović presided over the Joint Command in Kosovo during the Indictment period.¹⁶⁷⁷
- Šainović chaired the Commission for Co-operation with the Organisation for Security and Cooperation in Europe (OSCE).¹⁶⁷⁸
- Šainović participated in a meeting of the Operations Inter-Departmental Staff for the Suppression of Terrorism in Kosovo and Metohija.¹⁶⁷⁹
- Šainović was the political head of the Serbian delegation at the Rambouillet negotiations.¹⁶⁸⁰

661. Šainović's influence and power was augmented by the senior positions he occupied in the SPS. As Vice-President and member of its Main Board and Executive Committee, he was one of the SPS's more prominent officials.¹⁶⁸¹ Besides being Deputy Prime Minister of the FRY from February 1994 until November 2000, he had previously held high positions such as Minister of Mining and Energy in the Republican Government of Serbia, Prime Minister of Serbia, Vice-President of the federal Government and Vice-President of the Council on Foreign Economic and Political Affairs.¹⁶⁸²

662. Šainović's power, however, was primarily derived from his close relationship with Milošević.¹⁶⁸³ He was a member of the inner circle around Milošević where policy was formulated, and was perceived by leading actors in Kosovo to be the person who wielded the most power there, well beyond what was provided in the laws for his official post. Naumann's evidence confirms that Šainović was a close adviser of Milošević.¹⁶⁸⁴ Petritsch testified that it was the basic assumption in

¹⁶⁷⁵ Order on Agreed Facts, p.11.

¹⁶⁷⁶ Order on Agreed Facts, p.11.

¹⁶⁷⁷ Vasiljević, P2600, paras. 77-84; P2589, pp.19, 43, 137; Cvetić, T.8078.

¹⁶⁷⁸ Order on Agreed Facts, p.11; P605, pp.448, 528.

¹⁶⁷⁹ P2166.

¹⁶⁸⁰ Surroi, T.4544, 4585-4586; Petritsch, T.10717.

¹⁶⁸¹ Order on Agreed Facts, pp.11-12; P605, pp.5-13; Lončar, T.7577.

¹⁶⁸² Order on Agreed Facts, pp.11-12.

¹⁶⁸³ Šainović began to play a leading role in the affairs of Kosovo from early 1998 when Milošević requested FRY prime minister Bulatović to designate Šainović to manage the political activities related to Kosovo: P2895, p.2. *See also* Gajić, T.15443. In April 1998 he was sent to Kosovo on two fact-finding missions to monitor and gain insight into the situation on the ground: P605, pp.29-33. In March or April 1998, following the Jashari incident, Šainović met with Albanians at the LDK headquarters in Kosovo, P605, pp.24-26.

¹⁶⁸⁴ Naumann, P2561, p.2.

the diplomatic community that Šainović was close to Milošević, and that it was thought that Šainović was appointed in the summer of 1998 to co-ordinate the security forces in Kosovo.¹⁶⁸⁵

663. As Milošević's representative in Kosovo, Šainović was known to exercise effective power and authority over affairs in Kosovo. Šainović introduced himself to Michael Phillips as personal representative of Milošević in Kosovo.¹⁶⁸⁶ Naumann, Drewienkiewicz and Vollebaek testified that Šainović was presented to them as *the* person responsible for Kosovo.¹⁶⁸⁷ Crosland testified that, "it was a known fact amongst the Foreign Attachés that Šainović was the man directly responsible for events in Kosovo,"¹⁶⁸⁸ that Milošević's orders would be "given through Šainović to deal with the situation firmly,"¹⁶⁸⁹ and that Šainović was Milošević's day-to-day operational man.¹⁶⁹⁰ Ciaglinski was of the opinion that Šainović was responsible for Kosovo,¹⁶⁹¹ that he spoke on behalf of the Federal Government in Belgrade, that he had authority over things occurring within Kosovo and had the capacity to get things done.¹⁶⁹² Šainović was able to make far-reaching decisions independently and give definite answers.¹⁶⁹³ This was confirmed by Joseph Maisonneuve, who testified that from the meetings he had with Šainović, he got the impression that Šainović was very well informed of events in Kosovo and had the power to make decisions on his own.¹⁶⁹⁴ Kickert testified that Šainović was referred to as the person whom the Americans would bring up security issues with.¹⁶⁹⁵

664. Šainović also served as an intermediary between Milošević and the international community. If the British Ambassador wished to convey a message to the Government in Belgrade, he would contact Šainović.¹⁶⁹⁶ During the Rambouillet negotiations, whenever direct consultation with Milošević was required, Šainović would be the one to fly to Belgrade to speak with him.¹⁶⁹⁷ This is confirmed to a large extent by Šainović himself, who stated in his interview with the OTP that others knew that they could go to him to transmit messages to the Yugoslav Government or to Milošević, as this was his task.¹⁶⁹⁸

¹⁶⁸⁵ Petritsch, T.10766-10767; P560.

¹⁶⁸⁶ Phillips, T.11831.

¹⁶⁸⁷ Vollebaek, T.9507-9508; P2512, p.33; P2508, para.201; P1767, para.26; Naumann, T.8251 (According to Naumann, it was Milošević who introduced Šainović as his representative).

¹⁶⁸⁸ Crosland, P2645, para.58. *See also* Drewienkiewicz, P2508, para.83.

¹⁶⁸⁹ Crosland, P2645, para.56.

¹⁶⁹⁰ Crosland, P2645, para.54.

¹⁶⁹¹ Ciaglinski, T.6825.

¹⁶⁹² Ciaglinski, P2488, pp.8-9.

¹⁶⁹³ Ciaglinski, P2489, pp.31-32.

¹⁶⁹⁴ Maisonneuve, T.11032-11033.

¹⁶⁹⁵ Kickert, T.11235-11236.

¹⁶⁹⁶ Crosland, P2645, para.58.

¹⁶⁹⁷ Surroi, T.4544-4545; Jovanović, T.14055.

¹⁶⁹⁸ P605, p.845.

665. Senior officials in the FRY and Serbian government also accepted that Šainović had extensive responsibility over affairs in Kosovo. During cross-examination Lončar confirmed that Šainović held great authority, both formally and substantially. It was formal in the sense that he had the official roles of the Deputy Prime Minister and chairman of the Commission for Co-operation with the OSCE. However he was also engaged in Kosovo in matters well beyond what his formal posts required of him.¹⁶⁹⁹

666. Šainović regularly held and chaired meetings in his office with the members of the Federal Commission for relations and co-operation with the OSCE concerning the situation in Kosovo.¹⁷⁰⁰ Lončar was required to submit frequent reports to him about events in Kosovo.¹⁷⁰¹ Šainović's power and influence are evidenced by the fact that Pavković and Lukić were obliged to submit regular reports to him on important incidents.¹⁷⁰² According to Lončar, Šainović had direct and regular contact with Pavković and Lukić.¹⁷⁰³ At a meeting held in Lukić's office on 12 November 1998, Šainović made it clear that the practise of Lukić reporting any major incidents to Šainović first and then to the MUP Minister Stojiljković should remain in place.¹⁷⁰⁴ Lončar also stated that every time Šainović came to Kosovo he would see Lukić, Pavković and Anđelković and that he presumed that the nature of the contacts had to do with fact that Šainović was responsible for Kosovo and had authority from Milošević.¹⁷⁰⁵ In addition, Farkaš testified that he believed Šainović was "charged with monitoring the situation in Kosovo as the deputy prime minister."¹⁷⁰⁶

667. Šainović's authority and important role in relation to Kosovo during the war are evident from the meeting on 17 May 1999 at the command post of the SC, also attended by Milošević, Ojdanić, Rade Marković, Farkaš, Pavković, Gajić and Vasiljević.¹⁷⁰⁷ The comments that Šainović made during that meeting indicate that he was well informed, and had authority and influence over affairs in Kosovo. According to Vasiljević, Šainović made statements such as "we've ordered that reports be submitted in all the sectors about what's happening and what needs to be investigated;" "there's the task of working on cleaning up the terrain. It would be good if someone else got engaged down there like some kind of a supervisor."¹⁷⁰⁸

Meetings with Kosovo Albanian Leaders

¹⁶⁹⁹ Lončar, T.7590. *See also* Naumann, T.8394; Petritsch, T.10944.

¹⁷⁰⁰ Lončar, P2521, paras.29-30; Lončar, T.7691.

¹⁷⁰¹ Lončar, P2521, paras.26,28,53.

¹⁷⁰² Lončar, T.7576-7577, T.7652-7653; P2521, para.53. *See also* P1468, pp.6,7,17,25,46,62,77,84,103,109, 125,139,155,162; Vasiljević, P2600, paras.81-82; T.8954, T.14506-09; 2D387.

¹⁷⁰³ Lončar, P2521, para.53; T.7647.

¹⁷⁰⁴ Lončar, T.7652-7654.

¹⁷⁰⁵ Lončar, P2521, para.38.

¹⁷⁰⁶ Farkaš, T.16368.

¹⁷⁰⁷ Vasiljević, P2600, para.63.

668. The confidence that Milošević entrusted in Šainović is also shown by the fact that he was the main contact between Belgrade and two LDK leaders, Rugova and Merovci, who were under house arrest.¹⁷⁰⁹ Šainović contributed to the JCE by conducting meetings with Rugova and Merovci in April and the beginning of May 1999. These meetings formed part of a propaganda campaign to show that the FRY and Serbian authorities were willing to meet with Kosovo Albanians while at the same time Kosovo Albanians were being expelled. They were also intended to discredit Rugova and other legitimate Kosovo Albanian representatives.¹⁷¹⁰ Šainović acted on Milošević's behalf, often consulting with Milošević before making decisions.¹⁷¹¹

669. On 4 April, Šainović went to Rugova's house for the first time to arrange a meeting with Marković.¹⁷¹² In Merovci's opinion, the meeting with Marković was intended "to send the international community a signal that the process is going on, that there is communication going on."¹⁷¹³ A further meeting took place on the following day, attended by Šainović, Rugova and Merovci, at which Rugova and Merovci requested that they be allowed to go abroad. Šainović responded: "You're free to go, but we cannot guarantee your security."¹⁷¹⁴

670. Rugova and Merovci repeated their requests to Šainović that they should be allowed to go abroad in the following meetings: 9 April;¹⁷¹⁵ 13 April;¹⁷¹⁶ with Milutinović on 16 April in Belgrade;¹⁷¹⁷ and with Milutinović, Marković and Anđelković on 28 April at the provisional government building in Priština. Šainović and Milutinović "seemed unable or unwilling to make a decision" on allowing Rugova and Merovci to go abroad. Merovci was informed that they had to speak to Milošević before they could make a decision.¹⁷¹⁸

671. On 4 May 1999, Rugova and Merovci again travelled to Belgrade to meet with Šainović and Milošević. Šainović informed them that they would leave Kosovo together but that their families would travel separately so that they would not be confused as refugees.¹⁷¹⁹ Rugova and Merovci

¹⁷⁰⁸ P2592.

¹⁷⁰⁹ Rugova, P2613, pp. 11-12; Merovci, P2588, paras. 72-74; Bulatović, T. 13849-13850; Z. Jovanović, T. 14066-14067; Matković, T. 14599-14600; Minić, T. 14757.

¹⁷¹⁰ P2613, p. 12; P2612, p. 57.

¹⁷¹¹ Merovci, P2588, para. 64.

¹⁷¹² Merovci, P2588, para. 62.

¹⁷¹³ Merovci, T. 8462.

¹⁷¹⁴ Merovci, P2588, paras. 64, 72; T. 8533.

¹⁷¹⁵ Merovci, P2588, para. 65.

¹⁷¹⁶ Merovci, P2588, para. 67.

¹⁷¹⁷ During the meeting, Merovci was informed that he would be allowed to go to Skopje but that Rugova must stay in Kosovo. Šainović told Merovci that, once in Skopje, he should not mention that Merovci and Rugova had been under house arrest and should not mention Šainović's name too much: Merovci, P2588, para. 68; Rugova, P2613, p. 11; P2612, p. 48.

¹⁷¹⁸ Merovci, P2588, para. 72.

¹⁷¹⁹ Merovci, P2588, para. 73.

refused to leave without their families. Milošević ultimately agreed to allow them to travel with their families and they departed to Rome on 5 May.¹⁷²⁰

672. Throughout the period of Merovci's confinement, he held several frank conversations with Šainović about the situation in Kosovo. As a general assessment of Šainović's role during these meetings, Merovci stated that, "he could have been the person who acted in a capacity of an envoy, who conveyed opinions of higher ranks."¹⁷²¹ Rugova, meanwhile, stated that Šainović had real authority and that, "Prior to the NATO strikes, he had spent considerable time in Kosovo, and during the strikes too."¹⁷²²

a. Šainović used his position to contribute to the JCE

i. Šainović was the head of the Joint Command

673. The Joint Command was established in June 1998 and operated until June 1999. Through Šainović, Milošević exercised control over the Joint Command.¹⁷²³ As *de facto* head of the Joint Command, Šainović significantly contributed to the JCE by preparing, planning, co-ordinating and ordering operations by the forces of the FRY and Serbia in Kosovo during the Indictment period. He met regularly with senior civilian, VJ and MUP officials, in particular to plan and co-ordinate their joint actions.¹⁷²⁴ They advised him on the security situation, gained his authorisation to proceed with combat or other security-related operations and transformed his instructions into operations and other activities, during which the crimes charged in the Indictment were committed.¹⁷²⁵ In this way, Šainović used the forces of the FRY and Serbia to commit the crimes.

674. As head of the Joint Command, Šainović participated in implementing the plan for the training and the arming of non-Albanian civilians and the disarming of predominantly Albanian villages. In July 1998, the Joint Command issued instructions to subordinate local defence units to the MUP.¹⁷²⁶ On 6 September 1998, Šainović ordered the creation of a plan for handing in

¹⁷²⁰ Merovci, T.8475; Rugova, P2613, p.12; P2612, pp.55-56.

¹⁷²¹ Merovci, T.8535.

¹⁷²² P2613, p.12.

¹⁷²³ Vasiljević, P2600, para.80.

¹⁷²⁴ Lazarević, T.18791; Obradović, T.17402-17403, T.17417-17418; Minić, T.14749-14750; Vasiljević, P2600, paras.46, 77-84; P2589, pp.43, 137; Cvetić, T.8124; P1281, p.2.

¹⁷²⁵ Vasiljević, P2600, paras.77-83.

¹⁷²⁶ P1064; P2086. *See also* Section II(C)(3)(a)(iii).

weapons.¹⁷²⁷ He was fully aware of the participation of the “armed non-Šiptar population” in operations in 1999.¹⁷²⁸

675. From the inception of the Joint Command until the end of the war, Šainović was a central figure in its activities. He was present at the 16th Session of the SPS on 10 June 1998, when Milošević appointed a Working Group to coordinate political developments in Kosovo.¹⁷²⁹ He also participated in a meeting on 21 July 1998 convened by Milošević in Belgrade at which Pavković’s plan for an offensive to be carried out in the summer was adopted.¹⁷³⁰ The next day Joint Command meetings began in Priština with Šainović in attendance.¹⁷³¹

676. By October 1998, Šainović headed the Joint Command, issuing orders¹⁷³² and drawing conclusions at the end of the meetings.¹⁷³³ The Joint Command continued to function after October 1998. Its life was extended at the meeting of Operations Inter-Departmental Staff for the Suppression of Terrorism in KiM held on 29 October 1998 in Belgrade. There Šainović proposed that the composition of the Joint Command should be reduced¹⁷³⁴ and Milošević concluded the meeting by endorsing the continued existence of the Joint Command.¹⁷³⁵

677. Šainović’s actual exercise of authority over the VJ is also demonstrated by the following evidence:

- On 23 July 1998, General Perišić complained to Milošević about “the attempt by the civilian part of the Staff to command the Corps.” He stated that “in practice, the commander of the Priština Corps plans what he has been ordered to, this is at the request of ŠAINOVIĆ and MINIĆ and the MUP, and so turns into something like a service of theirs, for planning and execution.”¹⁷³⁶
- On 29 July 1998, Šainović directed that “2 detachments on Mt. Rudnik are to attack Lauša.”¹⁷³⁷
- On 30 September 1998, General Dimitrijević told Crosland that he did not agree with the actions that had been taken in recent months since Šainović had taken over in Kosovo, that Šainović was over-riding the wishes of the General Staff and that Šainović was responsible for policy and deployments in Kosovo.¹⁷³⁸

¹⁷²⁷ P1468,p.94.

¹⁷²⁸ See Section II(C)(3)(a)(iii).

¹⁷²⁹ P1012.

¹⁷³⁰ Matković,T.14634-14637;4D100;4D101;4D102.

¹⁷³¹ P1468,p.2.See also Minić,T.14748;Vasiljević,T.8726.

¹⁷³² P1468,pp.136,141,142,145,148,149,153,154,156,160,161,164.This refutes Šainović’s assertion, made in his interview with the OTP, that there were no decisions made at these meetings:P605,p.203.

¹⁷³³ P1468,pp.137,145,157,161.

¹⁷³⁴ P2166,p.13.

¹⁷³⁵ P2166,p.15.

¹⁷³⁶ P717,pp.2-3.

¹⁷³⁷ P1468,p.27;Vasiljević,P2589,pp.136-37.

¹⁷³⁸ P683.

- According to Tanić, Pavković took orders from Šainović to engage military units to assist the MUP and to give the MUP mortars and tanks.¹⁷³⁹

678. Šainović's authority over the MUP can further be demonstrated by the following examples:

- In the meeting of the Joint Command on 11 October 1998, Šainović gave the order to "give assignments to all other secretariats to liquidate the individual targets".¹⁷⁴⁰
- At a meeting with the members of the Federal Commission for relations and co-operation with the OSCE, Šainović told Stojiljković that a particular road was dangerous and that patrols there should be increased. The request was complied with.¹⁷⁴¹
- Šainović rejected KVM's proposal that the number of MUP forces in Mališevo be reduced and KVM observers be placed in Mališevo to reduce tension in the town on 4 December 1998.¹⁷⁴²

679. Šainović continued to exercise authority in the period leading up to the Rambouillet talks and the outbreak of war. This was displayed at the Eighth Session of the SDC on 25 December 1998, where Šainović addressed the members on the high level of cooperation between organs of the VJ and the MUP.¹⁷⁴³ Šainović's authority is also evident from VJ operations in Podujevo in December 1998.¹⁷⁴⁴ Referring to these operations at the Sixth Session of the VJC on 30 December 1998, General Dimitrijević stated that "not even Šainović or any other Šainović can solve these problems by lightly deciding to use these units."¹⁷⁴⁵

680. Šainović remained as head of the Joint Command during the state of war when the crimes charged were committed. Šainović had the authority to coordinate the operations of MUP and VJ forces.¹⁷⁴⁶ In responding to questions about Pavković's report to the SC of 25 May 1999, Vasiljević testified that "the executive command was in the hands of Mr. Šainović down there, who was there for that purpose, to coordinate the activities of the army and the MUP."¹⁷⁴⁷

681. During the Indictment period, Šainović demonstrated his overall responsibility for the security operations at several meetings that he attended in Priština. At a MUP Staff meeting on 7 May 1999, Šainović gave a number of instructions and tasks to the MUP members present stating that "after Operation Jezerce, all detachments of PJP will return to their Secretariats and, in

¹⁷³⁹ Tanić, T. 6374.

¹⁷⁴⁰ P1468, p. 145.

¹⁷⁴¹ Lončar, P2521, paras. 66-67.

¹⁷⁴² Drewienkiewicz, T. 7778-7781.

¹⁷⁴³ P1000, p. 3.

¹⁷⁴⁴ P928, p. 14.

¹⁷⁴⁵ P928, p. 14.

¹⁷⁴⁶ Vasiljević, P2589, pp. 20, 25, 43, 137; P2600, paras. 77-84; Cvetić, T. 8077-8080, T. 8124; P2862; P717.

¹⁷⁴⁷ Vasiljević, P2589, p. 43.

cooperation with the VJ work on destroying the remaining terrorist groups.”¹⁷⁴⁸ He was also in attendance and issued directives at the MUP Staff meeting of 4 April 1999.¹⁷⁴⁹

682. As discussed at paragraphs 204-205, Joint Command members continued to meet up until June 1999. General Vasiljević testified about a Joint Command meeting at the Grand Hotel in Priština¹⁷⁵⁰ where Šainović presided and approved operations and plans that had been presented by leading VJ and MUP generals in Kosovo.¹⁷⁵¹

ii. Šainović obstructed the implementation of the October Agreements

683. One of the aims of the October Agreements was to reduce tension in Kosovo. As described in Section II(C)(2)(d), this was to be achieved through the reduction of FRY and Serbian troop levels and limitations on their deployment in the province. Rather than support these initiatives, Šainović obstructed the implementation of the agreements.

684. Šainović and the other members of the JCE did not intend to comply or act in accordance with the October Agreements. Prior to the signing of the October Agreements, Šainović had already indicated at a meeting of the Joint Command on 21 September 1998 that the number of forces of the FRY and Serbia should not be reduced: “we shouldn’t implement Milošević’s and Yeltsin’s matters listed in the statement, and we shouldn’t decrease the number of men.”¹⁷⁵²

685. Šainović’s insincerity was further exhibited when, the day after he signed an agreement setting out peacetime manning levels and equipment,¹⁷⁵³ he directed the other members of the Joint Command that “when pulling out, we must be careful enough not to let anyone find out that parts of some detachments did not pull out. There must not be any discrepancies with the information that was given already.”¹⁷⁵⁴

686. In contravention of the October Agreements, Šainović refused the KVM permission to conduct arms control in VJ units,¹⁷⁵⁵ or carry out verification inspections.¹⁷⁵⁶ Ojdanić initially agreed to KVM inspections of VJ barracks and KVM monitoring of troop rotations at a meeting on

¹⁷⁴⁸ P1996,pp.2-4.

¹⁷⁴⁹ P1989,p.4.

¹⁷⁵⁰ Vasiljević,P2600,paras.77-84;T.8817.

¹⁷⁵¹ Vasiljević,T.14505-14509;2D387;P2600,para.81.

¹⁷⁵² P1468,p.124. (Although the English version of P1468 states that this meeting took place 1 September 1998, the handwritten BCS version records this meeting as having taken place on 21 September 1998). The joint statement by Milošević and Yeltsin of 16 June 1998 is included in 1D18,p.289.

¹⁷⁵³ P395.

¹⁷⁵⁴ P1468,p.160.

¹⁷⁵⁵ 3D438,p.2.

¹⁷⁵⁶ Lončar,P2521,para.33;Lončar,T.7699.

27 November 1998.¹⁷⁵⁷ Subsequently, however, the KVM experienced delays in the implementation of this agreement and on 9 December 1998, Šainović firmly rejected the KVM's plans for inspections.¹⁷⁵⁸ On the same occasion, Šainović refused to authorize a KVM medical helicopter to enter Kosovo. Also, on 4 December 1998, Šainović rejected KVM's proposal that the number of MUP forces in Mališevo be reduced and KVM observers be placed in Mališevo to reduce tension in the town.¹⁷⁵⁹ Šainović refused to make it easier for the KVM to get visas for its staff.¹⁷⁶⁰

iii. Šainović's obstructive role at Rambouillet

687. Šainović was the political head¹⁷⁶¹ of the Serbian delegation at Rambouillet. He obstructed the last minute efforts of the international community to achieve a peaceful solution to the situation in Kosovo.¹⁷⁶² According to Surroi, Šainović was responsible for the representation of FRY political interests and the contacts with Belgrade and Milošević personally, while Marković dealt with constitutional matters.¹⁷⁶³

688. The negative attitude of the Serbian delegation was clearly the result of Milošević's instructions. By conveying these instructions, Šainović contributed to the failure to reach agreement.¹⁷⁶⁴ Surroi stated that the Serbian delegation could not make any decision without consulting Milošević¹⁷⁶⁵ and that "whenever there was need for consultations, then Mr. Šainović would fly to Belgrade to consult Mr. Milošević."¹⁷⁶⁶ According to Zivadin Jovanović and Dragan Milanović, Šainović flew to Belgrade in order to take instructions on the signing of the ten non-negotiable principles of the Contact Group.¹⁷⁶⁷ As well as demonstrating Šainović's proximity to Milošević, this also indicates Milošević's control over the FRY/Serbian delegation which he wielded through Šainović.

689. Šainović himself acknowledged that he played the role of Milošević's conduit. In a conversation with Shaun Byrnes during the negotiations in Paris, Byrnes warned Šainović that NATO was serious in its threat to bomb Serbia. Šainović replied that he did not have the authority to be that flexible as there were too many constraints imposed on him by Belgrade and that "at the

¹⁷⁵⁷ Drewienkiewicz, T.7768-7773, T.8014; P2508, paras.63-81; P2536; P2535; P2543. Note that Drewienkiewicz modified para.66 of his statement that it was Ojdanić who refused KVM's request to monitor troop rotations, and instead said that he was "pretty sure" it was Lončar who quoted Ojdanić concerning monitoring troop rotations (T.7926-7927).

¹⁷⁵⁸ Drewienkiewicz, T.7779; P2508, para.81; Lončar, P2521, para.33.

¹⁷⁵⁹ Drewienkiewicz, T.7778-77781.

¹⁷⁶⁰ Drewienkiewicz, T.7779-77781; Lončar, P2521, para 25.

¹⁷⁶¹ Petritsch, P2793, p.9; Surroi, T.4547. See also Surroi, T.4585-4586.

¹⁷⁶² Petritsch, T.10717, Surroi, T.4544-4545, T.4585-4586.

¹⁷⁶³ Surroi, T.4585.

¹⁷⁶⁴ Petritsch, P2792, p.4; P2361, p.8; Vollebæk, P2362, p.39; Surroi, T.4544-4545; Petritsch, P2793, p.8.

¹⁷⁶⁵ Surroi, P2361, p.8.

¹⁷⁶⁶ Surroi, T.4544-4545.

end of the day, there was nothing he could do in this direction, whether he wanted to or not.”¹⁷⁶⁸ When asked by Byrnes if he could make a telephone call to Belgrade, Šainović replied that it would have no effect.¹⁷⁶⁹ This exchange indicates that Šainović recognized the negative impact which Milošević had on the negotiation process but facilitated it nonetheless.

690. The evidence proves that Šainović made a significant contribution to the execution of the common plan to alter the ethnic balance in Kosovo.

(ii) Šainović shared the intent to carry out the common plan

691. Šainović shared the intent to carry out the common criminal purpose of the JCE. His actions including his participation in commanding bodies such as the Joint Command¹⁷⁷⁰ 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. There is overwhelming evidence that Šainović knew of ongoing events in Kosovo, including crimes committed by forces of the FRY and Serbia operating in the area, prior to and during the Indictment period.

692. There is evidence that Šainović attempted to conceal the crimes committed at Račak. Tanić testified that he listened to an intercepted telephone conversation, allegedly between Šainović and Lukić, in which Šainović gave certain instructions to Lukić in connection with the combat operations in Račak, and later on the removal of traces, including removing of corpses.¹⁷⁷¹ In his interview with the OTP, Šainović corroborates Tanić insofar as he stated that he telephoned Lukić on the morning of 15 January 1999 after the Račak operation, and that he had discussions with Lukić later that day and the following day.¹⁷⁷² Šainović’s attempt to conceal crimes shows that he accepted such criminal conduct. Although he had powers to do so, as Deputy Prime Minister of the FRY, Šainović deliberately refrained from intervening against the perpetrators of crimes because he intended these crimes to occur. 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.

693. Šainović’s intent may also be inferred from his failure to distance himself from statements which proposed a solution to the Kosovo issue by the alteration of the ethnic balance. On 24 October 1998, in a meeting with NATO representatives, either Šainović, or Milošević in Šainović’s

¹⁷⁶⁷ Milanović, T.14052; Z. Jovanović, T.14120-14122.

¹⁷⁶⁸ Byrnes, T.12191. *See also*, T.12230-12231.

¹⁷⁶⁹ Byrnes, T.12230-12231.

¹⁷⁷⁰ *See* paragraphs 673-682 above.

¹⁷⁷¹ Tanić, T.6383-6387.

presence, argued that the Kosovo problem had to be solved as Serbia would otherwise have the same problem again in 20 years, given that the birth-rates among Kosovo Albanians was higher than among Serbs.¹⁷⁷³ There is also evidence that at the same meeting Milošević made threatening statements about Kosovo Albanians.¹⁷⁷⁴ Considering Šainović's close relationship with Milošević, there can be little doubt that he knew of and shared Milošević's attitude and plans.

694. Šainović knew that the heavy-handed tactics employed by the forces of the FRY and Serbia in Kosovo in 1998 lead to the commission of widespread crimes against the ethnic Albanian civilian population. He was aware that such crimes were the possible consequence of the implementation of the common purpose in 1999. However, throughout the Indictment period, Šainović, despite his position, took no measures to prevent the continuation of the same units being engaged, and the same tactics being employed. This demonstrated his approval of the crimes and his intent to commit them.

695. 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 the possible consequence of the implementation of the common purpose during 1999.

a. Šainović knew of the crimes committed by forces of the FRY and Serbia operating in Kosovo in 1998

696. Šainović 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. He was aware that if those same forces were deployed in the same theatre of operations, they would continue to commit such crimes in 1999.

697. Šainović attended numerous meetings in 1998 and 1999 where he received reports on the security and political situation in Kosovo including meetings of the SPS, meetings of the SDC, and meetings with other members of the JCE including with members of the MUP.

698. In addition to specific meetings referred to above, during 1998 Šainović also participated in regular meetings about Kosovo with other JCE members. These meetings were presided over by Slobodan Milošević and attended by Milutinović, Minić, General Perišić, General Samardžić,

¹⁷⁷² P605,pp.722-754.

¹⁷⁷³ Naumann,P1767,para.29;T.8374-8375.

¹⁷⁷⁴ Naumann,T.8258-8260.

General Pavković, General Dimitrijević, MUP Minister Stojiljković, General Lukić and General Đorđević. These meetings were held at three to four week intervals in Milošević's office in Belgrade. During these meetings, operations of the VJ and the MUP were discussed.¹⁷⁷⁵

699. Further, Šainović participated in extensive meetings in Kosovo, where he spent over 80 percent of his time between July and October 1998.¹⁷⁷⁶ In Kosovo, Šainović met with a number of key people on issues relating to the region, including Pavković, Lukić, Đorđević, Stevanović, Anđelković, Gajić, and Matković.¹⁷⁷⁷ During these meetings, information was shared among the participants on the civilian and military situation in Kosovo.¹⁷⁷⁸ Šainović also received frequent reports from Lončar about events in Kosovo.¹⁷⁷⁹ Frequently when Lončar called Šainović to inform him about events, Šainović had already been informed by other means.¹⁷⁸⁰

700. Šainović was aware of the excessive force being employed by the forces of the FRY and Serbia during the campaign of 1998. He acknowledged that he knew that houses had been damaged in Kosovo¹⁷⁸¹ and that Perišić had stated at a meeting in Belgrade in the autumn of 1998 that more civilian houses were damaged in Kosovo than militarily necessary or appropriate.¹⁷⁸² At the Joint Command meeting of 7 August 1998 he said: "The greatest damage to us is caused by burning the houses without any need, which could cause the pressures to the country."¹⁷⁸³ He was also present at the Joint Command meeting on 12 August 1998 when Minić stated that "setting houses on fire has to stop."¹⁷⁸⁴

701. Šainović was also present at the Eighth Session of the SDC, held on 25 December 1998, when President Đukanović raised the issue of possible crimes committed in Kosovo by pointing to information indicating that "the Priština Corps' actions were not always in accordance with the constitutional role of the Army and the decisions of the Supreme Defence Council."¹⁷⁸⁵

702. As a result of the various positions Šainović held and the functions he performed in 1998, Šainović received up-to-date and detailed information about the situation in Kosovo. The reporting

¹⁷⁷⁵ P605,pp.198-203.

¹⁷⁷⁶ P605,p.432. Čiaglinški thought that Šainović was in Kosovo every two or three days from January to 23 March 1999. *See also* P2489,p.46.

¹⁷⁷⁷ P605,pp.201-203;P1468.

¹⁷⁷⁸ P605,p.203.

¹⁷⁷⁹ Lončar,P2521,paras.26,28,53.

¹⁷⁸⁰ Lončar,P2521,para.53.

¹⁷⁸¹ P605,p.695.

¹⁷⁸² P605,pp.457,664-666,689-702.

¹⁷⁸³ P1468,p.46.

¹⁷⁸⁴ P1468,p.52.

¹⁷⁸⁵ P1000,pp.9-10.

system of the Joint Command kept Šainović informed daily of activities in the field.¹⁷⁸⁶ This also included reports of crimes against Kosovo Albanians. For instance, Gajić reported at the Joint Command meeting on 24 July 1998 that “after Orahovac, uncontrollable robbing of Albanian houses started”¹⁷⁸⁷ and at a meeting two days later that “Bakali attacked Milošević because of Orahovac, that was considered ethnic cleansing.”¹⁷⁸⁸

703. The movement of refugees was also discussed at the Joint Command meetings. For instance, on 2 August 1998, Pavković reported that “huge numbers of refugees were spotted on the road toward the village of Lauša.”¹⁷⁸⁹ At the meeting on 26 August 1998, Radović reported that 16,000 to 17,000 of people took refuge in Albania and 40,000 people took refuge in Montenegro.¹⁷⁹⁰ On 20 September 1998, Anđelković reported that “there are around 15,000 refugees in the vicinity of villages N. Selo and Beruša.”¹⁷⁹¹

704. Šainović also attended numerous meetings with international diplomats and Kosovo Albanian leaders where he received complaints which put him on notice of the indiscriminate and disproportionate use of force, as well as the harassment of Kosovo Albanians by the forces of the FRY and Serbia in Kosovo.¹⁷⁹² For example, in October 1998, Drewienkiewicz informed Šainović that the police in Mališevo were harassing Albanians and were therefore part of the problem.¹⁷⁹³ Šainović was present at the meeting between Clark, Naumann and Milošević on 24 October where the NATO representatives stated that the only way to prevent NATO intervention was to cease the disproportionate use of force by VJ and MUP forces in Kosovo and to reduce their numbers in the region.¹⁷⁹⁴ Šainović was also present at a meeting held either on 24 November or 4 December 1998,¹⁷⁹⁵ where William Walker, Michael Phillips and Ambassador Miles raised with Milošević the issue of the lack of cooperation with the October Agreements.¹⁷⁹⁶ Milošević was also handed a letter to this effect.¹⁷⁹⁷

705. Šainović was aware of UN Security Council Resolutions 1160 and 1199, which expressed grave concerns about the use of excessive force and the deteriorating humanitarian situation in

¹⁷⁸⁶ P1468. *See also* Section II(C)(3)(b)(iii) regarding the Joint Command; P2042; P2043; P2016; P2017. It could also be argued that this is corroborated by Vasiljević, P2600, paras. 77-83.

¹⁷⁸⁷ P1468, p. 9.

¹⁷⁸⁸ P1468, p. 14.

¹⁷⁸⁹ P1468, p. 36.

¹⁷⁹⁰ P1468, p. 74.

¹⁷⁹¹ P1468, p. 123.

¹⁷⁹² Naumann, P1767; Phillips, T. 11841-11844; P396.

¹⁷⁹³ Drewienkiewicz, T. 7779-7782.

¹⁷⁹⁴ Naumann, P1767, pp. 4-5; P2512, p. 18.

¹⁷⁹⁵ Phillips, T. 11841-11844, 12003-12004.

¹⁷⁹⁶ Phillips, T. 11841-11844.

¹⁷⁹⁷ P396.

Kosovo.¹⁷⁹⁸ In his interview with the OTP, Šainović stated that he was aware that in 1998 the UN Security Council had authorised the ICTY to investigate incidents occurring in Kosovo and Metohija, as he “followed the work of the Security Council.”¹⁷⁹⁹

b. Šainović knew of the crimes committed by forces of the FRY and Serbia operating in Kosovo in 1999

706. Šainović knew that the common plan could only be implemented by the use of force. He had detailed knowledge that crimes were being committed pursuant to the common plan. That he shared the intent to further the JCE can be inferred from his continued participation in planning and ordering operations through the Joint Command despite his knowledge of crimes.

707. The efficiency of Šainović’s methods of gathering information on events in Kosovo is exemplified by his involvement in the Račak incident. The operation began on the morning of 15 January 1999. [REDACTED]

[REDACTED] When Lončar called Šainović to inform him of the operation the next day, Šainović told him that he was already aware of the situation.¹⁸⁰¹ It is thus clear that Šainović either knew that the Račak operation was going to take place or learned of the operation within hours of its commencement.¹⁸⁰²

708. During 1999, Šainović continued to attend meetings with other members of the JCE and international representatives wherein he received notice of crimes committed by the forces of the FRY and Serbia against the Kosovo Albanians. Until a few days before the onset of the NATO intervention, he continued to convene regular meetings in his office with the members of the Federal Commission for relations and co-operation with the OSCE.¹⁸⁰³ In this capacity, he was regularly informed by members of the diplomatic corps and international interlocutors about the concerns that the international community had about the heavy-handed tactics being used in Kosovo by the forces of the FRY and Serbia and the reports of intimidation of, and crimes against, the Kosovo Albanian civilian population. For instance, on 28 January 1999, Lončar was informed by

¹⁷⁹⁸ P455;P456.

¹⁷⁹⁹ P605,p.336.

¹⁸⁰¹ Lončar,P2521,para.55.

¹⁸⁰² At the VJC meeting of 21 January 1999, Ojdanić stated “but that means this if this joint staff, command, or whatever decided that the operation in Račak village could not be carried out without the assistance of the Yugoslav Army [...]” (P939,p.11). As head of the Joint Command, Šainović would therefore have in-depth knowledge about the operation. Also in his interview with the OTP when asked if he was involved with the police in the planning of dealing with the situation in Račak, Šainović stated that he did not take part in the planning itself, but he “knew that the police was preparing trying to neutralize that terrorist group and that it lasted for some time, for two to three days,”P605,p.731. *See also* pp.767-769.

¹⁸⁰³ Lončar,P2521,paras.29-30;Lončar,T.7691.

Drewienkiewicz that the KVM considered the situation in Podujevo to be “horrible and that the levels of violence used by the security forces were disproportionate to the provocation.”¹⁸⁰⁴ Such information would certainly have been passed on from Lončar to Šainović. Šainović knew of the statement of Drewienkiewicz to the press on 1 April 1999, in which he gave detailed information regarding the crimes reported to the KVM by refugees fleeing Kosovo.¹⁸⁰⁵

709. Šainović was present at a meeting held on 19 January 1999 with Clark and Naumann in the aftermath of the Račak incident, where Clark and Naumann presented evidence of the non-compliance of the forces of the FRY with the October Agreements.¹⁸⁰⁶ According to Naumann, Milošević was presented with five to ten incidents observed by NATO/KVM in which disproportionate force had been used.¹⁸⁰⁷

710. During the Indictment period, Šainović received explicit notice of the crimes charged in the Indictment when, on 16 April 1999 in Belgrade, Rugova informed Milutinović in Šainović’s presence that “Kosovo was being emptied of Albanians.”¹⁸⁰⁸ Šainović was also present at a meeting on 28 April 1999 in Priština, at which Merovci told Milutinović that members of the MUP were forcing Kosovo Albanians out of their homes and that his own home had been destroyed by MUP forces.¹⁸⁰⁹

711. Šainović’s knowledge is further evidenced by his attendance at a meeting of Serb officials on 17 May 1999 at the command post of the SC. According to Vasiljević, during the preliminary meeting on 16 May 1999, Pavković said that he had informed Šainović that he had seen a group of Skorpions and “Boca” in Prolom Banja wearing NATO-type uniforms and the insignia of the SAJ. Pavković also said that he had ordered military organs to establish responsibility in respect to the bodies disinterred at Izbica and that he had informed Šainović of this.¹⁸¹⁰ Šainović was thus told of one of the crimes in the Indictment.

712. At this 17 May meeting, several reports were made by VJ officials disclosing that crimes had been committed by VJ members and volunteers, including murders and rapes of civilians by soldiers. Vasiljević informed the attendees that the SAJ had integrated into their force groups such as the Skorpions, which had not previously fulfilled the requirements for serving in the MUP, and had brought them into Kosovo.¹⁸¹¹ Šainović response indicated that he did not disapprove as he

¹⁸⁰⁴ Drewienkiewicz, P2508, para. 164.

¹⁸⁰⁵ P2542.

¹⁸⁰⁶ Naumann, P1767, p. 8-9.

¹⁸⁰⁷ Naumann, P1767, p. 9.

¹⁸⁰⁸ Rugova, P2612, p. 48; P2613, p. 11.

¹⁸⁰⁹ Merovci, P2588 para. 72.

¹⁸¹⁰ Vasiljević, P2600, para. 62; T. 8756.

¹⁸¹¹ Vasiljević, T. 8773-8774.

merely stated that it was obvious that “the SAJ had its habits” when it came to forming their own reserve force.¹⁸¹² [REDACTED]

[REDACTED] Radomir Marković affirmed the presence of 30 men from Arkan’s Tigers and that “Boca” Medić had been in Kosovo.¹⁸¹⁴ [REDACTED]

Thus Šainović was aware of the grave crimes being committed by forces attached to the VJ and the MUP during 1999.

713. Šainović must have been referring to this meeting during his interview with the OTP when he stated that he attended a meeting in mid-May 1999 in Belgrade together with Milošević, Marković, Pavković, Farkaš and Vasiljević. At this meeting, according to Šainović, Marković raised the issue that there were civilian casualties in Kosovo, that there was suspicion that Arkan was in Kosovo, and that there was an allegation that a group of policemen had committed a crime near Kosovska Mitrovica.¹⁸¹⁷

714. According to Vasiljević, although Šainović did say at this meeting that it was a good idea to send a neutral body from Belgrade to Kosovo to investigate the crimes, no concrete decisions were made regarding how to proceed to address the alleged crimes.¹⁸¹⁸

715. On 26 March 1999, the Prosecutor of the ICTY Louise Arbour sent Šainović a letter expressing her grave concern over the violations of international humanitarian law being committed in Kosovo. It is inconceivable that Šainović, as a government minister with responsibility for international relations as well Kosovo, did not receive or read this letter.

716. In addition, NGOs such as HRW prepared reports on human rights abuses in Kosovo, which were published and sent to the FRY government.¹⁸¹⁹

717. As of 22 May 1999, or shortly thereafter, Šainović knew of the crimes charged when the original Indictment against him was issued by the ICTY.¹⁸²⁰ The Indictment specifically charged Šainović for the crimes alleged in paragraphs 72, 75 and 77 of the Indictment in this case.

¹⁸¹² Vasiljević,T.8773-8774;P2592,p.1.

¹⁸¹⁴ Vasiljević,P2600,para 66;P2589,pp.40,50;Farkaš,T.16342,16357.

¹⁸¹⁶ [REDACTED] According to Vasiljević, Šainović and Rade Marković stayed behind with Milošević after the meeting,P2589,pp.54-55;P2600,para.71.

¹⁸¹⁷ P605,pp.867-873.

¹⁸¹⁸ Vasiljević,P2600,paras.70-71.

¹⁸¹⁹ Abrahams,T.818;P2228,p.12.

(iii) Conclusion of JCE

718. For the reasons above, Šainović is responsible for the crimes charged in the Indictment pursuant to Article 7(1) of the Statute as a co-perpetrator. Many of the members of the VJ, MUP and other armed organisations who directly perpetrated the crimes shared the common intention of the JCE. Where they did not, Šainović used them to commit the crimes charged.

719. Should the Trial Chamber find that any of these crimes were outside of the common purpose of the JCE, Šainović is nevertheless liable for these crimes because they were natural and foreseeable consequences of the implementation of the JCE. Šainović, with the awareness that these crimes were a possible consequence of its execution, willingly took that risk and decided to participate in the enterprise.

(iv) Other forms of participation under Article 7(1)

720. The evidence in its totality also establishes beyond reasonable doubt that Šainović is responsible pursuant to Article 7(1) for ordering, planning and instigating the crimes in the Indictment. The evidence outlined above reveals that, as head of the Joint Command, he issued orders, reviewed and approved plans for the operations of the forces of the FRY and Serbia and several times urged them into action. The crimes charged in the Indictment were committed during these operations and activities. The evidence also supports the inference that Šainović intended the commission of the crimes or acted with the awareness of the substantial likelihood that the crimes would be committed.

721. In the alternative, Šainović aided and abetted the commission of such crimes. As head of the Joint Command throughout the Indictment period, he permitted and facilitated joint action between the VJ and the MUP. In order to implement the plan to modify the ethnic balance in Kosovo, a high level of cooperation and coordination between the forces on the ground in Kosovo was required. Šainović was fully aware of this requirement and played a prominent role in facilitating such joint actions. By his leadership of the Joint Command, Šainović lent moral and material support to the perpetrators of crimes. He knew of the commission of widespread crimes by the forces of the FRY and Serbia during the Indictment period and was aware that he was assisting to it. Šainović therefore aided and abetted the crimes charged.

¹⁸²⁰ P968.

(b) Nikola Šainović's Individual Criminal Responsibility under Article 7(3) of the Statute(i) Superior-Subordinate Relationship

722. Šainović had effective control over senior members of the MUP and VJ in Kosovo including Pavković, Lazarević and Lukić. This hierarchical relationship existed by virtue of Šainović's *de facto* position of authority as head of the Joint Command whereby he had effective control over the persons committing the offences charged. As indicated above, Pavković and Lukić were obliged to submit regular reports to him¹⁸²¹ and Šainović had power to authorise the use of units in the field.¹⁸²² This is evidence that he had the material ability to direct their removal or the removal of their commanders from the field or to request investigations of their conduct.

(ii) Šainović knew or had reason to know that his subordinates were about to commit crimes or had done so

723. As discussed above at paragraphs 696 to 717, during 1998 and 1999 Šainović knew of the allegations that forces of the FRY and Serbia were committing serious crimes against Kosovo Albanian civilians from 1998 and throughout the Indictment Period.

(iii) Failure to take measures to prevent or to punish

724. Notwithstanding the fact that much of the authority that Šainović exercised in Kosovo was informal, as a Deputy Prime Minister, Milošević's representative for Kosovo, and the head of the Joint Command, Šainović had both the material ability to prevent the commission of the crimes charged in the Indictment and to punish those responsible for those crimes. There were several measures he should have adopted in order to accomplish either of those purposes. He should have required that members of units that had been engaged in operations where excessive and indiscriminate force had been used, or crimes had been committed, were prosecuted or removed from the Kosovo theatre of operations. He should have ensured that senior officers responsible for such troops were disciplined or replaced with officers who would enforce the necessary discipline. He should have demanded investigations or reported crimes to the competent military or civilian authorities. Šainović failed to take the reasonable measures to prevent the commission of those crimes or to punish those responsible for them and is therefore responsible for the crimes charged in the Indictment pursuant to Article 7(3) of the Statute.

¹⁸²¹Lončar,T.7576-7577,7652-7653;P2521,para 53. *See also* P1468, for example pp.6, 7, 17, 25, 46, 62, 77, 84, 103, 109, 125, 139, 155, 162;P2600,paras.81-82;Vasiljević,T.8954,14506-14509; 2D387.

¹⁸²² Referring to operations in Podujevo at the Sixth Session of the VJC on 30 December 1998, General Dimitrijević stated that, "not even Šainović or any other Šainović can solve these problems by lightly deciding to using these units" (P928,p.14).

3. Dragoljub Ojdanić

(a) Dragoljub Ojdanić's Individual Criminal Responsibility under Article 7(1) of the Statute

(i) Ojdanić is responsible for the crimes charged in the Indictment as a member of the JCE

725. The evidence proves beyond reasonable doubt that General Dragoljub Ojdanić was a member of the JCE charged in the Indictment and that he significantly contributed to its implementation.

726. In 1996, Ojdanić became the Deputy Chief of the VJ General Staff.¹⁸²³ On 24 November 1998, he was appointed as Chief of the VJ General Staff by Milošević.¹⁸²⁴ The VJ General Staff was the VJ's highest professional and staff organ for the preparation and use of the Army in times of peace and war.¹⁸²⁵ After the declaration of the state of war on 24 March 1999,¹⁸²⁶ the VJ General Staff became the SC Staff,¹⁸²⁷ which was headed by Ojdanić, Chief of the SC Staff.¹⁸²⁸

727. As the Chief of the VJ General Staff/Chief of the SC Staff, Ojdanić was the highest-ranking and most authoritative military officer in the FRY during the Indictment period. He exercised authority over the VJ and units subordinated to it, as well as other armed formations and personnel falling under the authority of the VJ in Kosovo.¹⁸²⁹

728. As the evidence demonstrates, through his acts and omissions, Ojdanić significantly contributed to the JCE:

- Ojdanić commanded, planned, directed, ordered and coordinated operations of the VJ and subordinate units;
- Ojdanić supported the policy of arming non-Albanians;
- Ojdanić ordered and encouraged joint VJ-MUP combat operations;
- Ojdanić contributed to the JCE by failing to hold Pavković accountable;

¹⁸²³ Order on Agreed Facts, p.12.

¹⁸²⁴ Order on Agreed Facts, p.13.

¹⁸²⁵ P984, p.2, Art.5.

¹⁸²⁶ P991.

¹⁸²⁷ Smiljanić, T.15783; Andelković, T.16424-16425.

¹⁸²⁸ Vasiljević, P2600, para.9; T.8643.

¹⁸²⁹ See also P984, p.2, Art.6; Vasiljević, P2600, para.15.

- Ojdanić played a vital role in the SDC and the SC; and
- Ojdanić violated the October Agreements.

729. Ojdanić shared the intent of other JCE members to change the ethnic balance in Kosovo through the commission of the crimes charged. He 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.

a. Ojdanić contributed to the JCE by commanding, planning, directing, ordering and coordinating operations of the VJ and subordinate units

730. The VJ functioned as a professional army, in accordance with the principles of command and control.

731. The VJ Command and Control Manual which refers to these documents serves as a reference and training manual for VJ officers, including those attending the General Staff School.¹⁸³⁰

732. Pursuant to the Law on the VJ, command in the VJ is based on the principles of unity of command, singleness of command, and the obligation to carry out the decisions, commands and orders of a superior officer.¹⁸³¹ The VJ Command and Control Manual elaborates the application of these principles to various levels of military command, ensuring *inter alia*, the continuous flow of information between superior and subordinate commanders.¹⁸³²

733. The concept of superior-subordinate relationship is a core principle of command recognised by the VJ.¹⁸³³ The Law on the VJ sets out the relationships between members of the VJ hierarchy by way of superior-subordinate relationship.¹⁸³⁴ For example, the relationship between the FRY President and the Chief of the General Staff is a superior-subordinate relationship, as is the relationship between the Chief of the General Staff and the Commander of the Third Army.¹⁸³⁵

734. During the Indictment period, the Chief of the VJ General Staff (Ojdanić) issued orders to his immediate subordinate, the Commander of the Third Army (Pavković) who in turn issued orders to the Commander of the PrK (Lazarević), his immediate subordinate. Lazarević, in turn, ordered

¹⁸³⁰ P1041,p.14.

¹⁸³¹ P984,p.2,Art.3;P1041,pp.61-63.

¹⁸³² P1041,pp.61-63.

¹⁸³³ P1041,pp.61-63.

¹⁸³⁴ P984,p.3,Art.10.

¹⁸³⁵ P1041,p.96.

brigades to subordinate to the PrK. Therefore, directions, including orders, were issued by the VJ General Staff, and continued down the chain of command to brigade level and beyond, eventually to individual soldiers, engaged in, among other things, combat operations.

735. A primary function of the Chief of VJ General Staff/Chief of the SC Staff was to issue directives to his immediate subordinates to plan operations to achieve the strategic goals set by the SDC/SC. The plans and orders (hence activities) of subordinate units must conform to the superior commander's direction. Every level of command from the VJ General Staff down to each brigade had a command staff operating under the direction of a Chief of Staff. Such command staffs supported the unit commander by transforming his intent into various tools of commands, such as orders and instructions.¹⁸³⁶

736. In addition to orders,¹⁸³⁷ Ojdanić's issued directives which were implemented down the VJ chain of command and control. For example:

- On 9 April 1999, Ojdanić issued a directive for the engagement of the VJ in defence from NATO aggression.¹⁸³⁸ On 10 April 1999, pursuant to Ojdanić's directive, Pavković ordered the engagement of the Third Army in defence from NATO aggression.¹⁸³⁹

- On 29 May 1999, Ojdanić issued a directive on countering a possible NATO land operation.¹⁸⁴⁰ This directive was implemented down the chain of command to Third Army¹⁸⁴¹ and then by the PrK.¹⁸⁴²

Reporting

737. The VJ had a well-established and functioning reporting system during the Indictment period: information flowed regularly up and down the chain of command.¹⁸⁴³ There was reporting to the very top of the chain of command, namely to Milošević.¹⁸⁴⁴ For example, on 9 April 1999,

¹⁸³⁶ P1041, pp.76-78.

¹⁸³⁷ See e.g. 3D686 and P1492. P1492 was then implemented down the chain of command by the Third Army on 13 May 1999 (P1462) and by the PrK (Lazarević, T.18680).

¹⁸³⁸ P1481/4D107. See also P1480/4D219 (Preparatory Order that precedes P1481/4D107); 4D319 (Attachment to the Directive issued by Lt-General Vidoje Pantelić, Assistant Chief of the Supreme Command for Logistics 14 April 1999); 3D815 (SCS Combat Report dated 10 April at item 7).

¹⁸³⁹ 4D308. See also 3D815, p.8, para.7 (reference to P1481/4D107).

¹⁸⁴⁰ P1465.

¹⁸⁴¹ P1614.

¹⁸⁴² 5D439. See also 5D457, 5D440.

¹⁸⁴³ Simić, 3D1089, pp.7-8, paras.11, 14; Čurčin, 3D1121, paras.23-26; Vasiljević, P2600, para.16; Maisonneuve, P2772, pp.6-7, paras.21-27.

¹⁸⁴⁴ Gajić, T.15417; Čurčin, T.16979; Radinović, T.17254.

Ojdanić ordered Pavković to submit a proposal that would be submitted up the chain of command to the SC Staff, in the presence of the Supreme Commander.¹⁸⁴⁵

738. In peace-time, operational reports were sent daily up the chain of command.¹⁸⁴⁶ During the war, combat reports were submitted daily by subordinate commands to the SC Staff.¹⁸⁴⁷ The SC Staff would compile its own operational reports based on the information provided by subordinate commands and other sources.¹⁸⁴⁸

739. Ojdanić issued instructions to his immediate subordinates to ensure that periodic reports, including daily reports, were sent up the chain of command.¹⁸⁴⁹ For example, on 15 April 1999, Ojdanić issued an order on reporting significant events.¹⁸⁵⁰ Ojdanić was well-informed of operational developments.¹⁸⁵¹ Subordinate commands made their daily reports available to the operations centre of the SC Staff.¹⁸⁵² In addition to the regular reports provided by the operations centre of the SC Staff, Ojdanić could also directly receive separate oral or special reports from strategic groups under him.¹⁸⁵³ Lazarević testified that on several occasions the VJ General Staff would ask the PrK Command directly for reports.¹⁸⁵⁴ Ojdanić also visited VJ units in the field,¹⁸⁵⁵ and ordered inspections of the PrK.¹⁸⁵⁶

740. On 27 March 1999, the SC Staff reported that despite intense attacks, the VJ communications system remained operational.¹⁸⁵⁷ The existence of a functioning reporting system is corroborated by witnesses.¹⁸⁵⁸ Thus, the VJ chain of command functioned well during the Indictment period. Despite failures in reporting by the Third Army Command, he received the relevant information from other sources available. As head of the VJ General Staff/SC Staff, Ojdanić was well-informed of events on the ground via reporting up the chain of command, field inspections and his own presence in the field. He issued orders which were executed by his subordinates.

¹⁸⁴⁵ P1480. At the VJCoF of the same day, P1480 was discussed by Čurčin: P929, pp.11-12. *See also* P1922.

¹⁸⁴⁶ Radinović, T.17337-17338.

¹⁸⁴⁷ Gajić, 3D1084, para. 146; Radinović, T.17337-17338; 3D1116, p.121, paras.112-119.

¹⁸⁴⁸ *See* 3D799-3D806, 3D809-3D875.

¹⁸⁴⁹ Vasiljević, P2600, paras.16-18.

¹⁸⁵⁰ P1744. *See also* 3D747.

¹⁸⁵¹ Vasiljević, P2600, para.16-18.

¹⁸⁵² Vasiljević, P2589, p.99.

¹⁸⁵³ Vasiljević, P2600, paras.16-19; P2589, pp.15-17.

¹⁸⁵⁴ Lazarević, T.17938-17939. Lazarević testified that the VJ General Staff requested further information on 5D521 as it may not have had information that tallied with 5D521 (T.17040-17041).

¹⁸⁵⁵ Čučak, T.14887-14888.

¹⁸⁵⁶ 3D693, item 2.2.

¹⁸⁵⁷ 3D801, p.5, item 6.

¹⁸⁵⁸ Simić, 3D1089, p.7, para. 11; Vasiljević, P2600, paras.16-18; Gajić, 3D1084, paras.139-140.

Increasing troop strength

741. Ojdanić exercised his authority, *inter alia*, by increasing troop strength of the Third Army directly and by supervising the mobilisation of contract soldiers, conscripts, the VTOd,¹⁸⁵⁹ volunteers and paramilitaries.¹⁸⁶⁰

742. Ojdanić presided over VJCs and oversaw measures relating to the increase in the troop strength of the Third Army units in Kosovo.¹⁸⁶¹ For example:

- On 25 February 1999, Lt-General Čurčin, Chief of 1st Administration of the VJ General Staff, reported that the PrK was being reinforced by the resubordination of units from outside Kosovo.¹⁸⁶²
- On 11 March 1999, Čurčin stated that elements of two units from outside Kosovo had been resubordinated to the PrK.¹⁸⁶³
- On 9 April 1999, Lt-General Miodrag Simić, Assistant Chief of the General Staff of the Ground Forces, reported that the PrK had been strengthened with certain units.¹⁸⁶⁴

Mobilisation of contract soldiers and conscripts

743. At the VJC of 21 January 1999, Ojdanić initiated a discussion on contract soldiers due to a shortage of conscripts.¹⁸⁶⁵ A few weeks later, at the VJC on 25 February 1999, Lt-General Đorđe Čurčin, reported that a ban was imposed on the leave of all conscripts and the discharge of the March 1998 intake.¹⁸⁶⁶ Ojdanić concluded the discussion on conscripts by stating that, “[...] I stick to my decision that there shall be no leave.”¹⁸⁶⁷ He also decided that reservists should be called up first and that conscripts were an alternative solution.¹⁸⁶⁸

b. Ojdanić supported the policy of arming non-Albanians

¹⁸⁵⁹ P1924, P1925.

¹⁸⁶⁰ 3D581, item 2.1.

¹⁸⁶¹ See e.g. P1930.

¹⁸⁶² P941, pp.11-12.

¹⁸⁶³ P935, p.11.

¹⁸⁶⁴ P929, pp.12-15.

¹⁸⁶⁵ P939, pp.6-7.

¹⁸⁶⁶ P941, p.13. The discussion continued at pp.15,17-19,21.

¹⁸⁶⁷ P941, p.24.

¹⁸⁶⁸ P941, p.24.

744. Upon becoming Chief of the VJ General Staff, Ojdanić did not reverse but continued the practice of arming non-Albanian civilians, despite being informed of the danger they posed.

745. At the VJC of 30 December 1998, Col-General Alexander Dimitrijević, Chief of the Security Administration of the VJ General Staff reported that there were 60,000 Serb civilians, “that could be mobilised outside the control of the official organs.”¹⁸⁶⁹ Dimitrijević testified that these were individuals armed by the VJ and the MUP and included MUP reservists.¹⁸⁷⁰ Three weeks later, at the VJC on 21 January 1999, Dimitrijević alerted Ojdanić to the “realistic possibility” of Serbs becoming radicalised and organising themselves into resistance groups, based on the “number of people owning or having been distributed weapons.”¹⁸⁷¹

746. At the VJC of 2 February 1999, the VJ’s key role in distributing weapons to non-Albanian civilians is highlighted.¹⁸⁷² Ojdanić stated, “I’ve heard that there were around 50,000 armed Serbs.”¹⁸⁷³ Col-General Dušan Samardžić, Head of the VJ Inspectorate reported that 47,000 weapons had been issued and that, “[...] rest assured several thousand of them have already left with the weapons.”¹⁸⁷⁴ In response to Ojdanić’s enquiry about the war assignments of those armed Serbs and the plan for including them in the units,¹⁸⁷⁵ Samardžić replied:

It was my order and we organised the whole thing, for the defence of Serbian villages, commanders at all levels were sent out, they’re armed and *they have two combat sets of ammunition each. Their role and assignment is to defend their villages and participate together with army units in any operations in the immediate vicinity.* We have to carry out military and police operations[...]¹⁸⁷⁶

Thus, Ojdanić was well-aware of the large numbers of armed non-Albanians, and their potential engagement in joint VJ-MUP operations. Moreover, his willingness to engage them in joint operations is evidenced by his order of 12 April 1999.¹⁸⁷⁷ It stated, “Forces of the MUP and civilian defence shall be placed under the command of the Third Army during the operation and they shall be used exclusively by your decision.”¹⁸⁷⁸ The inclusion of the armed non-Albanian civilians in combat operations by the VJ and MUP is evident in Joint Command orders drafted by the PrK command staff.¹⁸⁷⁹

¹⁸⁶⁹ P928,p.9.

¹⁸⁷⁰ Dimitrijević, T.26634.

¹⁸⁷¹ P939,p.16.

¹⁸⁷² P931,p.23;P3121,p.7, shows that the MUP was also distributing weapons to civilians.

¹⁸⁷³ P931,p.23.

¹⁸⁷⁴ P931,p.23. *See also* P1115;P1415.

¹⁸⁷⁵ P931,p.23.

¹⁸⁷⁶ P931,p.23 (emphasis added).

¹⁸⁷⁷ P1483.This order supplements the directive dated 9 April 1999 (P1481).

¹⁸⁷⁸ P1483,p.2.

¹⁸⁷⁹ *See e.g.* P1878, item 2;P1975,item 2;P1966,p.2,item 2.

747. Arming one ethnic group in a climate of ethnic tension would clearly exacerbate the conflict and the VJ was alert to this risk.¹⁸⁸⁰ Ojdanić knew that the policy could result in excessive force and crimes against Albanian civilians, thus furthering the common purpose of the JCE. This is confirmed by Ojdanić's failure to take steps to curtail this policy despite being aware of the alarm raised over the radicalisation¹⁸⁸¹ of a large number of armed Serbs, who could be "outside control of the official organs."¹⁸⁸²

c. Ojdanić ordered and encouraged joint VJ-MUP combat operations during the Indictment period

748. As described in elsewhere in this brief, the VJ and MUP worked in close co-ordination during the offensives in 1998. These joint VJ-MUP operations continued in 1999¹⁸⁸³ and resulted in the commission of further crimes. Drewienkiewicz stated that after Ojdanić was appointed Chief of the VJ General Staff, the "command link" between the VJ and MUP was strengthened.¹⁸⁸⁴

749. On 16 January 1999, Ojdanić issued the GROM 3 Directive for the engagement of the VJ in 1999 to prevent the introduction of a multinational NATO Brigade in Kosovo.¹⁸⁸⁵ This directive illustrates Ojdanić's role in commanding joint VJ-MUP operations.

750. In ordering GROM 3, Ojdanić tasked the Third Army with the following:

At the same time close off the axes of introduction of DTS from the Republic of Albania, protect forces and facilities from attack by *Šiptar* terrorist forces, ensure viability of roads for introduction of forces from deep within the territory and in coordinated action with MUP forces of the Republic of Serbia block DTS in close landing sectors to prevent their coordinated action with NATO forces.¹⁸⁸⁶

This task is reflected in Pavković's order of 27 January 1999.¹⁸⁸⁷ Pavković also ordered the BG-211 to be on standby for breaking up terrorist forces in the area of Lab and Malo Kosovo.¹⁸⁸⁸ On 16 February 1999, Lazarević issued his own order on the basis of the Third Army's and tasked elements of BG-211 along with other units.¹⁸⁸⁹ This large-scale offensive aimed to destroy "*Šiptar*"

¹⁸⁸⁰ Gajić, T.15252-15253.

¹⁸⁸¹ P939, p.16.

¹⁸⁸² P928, p.9.

¹⁸⁸³ See e.g. Stojanović, T.20060; Stefanović, T.21685.

¹⁸⁸⁴ Drewienkiewicz, P2508, para.68.

¹⁸⁸⁵ 3D690; Obradović, T.14923-14924.

¹⁸⁸⁶ 3D690, item 3.1. Radinović, T.17234.

¹⁸⁸⁷ 5D245, item 2, item 5.1; Lazarević, T.17901-17902. See also 5D249.

¹⁸⁸⁸ 5D245, item 5.3.

¹⁸⁸⁹ P2808, item 2.

forces in Malo Kosovo, Drenica and Mališevo¹⁸⁹⁰ and was implemented as a coordinated action between the MUP and the VJ.¹⁸⁹¹

751. On 10 March 1999, pursuant to his GROM 3 Directive, Ojdanić ordered an action involving the Second and Third Armies, and specifically engaged the PrK in Grom 3.¹⁸⁹²

752. These orders and combat reports evidence the successful implementation of Ojdanić's GROM 3 directive down the chain of command. Furthermore, Simić testified that the deployment of units to Kosovo pursuant to GROM 3 was discussed during the VJC on 9 April 1999,¹⁸⁹³ thus highlighting Ojdanić's close involvement in coordinating VJ-MUP actions.

753. As exemplified by implementation of the GROM 3, the *modus operandi* of close coordination between the VJ and the MUP in ground offensives would not have been possible without Ojdanić's role in authorising joint combat operations during the Indictment period.

The Joint Command

754. In relation to joint VJ-MUP operations, Ojdanić not only recognised the existence, role and authority of the Joint Command, but he also supported it.

755. During the VJC on 21 January 1999, Ojdanić referred to the Račak incident as an operation ordered by "this joint staff, command"¹⁸⁹⁴ whereby the President had the authority to order Ojdanić and Pavković to engage the VJ, "but bearing in mind the restrictions contained in the agreement."¹⁸⁹⁵ This exchange shows that Ojdanić recognised the Joint Command's role and standing. Furthermore, in referring to "restrictions contained in the agreement,"¹⁸⁹⁶ Ojdanić supported Joint Command operations that may well breach the October Agreements despite having expressed concern about not knowing the truth about the Račak incident.¹⁸⁹⁷

756. Ojdanić used his authority to ensure that the Joint Command functioned effectively. On 17 April 1999, he issued "Suggestions" to the Third Army where he prescribed the engagement of

¹⁸⁹⁰ P2808,p.4,item 2.

¹⁸⁹¹ See P1990,p.1;6D716,p.1

¹⁸⁹² 3D696,item 2;Lazarević,T.17894-17896. Joint Command orders issued on 22 March 1999, (P1967), 24 March 1999 (P1968) and 28 March 1999 (P1969) reflect the general aim of supporting MUP forces in Drenića. A combat report of the 37th MTB dated 25 March 1999 demonstrates that the tasks referred to in these orders were implemented in the Drenića area:P2043,p.1,item 5.

¹⁸⁹³ Simić,T.15480-1548;P929,p.12.

¹⁸⁹⁴ P939,pp.11-12. At p.12, Ojdanić makes a further reference to the Joint Command,"There is yet another option. There is an option, the joint command down there whereby the President orders me and I have to know it immediately, and it says by order of the President of the FRY, due to the seriousness of the situation, such-and-such forces and assets of some of the Priština Corps units shall be engaged and everything is fine and there is no problem."

¹⁸⁹⁵ P939,pp.11-12. See Dimitrijević, T.26629.

¹⁸⁹⁶ P939,pp.11-12.

certain forces in relation to the Third Army's joint action with the Second Army.¹⁸⁹⁸ This document also specifically referred to the Joint Command order of 15 April 1999 (no. 455-148),¹⁸⁹⁹ thus establishing a clear link between the SC Staff and the Joint Command, and Ojdanić's willingness to permit the use of the VJ to support Joint Command operations in furtherance of the JCE.¹⁹⁰⁰

d. Ojdanić contributed to the JCE by failing to hold Pavković accountable

757. Ojdanić was aware that the Commander of the Third Army, Pavković was, at times not providing the VJ General Staff with accurate and complete reports. Ojdanić, as Pavković's immediate superior, had the authority to remedy this by disciplining Pavković but failed to do so. This demonstrates that Ojdanić intended the commission of the crimes in furtherance of the JCE, and facilitated Pavković's role in this regard, by failing to discipline him and to rectify misreporting by the Third Army.

758. During the VJC of 10 December 1998, Dimitrijević noted a "discrepancy" in the reporting between the Third Army, PrK and the General Staff.¹⁹⁰¹ He noted that the many "unusual incidences" in the PrK were a consequence of the alienation of the PrK Commander (Pavković) from the Third Army.¹⁹⁰² In response, Ojdanić acknowledged that the problem with the PrK was a broad one that concerned both the PrK and the Third Army, and that he had analysed it.¹⁹⁰³ Dimitrijević testified that Ojdanić did question the accuracy of the reports.¹⁹⁰⁴ However, despite these concerns, just two weeks later, at the SDC meeting on 25 December 1998, Ojdanić not only recommended Pavković's promotion to Commander of the Third Army;¹⁹⁰⁵ he also praised his commanding skills.¹⁹⁰⁶

759. At the VJC of 30 December 1998, Dimitrijević stated that the VJ's activities in Podujevo were misreported as a planned exercise.¹⁹⁰⁷ The true plan was that the unit in Podujevo "would

¹⁸⁹⁷ P939, pp.11-12. See Dimitrijević, T.26637-26638.

¹⁸⁹⁸ P1487, item 4; P1746, item 1 refers to P1487. See also Čurčin, T.17024-17026.

¹⁸⁹⁹ P1878.

¹⁹⁰⁰ Vasiljević, T.15972.

¹⁹⁰¹ 3D484, pp.13-14. Obradović also complained about the chain of command between the Third Army and the PrK and referred to a "dualism" in decision-making (p.13).

¹⁹⁰² 3D484, p.14.

¹⁹⁰³ 3D484, p.15.

¹⁹⁰⁴ Dimitrijević, T.26628.

¹⁹⁰⁵ P1000, p.9.

¹⁹⁰⁶ 1D761, p.20. He said that Pavković displayed "best organisational and commanding skills while on the duty of the PrK Commander during recent troubled times."

¹⁹⁰⁷ P928, p.14.

provoke the terrorists so that the MUP would then have to do whatever it had to do.”¹⁹⁰⁸ Though he testified that this incident turned out to be a planned exercise¹⁹⁰⁹ such misreporting was not generally resolved, as seen in later VJC minutes. This is corroborated by Ciaglinski who testified that the VJ conducted operations under the guise of exercises.¹⁹¹⁰

760. At the VJC on 2 February 1999, Anđelković also queried whether field units were accurately reporting their activities to the VJ General Staff.¹⁹¹¹ He stated:

If it is true that the subordinates are doing what they shouldn't be doing, and sending us reports saying that they did not do it, and we have quite adequate or accurate information that they did do it and that nobody has been held responsible, I cannot possibly accept that and I think that people are right when they raise the question of our competence.¹⁹¹²

On 4 March 1999, at another VJC, Dimitrijević again strenuously criticised the reporting system. He questioned the reason attacks by the VJ were reported as attacks against the VJ.¹⁹¹³ The misreporting was of such magnitude that Dimitrijević described it as the Third Army lying to the General Staff.¹⁹¹⁴ He questioned the function of the VJ General Staff that “ought to know” about the misreporting. He testified that this was a continuation of his view on the Podujevo incident.¹⁹¹⁵ In the face of such vehement criticism of the reporting system and the effectiveness of the VJ General Staff which he headed, Ojdanić again failed to respond.¹⁹¹⁶

761. A fortnight later, on 18 March 1999, Ojdanić stated that all VJ actions had been in response to provocations.¹⁹¹⁷ He did not explain the basis for this conclusion, which was in marked contrast to the reports he had been receiving from other members of the VJ General Staff for the last three months.¹⁹¹⁸ Moreover, even after Ojdanić’s assurances, Dimitrijević once again complained about misreporting to the VJ General Staff.¹⁹¹⁹ He asserted that the VJ were attacking the KLA rather than responding only when attacked, as claimed. He warned that reports from PrK Command are textbook¹⁹²⁰ (attack-returned, attack-returned) and may be false.¹⁹²¹ Dimitrijević proposed that this matter be discussed at the General Staff as Ojdanić should know the “real truth.”¹⁹²² In response to this issue, Ojdanić stated:

¹⁹⁰⁸ P928,p.14.

¹⁹⁰⁹ Dimitrijević, T.26631-26633.

¹⁹¹⁰ Ciaglinski,T.6822-6823;P2489,pp.14-15. *See also* Crosland,T.9850.

¹⁹¹¹ P931,p.15.

¹⁹¹² P931,p.15.

¹⁹¹³ P933,p.15.

¹⁹¹⁴ P933,p.15.

¹⁹¹⁵ Dimitrijević,T.26653.

¹⁹¹⁶ P933,p.15.

¹⁹¹⁷ P938,p.8.

¹⁹¹⁸ P938,pp.11,21.

¹⁹¹⁹ P938,pp.11,21.

¹⁹²⁰ P938,p.21.

¹⁹²¹ P938,p.11.

¹⁹²² P938,p.11.

It is obvious that something here is not right and I will call and talk to the Third Army commander about that, and I also think that should be followed by him coming here so we can sit down and talk properly about this subject.¹⁹²³

762. Nevertheless, instead of being disciplined, less than two weeks later, on 31 March 1999, Pavković was promoted to the rank of colonel general.¹⁹²⁴ Moreover, Dimitrijević was replaced on 23 March 1999 by Geza Farkaš, with Ojdanić's involvement.¹⁹²⁵

763. Ojdanić also received information that Pavković failed to provide full information to the VJ General Staff from the Security Administration. Vašiljević stated that by early May 1999, the Security Administration in Belgrade was aware that it and the VJ General Staff did not receive information on crimes from the Third Army.¹⁹²⁶ Farkaš testified that there was a "bottleneck" in the information flow from the Third Army to the SC Staff.¹⁹²⁷ While measures were taken to investigate crimes and to punish the perpetrators, the Third Army did not report these prosecuted cases to the SC Staff.¹⁹²⁸ Farkaš met with Pavković and raised this issue in May 1999.¹⁹²⁹ He reported this to Ojdanić.¹⁹³⁰ Again, despite first-hand information from Farkaš that the Third Army was not fulfilling its reporting obligations, Ojdanić failed to discipline Pavković.

764. Ojdanić was also aware that Pavković on occasion by-passed him in the chain of command and dealt directly with Milošević.¹⁹³¹ In June 1999, Ojdanić told Vasiljević that Pavković had left his command to meet Milošević and that this had occurred before.¹⁹³² On this occasion, Ojdanić complained to Milošević.¹⁹³³ However, again he did not take any action against Pavković.

765. A more robust response to rectify the misreporting immediately was necessary. Ojdanić was well aware of the critical importance of being fully informed of ground level activities. In relation to the competence of the General Staff in commanding the army, Ojdanić had the following to say:

The legal and constitutional provisions on this are completely clear. [...] I as the NGŠ and the GŠ must not find ourselves in a situation in which *we are not informed about every single detail of the activities of the army in a certain area.*¹⁹³⁴

¹⁹²³ P938,p.25.

¹⁹²⁴ Order on Agreed Facts,pp.13-14.

¹⁹²⁵ P799;Art.136 of the FRY Constitution (1D139) and Art.16 of the Law on the VJ(P984) outlines the powers of the FRY President and Chief of the VJ General Staff regarding appointments, promotions and dismissals. Order on Agreed Facts,p.13. *See also* P1738,Art.4 for Ojdanić's powers in this regard after 23 March 1999, Dimitrijević,T.26654-26656.

¹⁹²⁶ Vasiljević,P2600,paras.55-56.

¹⁹²⁷ Farkaš,T.16318-16321.

¹⁹²⁸ Farkaš,T.16318-16321.

¹⁹²⁹ Farkaš,T.16318-16321.

¹⁹³⁰ Farkaš,T.16294.

¹⁹³¹ Crosland,P2645,para.57;Vasiljević,P2600,para.19.

¹⁹³² Vasiljević,P2600,paras.19-21.

¹⁹³³ Vasiljević,P2600, para.20.

¹⁹³⁴ P931,p.21(emphasis added).

766. In light of the importance of a properly functioning reporting system and chain of command, in the army, Ojdanić's failure to remedy misreporting, despite having ample notice, shows that he deliberately permitted misreporting and therefore approved of Pavković's actions. By failing to take adequate measures, Ojdanić facilitated Pavković's participation in the JCE.

e. Ojdanić played a vital role in the SDC and the SC

767. As the Chief of the VJ General Staff/Chief of the SC Staff, Ojdanić was the VJ's representative at SDC/SC meetings. Along with other members of the JCE, Ojdanić directly participated in making policy decisions that resulted in the crimes charged in the Indictment. He also attended other meetings with fellow JCE participants in Belgrade.¹⁹³⁵

768. Although a non-voting member, Ojdanić, as Chief of the General Staff, made recommendations to the SDC on personnel issues.¹⁹³⁶ For example, at the SDC session on 25 December 1998, Ojdanić proposed the removal of Third Army Commander, Samardžić,¹⁹³⁷ who had been critical of the VJ's role in internal operations.¹⁹³⁸ This meeting was attended by Đukanović and JCE participants Milošević, Milutinović and Šainović.¹⁹³⁹

769. At that meeting, Ojdanić also proposed the promotion of Pavković to be the new Commander of the Third Army.¹⁹⁴⁰ This was accepted by both Milošević and Milutinović over Đukanović's objections.¹⁹⁴¹ In addition, Milošević presented and the SDC "adopted" a final position that the VJ operated in accordance with the Rules of Service in Kosovo and that the PrK had been very successful in carrying out its tasks.¹⁹⁴²

770. Despite having had notice of the excessive use of force by the PrK from at least late August 1998,¹⁹⁴³ Ojdanić permitted the SDC to adopt a final position on the conduct of operations in Kosovo that was plainly false. Moreover, just two weeks earlier, at the VJC of 10 December 1998,

¹⁹³⁵ For example, on 12 April 1999, he met with Milošević, Šainović and Milutinović to brief them on the engagement of forces. (Radinović, T.17329-17331; 3D728, p.3). On 4 May 1999, he attended a meeting with Milošević, Milutinović, Pavković and Lukić (P1696).

¹⁹³⁶ P1000, Art.136 of the FRY Constitution (1D139) and Article 16 of the Law on the VJ(P984) outlines the powers of the FRY President and Chief of the VJ General Staff regarding appointments, promotions and dismissals. Order on Agreed Facts, p.13. See also P1738, Art.4 for Ojdanić's powers in this regard after 23 March 1999.

¹⁹³⁷ P1000, pp.5-9. See also P803.

¹⁹³⁸ Crosland, P2645, para.48.

¹⁹³⁹ P1000, p.1.

¹⁹⁴⁰ P1000, pp.5-9.

¹⁹⁴¹ P1000, pp.9-10.

¹⁹⁴² P1000, p.10; 1D761, p.10.

¹⁹⁴³ Crosland, T.9783-9894, 9797-9799, 10048-10050.

Ojdanić had been alerted to Pavković's misreporting and insubordination.¹⁹⁴⁴ Thus, although he had information that corroborated Đukanović's concerns, Ojdanić praised Pavković's commanding skills,¹⁹⁴⁵ thus evidencing his willingness to collaborate with fellow JCE participants. At this meeting, Ojdanić also proposed the promotion of another JCE participant, Lazarević, to Commander of the PrK.¹⁹⁴⁶

771. Ojdanić supported the involvement of the VJ in combat activities in Kosovo under conditions which his predecessor, Perišić, felt were in contravention of the VJ's legal mandate.¹⁹⁴⁷ Pursuant to decrees issued by Milošević, Ojdanić facilitated the replacement of officers who were opposed to the unconstitutional use of VJ in Kosovo. Handover/takeover reports of VJ officers were issued pursuant to decrees by the FRY President and are all signed by Ojdanić,¹⁹⁴⁸ thus confirming his contribution to this process.

772. Pursuant to the SDC's amended Rules of Procedure 1999,¹⁹⁴⁹ adopted on 23 March 1999, Ojdanić or his representative was authorised to propose that an SDC session be convened and his attendance became mandatory.¹⁹⁵⁰ These changes expanded Ojdanić's role in the decision-making process during the war.

773. During a state of war, the VJ communications system linked key personnel and headquarters at both the military and civilian level. For example, Ojdanić's order dated 9 April 1999, referred to the SDC and communications with, among others, Milutinović.¹⁹⁵¹ As Chief of the SC Staff, Ojdanić worked in close collaboration with Milošević, the Supreme Commander, on operations in Kosovo. This is shown by the SC Staff correspondence in which Ojdanić refers to the decision of the Supreme Commander (Milošević) to withdraw parts of the VJ and MUP from Kosovo.¹⁹⁵²

774. That Ojdanić used his authority to transform decisions made by commanding bodies into orders and instructions that furthered the JCE is clearly reflected in his statement to the *Politika* on 29 April 1999. He stated, "we [the VJ] shall execute tasks given to us by the SC led by President Slobodan Milošević as we have until now – successfully."¹⁹⁵³

¹⁹⁴⁴ 3D484, pp.14-15.

¹⁹⁴⁵ 1D761, p.20.

¹⁹⁴⁶ P1000, pp.5-8.

¹⁹⁴⁷ P717.

¹⁹⁴⁸ P799;P800;P801;P802;P803.

¹⁹⁴⁹ P1738.

¹⁹⁵⁰ P1738, Art.3. The Federal Minister of Defence was also extended this authority pursuant to the new rules. Previously this authority had been vested in the hands of SDC members only (P2622, Art.4).

¹⁹⁵¹ P1481, p.11.

¹⁹⁵² P1495, para.1.

¹⁹⁵³ P1010, p.3.

775. Ojdanić was a conduit between the military and the civilian leadership in Belgrade. By participating in meetings of the SDC/SC with other JCE members, Ojdanić transformed their strategy and policy decisions into directives and orders on operations in Kosovo that were implemented down the chain of command. These led to the commission of crimes charged in the Indictment.

f. Ojdanić violated the October Agreements

776. Ojdanić facilitated the deliberate breaching of the October Agreements. He blocked legitimate KVM inspections of VJ assets in Kosovo and permitted the introduction of additional units, the conduct of offensive operations and the use of heavy weapons.

777. At a meeting on 27 November 1998, Ojdanić initially agreed to KVM inspections of VJ barracks and KVM monitoring of troop rotations.¹⁹⁵⁴ Despite acknowledging that such monitoring was part of the October Agreements, Ojdanić did not permit the KVM to inspect military brigades and weapons located in Kosovo.¹⁹⁵⁵ This was because on 9 December 1998, Šainović firmly rejected the KVM's plans for inspections,¹⁹⁵⁶ and he was the only individual authorised to permit inspection.¹⁹⁵⁷ Once again, it is clear that Ojdanić supported a fellow JCE participant, this time Šainović, in furthering the JCE.

778. Ojdanić also permitted the introduction of additional units in Kosovo. During the VJC on 25 February 1999, the resubordination of units from outside Kosovo into the PrK was discussed.¹⁹⁵⁸ During this meeting, Dimitrijević reported that the anti-terrorist battalion of the 72nd Special Brigade had been brought to Kosovo,¹⁹⁵⁹ in clear breach of the October Agreements. The order that the unit not be split and sent down had been disobeyed.¹⁹⁶⁰ Ojdanić added that the essence of the matter was that the unit should not be brought to Kosovo.¹⁹⁶¹ Thus, he understood that additional units sent to Kosovo would be a violation of the October Agreements.

779. Moreover, as described above, Ojdanić was repeatedly informed of the VJC's offensive operations in Podujevo¹⁹⁶² that were in breach of the October Agreements. Nevertheless, on 15 March 1999, during a telephone conversation with the NATO Supreme Commander for Europe,

¹⁹⁵⁴ Drewienkiewicz, T.7768-7773,8014;P2508,paras.63-81;P2536;P2535;P2543. *See* Drewienkiewicz, T.7926-7927.

¹⁹⁵⁵ Lončar, T.7672;P2521,para.33.

¹⁹⁵⁶ Drewienkiewicz, T.7779;P2508,para.81;P2521,para 33.

¹⁹⁵⁷ Lončar, P2521, para.33.

¹⁹⁵⁸ P941, pp.22-23.

¹⁹⁵⁹ P941, pp.15-16.

¹⁹⁶⁰ P941, pp.15-16.

¹⁹⁶¹ P941, pp.15-16. *See also* Dimitrijević, T.26648-26649,26706-26708.

General Clark, Ojdanić said: “all our actions have been in response to provocations.”¹⁹⁶³ Ojdanić knew that this statement was clearly untrue based on discussions at the VJCs. Clark stated that the VJ was breaking promises.¹⁹⁶⁴ He demanded that the VJ return to their original positions (except for the three companies in the field), and take steps to seize from the MUP the heavy weapons and anti-aircraft defence system which were given to them by the VJ.¹⁹⁶⁵ Ojdanić’s response was solely to ask if NATO made any demands on the KLA.¹⁹⁶⁶ He failed to address any of Clark’s concerns.

780. In further breach of the October agreements, Ojdanić also permitted the MUP to keep heavy weapons. At the VJC of 3 December 1998, Obradović reported that the MUP would not be returning the VJ’s heavy equipment that included 20 personnel carriers and 23 mortars that were subject to the OSCE agreement. He said,

The decision could be to list the equipment as it were with us in the VJ, and if inspection control is carried out they could be recorded in some documents and papers as temporarily being with the MUP’ alternatively they may be listed as being with the MUP but then the whole documentation process of how it was handed over would be needed.¹⁹⁶⁷

In response, Maj-General Grahovac stated the obvious, “[the] Army is not authorised to do this.”¹⁹⁶⁸ Dimitrijević also opposed this and stated, “I am against presenting falsely in our documents that they are with us.”¹⁹⁶⁹ Despite the legitimate concerns raised about the propriety of this course of action, Ojdanić’s response simply was “I am not for either one or the other [...]”¹⁹⁷⁰ In short, he was clearly unconcerned that Obradović’s suggestions would breach the October Agreements. Ojdanić’s failure to take a strong stance on this issue (unlike Grahovac and Dimitrijević) shows his willingness to deliberately breach October Agreements.

781. By assisting in the deliberate breaching of the October Agreements, Ojdanić jeopardised a peaceful solution for Kosovo and facilitated the crimes committed to further the JCE.

782. Ojdanić’s participation in the JCE through the various channels set out above was crucial to its implementation that resulted in the forcible expulsion, killings and persecution of thousands of Kosovo Albanians.

(ii) Ojdanić shared the intent to carry out the common plan

¹⁹⁶² Lončar testified that the activities in Podujevo were training but this is not credible in light of contradictory evidence (T.7623-7626).

¹⁹⁶³ 3D706,p.2.

¹⁹⁶⁴ 3D706,p.2.

¹⁹⁶⁵ 3D706,pp.2-3.

¹⁹⁶⁶ 3D706,p.3.

¹⁹⁶⁷ 3D557,pp.19-20.

¹⁹⁶⁸ 3D557,pp.19-20.

¹⁹⁶⁹ 3D557,pp.19-20.

¹⁹⁷⁰ 3D557,p.20.

783. Ojdanić shared the intent to carry out the common criminal purpose of the JCE. His actions including his orders and participation in the SDC and the SC 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.

784. Ojdanić 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 the same units and employ the same tactics. By continuing the same pattern of engagement, Ojdanić demonstrated his approval of the crimes and his intent to commit them.

785. Moreover, although he had the power to do so, as Chief of the VJ General Staff/SC Staff, Ojdanić deliberately refrained from intervening against the perpetrators of crimes because he intended these crimes to occur. 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.

786. 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 the possible consequence of the implementation of the common purpose during 1999.

a. Ojdanić knew of the crimes committed by forces of the FRY and Serbia operating in Kosovo in 1998

787. Crosland testified that he met with Ojdanić on 27 August 1998 during a meeting of the Belgrade Attaché Association.¹⁹⁷¹ At the meeting, he handed over a video (showing the VJ using excessive force by shelling Suva Reka and other areas), to Negovan Jovanović, a VJ liaison officer.¹⁹⁷² Jovanović denied that he or his staff received this video.¹⁹⁷³ Notwithstanding Jovanović's denial of receiving the video, Crosland's evidence that he informed Ojdanić of four hours of fire on villages in Prilep, Glodjane in the area of Stimjle/Sedlare (which had created a humanitarian situation),¹⁹⁷⁴ is credible and not contradicted. Ojdanić noted Crosland's concerns about excessive force but merely responded that "force would be met with force in Kosovo."¹⁹⁷⁵

¹⁹⁷¹ Crosland,T.9783-9784,9797-9798;P2554,para.1.

¹⁹⁷² Crosland,T.9783-9794,9797-9799,9891.

¹⁹⁷³ Jovanović,T.14910-14914.

¹⁹⁷⁴ P2645,paras.41-43;P2554,p.3,para.3.

¹⁹⁷⁵ Crosland,T.9788;P2645,paras.41-43;P2554,p.3,para.3.

788. During 1998, the international community expressed concern about the level of violence in Kosovo.¹⁹⁷⁶ Ojdanić was aware of these concerns via HRW reports¹⁹⁷⁷ and Security Council Resolutions.¹⁹⁷⁸ For example, on 20 July 1998, HRW sent letters to various high level bodies in the FRY including the VJ,¹⁹⁷⁹ seeking specific information on violations of human rights. At a meeting on 15 December 1998 with Drewienkiewicz, Ojdanić stated that the VJ would implement the UN Security Council Resolution 1199.¹⁹⁸⁰

b. Ojdanić knew of the crimes committed by forces of the FRY and Serbia operating in Kosovo in 1999

789. Ojdanić knew that the common plan could only be implemented by the use of force. He had detailed knowledge that crimes were being committed pursuant to the common plan. That he shared the intent to further the JCE can be inferred from his continued participation in planning and ordering operations through the VJ General Staff despite his knowledge of crimes.

790. On 26 March 1999, Louise Arbour sent a letter to Ojdanić urging him to exercise his command authority to prevent the commission of crimes and to punish his subordinates who violated international humanitarian law in Kosovo.¹⁹⁸¹ Ojdanić received this letter in early May 1999.¹⁹⁸²

791. Ojdanić was aware that thousands of Kosovo Albanians were being forcibly expelled from Kosovo. Through reporting structures within the VJ, Ojdanić was notified of a refugee crisis in Kosovo:

- On 29 March 1999, during a briefing of the SC Staff, Gajić (Deputy Chief of the Security Administration)¹⁹⁸³ reported that “there is now mention of 500,000 refugees as a humanitarian disaster.”¹⁹⁸⁴
- During a SC Staff Briefing on 30 March 1999, Gajić reported that “[...] humanitarian disaster is “raised” significantly to provide for accusations for further NATO operations.”¹⁹⁸⁵

¹⁹⁷⁶ Drewienkiewicz, T.7727-7728.

¹⁹⁷⁷ Abrahams, P2228, p.12; T.818, 829-831.

¹⁹⁷⁸ P455; P456. Radinović testified that Ojdanić was aware of this resolution: T.17265-17266.

¹⁹⁷⁹ P544; Abrahams, T.829-831. See also P545; P541; P546; P540; P542; P543; P545.

¹⁹⁸⁰ 3D438, p.2.

¹⁹⁸¹ P401.

¹⁹⁸² Vlajković, T.16024-16025; Radinović, 3D1116, para.347; Čurčin, 3D1121, para.18.

¹⁹⁸³ Gajić, 3D1084, paras.3,5,139.

¹⁹⁸⁴ 3D582, p.2.

¹⁹⁸⁵ 3D583, p.2.

- A PrK combat report dated 31 March 1999 stated that the MUP and VTOs were channelling “Šiptar refugees” to the Republic of Albania.¹⁹⁸⁶
- On 3 April 1999, during a SC Staff Briefing, Krga reported that, “they [NATO] claim that there are about 500,000 refugees” and suggested that refugee checkpoints be set up.¹⁹⁸⁷ In response, Ojdanić simply said, “prepare denials on refugees.”¹⁹⁸⁸
- At the VJC on 9 April 1999, Lt-General Blagoje Kovačević, Assistant Chief of General Staff for Operations and Staff Affairs, reported that the West had provided an estimate of 400,000 refugees.¹⁹⁸⁹
- At the SC Staff Briefing on 12 May 1999, Krga reported that the problem of refugees was being stressed in all conferences.¹⁹⁹⁰

792. In addition to the large scale expulsion of Kosovo Albanians, Ojdanić was aware of other crimes against Kosovo Albanians. For example:

- On 3 April 1999, during a SC Staff Briefing, Krga reported problems with looting and that 32 volunteers of the 175th Infantry Brigade had been sent back.¹⁹⁹¹
- On 5 April 1999, during the SC Staff Briefing, Colonel Gajić reported that bands stealing from the local population had appeared in Kosovo.¹⁹⁹²

[REDACTED]

[REDACTED]

[REDACTED]

- On 18 April 1999, during the SC Staff Briefing, Gajić reported a rape case from the 52nd Air Defence Artillery & Rocket Brigade and looting in the Đakovića area.¹⁹⁹⁵
- On 26 April 1999 or thereabouts, the SC Staff received a PrK request for the engagement of a forensic pathologist to exhume bodies buried in graves in Kosovo. Lazarević reported that “there are indications that members of the Army were responsible.”¹⁹⁹⁶

¹⁹⁸⁶ P2930,item 4.

¹⁹⁸⁷ 3D721,p.1,item 2.

¹⁹⁸⁸ 3D721,item 18.

¹⁹⁸⁹ P929,pp.33-34.

¹⁹⁹⁰ 3D612,p.1.

¹⁹⁹¹ 3D721,p.2,item 4. Gajić,T.15332-15333. Stojanović testified that this information was sent up the chain of command from the PrK Security Administration (T.19814).

¹⁹⁹² 3D723,item 2.

[REDACTED]

¹⁹⁹⁵ 3D589,item 2,p.1;Stojanović testified that piece of information was sent up the chain of command from the PrK Security Administration (T.19814). Gajić testified that the rape case was prosecuted (T.15317).

¹⁹⁹⁶ 5D379. See also 4D293.

- In early May 1999, the VJ Security Administration was informed that crimes were being committed in Kosovo and that volunteer groups were present there.¹⁹⁹⁷ Farkaš inspected the security organs in Kosovo between 5-6 May 1999¹⁹⁹⁸ and upon returning reported to Ojdanić that crimes were being committed in Kosovo and were not reported up to the SC Staff.¹⁹⁹⁹ There were rapes, looting and theft.²⁰⁰⁰
- On 6 May 1999, the SC Staff Intelligence Department reported that General Clark, “Assessed that there was no longer a possibility for the VJ to continue with ethnic cleansing in Kosovo.”²⁰⁰¹
- On 8 May 1999, Lt-Colonel Stevan Đurović, the Deputy of the PrK security met with Vasiljević in Belgrade and informed him about the crimes against civilians, committed by the military.²⁰⁰² These included a rape case and two murders.²⁰⁰³ Vasiljević instructed him to prepare a report.²⁰⁰⁴

793. Despite his awareness of crimes against civilians and excessive force from August 1998, Ojdanić took no concrete action. On 13 May 1999, he did meet with Farkaš, Vasiljević and Gajić to discuss crimes in the field.²⁰⁰⁵ Ojdanić then notified Milošević and ordered Pavković to come to Belgrade to provide a briefing on the crimes.²⁰⁰⁶ While Vasiljević’s impression was that this was the first time Ojdanić heard of these crimes,²⁰⁰⁷ Vasiljević returned to the VJ on 27 April 1999,²⁰⁰⁸ and thus was not in a position to know about Ojdanić’s prior notice of crimes, as set out above.

794. On 16 May 1999, Ojdanić met with Pavković, Farkaš, Gajić and Vasiljević to discuss the crimes.²⁰⁰⁹ Ojdanić was informed of problems with screening volunteers.²⁰¹⁰ Pavković reported that crimes had been committed by VJ units in the AOR of the Third Army.²⁰¹¹ He further reported that the MUP was making claims against the VJ regarding 800 bodies discovered on the ground for which the cause of death was not specified.²⁰¹² Pavković explained that only 271 of the bodies were in areas covered by the VJ and that 326 were killed in MUP territory.²⁰¹³ These numbers do not add

¹⁹⁹⁷ Vasiljević, P2600, para. 54. *See also* Gajić, T. 15281, 15285; 3D606, p. 3.

¹⁹⁹⁸ Gajić, 3D1084, paras. 153-154.

¹⁹⁹⁹ Farkaš, T. 16293-16294.

²⁰⁰⁰ Gajić, T. 15282-15283.

²⁰⁰¹ 3D770, p. 1, item 2.

²⁰⁰² Vasiljević, P2589, p. 48; P2600, para. 59.

²⁰⁰³ Vasiljević, P2589, p. 48; P2600, para. 59.

²⁰⁰⁴ Vasiljević, P2589, p. 48; P2600, para. 59.

²⁰⁰⁵ Vasiljević, P2600, para. 59; P2589, p. 48; Gajić, T. 15283.

²⁰⁰⁶ Vasiljević, P2600, para. 59; P2589, p. 48; Vasiljević, P2589, p. 48; P2600, para. 59.

²⁰⁰⁷ Vasiljević, P2600, paras. 59.

²⁰⁰⁸ Vasiljević, P2589, p. 7.

²⁰⁰⁹ Farkaš, T. 16295-16296; Vasiljević, P2600, para. 61; P2589, p. 48; Gajić, T. 15284-15485.

²⁰¹⁰ Vasiljević, P2600, paras. 61-62; Gajić, T. 15290.

²⁰¹¹ Farkaš, T. 16295; Gajić, T. 15286; Vasiljević, P2600, paras. 61-62.

²⁰¹² Vasiljević, P2600, para. 62.

²⁰¹³ Vasiljević, P2600, para. 62; P2589, p. 48; Gajić, T. 15286.

up to 800²⁰¹⁴ and excluded the 143 people killed in Izbica, where the 125th Mtbr was operating.²⁰¹⁵ Pavković also suggested that a state commission be set up to investigate these deaths to determine the respective liability of the MUP and the VJ in relation to any crimes.²⁰¹⁶

795. On 17 May 1999, Milošević, Ojdanić, Pavković, Farkaš, Vasiljević, Šainović, Gajić and Rade Marković (representing the MUP) met at the command post of the SC.²⁰¹⁷ As at the meeting the previous day, crimes against civilians such as murder and rape, and problems with volunteer groups were discussed.²⁰¹⁸ Marković stated that volunteers were “a necessary evil” in a war.²⁰¹⁹ Pavković reiterated his proposal for a state commission.²⁰²⁰ Again, the meeting did not result in any meaningful steps being taken.

796. In early June 1999, on Ojdanić’s orders, Vasiljević, Gajić and Antić visited the PrK security units.²⁰²¹ They saw widespread destruction in the rural areas. There were many dead animals and few civilians remained.²⁰²² Vasiljević and Gajić then wrote a report on the crimes committed by the MUP and VJ in Kosovo that they sent to Farkaš.²⁰²³ Farkaš told Vasiljević that on 8 June 1999 Ojdanić ordered the report to be sent to Milošević.²⁰²⁴

797. As late as 2 June 1999, during a SC Staff Briefing, Farkaš reported that, “Crimes are being committed by our units in Kosovo. Reports on these acts are not going through regular channels and lines of command. Are serious things happening that the global public is aware of?”²⁰²⁵ He further noted that, “there is an increasing number of perpetrators of crimes,” and specifically referred to 15 bodies (including women and children) being found in the area of the 15th Armoured Brigade.²⁰²⁶ On 8 June 1999, during a SC Staff briefing, Farkaš reported that, “there are problems involving humanitarian crime.”²⁰²⁷

798. On 9 July 1999, there was a follow-up meeting to the meeting of 17 May 1999.²⁰²⁸ It was presided by Ojdanić and attended by Vasiljević, Farkaš, Krga, Đorđević, Rade Marković, Obrad

²⁰¹⁴ Vasiljević,P2589,p.48;P2600,para.62.

²⁰¹⁵ Vasiljević,P2600,para.62;Gajić,T.15289.

²⁰¹⁶ Vasiljević,P2600,para.62.

²⁰¹⁷ Vasiljević,P2600,paras.63-64;P2589, pp.48-49; Gajić, T.15290.

²⁰¹⁸ Vasiljević,P2600,paras.63-64;P2589,pp.48-51.

²⁰¹⁹ Vasiljević,P2600,para.66;Vasiljević,P2589,p.49.

²⁰²⁰ Vasiljević,P2589,p.50;Farkaš,T.16297.

²⁰²¹ Vasiljević,P2600,para.75;Gajić,3D1085,para.157;T.15291-15294.

²⁰²² Vasiljević,P2600,para.76.

²⁰²³ Vasiljević,P2600,para.86.

²⁰²⁴ Vasiljević,P2600,para.86.

²⁰²⁵ 3D633,item 3.

²⁰²⁶ 3D633,item 3. Vladimir Marinković testified that they were not able to complete their investigations due to the KLA and this was reported up the chain of command on 2 June 1999 (T.20312-20313).

²⁰²⁷ 3D479,item 3.

²⁰²⁸ Vasiljević,P2600,para.90.

Stevanović and Stojiljković.²⁰²⁹ Stojiljković reported that only 16 MUP members were being processed for crimes.²⁰³⁰

799. Ojdanić also had notice of crimes committed by units subordinated to the MUP. For example, during the meeting on 13 May 1999, Ojdanić was given a Security Administration report to the SC Staff.²⁰³¹ The report stated that a paramilitary group of about 100 Skorpion volunteers under the command of Slobodan Medić, had looted Albanians homes in the Podujevo area between 27-31 March 1999.²⁰³² There were also reports that on 31 March 1999, they had murdered 10 Albanian children and two elderly people.²⁰³³ The report also stated that this unit was expelled by the VJ's 354th Brigade operating in the area.²⁰³⁴ Notorious paramilitary groups such as the Skorpions and Arkan's Tigers that were subordinated to the MUP committed serious crimes against civilians. These crimes were discussed during the meetings on 16 and 17 May 1999.

800. Krga testified that during the first few weeks of the war, there were many reports in the foreign media of thousands of Kosovo Albanian civilian refugees pouring out of Kosovo.²⁰³⁵ During SC Briefings, there was regular reporting on media coverage of the war.²⁰³⁶ For example, on 4 May 1999, Colonel Novković reported to the SC Staff that the substance of the headlines in the foreign press was mass killings in the FRY.²⁰³⁷ As the VJ monitored the international media, Ojdanić must have received this information via the VJ reporting system.

801. On 1 April 1999, Drewienkiewicz gave a press statement on crimes committed against Kosovo Albanian civilians (deportation, theft, looting, property damage).²⁰³⁸ He noted that Podujevo was "almost deserted",²⁰³⁹ and stated that around 1500 women, children, old and infirm were put on a train in Priština and taken south. They were told by Serb forces, "Macedonia is that way [...] do not come back or you will be killed."²⁰⁴⁰ He also reported that 6,000-8,000 refugees entered Macedonia the previous day, 50,000 refugees were waiting to cross the border and that on

²⁰²⁹ Vašiljević, P2600, para. 90.

²⁰³⁰ Vašiljević, P2600, para. 90.

²⁰³¹ 3D1055; Gajić, T. 15284.

²⁰³² 3D1055.

²⁰³³ 3D1055.

²⁰³⁴ 3D1055.

²⁰³⁵ Krga, T. 16899. *See also* 3D906 (reference to CNN).

²⁰³⁶ 3D580, p. 3 (Živanović); 3D719, p. 2 (Živanović); 3D586, p. 2; 3D587, item 7; 3D589, item 6; 3D590, p. 2; 3D604, p. 2 (Novković); 3D609, p. 1 (Krga), p. 2 (Novković); 3D612, p. 1 (Krga), p. 2 (Novković); 3D615, item 8 (Novković); 3D906. For example, during SC Briefings, there was regular reporting on media coverage of the war. Moreover, during a Briefing to the SC Staff on 14 April 1999, Ojdanić stated, "Figure out a way to fight the media battle, if untruths are launched it could be difficult." 3D585, p. 4.

²⁰³⁷ 3D604, p. 1.

²⁰³⁸ P2542, p. 3.

²⁰³⁹ P2542, p. 2; Drewienkiewicz, T. 7815.

²⁰⁴⁰ P2542, p. 3.

that day, another 7,000 refugees arrived by train.²⁰⁴¹ He added that these refugees were lucky as they had escaped.²⁰⁴²

802. On 24 May 1999 after the ICTY Indictment against Milošević *et. al*, was made public. Ojdanić was put on notice of the charges against him, the specific crimes being alleged and their widespread nature.²⁰⁴³ These charges overlap with those in the Indictment in the present case.

803. Finally, as a result of the widespread reporting from many sources of the alleged crimes committed in Kosovo in 1998, Ojdanić was aware of the criminal propensities of units in Kosovo and the likelihood that these units would commit crimes during the Indictment period. For example, volunteers who were joining units in Kosovo had criminal backgrounds.²⁰⁴⁴

804. Ojdanić was also aware that certain military tactics used during the operations in 1998 would lead to the commission of serious violations of humanitarian law. As Chief of the VJ General Staff/SC Staff, he had the responsibility to ensure that such tactics would not be employed again in Kosovo in 1999. However, he failed to take effective measures to control the situation on the ground and to prevent the commission of crimes by units under his command or to punish perpetrators.

805. In light of the overwhelming evidence of a criminal enterprise to persecute and forcibly remove Kosovo Albanians through combat operations, the only reasonable inference arising from Ojdanić's failure to take the necessary and reasonable measures to prevent his subordinates from committing crimes or to or punish them for crimes they had committed is that he intended the commission of the crimes.

(iii) Conclusion of JCE

806. For the reasons above, Ojdanić is responsible for the crimes charged in the Indictment pursuant to Article 7(1) of the Statute as a co-perpetrator. Many of the members of the VJ, MUP and other armed organisations who directly perpetrated the crimes shared the common intention of the JCE. Where they did not, Ojdanić used them to commit the crimes charged.

807. Should the Trial Chamber find that any of these crimes were outside the common purpose, Ojdanić is nevertheless liable for these crimes as they were natural and foreseeable consequences of

²⁰⁴¹ P2542,p.4;Drewienkiewicz,T.7815.

²⁰⁴² P2542,p.4.

²⁰⁴³ P968,paras.90-100.

²⁰⁴⁴ P1938,p.2;P1479,item 8.

the implementation of the JCE. Ojdanić, with the awareness that these crimes were a possible consequence of its execution, willingly took that risk and decided to participate in the enterprise.

(iv) Other forms of participation under Article 7(1)

808. If the Trial Chamber were to find that the evidence does not establish beyond reasonable doubt that Ojdanić participated in the JCE, Ojdanić bears individual criminal responsibility pursuant to Article 7(1) for ordering, planning, instigating, or aiding and abetting the crimes charged in the Indictment.

809. The evidence set out above establishes the criminal responsibility of Ojdanić on the basis of planning and ordering under Article 7(1) of the Statute. This evidence combined with Ojdanić's failure to discipline troops who committed crimes, establish his criminal responsibility on the basis of instigating.

810. In the alternative, Ojdanić aided and abetted the commission of such crimes. Ojdanić permitted and facilitated the involvement of VJ personnel and resources in combat activities in Kosovo. By his participation in the SDC/SC with Milošević, Milutinović and Šainović, Ojdanić lent material and moral support to the members of the JCE. Ojdanić also failed to discipline his immediate subordinate, Pavković. By abstaining from taking any substantive disciplinary measures against the VJ personnel and other members of subordinated units who had committed crimes in Kosovo, he encouraged and morally supported the direct perpetrators of crimes against the Kosovo Albanian population. Ojdanić knew of the commission of widespread crimes by the forces of the FRY and Serbia and was aware that he was assisting to the commission of such crimes.

(b) Superior Responsibility of the VJ accused

(i) The system of military discipline and justice

811. The following documents established the VJ system of military discipline and defined the FRY's obligations under international humanitarian law:

- The 1992 Constitution of the FRY;²⁰⁴⁵
- The 1994 Law on Defence;²⁰⁴⁶
- The 1994 Law on the VJ;²⁰⁴⁷

²⁰⁴⁵ 1D139.

²⁰⁴⁶ P985.

- The FRY Criminal Code;²⁰⁴⁸
- Regulations on the Application of International Laws of War in the Armed Forces of the SFRY²⁰⁴⁹ and;
- VJ Rules on Service.²⁰⁵⁰

812. The President of the FRY issued the law regulating military discipline.²⁰⁵¹ Service members may be held responsible for disciplinary violations which are classified as either disciplinary infractions (minor violation of military discipline) or disciplinary offences (serious violations of military discipline).²⁰⁵²

813. The Criminal Code of the FRY defines as substantive offences both violations of military discipline and offences against international humanitarian law.²⁰⁵³

814. The Regulations on the Application of the International Laws of War in the Armed Forces of the SFRY affirm the FRY's commitment and obligations under the international laws of war.²⁰⁵⁴

815. Beginning at Article 291, the VJ Rules of Service refer to disciplinary matters.²⁰⁵⁵

(ii) The establishment of military courts

816. The FRY Constitution established military tribunals and military prosecutors.²⁰⁵⁶ The FRY Law on Military Courts and Law on Military Prosecutors set out the legal infrastructure for prosecuting crimes committed by the VJ.²⁰⁵⁷

817. Pursuant to the Law on Military Courts, trials are held in military courts of first instance and appeals are sent to the Supreme Military Court, or in some instances, the Federal Court.²⁰⁵⁸ Military courts are independent in their judicial work.²⁰⁵⁹

²⁰⁴⁷ P984.

²⁰⁴⁸ P1736.

²⁰⁴⁹ P998.

²⁰⁵⁰ 4D532.

²⁰⁵¹ P984, Art.173. *See also* P984, Arts.159-206.

²⁰⁵² P984, Art.159-160. *See also* Art.177 *et seq.*

²⁰⁵³ *See* P1736, Arts.142,145,146,151,154,203(8).

²⁰⁵⁴ P998, p.5 (Introduction).

²⁰⁵⁵ 4D532.

²⁰⁵⁶ 1D139, Art.138.

²⁰⁵⁷ P1309.

²⁰⁵⁸ P1309, Arts.15-25.

²⁰⁵⁹ P1309, Art.2.

818. With regards to jurisdiction, military courts are responsible for investigating crimes allegedly committed by members of the armed forces, although all military officers have a duty to assist in detaining suspects and preserving evidence.²⁰⁶⁰ War crimes, crimes against humanity, and other crimes under international law, when committed by a member of the VJ, fall within the jurisdiction of military courts.²⁰⁶¹

819. The Law on the Military Prosecutors defines the mandate of the military prosecutors. The Military Prosecutor is an independent state organ that prosecutes crimes within the jurisdiction of the military courts.²⁰⁶² The Supreme Military Prosecutor sits in Belgrade, and the military prosecutors of first instance sit in Belgrade, Niš and Podgorica.²⁰⁶³ The military prosecutors have both the right and the duty to undertake appropriate investigative and prosecutorial actions against those who commit crimes within the jurisdiction of the military court.²⁰⁶⁴ During a war, the military prosecutors of first instance cease to work, and the Supreme Military Prosecutor establishes military prosecutors of first instance at various military commands.²⁰⁶⁵

(c) Dragoljub Ojdanić's Individual Criminal Responsibility under Article 7(3) of the Statute

(i) Superior-Subordinate Relationship

820. As the highest ranking officer in the VJ, Ojdanić exercised *de jure* and *de facto* control over the VJ units and other forces subordinated to the VJ including the VTOd and volunteers. Ojdanić had effective control over his subordinates.²⁰⁶⁶ Ojdanić issued orders and directives that were implemented down the chain of command. This evidence proves this element of criminal liability under Article 7(3).

821. On 25 March 1999, Ojdanić activated the system for conducting military trials in wartime and ordered the immediate mobilisation of military courts, war time military prosecutors in the commands, units, Supreme Military Court and Supreme Military Prosecutor.²⁰⁶⁷ It was implemented by the Third Army on 28 March 1999.²⁰⁶⁸ Once a state of war was proclaimed in the territory of the FRY, the military courts and military prosecutors ceased to operate and the military war courts and military war prosecutors assumed responsibility. Ojdanić had the authority and

²⁰⁶⁰ P1309, Arts. 60-62.

²⁰⁶¹ P1309.

²⁰⁶² P1309, Art. 1.

²⁰⁶³ P1309, Art. 2.

²⁰⁶⁴ P1309, Arts. 6-9.

²⁰⁶⁵ P1309, Art. 36.

²⁰⁶⁶ See P984, Art. 6; Vasiljević, P2600, p. 5, para. 15

²⁰⁶⁷ P1470. See also 3D800, item 6.

²⁰⁶⁸ P1011, p. 79.

material ability to maintain discipline within VJ and subordinate units under his command, in compliance with the FRY obligations under international law. Additionally, orders issued by Ojdanić on compliance with international humanitarian law further confirm his authority and material ability to prevent or punish.²⁰⁶⁹

822. During all times relevant to the Indictment, there was a functioning military discipline and justice system within the VJ.²⁰⁷⁰

(ii) Ojdanić knew or had reason to know that his subordinates were about to commit crimes or had done so

823. Ojdanić had overwhelming information that put him on notice that units under his command were about to or had committed crimes. He also had notice of crimes committed by the MUP. The crimes were of a widespread and systematic nature and occurred over substantial period of time, namely between 24 March 1999 and early June 1999. At the very latest, Ojdanić had notice in late May 1999 when the Indictment in the *Prosecutor v. Slobodan Milošević et al.* was made public.²⁰⁷¹ Ojdanić also had reason to know that units under his command were about to commit crimes, having had notice of the criminal propensities of volunteers and paramilitaries. He was also aware that tactics employed during operations in 1998 could lead to serious violations of international law.

(iii) Failure to take measures to prevent or to punish

Failure to prevent

824. The VJ General Staff issued orders and instructions on the need to avoid activities proscribed by international humanitarian law, FRY law and VJ regulations. Nevertheless, the mere issuance of instructions and orders is insufficient to meet the responsibilities which commanders need to take to prevent crimes.

825. At the 18 April 1999 Briefing of the SC Staff, Ojdanić ordered Čurčin to distribute the ICRC brochure and copies of the Geneva Conventions to all units from the independent battalion upwards.²⁰⁷² On 19 April 1999, Čurčin reported that 1,300 copies of the ICRC brochure had been distributed.²⁰⁷³ Radinović stated that of the 1,300 copies (he refers to the Rules of Conduct for Combatants) ordered by the SC, the largest portion was sent to the Third Army.²⁰⁷⁴ However, this

²⁰⁶⁹ See e.g. P1486;3D483;P1454;P1902.

²⁰⁷⁰ P1917.

²⁰⁷¹ P968.

²⁰⁷² Gajić,3D1084,pp.21-22,para.145.

²⁰⁷³ Gajić,3D1084,pp.21-22,para.145.

²⁰⁷⁴ Radinović,3D1116,p.149,para.189.

totalled only 350 copies: given the number of soldiers deployed in Kosovo in 1999, this was clearly insufficient.²⁰⁷⁵

826. Ojdanić's response to crimes committed by volunteers illustrates his failure to take necessary and reasonable steps to prevent crimes. In his order dated 7 April 1999, Ojdanić refers to "earlier negative experiences with a number of volunteers (looting, setting fire to houses, etc.)."²⁰⁷⁶ Having had notice of volunteers' criminal propensities, Ojdanić should have ensured strict enforcement of his orders. Instead he merely issued repeated orders which were not complied with and failed to take necessary and reasonable measures to punish them.

827. On 10 April 1999, the Third Army reported serious problems in volunteer screening.²⁰⁷⁷ As a consequence, some volunteers with criminal backgrounds had been deployed to war units.²⁰⁷⁸ Moreover, rape, murder and robbery had been committed by some volunteers.²⁰⁷⁹ Although this report identified alarming systemic problems, on 14 April 1999, Ojdanić merely issued another order about the strict criteria for volunteers screening.²⁰⁸⁰ Moreover, past paramilitary involvement did not prevent the admission of an individual volunteer, if other criteria had been complied with.²⁰⁸¹

828. Despite these orders, on 20 April 1999, the SC Staff reiterated the concerns raised by the Third Army 10 days before.²⁰⁸² These related to volunteer screening in the Bubanj Potok PC and volunteers being detained for murder, rape, refusal to obey orders and desertion.²⁰⁸³ On 26 April 1999, Ojdanić simply issued another order.²⁰⁸⁴ On 4 May 1999, Ojdanić issued an order on preventing the abuse of weapons,²⁰⁸⁵ indicating that in addition to the other crimes, volunteers had also been abusing their weapons. The order also noted mental health issues amongst volunteers.²⁰⁸⁶ Ojdanić then issued another preventative order on 10 May 1999.²⁰⁸⁷ At the meetings on 16 and 17 May 1999, more than a month after Ojdanić's initial order on volunteer screening,²⁰⁸⁸ the on-going problems in this process were raised again. Despite *prima facie* attempts to control the

²⁰⁷⁵ By 24 March 1999, the PrK had around 14,000 men (Lazarević, T.17969).

²⁰⁷⁶ P1479, item 8.

²⁰⁷⁷ P1938.

²⁰⁷⁸ P1938, p.2.

²⁰⁷⁹ P1938, p.2.

²⁰⁸⁰ 3D481.

²⁰⁸¹ 3D481, item 2.1.

²⁰⁸² P1943.

²⁰⁸³ P1943, p.2.

²⁰⁸⁴ P1902, item 1.

²⁰⁸⁵ P1688.

²⁰⁸⁶ P1688, p.2.

²⁰⁸⁷ 3D483.

²⁰⁸⁸ P1479.

incorporation of volunteers and paramilitaries into the unit, the weak screening process led to the failure to prevent the commission of crimes by volunteers and paramilitaries.

829. Gajić identified Colonel Štupar as a VJ commander who “assisted” volunteers in “sidestepping” the screening process, but was not able to explain why no steps were taken against him.²⁰⁸⁹ This lack of clarity over disciplinary measures taken against a VJ officer who was known to have facilitated the admission of individuals with criminal propensities into the VJ underlines Ojdanić’s failure to take reasonable steps to prevent crimes when he had reason to know that his subordinates were about to commit a crime. Immediate action against officers responsible for failing to implement the screening process would have been necessary and reasonable. Ojdanić had the authority to suspend field commanders.²⁰⁹⁰ Given the scale and prevalence of the crimes, robust and specific measures such as investigating and removing senior officers involved would have been appropriate. Moreover, the acceptance of individual paramilitaries as volunteers should have been prohibited due to their criminal propensities.

830. On the face of it, the VJ had a formal system of screening volunteers to eliminate unsuitable volunteers. However, as set out above, the screening process proved manifestly inadequate in controlling the admission of criminal groups into the VJ. Beyond issuing routine instructions to observe the law, Ojdanić should have taken steps to ensure their implementation. By failing to do so, he failed to take reasonable and necessary to prevent the commission of crimes.

Failure to punish

831. In relation to punishing perpetrators, the VJ’s obligations included initiating proceedings by reporting crimes to the military courts.²⁰⁹¹

832. The VJ failed to take necessary and reasonable measures to report crimes. The number of prosecutions for serious violations is not commensurate with the scale of the crimes, the widespread nature of the attacks against the civilian population and the high number of victims alleged in the Indictment. Notwithstanding evidence that the VJ investigated and reported crimes to the relevant courts, the types of crimes alleged in the Indictment, i.e. serious crimes against civilians, such as murder, forcible displacement and rape were not reported with equal diligence as crimes against the VJ like absenteeism. The Defence have tendered into evidence numerous documents about the

²⁰⁸⁹ Gajić, T.15311-15313. Vasiljević also named this individual. Vasiljević, P2600, para.27.

²⁰⁹⁰ Radinović, T.17232-17233.

²⁰⁹¹ Mladenović, T.21246; Gojović, T.16706; Radosaljević, para.23; 4D502.

prosecution of crimes.²⁰⁹² These documents do not generally identify the specific crime being reported, and therefore do not assist in determining whether the types of crimes charged in the Indictment were reported with due diligence.

833. Gojović, Head of the Legal Department of the VJ General Staff testified that only 12 per cent of the crimes prosecuted by the military courts related to war crimes, crimes against life and limb, i.e. the types of crimes charged in the Indictment.²⁰⁹³ The remaining 88 per cent related to crimes such as desertion, evading military service or failure to answer call up.²⁰⁹⁴ Between 24 March and 10 June 1999, only 39 VJ soldiers were prosecuted for crimes against life and limb (this included murders).²⁰⁹⁵ Most prosecutions did not relate to crimes against civilians; the focus of the military justice system was crimes against the VJ such as failure to answer the call-up, desertion, infractions of VJ discipline,²⁰⁹⁶ and crimes related to morale and combat readiness.

834. As the military justice system was functioning well, the manifestly inadequate prosecution of crimes against ethnic Albanian civilians was clearly a consequence of the military's failure to report these types of crimes to the military courts.

835. Ojdanić knew that the Third Army was not diligently reporting crimes up the chain of command.²⁰⁹⁷ Ojdanić was well aware of problems in the reporting system of the VJ, namely the "bottleneck" in the reporting chain between the Third Army and the VJ General Staff.²⁰⁹⁸ He was aware that Pavković was responsible for this obstruction from as early as December 1998.²⁰⁹⁹ Nevertheless, it is evident that necessary and reasonable measures were not taken as these problems in the reporting system that were caused by the Third Army/Pavković were raised again at the VJC on 30 December 1998,²¹⁰⁰ 2 February 1999²¹⁰¹ and 18 March 1999.²¹⁰² Obradović testified that in March 1999, Ojdanić headed a team to visit the Third Army to resolve these problems. However, the visit was prior to the VJC on 18 March 1999,²¹⁰³ indicating that he failed to take adequate steps to resolve the problem.

²⁰⁹² See 3D864;3D865;3D866;3D867;3D868;3D869;3D870;3D871;3D872;3D873;3D874;3D875. Item 3.3 of these exhibits set out figures relating to the military justice system. For example, the total number of criminal reports filed, indictments issued, sentences passed, or persons charged.

²⁰⁹³ Gojović, T.16743-16744;P2826;P953.

²⁰⁹⁴ Gojović, T.16743-T.16744. P1736, pp.100-101, Arts.214,217.

²⁰⁹⁵ P955; Gojović, T.16720.

²⁰⁹⁶ P1912;P1939;P1940;P1941.

²⁰⁹⁷ See P928, p.14;P931, pp.15-16;P933, p.15.

²⁰⁹⁸ Farkaš, T.16318-16321.

²⁰⁹⁹ 3D484, pp.13-15.

²¹⁰⁰ P928, p.14.

²¹⁰¹ P931, p.15.

²¹⁰² P938, pp.11,21.

²¹⁰³ Obradović, T.15110-15112.

836. Following his visit to Kosovo in June 1999, Farkaš personally informed Ojdanić of this “bottleneck” in reporting.²¹⁰⁴ While Farkaš testified that the measures were taken to punish perpetrators, and the issue was simply the lack of reporting,²¹⁰⁵ this is not credible, in light of the disproportionately small number of prosecutions for serious crimes against civilians, given the scale and type of the crimes alleged in the Indictment.

837. It would have been reasonable for Ojdanić to have suspended Pavković while investigating the complaints against him. While Ojdanić instituted inspections, there were no investigations/disciplinary actions taken against Pavković.²¹⁰⁶ Instead Ojdanić oversaw his promotion to Commander of the Third Army²¹⁰⁷ and to the rank of colonel general on 31 March 1999.²¹⁰⁸

838. Given the scale of the crimes alleged in the Indictment, Ojdanić’s responses were delayed and inadequate. While Ojdanić attended the meetings of 16 May 1999, 17 May 1999 and 9 July 1999, there were no concrete measures adopted in relation to preventing or punishing crimes. Despite being alerted to a large number of bodies on the ground and crimes being committed by paramilitaries, after the meeting on 17 May 1999, Ojdanić simply reported to the SC Staff that the security organs of the Third Army were working on uncovering crimes.²¹⁰⁹ Moreover, the commission to investigate crimes that was proposed during the meetings on 16 May 1999 and 17 May 1999 did not come into being.

839. Following the meeting on 17 May 1999, Ojdanić sent Gajić and Vasiljević to Kosovo to investigate the crimes. However, they reported on only 42 crimes committed by the VJ and the MUP.²¹¹⁰ This figure is significantly lower than indicated by the widespread and systematic nature of the serious crimes alleged in the *Prosecutor v. Slobodan Milošević et al.*²¹¹¹ Despite the mention at the May meetings of 800 bodies of which, at least, 271 were found in the areas covered by the VJ,²¹¹² this issue is not followed up. Moreover, the report produced by Gajić and Vasiljević went missing and remains missing.²¹¹³

²¹⁰⁴ Farkaš, T.16318-16321.

²¹⁰⁵ Farkaš, T.16318-16321.

²¹⁰⁶ Radinović, T.17323-17325.

²¹⁰⁷ P1000, p.9.

²¹⁰⁸ Order on Agreed Facts, pp.13-14.

²¹⁰⁹ 3D618, p.3, item 3.

²¹¹⁰ Vasiljević, P2600, para.87.

²¹¹¹ P968, paras.90-100.

²¹¹² Vasiljević, P2600, p.16, para.62.

²¹¹³ Vasiljević, P2600, p.24, para.86.

840. Further, during the meeting of 9 July 1999, it was reported that only 16 MUP members were being processed for crimes.²¹¹⁴ While this was a follow-up (with the MUP) to the meeting of 17 May 1999, steps were not taken to resolve the matter of the 326 bodies found in the area of MUP operations; the processing of only 16 perpetrators is inadequate and unreasonable when such a large number of bodies remained unaccounted for. Yet there were no calls made for accountability by senior MUP officials.

841. In late May 1999, having had notice of the crimes charged in the *Prosecutor v. Slobodan Milošević et al.*,²¹¹⁵ Ojdanić failed to order immediate investigations into these allegations that concretely set out the scale and widespread nature of the crimes charged, and his specific criminal liability. Ojdanić thus failed to take reasonable and necessary measures to punish perpetrators of these crimes.

Conclusion

842. Ojdanić exercised effective control over VJ 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 these units. Ojdanić 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.

4. Nebojša Pavković

(a) Nebojša Pavković's Individual Criminal Responsibility under Article 7(1) of the Statute

(i) Pavković is responsible for the crimes charged in the Indictment as a member of the JCE

843. The evidence proves beyond reasonable doubt that General Nebojša Pavković was a member of the JCE charged in the Indictment and that he significantly contributed to its implementation.

844. Pavković was the commander of the PrK from 9 January 1998 until his promotion at the end of the year to the position of Third Army Commander.²¹¹⁶ Upon assuming command of the Third

²¹¹⁴ Vasiljević, P2600, p.25, para.90.

²¹¹⁵ P968.

²¹¹⁶ Order on Agreed Facts, p.13; P1000.

Army on 13 January 1999,²¹¹⁷ Pavković was the highest strategic-level commander responsible for Kosovo.

845. Through his acts and omissions, Pavković significantly contributed to the JCE:

- Pavković commanded, ordered, planned, and coordinated VJ operations in controlled joint VJ-MUP combat operations;
- Pavković supported the policy of arming non-Albanians civilians and disarming of Kosovo Albanians; and
- Pavković violated the October Agreements.

846. Pavković shared the intent of other JCE members to change the ethnic balance in Kosovo through the commission of the crimes charged. He 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.

a. Pavković commanded, ordered, planned, and coordinated VJ operations in Kosovo

847. As Commander of the Third Army, Pavković was a direct subordinate of Ojdanić and a direct superior to Lazarević.²¹¹⁸ Pavković exercised command authority over the Third Army and subordinate units.

848. That there was an uninterrupted chain of command from the VJ General Staff/ SC Staff through the Third Army, PrK, brigades and subordinated units is illustrated by the following examples:²¹¹⁹

- On 4 April 1999, following an inspection tour of subordinate units, Pavković issued an order to address observed shortcomings.²¹²⁰ The following day Lazarević issued his own order down to his subordinate units with detailed instructions and a requirement to report back.²¹²¹
- On 20 April 1999, Pavković, pursuant to an order of the SC Staff, issued an order to the PrK and Niš Corps to issue orders regarding the resubordination of MUP units to the VJ for combat actions.²¹²² That same day Lazarević sent his order to his subordinates.²¹²³

²¹¹⁷ P800.

²¹¹⁸ Stojimirović, T.17645.

²¹¹⁹ P949, p.81.

²¹²⁰ 5D369.

²¹²¹ 5D364.

- On 13 May 1999, Pavković, pursuant to a SC Staff order, issued an order to evacuate VJ personnel from school buildings.²¹²⁴ Lazarević testified that he received the order and issued his own to his subordinates.²¹²⁵

849. Pavković spent 95 percent of his time in Kosovo at a forward command post during the NATO bombing campaign,²¹²⁶ made daily visits to the field,²¹²⁷ and personally toured his combat units.²¹²⁸ His personal presence in the field augmented his authority.

850. During the Indictment period, Pavković reviewed the work, order, and discipline of all units of the PrK and those subordinated to it.²¹²⁹

Reporting

851. The Third Army's reporting structure included regular and extraordinary combat reports in addition to daily communications from the combat units up the chain to the PrK, the Third Army and on to VJ General Staff/SC Staff.²¹³⁰ Extraordinary combat reports regularly received by Pavković contained notations of any criminal activity in his subordinate units.²¹³¹ While stationary communications points were often disrupted during the NATO bombing, alternative means such as mobile communications units, radios and couriers were employed.²¹³²

852. The Trial Record is replete with examples of a well-functioning reporting system through which Pavković regularly received information from subordinates.²¹³³

b. Through the Joint Command, Pavković commanded and controlled joint VJ-MUP combat operations

853. Pavković reported that in 1998 he attended four top-level meetings regarding the crisis in Kosovo and the Plan to Suppress Terrorism.²¹³⁴ The first meeting was held on 30 May 1998 and attended by Milošević, Milutinović, Perišić, Dimitrijević, Samardžić, and Pavković; and MUP

²¹²² P1457;P1722.

²¹²³ P1504.

²¹²⁴ P1462.

²¹²⁵ Lazarević,T.18680.

²¹²⁶ P949,p.270;Lazarević T.18080.

²¹²⁷ P949,p.270.

²¹²⁸ Starcević,T.17436.

²¹²⁹ P1078.

²¹³⁰ P949,p.184;Obradović,T.17362, 17402.

²¹³¹ Vasiljević,P2600,p.14.

²¹³² Janković,T.17557-17559.

²¹³³ 4D371;5D84;5D85;P2006;P2016.

²¹³⁴ P949,pp.321,330,395.

leaders Stanišić, Đorđević, Marković, Stevanović and Lukić.²¹³⁵ The purpose of the meeting was adopting the plan for “fighting terrorism in Kosovo” and forming a joint command.²¹³⁶

854. Sometime after the first meeting, “perhaps mid— or late June” Milošević called Perišić and Dimitrijević to discuss his idea to appoint Pavković as the commander of all forces, the military and the MUP, in Kosovo. Perišić and Dimitrijević opposed the idea and Milošević seemed to accept their position.²¹³⁷

855. As discussed in Section II(C)(3)(b)(iii), beginning in June 1998, the Joint Command was the body which provided coordination between the MUP and the VJ. Đaković recalls first using the term “Joint Command” in a 6 July 1998 order from the PrK to subordinate units.²¹³⁸ He also used the term in his notebook (P1468) after discussing the matter with Pavković.²¹³⁹ Đaković testified that initially the term “Joint Command” meant only “General Lukić and General Pavković, no one else”.²¹⁴⁰

856. In June or July 1998, General Samardžić tried to initiate disciplinary proceedings against Pavković for having disobeyed a prior order barring use of units without an order from the General Staff.²¹⁴¹ Instead of being disciplined, Pavković, “a favourite of the President” (Milošević), was promoted.²¹⁴²

857. On 21 July 1998, at the second meeting with President Milošević concerning the Kosovo situation the order was given to implement the Plan to Suppress Terrorism in Kosovo.²¹⁴³ This meeting was attended by the same high-ranking officials who attended the first meeting, except for Stojiljković instead of Stanišić. In addition, civilians Šainović, Minić, Matković, and Anđelković were present.²¹⁴⁴ Pavković briefed Milošević on the plan to be carried out by MUP forces.²¹⁴⁵ That same day, Pavković was promoted by Milošević to the rank of Lieutenant General.²¹⁴⁶

858. At least two additional top-level meetings regarding Kosovo and the Plan to Suppress Terrorism were held in Belgrade. They took place on approximately 4 August and 31 August, and

²¹³⁵ P949,p.321-322.

²¹³⁶ P949,pp.322,325.

²¹³⁷ P949,pp.26592-26593.

²¹³⁸ Đaković,T.26378; P2113; 5D481.

²¹³⁹ Đaković,T.26378-26379;Kotur,T.20714-20715 “So Pavković coined this term "Joint Command.”

²¹⁴⁰ Đaković,T.26381-26382.

²¹⁴¹ Dimitrijević,T.26623,26881;P922,p.3.

²¹⁴² Dimitrijević,T.26623,26625,26681-26686.

²¹⁴³ 4D100,4D101,4D102;Matković,T.14634-14637 the Plan is also sometimes referred to as the “Global Plan” in MUP documents, e.g., 6D798).

²¹⁴⁴ P949,p.331.

²¹⁴⁵ 4D102.

²¹⁴⁶ P1510;Dimitrijević,T.26623.

were attended by most of the same people who attended on 21 July.²¹⁴⁷ Given the composition of this group and the subject matter of their meetings, the obvious inference is that they are the ones referred to as the “Operations Inter-Departmental Staff for the Suppression of Terrorism in Kosovo” which also met on 29 October 1998 to discuss the results of Pavković’s Plan to Suppress Terrorism.²¹⁴⁸

859. Immediately after the 21 July 1998 meeting in Belgrade, the Joint Command began meeting in Priština.²¹⁴⁹ As both the VJ and MUP were represented at the meetings, as well as the civilians (Minić, Šainović, Matković and Andelković), there was an almost daily exchange of information between Joint Command members.²¹⁵⁰ This reporting included individual operations as well as joint operations. A detailed reading of the notes of the 1998 Joint Command meetings shows that Pavković took an active part in the decision-making process regarding the objectives, timing and scope of joint operations in Kosovo, in particular with regard to implementation of the Plan to Suppress Terrorism.²¹⁵¹

860. In 1998, Pavković’s superior commanders did not appear to be as supportive of the Joint Command as was Pavković. On 23 July 1998, Perišić wrote to Milošević to complain about “negative facts” including “attempts to command the VJ by unauthorised persons” (with specific reference to Šainović and Minić — “the civilian part of the Staff” — and their interactions with Pavković); “bypassing levels of command”; and “personnel policies” (promotions of generals²¹⁵² and colonels without a law or decree or criteria).²¹⁵³ At the Operations Inter-Departmental Staff for the Suppression of Terrorism meeting on 29 October 1998, after Pavković’s report on the work of the Joint Command in implementing the Plan for the Suppression of Terrorism, Perišić complained that “the situation in KiM does not correspond to the way it is depicted by certain members of the Joint Command.”²¹⁵⁴

861. Dimitrijević was another vocal critic of Pavković’s use of the army and the way he was reporting those activities in both 1998 and in 1999 after Pavković moved up to the Third Army.²¹⁵⁵

²¹⁴⁷ P949,p.395.

²¹⁴⁸ P2166.

²¹⁴⁹ P1468.

²¹⁵⁰ P1468.

²¹⁵¹ See e.g. P1468,pp.17,25,84,125,155.

²¹⁵² P1510. Pavković had just been promoted two days earlier from Major-General to Lieutenant General. In an RTS television interview October 2000, Pavković says that he got “early promotions five times” including one in 1998 and one in 1999 (P1319,p.9). See also Order on Agreed Facts, p.13-14.

²¹⁵³ P717.

²¹⁵⁴ P2166,p.12.

²¹⁵⁵ 3D646,p.9;P925,p.10;3D559,p.20;P933,pp.9,15;Dimitrijević,T.26674.

862. Samardžić also had to be reminded by his subordinate, Pavković, on more than one occasion about the authority that lay behind the Joint Command and the Plan to Suppress Terrorism.²¹⁵⁶ By the end of 1998, both Samardžić and Perišić had been replaced, and Pavković had been appointed as Commander of the Third Army. On the eve of the NATO campaign, Dimitrijević was also replaced because as he said “people who were opposed to certain things were simply not acceptable anymore.”²¹⁵⁷ The Joint Command continued to function through to at least 1 June 1999.²¹⁵⁸

863. Pavković took a leading role in the implementation of this Plan as evidenced by his comments and active participation in Joint Command meetings²¹⁵⁹ during 1998. He issued numerous orders for joint VJ-MUP actions to implement this Plan.²¹⁶⁰ On 29 October 1998, Pavković conducted the primary briefing at the Operations Inter-Departmental Staff for the Suppression of Terrorism about the results of actions taken to implement this Plan.²¹⁶¹

864. Pavković’s direct role in ground level operations through 1998 can be seen, for example, during the Slup and Vokša action in mid-August 1998. Preparations for this action began on 12 August.²¹⁶² The following day, Pavković announced that the action would begin on 15 August 1998.²¹⁶³ A MUP and VJ engagement map for this operation was then drawn up by Pavković and approved by Samardžić.²¹⁶⁴ Pavković told the Joint Command that his Chief of Staff, Lazarević, would command the action.²¹⁶⁵ In accordance with Pavković’s order, Lazarević drew up the decision for the engagement of forces including Combat Group 15-3, among others, for combat in Slup and Vokša to commence on 15 August 1998.²¹⁶⁶ Čirković, commander of the 15th Armoured Brigade, issued the order for his Third combat group to support the MUP in an action commanded by the Joint Command and placing the forward command post in Đakovica.²¹⁶⁷

865. At least one other joint VJ-MUP action ordered by Pavković in 1998 specifically indicated that the combat activities were to be commanded by the Joint Command.²¹⁶⁸ Several other joint VJ-

²¹⁵⁶ 4D100;4D101;4D102;P1435;P1439. See Pavković’s 23 July 1998 letter to Third Army Collegium, P1011, pp.57-59; P949, pp.291-298.

²¹⁵⁷ Dimitrijević, T.26713.

²¹⁵⁸ Vasiljević, P2600, paras. 77-84; P949, pp.113-118; P948, p.86.

²¹⁵⁹ P1468.

²¹⁶⁰ 6D692;6D700;6D701;P1011;P1429;P1431;P1434;P1613.

²¹⁶¹ P2166, pp.2-7.

²¹⁶² P1468, pp.49-51.

²¹⁶³ P1468, p.53.

²¹⁶⁴ 5D1175; Lazarević, T.18325-18326.

²¹⁶⁵ P1468, p.54.

²¹⁶⁶ P1428, p.1; Lazarević, T.18294-18297.

²¹⁶⁷ 6D731; P1428; Savić, 5D1392, p.6.

²¹⁶⁸ P1427.

MUP actions during 1998 were the subject of orders from Pavković and/or discussed at meetings of the Joint Command.²¹⁶⁹

866. Similar co-ordinated actions took place throughout 1999 as well. As Commander of the Third Army, Pavković was responsible for the operations conducted by his troops.²¹⁷⁰ GROM-3 provided tasking for the entirety of the PrK and special MUP units, as well as for the “armed non-Šiptar population” and extra VJ units brought in from outside Kosovo.²¹⁷¹

867. On 1 February 1999, Pavković ordered Lazarević to draft a plan for operations in the Drenica, Lab and Mališevo sectors and to ensure complete coordination with units of the MUP.²¹⁷² Pursuant to Pavković’s orders, on 16 February 1999, Lazarević, issued his order for destroying Albanian terrorist forces in the Drenica, Mališevo and Malo Kosovo areas.²¹⁷³ This PrK order bore the designation of “Strictly Confidential No. 455-1.” The “455” series was used to designate all orders arising from the Joint Command.²¹⁷⁴ Combat operations associated with the plan began as early as 19 March 1999.²¹⁷⁵

868. On 22 March 1999, two days before the NATO bombing began, General Lazarević informed Pavković of PrK plans for destroying Šiptar terrorists in the sectors of Donja Drenica and Lab “pursuant to your generalised proposal and specific plans.”²¹⁷⁶ On 26 March 1999 Pavković issued an order to his subordinates, including the PrK, to “continue to undertake combat operations with all Army units to smash and destroy the Šiptar terrorists.”²¹⁷⁷

869. Pavković sent a combat report to the SC Staff on 30 March 1999 in which he advised that PrK and MUP forces had started breaking up “the Šiptar terrorists” in the Mališevo sector.²¹⁷⁸

870. Through his participation in the Joint Command, Pavković used his subordinate units to commit crimes. Joint Command operations ordered in Orahovać, Suva Reka, and Velika Kruša,²¹⁷⁹ Malo Kosovo (Vucitrn),²¹⁸⁰ Drenica (Srbica);²¹⁸¹ and the Bajgora area (Vucitrn/Kosovska Mitrovica),²¹⁸² among other locations, led to the crimes charged in the Indictment.

²¹⁶⁹P1613;P1101;P1429;P1431;P1434;6D701;6D692;6D700;P1468,p.77(Drobodeljane);p.97(Ratiš);p.99(D.Streoc);pp.94,101,105,111,116(Bajgora);pp.121,123,125(Čičavica);pp.128-129(Jezerce);p.129(G.Obrinje).

²¹⁷⁰Obradović,T.17368-17369.

²¹⁷¹5D245,p.6.

²¹⁷²5D249,p.2.

²¹⁷³P2808.

²¹⁷⁴See Section II(C)(3)(b)(iii).

²¹⁷⁵P3049.

²¹⁷⁶5D276

²¹⁷⁷4D133.

²¹⁷⁸4D307. See P3031;P2002.

²¹⁷⁹P2015.

²¹⁸⁰P1967.

c. Pavković supported the policy of arming non-Albanian civilians and the disarming of Kosovo Albanian civilians

871. As discussed in Section II(C)(2)(b), during the 1998 Plan to Suppress Terrorism and continuing through the Indictment period, members of the JCE ordered the arming of the non-Albanian population in Kosovo and the disarming of Kosovo Albanians.²¹⁸³

872. In the summer of 1998, Pavković was involved in the disarming of the Kosovo Albanian population.²¹⁸⁴ While the MUP carried out the disarmament of civilians in villages, Pavković engaged the PrK to monitor the behaviour of the Albanian population and disarm Albanian civilians along the border belt.²¹⁸⁵ Pavković provided detailed information about this disarming in his remarks to the Operations Inter-Departmental Staff for the Suppression of Terrorism on 29 October 1998.²¹⁸⁶ Joint Command Operative reports indicate the disarming of Albanian villages was still ongoing in October and November 1998.²¹⁸⁷

873. As early as June 1998, Pavković issued an order to organize local non-Albanian civilians into local defence units and to arm them with sniper rifles, automatic rifles, semi-automatic rifles, and light machine guns.²¹⁸⁸ Pavković assured that this arming was a covert operation.²¹⁸⁹ Pavković further ordered that VJ unit commanders were responsible for distribution of weapons. Military Department commanders, in co-operation with the MUP and local self-government organs, were to train the villagers and organise the village defences.²¹⁹⁰ In Dragaš alone, a 600-person unit was raised.²¹⁹¹ On 2 October 1998, a Third Army analysis of tasks carried out so far that year included the following “positive” experience: “the distribution of weapons to citizens loyal to the FRY (of Serbian and Montenegrin ethnicity) has made it possible for large-scale resistance against the terrorists to be organised.”²¹⁹²

874. Pavković was present at a number of Joint Command meetings in 1998 where arming the population and local defence plans were discussed.²¹⁹³ At the 26 October 1998 meeting Pavković

²¹⁸¹ P1968;P2031.

²¹⁸² P1975.

²¹⁸³ P2166,pp.3-4.

²¹⁸⁴ P2166,p.4.

²¹⁸⁵ P1433,p.3-4;P1468, p.97.

²¹⁸⁶ P2166,p.5.

²¹⁸⁷ P1197,p.6;P1203,p.5.

²¹⁸⁸ P1415,p.1.

²¹⁸⁹ P1415,p.1.

²¹⁹⁰ P1415. *See also* P2086;P1063;P1064;P1067.

²¹⁹¹ Pešić,T.7252.

²¹⁹² 3D697,p.4.

²¹⁹³ P1468,pp.2,4-6,24,28-29,163.

himself raised the question of how to use the armed population.²¹⁹⁴ By 2 February 1999 approximately 47,000 weapons had been issued.²¹⁹⁵

875. General Ćurčin testified that in relation to combat operations, Pavković could command the armed non-*Šiptar* population and assign them specific tasks such as “securing facilities of particular importance, securing roads, communication lines, even military facilities as well, protecting the population and material goods.”²¹⁹⁶

d. Pavković violated the October Agreements

876. Pavković violated the October agreements by bringing additional VJ units, personnel and equipment into Kosovo, including elements of the 37th Infantry Brigade, the 72nd Special Brigade, the 252nd Armoured Brigade, and the 211th Armoured Brigade, in February and early March 1999.²¹⁹⁷

877. On 2 February 1999, just before the Rambouillet talks, Pavković began demanding additional units be brought into Kosovo for “complex anti-terrorist tasks.”²¹⁹⁸ His proposal was denied; but approval was given to bring the anti-terrorist battalion from the 72nd Special Brigade to the border of Kosovo.²¹⁹⁹ Pavković ignored this limitation and brought the units into the interior without the approval of his command, notifying them only after the units had arrived in Kosovo.²²⁰⁰ Moreover, this elite anti-terrorist battalion was divided and portions were subordinated to both the 52nd Military Police Battalion and the 243rd Mechanised Brigade and deployed to the interior of Kosovo.²²⁰¹

878. In addition, Pavković’s subordinate units engaged in offensive actions against the KLA without prior notification to the OSCE and later claimed that the VJ were only responding to KLA attacks.²²⁰²

879. In an October 2000 televised interview, Pavković said “we carried out a timely additional mobilization, brought them to Kosovo in the greatest secrecy, distributed the war reserves, and blocked those forces without them even knowing it.”²²⁰³ Pavković is also seen in a 2004 HRW

²¹⁹⁴ P1468,p.163.

²¹⁹⁵ P931,p.23.

²¹⁹⁶ Ćurčin,T.17042.

²¹⁹⁷ P940,p.4;5D261;P2039;P1615,p.25.

²¹⁹⁸ P1947.

²¹⁹⁹ P941,p.24.

²²⁰⁰ P941,pp.16,24.

²²⁰¹ P941,p.24.

²²⁰² 3D484,pp.13-15;P928,p.14;P933,p.15;P938,pp.11,21,25.

²²⁰³ P1319,p.17.

video talking about getting new forces into Kosovo in spite of the limitations of the October agreements.

Our biggest strategic ruse was that we managed to bring in the new forces in front of Walker and that he did not know it, that we surrounded all these groups, without Walker and themselves knowing it; their task was to surround them and destroy them if the aggression starts, if the first missile falls on our ground.²²⁰⁴

(ii) Pavković shared the intent to carry out the common plan

880. Pavković shared the intent to carry out the common criminal purpose of the JCE. His actions including his orders and his participation in the coordinating bodies such as the Joint Command 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.

881. Pavković 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 the same units and employ the same tactics. By continuing the same pattern of engagement, Pavković demonstrated his approval of the crimes and his intent to commit them.

882. Moreover, although he had the power to do so, as Commander of the Third Army, Pavković deliberately refrained from intervening against the perpetrators of crimes because he intended these crimes to occur. 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.

883. 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 the possible consequence of the implementation of the common purpose during 1999.

a. Pavković knew of the crimes committed by forces of the FRY and Serbia operating Kosovo in 1998

884. Pavković had direct notice that units under his commander were involved in crimes in 1998. He knew of the massacre of civilians at Gornje Obrinje in late September 1998. Between 24 and 26

²²⁰⁴ P912,p.7.

September 1998, the VJ and MUP carried out a joint action in the area.²²⁰⁵ The following day KDOM observers discovered the bodies of 21 civilians, including six women and young children, in Gornje Obrinje.²²⁰⁶

885. This crime was discussed in an SDC meeting²²⁰⁷ and noted in an internal memo in the Office of President Milutinović.²²⁰⁸ The VJ also took notice and an order went down the chain from the VJ General Staff, through Samardžić and Pavković to subordinate units, to report about the “alleged” massacre in Gornje Obrinje.²²⁰⁹ At the 4 October 1998 Joint Command meeting, Šainović is noted as saying to “ask for original documents tomorrow to initiate an investigation into Obrinje.”²²¹⁰

886. On 5 October 1998, Pavković submitted his report to the Third Army saying that “the PrK Command does not have information about the alleged massacre against the civilian population” in Gornje Obrinje, but that he had “unchecked information” from his Security Chief that unidentified MUP members carrying out combat actions in Gornje Obrinje had executed persons taken into custody.²²¹¹ However, Pavković failed to mention the substance of a report received from the Commander of the 125th Mtbr which informed in pertinent part as follows:

I was informed by the Commander of the 3rd PJP Detachment that on September 26, 1998, a woman’s body was found, lying on top of, probably her, three children in an improvised shelter resembling a bunker in the area of the hamlet of Deljavić Mahala (the village of Gornje Obrinje). The woman was dead, probably hit by a bullet or shrapnel...PJP took the children with them...On 27 September 1998 they changed and fed them. These were two girls and a boy between the age of 2 and 4[...] It was said that members of the MUP should leave them in a house with enough food and water to last until the return of the local population.²²¹²

887. Pavković’s participation in the Joint Command made him aware of the crimes being committed throughout Kosovo. The refugee crisis stemming from the VJ and MUP actions in 1998 was frequently discussed at Joint Command meetings he attended.²²¹³ At the 2 August 1998 meeting Pavković himself advised the attendees that huge numbers of refugees were spotted on the road toward the village of “Lauša”.²²¹⁴

888. Another frequent topic at Joint Command meetings was arson. On 7 August 1998, Šainović said “the greatest damage to us is caused by burning houses without any need.”²²¹⁵ Pavković had

²²⁰⁵ Paunović,T.21873-21875;6D700;6D775;6D776.

²²⁰⁶ P441,pp.25-62;Abrahams,T.806-811.

²²⁰⁷ P2831,p.30.

²²⁰⁸ P2827.

²²⁰⁹ 4D402;4D199.

²²¹⁰ P1468,p.138 as amended by IC-199,p.7.

²²¹¹ P1440.

²²¹² P1011,pp.70-71.

²²¹³ P1468,pp.36,40-41,44-45,51,68,75,86,88-89,121-122. See P1430.

²²¹⁴ P1468,p.36.

²²¹⁵ P1468,p.46.

heard similar remarks earlier that day from his superior General Samardžić who said: “We cannot fight terrorism by torching; it’s a disgrace [...] I am asking you to impress this upon your men.”²²¹⁶ Just five days later Minić warned that “setting houses on fire has to stop.”²²¹⁷ On 1 September Šainović declared “tasks have to be accomplished in a disciplined manner, in order to avoid arson.”²²¹⁸

889. International observers frequently complained about the use of excessive force (heavy weapons, artillery) by VJ units in “anti-terrorist” actions.²²¹⁹ Pavković’s awareness of this issue is reflected in orders issued to his subordinate units restricting the use of heavy weapons when international observers might be present.²²²⁰ At the 7 September 1998 Joint Command meeting Đorđević stated that “Artillery actions should be reduced.”²²²¹

b. Pavković knew of the crimes committed by forces of the FRY and Serbia operating Kosovo in 1999

890. On 27 March 1999, Pavković issued a warning to the PrK and the Priština Military District Command noting the “lack of discipline and misconduct [...] increased in recent days, especially concerning civilian *Šiptars* and their property.”²²²²

891. By late March 1999, Pavković was aware of the mass movement of civilians.²²²³ He also was aware that identity documents were being confiscated from ethnic Albanians who were leaving the territory.²²²⁴

892. During the NATO conflict, daily combat reports from Lazarević/PrK to the Third Army and from Pavković’s Third Army to the SC Staff clearly show that Pavković had notice that his troops were committing crimes.²²²⁵

893. On 3 April 1999 the PrK combat report noted the following:

²²¹⁶ 4D97,p.3.

²²¹⁷ P1468,p.52.

²²¹⁸ P1468,p.125. *See* P949,p.358.

²²¹⁹ Drewienkiewicz,T.7727-7728; P437;P441;P455;P456;P540;P541;P542;P543;P544;P545.

²²²⁰ 5D1172/4D231;4D150;4D177:P969.

²²²¹ P1468,p.96.

²²²² 4D154.

²²²³ P949,pp.76-80;p.270;P2930,item 4.

²²²⁴ P949,p.91.

²²²⁵ 5D84,5D85,5D208, all from PrK; 3D1128,3D1129,4D273,4D274,4D275, from Third Army.

During the preceding day, 32 criminal reports were submitted against the perpetrators of crimes (eight for murder, one for abuse, three for attempted murder, two for taking vehicles, six for thefts, and 12 for wilful abandonment).²²²⁶

894. The Third Army then sent its own combat report on 3 April 1999 to the SC Staff. This report stated as follows:

Military Prosecutor's Offices have received 32 criminal complaints (failure to respond to mobilisation calls – 17, unauthorised abandonment of post – two, other criminal offences – 13)...Isolated incidents of attempted robbery and other criminal offenses have been registered during combat operations.²²²⁷

895. Although the number of criminal reports/complaints is the same (32), the breakdown of specific crimes is notably different, with the Third Army version being less likely to alarm the recipient. It makes no mention of the 8 murders and 3 attempted murders listed in the PrK report. Nor can the discrepancy be explained away by a claim that the PrK information for 3 April about murders did not arrive in time to be included in the Third Army's 3 April 1999 report. There is likewise no reflection of those murder-related crimes in the next Third Army combat report on 4 April 1999.

896. On 4 April 1999, the next sequential PrK combat report to the Third Army noted that six criminal reports were filed. There is no specification of the offences.²²²⁸ The next sequential Third Army combat report to the SC Staff is also dated 4 April 1999. It lists the total number of criminal reports (144) since the beginning of the NATO conflict, but makes no reference to murders or attempted murders.²²²⁹

897. The same Third Army combat report noted that "with a view to suppressing criminal activities and looting in combat operations" mixed checkpoints of the VJ and MUP have been set up on all important roads.²²³⁰

898. On 10 April 1999, Pavković reported to Ojdanić about incidents of killing, robbery and rape by volunteers in several brigades.²²³¹

899. Two weeks later, a 24 April 1999 combat report from the Third Army to the SC Staff reflected ongoing problems in Pavković's subordinate commands and units.

In commands and units outside the zone of combat operations there are [...] occurrences of excessive consumption of alcohol and disturbances of law and order [...] In the zone of combat

²²²⁶ 5D84.

²²²⁷ 4D276, pp.3-4.

²²²⁸ 5D85.

²²²⁹ 3D1128, p.2. See 4D460 for an example of a report on the work of Military Prosecutor's Office.

²²³⁰ 3D1128, p.3.

²²³¹ P1938, p.2.

operations there have been attempts to plunder civilian property despite preventive measures undertaken by command organs and severe punishments pronounced by criminal prosecution organs.²²³²

900. Pavković was aware of allegations of a mass grave in the area of Izbica in early April 1999. Lazarević first heard about this in the foreign media and reported it up the chain.²²³³ Pavković says he heard about it but was informed by his subordinates that no VJ personnel were involved so he took no further action than reporting that to the SC Staff.²²³⁴

901. On or about 26 April 1999, Lazarević sent a request to the SC Staff and to the Third Army for forensic experts to exhume bodies discovered in graves, noting that “there are indications that members of the Army were responsible.”²²³⁵

902. Orders issued by Pavković show that he was aware of the criminality of his troops. For example, on 17 April 1999, Pavković issued the following warning:

According to some reports, there have been a number of individual cases where the provisions of the Instructions on Conduct in Combat or those of the International Law of War were not fully adhered to so far in combat operations...Some commands and units have failed to devote the necessary attention to the suppression of incidents related to looting and crime.²²³⁶

903. In early May 1999, Farkaš and other members of the SC Staff reviewed reporting within the Third Army.²²³⁷ Farkaš discovered that Pavković was receiving information about the criminal behaviour of his subordinates but was not passing that information up the chain.²²³⁸ In order to clarify this situation, he met with Pavković.²²³⁹

904. Pavković was also well aware of allegations about criminal activity by members of the MUP. At the 17 May 1999 meeting with Milošević, Ojdanić, Farkaš, Gajić, Šainović, Marković and Vasiljević, he spoke about the killings in Podujevo by the Skorpions.²²⁴⁰ Pavković reported that he was aware of some 800 bodies on the ground in Kosovo, 271 of which were found in VJ zones of responsibility.²²⁴¹

905. On 23 May 1999, the Indictment against Milošević, Milutinović, Šainović, Ojdanić and Stojiljković was made public. It contained detailed allegations about deportations, forcible transfers,

²²³² 4D281,p.2.

²²³³ P950,pp.484-489.

²²³⁴ P949,pp.169-176.

²²³⁵ 5D379;4D293.

²²³⁶ P1454.

²²³⁷ Farkaš,T.16302-16303.

²²³⁸ Farkaš,T.16293.

²²³⁹ Farkaš,T.16294-16295.

²²⁴⁰ P2600,pp.16-19.

²²⁴¹ Vasiljević,P2600,pp.16-19.

rapes and murders committed by VJ forces in Kosovo, putting Pavković on notice of the widespread nature of alleged war crimes by forces under his command.²²⁴²

906. The next day Pavković received a report from Lazarević about the failure of the MUP to be re-subordinated to the VJ, but also noting serious crimes – murder, rape, looting - being committed by the MUP against the Albanian civilians.²²⁴³ The following day, Pavković wrote his own report to the SC Staff about these matters.²²⁴⁴

(iii) Conclusion of JCE

907. For the reasons above, Pavković is responsible for the crimes charged in the Indictment pursuant to Article 7(1) of the Statute as a co-perpetrator. Many of the members of the VJ, MUP and other armed organisations who directly perpetrated the crimes shared the common intention of the JCE. Where they did not, Pavković used them to commit the crimes charged.

908. Should the Trial Chamber find any of these crimes to be outside the common purpose, Pavković is nevertheless liable for these crimes as they were the natural and foreseeable consequences of implementing the JCE. Pavković, with the awareness that these crimes were a possible consequence of its execution, willingly took that risk and decided to participate in the enterprise.

(iv) Other forms of participation under Article 7(1)

909. If the Trial Chamber were to find that the evidence does not establish beyond reasonable doubt that Pavković participated in the JCE, he retains individual criminal responsibility pursuant to Article 7(1) for ordering, planning, instigating, or aiding and abetting the crimes charged in the Indictment.

910. The evidence set out above establishes Pavković's criminal liability on the basis of planning and ordering under Article 7(1) of the Statute. This evidence combined with his failure to discipline units who committed crimes, establish his criminal responsibility on the basis of instigating.

911. Pavković aided and abetted the commission of the crimes charged in the Indictment. He permitted and facilitated the involvement of VJ personnel and resources in combat activities in Kosovo. By implementing instructions received from Ojdanić and through his involvement in the Joint Command, Pavković lent material and moral support to the perpetrators of crimes. By abstaining from taking any substantive disciplinary measures against VJ members or others who

²²⁴² P968.

²²⁴³ P1723.

²²⁴⁴ P1459.

had committed crimes in Kosovo, he encouraged and morally supported the direct perpetrators of crimes against the Kosovo Albanian population. Pavković knew of the commission of widespread crimes by the forces of the FRY and Serbia and was aware that he was assisting to the commission of such crimes.

(b) Nebojša Pavkovic's Individual Criminal Responsibility under Article 7(3) of the Statute

(i) Superior-subordinate relationship

912. As Commander of the Third Army, Pavković had *de jure* and *de facto* authority over Third Army units engaged in Kosovo and other subordinate and attached units.

913. Pavković had effective control over his subordinates. He had both the authority and material ability to prevent crimes from being committed as well as to punish perpetrators of crimes and enforce discipline within the Third Army and subordinate units. On 28 March 1999 he implemented Ojdanić's order to mobilise war-time courts and military prosecutors.²²⁴⁵

914. At all times relevant to the Indictment, a functioning military discipline and justice system existed in the VJ.²²⁴⁶

915. Pavković's orders on compliance with international humanitarian law further confirm his authority and material ability to prevent or punish.²²⁴⁷

916. He also had the authority to immediately remove commanders and soldiers from their positions. During the war, Pavković made daily visits to the field where he reviewed and inspected the units to assess the implementation of orders.²²⁴⁸ Pavković also had the ability to remove volunteers who participated in criminal activity.²²⁴⁹

(ii) Pavković knew or had reason to know that his subordinates were about to commit crimes or had done so

917. The evidence in paragraphs 884 to 907 demonstrates that Pavković had overwhelming information that put him on notice that Third Army and subordinate units had committed or were about to commit crimes. He also had notice of the criminal propensities of volunteers and paramilitaries used in combat actions by VJ units. He was also aware that the tactics employed

²²⁴⁵ P1011,p.79;P1470.

²²⁴⁶ See paragraphs 811-819.

²²⁴⁷ P1454.

²²⁴⁸ P949,p.270;5D1379,paras.22-23.

²²⁴⁹ 4D198,p.2;5D399,p.2.

during operations in 1998 could lead to serious violations of international law, as described in paragraphs 884 to 889.

(iii) Failure to take measures to prevent or punish

918. Despite knowledge of the criminal behaviour of units under his command, Pavković failed to take reasonable and necessary measures to prevent crimes or to punish perpetrators.

919. Pavković was not diligent about the removal of criminal elements from the Third Army, nor about moving quickly to set examples to discourage criminal behaviour by troops. Although some measures were taken to remove commanders, these were unrelated to crimes committed by troops, and therefore are insufficient to relieve Pavković of criminal responsibility under Article 7(3). For example, during the war, Pavković removed three brigade commanders and five battalion commanders. However these men were removed “mostly because they did not undertake certain measures for protection and camouflaging of the units.”²²⁵⁰

920. Pavković failed to report crimes committed by his subordinates to the competent military judicial authorities. In April 2001, the Niš Military Prosecutor reported that, for the period between 1 March 1998 and 26 June 1999, a total of 245 persons had been investigated for crimes against life and limb, personal dignity, and property of citizens. Only 13 of these cases related to crimes against life and limb.²²⁵¹ The focus of these investigations was on crimes against the VJ, such as desertion, failure to answer the call-up, and absence without leave.²²⁵² As the military justice system was functioning well, the manifestly inadequate prosecution of perpetrators of crimes against ethnic Albanian civilians was clearly a consequence of the military’s failure to report these types of crimes to the military courts.

Conclusion

921. Pavković had authority over his subordinates as described above. He knew or had reason to know that some of those units were committing widespread crimes against the Albanian civilians in Kosovo. Despite this notice, he failed to take necessary and reasonable measures to prevent such activity or to punish the perpetrators. Pavković is therefore responsible under Article 7(3) for the crimes charged in the Indictment.

²²⁵⁰ P949, pp.270-272,394-395;4D171.

²²⁵¹ P1011, pp.162-170;4D174.

²²⁵² See P955.

5. Vladimir Lazarević

(a) Vladimir Lazarević's Individual Criminal Responsibility under Article 7(1) of the Statute

(i) Lazarević is responsible for the crimes charged in the Indictment as member of the JCE

922. The evidence proves beyond reasonable doubt that General Vladimir Lazarević was a member of the JCE charged in the Indictment and that he significantly contributed to its implementation.

923. Lazarević was appointed Commander of the PrK in December 1998,²²⁵³ having served as Chief of Staff of the PrK since January 1998.²²⁵⁴

924. Through his acts and omissions, Lazarević significantly contributed to the JCE:

- Lazarević commanded, planned, ordered and coordinated the activities of the PrK and its subordinate units in Kosovo;
- Lazarević implemented Joint Command orders through the PrK Command Staff;
- Lazarević co-ordinated joint VJ-MUP combat operations in 1998 and in 1999; and
- Lazarević participated in the incorporation of volunteers into the PrK.

925. Lazarević shared the intent of other JCE members to change the ethnic balance in Kosovo through the commission of the crimes charged. He 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.

a. Lazarević commanded, planned, ordered and coordinated the activities of the PrK and subordinate units in Kosovo

926. Lazarević used units under his command to further the goal of the JCE. During the Indictment period, Lazarević exercised authority over the PrK and subordinated units.²²⁵⁵

927. During the Indictment period, the PrK chain of command functioned efficiently. Lazarević regularly met with his field commanders²²⁵⁶ and frequently toured his units.²²⁵⁷ He organised

²²⁵³ Order on Agreed Facts, p.14.

²²⁵⁴ Order on Agreed Facts, p.14.

²²⁵⁵ 5D1370;P2556;Lazarević,T.18067,18073,18383-18384.

²²⁵⁶ Jelić,T.19038-19039;Zivanović,T.20591-20592;IC167;Delić,T.19571-19572.

weekly meetings of his Collegium to discuss matters pertaining to PrK operations and assigned tasks to his units.²²⁵⁸

928. PrK field commanders recognised Lazarević's authority as the Commander of the PrK.²²⁵⁹ His orders were implemented down the chain of command.²²⁶⁰ Orders sent by the PrK Command were implemented all the way down the chain of command.²²⁶¹ For example, pursuant to an order from Lazarević, Delić issued an order on 9 March 1999 for a coordinated operation with the MUP in the Jeskovo area.²²⁶²

Reporting

929. During the Indictment period, the PrK had an effective reporting system in place.²²⁶³ Lazarević was in regular contact with both his immediate superior, Pavković, and with subordinate units. Several field commanders confirmed that the PrK's reporting system functioned well.²²⁶⁴ For example, Jelić testified that regular and interim combat reports were sent to the PrK Command during the conflict.²²⁶⁵

930. Lazarević implemented Pavković's orders²²⁶⁶ and reported to him.²²⁶⁷ He forwarded combat reports of his brigades to the Third Army Command and the SC Staff on a daily basis.²²⁶⁸

931. Subordinate units reported to the PrK Command on the execution of orders and engagement in combat activities.²²⁶⁹ Lazarević also required his subordinates to submit reports on combat actions.²²⁷⁰

932. Lazarević exercised command authority over VTOd. On 27 March 1999, he ordered the re-subordination of certain VTOd to several VJ brigades, including the 243rd Mechanised Brigade, the 175th Infantry Brigade, and the 549th Motorised Brigade.²²⁷¹ In April and May 1999, he issued

²²⁵⁷ Jelić, T.19038; Zivanović, T.20591-20592; IC167; P2026; Delić, T.19571-19572; Savić, T.20962-20963, 20997.

²²⁵⁸ Stefanović, T.21644.

²²⁵⁹ Zivanović, T.20486-20487; Jelić, T.18864, 18867, 18874.

²²⁶⁰ Jelić, T.18867, 18874; Savić, 5D1392, para.4; T.20962-20963, 20997.

²²⁶¹ Jelić, T.18867, 18874.

²²⁶² P2067; P2066; Delić, T.19541-19542. *See also* 5D312; 5D335; 5D175; 5D314; 5D393.

²²⁶³ Lazarević, T.18080.

²²⁶⁴ Zivanović, T.20486-20487; Jelić, T.18867, 18874.

²²⁶⁵ Jelić, T.19038-19039; Zivanović, T.20591-20592; IC167; Delić, T.19571-19572.

²²⁶⁶ *See e.g.*, P2808, 5D276.

²²⁶⁷ Lazarević, T.18184; P2016; P2006; 5D84, item.2.1; 5D85, item.2.1; 4D371 (all combat reports from Lazarević to Pavković).

²²⁶⁸ P2006; P2007.

²²⁶⁹ *See e.g.* P2042; P2043; 5D1129; Savić, 5D1392, paras.16-18; 5D1399; 5D911; Delić, T.19322-19323; 5D465;

Zivanović, T.20472; 5D615; 5D618, p.1, para.5.1.

²²⁷⁰ 5D373; Stefanović, T.21680. *See* 5D351; 5D362; Lazarević, T.18073-18075.

²²⁷¹ P2806.

further orders re-subordinating the VTOD to different PrK units.²²⁷² Although primarily tasked with securing roads, the VTOD were equipped with heavy weaponry, such as mortars, and occasionally engaged in combat activities.²²⁷³ The Defence's claim that the VTOD were not used in combat operations²²⁷⁴ is refuted by various orders.²²⁷⁵

b. Lazarević contributed to the JCE by using the PrK Command Staff to implement Joint Command orders

Lazarević participated in the Joint Command

933. Lazarević participated in the Joint Command and contributed to its work.²²⁷⁶ He attended Joint Command meetings in 1998²²⁷⁷ and in 1999.²²⁷⁸ Through his participation in the Joint Command, Lazarević used VJ units to commit the crimes charged in the Indictment.

934. Initially, during his interview with the OTP, Lazarević sought to minimise the role of the Joint Command, claiming that it was merely a group of civilians/politicians in Kosovo who met for the coordination of political, diplomatic and other activities, but who exercised no "joint command".²²⁷⁹ By the time of his testimony when there was a substantial number of Joint Command documents available, his account evolved somewhat and he acknowledged that "there was concerted action, concerted command in an anti-terrorist action",²²⁸⁰ that the term "Joint Command" was used to refer to the combined command of the MUP and the VJ,²²⁸¹ and that he understood it "to be a synonym for "combined command" and "combined command post."²²⁸² He accepted that the term was not defined in the Rules of the VJ or MUP²²⁸³ but said that the 1999 Joint Command orders in evidence are authentic.²²⁸⁴

Lazarević implemented Joint Command orders

²²⁷² 5D183; Lazarević, T.17984, 18780; 5D045. See also Mandić, 5D1391, para.42; T.20945-20946.

²²⁷³ Mandić, T.20946; 5D1285, item 5.6; 5D1074, p.1.

²²⁷⁴ Mitić, T.20848.

²²⁷⁵ 5D1074, p.1; 6D1470, item 7.

²²⁷⁶ Lazarević, P950, pp.137-140, 150-154, 167-168, 175-180, 181-184; T.18154, 18551-18552, 18588.

²²⁷⁷ P1468, pp.117-119, 119-120, 121-122, 124; Lazarević, P950, pp.181-183; T.18401, 18587-18588.

²²⁷⁸ Vasiljević, P2600, paras.77-84; P2589, p.17; Anđelković, T.14716-14718.

²²⁷⁹ Lazarević, P950, pp.175-180, 181-184. See also pp.137-140, 150-154, 167-168.

²²⁸⁰ Lazarević, T.18154.

²²⁸¹ Lazarević, T.17788; 18182-18184.

²²⁸² Lazarević, T.18317-18318.

²²⁸³ Lazarević, T.17788.

²²⁸⁴ Lazarević, T.17935.

935. Lazarević and his Staff at the PrK Operations Department were responsible for drafting Joint Command orders.²²⁸⁵ Once Joint Command members approved a joint action, Đaković liaised with a member of the MUP Staff and drew up plans for joint operations.²²⁸⁶ These plans were then provided to the MUP.

936. The Slup and Vokša action in August 1998 illustrates Lazarević's contribution to Joint Command operations. The Joint Command planned this action on 13 August 1998.²²⁸⁷ Pavković placed Lazarević in command of the action.²²⁸⁸ On 15 August 1998, Lazarević ordered the engagement of forces and support to the MUP to break up terrorist forces in the area of Slup and Vokša.²²⁸⁹ The order bears his signature and indicates that "combat operations will be commanded by the Joint Command for KiM from the PrK forward command post in Đakovica."²²⁹⁰ This order was implemented down the chain of command.²²⁹¹

937. Lazarević or his staff drafted numerous Joint Command orders in March and April 1999, which provided for combat actions by VJ and MUP units in various municipalities of Kosovo.²²⁹² For example, in March 1999, he ordered combat operations in the Malo Kosovo area, via P1966, a Joint Command order dated 22 March 1999.²²⁹³ Lazarević distributed the order to field commanders.²²⁹⁴ On the same day, Lazarević drafted and signed an amendment to P1966.²²⁹⁵ The order was implemented at the brigade level.²²⁹⁶ P1967 shows that Lazarević had the authority to amend Joint Command orders,²²⁹⁷ and that he was actively involved in the planning of operations as a member of the Joint Command.

938. At the end of March 1999, pursuant to Joint Command orders,²²⁹⁸ Lazarević engaged PrK brigades in combat actions in Orahovac,²²⁹⁹ Prizren,²³⁰⁰ and Srbica municipalities.²³⁰¹ These

²²⁸⁵ Stefanović, T.21780; Savić, T.20998-20999.

²²⁸⁶ Đaković, T.26397-26398, 26436.

²²⁸⁷ P1468, pp.52-54 (meeting of 13 August 1998).

²²⁸⁸ P1468, p.54.

²²⁸⁹ P1428, p.1; Lazarević, T.18294-18297; 5D1175.

²²⁹⁰ P1428. *See also* p.3, item 6.

²²⁹¹ 6D731, item 2; P1428; Lazarević, T.17803-17804; Savić, 5D1392, para.4, T.20962-20963.

²²⁹² P3049; P1966; P2031; P2015; P1968; P1974; P1969; P2003; P1972; P1970; P1971; P1972; P1973; P1974; P1878; P1975; P1976; P1977. *See also* P2615.

²²⁹³ P1966, p.2, item 2.

²²⁹⁴ Gergar, T.21527-21530; Zivanović, T.20570-20571.

²²⁹⁵ P1967; Vasiljević, P2600, para.85; Lazarević, T.18350.

²²⁹⁶ Gergar, T.21528; Zivanović, T.20570.

²²⁹⁷ P1967 item 5; Lazarević, T.18350.

²²⁹⁸ P2015, pp.1-2; P1969.

²²⁹⁹ P1981, pp.2,4-5; [REDACTED]

²³⁰⁰ P1981, pp.4-5, paras.5.4,5.6.

²³⁰¹ 5D339.

operations led to the commission of the crimes charged in the Indictment, as detailed in Section III(H).²³⁰²

939. Combat reports signed by Lazarević illustrate his role in implementing Joint Command orders. For example:

- on 1 April 1999, he reported on the completion of the Mališevo operation based on the Joint Command order P1969;²³⁰³
- on 3 and 4 April 1999, he reported on the implementation of the Jablanica operation based on the Joint Command order P2003;²³⁰⁴
- on 19 April 1999, in 5D1411, he reported on the commencement of actions in the Rugovo sector pursuant to the Joint Command order P1878.²³⁰⁵

940. In late April 1999, pursuant to a Joint Command order,²³⁰⁶ Lazarević issued instructions to his brigades to conduct an operation with the MUP in the Bajgora area. The war diaries of PrK brigades and combat reports document this operation.²³⁰⁷ The Bajgora I operation was carried out from mid-April until at least 2 May 1999,²³⁰⁸ and led to the commission of crimes in Vučitrn municipality.

941. On 4 May 1999, Lazarević ordered a second operation in the Bajgora area, and tasked units of the PrK as well as other territorial units to engage with the MUP and the armed non-Albanian population.²³⁰⁹ Savić confirms that this order was executed.²³¹⁰

942. Several field commanders testified that they received Joint Command orders which they treated as having the authority of the PrK Commander behind them.²³¹¹ Field commanders would then issue their own orders to subordinate units in furtherance of these Joint Command orders.²³¹² Stefanović added that he saw 15 to 20 Joint Command orders in 1999.²³¹³ For most of these actions, Lazarević requested his subordinates to submit an analysis of the combat actions.²³¹⁴ This further

²³⁰² See also P2615.

²³⁰³ 4D371,item 2.1;P1969.

²³⁰⁴ 5D84,item 2.1;5D85,item 2.1;P2003.

²³⁰⁵ 5D1411,item 2.1;P1878;Stefanović,T.21679.

²³⁰⁶ P1975,p.3,para.5.

²³⁰⁷ P2619,p.10 (entry dated 25 April 1999),pp.13-15 (entries dated 26-27 April 1999);P2572,p.57 (entry dated 29 April 1999),pp.61-62 (entry dated 1 May 1999);5D220,item 2.1;5D618,item 5.1. See also Gergar,5D1400,p.6,paras.30-31.

²³⁰⁸ P1974;P1975;P2619;P2572,pp.57-63. See also Savić,5D1392,p.4,para.17;T.21009.

²³⁰⁹ 6D704,items 2,5.

²³¹⁰ Savić,5D1392,para.19.

²³¹¹ Điković,T.19879;Zivanović,T.20463;Jelić,T.18865,18869,19028;Delić,T.19353;Savić,5D1392,para.15 ; T.20996.

²³¹² Jelić,T.18867,18874.

²³¹³ Stefanović,T.21680. See also Delić,T.19499.

²³¹⁴ 5D373;Stefanović,T.21680.

demonstrates his involvement in the execution and coordination of actions pursuant to Joint Command orders.

943. The operations ordered by the Joint Command and implemented by PrK units led to the commission of crimes charged in the Indictment.²³¹⁵

c. Lazarević contributed to the JCE by coordinating joint VJ-MUP combat operations

944. Lazarević was involved in planning, coordinating and implementing joint VJ-MUP operations in 1998 and in 1999.²³¹⁶

945. Joint VJ-MUP operations were a common feature during the implementation of the 1998 Plan to Suppress Terrorism.²³¹⁷ Lazarević recognised that in 1998 there was “full cooperation and coordination” between the VJ and the MUP in certain parts of Kosovo.²³¹⁸ Lazarević was aware that Pavković was attending coordination meetings at the MUP Staff in Priština.²³¹⁹

946. In 1999, joint VJ-MUP operations continued and led to the commission of the crimes charged in the Indictment. There was regular coordination between the VJ and the MUP throughout the war in 1999.²³²⁰ Lazarević continued to exercise a fundamental role in the implementation and coordination of these joint operations.²³²¹

947. For example, on 27 January 1999, pursuant to Ojdanic’s directive 3D690, Pavković issued an order for a large-scale VJ operation (GROM-3) to be carried out as of 4 March 1999.²³²² The order set out tasks for PrK units to be conducted in cooperation with MUP units.²³²³ To implement the 27 January 1999 directive, Pavković issued a further order on 1 February 1999, setting out specific tasks for the units to be engaged.²³²⁴

948. In February 1999, the VJ and MUP leadership began planning a large-scale combat operation in Kosovo. On 16 February 1999, pursuant to Pavković’s order of 1 February 1999,²³²⁵ Lazarević issued a plan on joint VJ-MUP combat operations to destroy the terrorist forces in Malo

²³¹⁵ See P2615.

²³¹⁶ Vasiljević, P2600, pp. 21-24, paras. 77-84; Peraj, T1607-1607; P1967; P1966; 5D194; 5D1411, item 2.1.

²³¹⁷ Delić, T.19500-19502; 19512-19513; Zivanović, T.20499-20501, 20616; 6D696, item 5.2; 6D676.

²³¹⁸ Lazarević, P950, pp. 169-171.

²³¹⁹ Lazarević, T.18403.

²³²⁰ See e.g. Stojanović, T.20060; Stefanović, T.21685; Delić, T.19659-19660.

²³²¹ See e.g. P2809; Lazarević, T.18213.

²³²² 5D245; P933.

²³²³ 5D245, item 5.

²³²⁴ 5D249; Lazarević, T.17901-17902.

²³²⁵ 5D249, item 5.

Kosovo, Drenica, and Mališevo.²³²⁶ Đaković confirmed coordination with the MUP Staff on implementing this plan.²³²⁷ That the VJ and the MUP were planning a large-scale operation at the highest level is also evidenced by the minutes of a meeting of the MUP Staff held in Priština on 17 February 1999, attended by MUP Minister Stojiljković and other senior MUP members, where Lukić announced a plan “to carry out three mopping up operations in the Podujevo, Dragobilja and Drenica areas.”²³²⁸

949. The plans for this large-scale operation were implemented down both chains of command. On 22 March 1999, Lazarević signed and submitted to Pavković an amendment to this operation.²³²⁹ Joint Command orders issued on 22, 24, and 28 March 1999 evidence the implementation of this plan.²³³⁰ Confirmation that those operations were carried out can be found in the war diaries and reports of the PrK brigades involved in the combat actions.²³³¹ Thus, Ojdanić’s initial directive of 16 January 1999 (3D690) was implemented down the VJ chain of command through the Joint Command.

d. Lazarević incorporated volunteers in PrK units

950. On 27 March 1999, Lazarević issued an order regarding the admission, reception and integration of volunteers into reserve units of the PrK, and their subsequent assignment to lower level units within brigades and battalions.²³³²

951. Lazarević was directly involved in approving and sending volunteers to the Brigades.²³³³ During the war, the PrK admitted approximately 1,400 volunteers; about 120 volunteers had to be dismissed due to various reasons, including their unsatisfactory conduct and non-observance of military discipline and rules.²³³⁴

952. Several field commanders testified about the system of reception of volunteers and integration of volunteers into their units.²³³⁵ Delić testified that volunteers were integrated into the 549th Mtrb at different periods between April and the beginning of June 1999. They were sent to

²³²⁶ P2808; Lazarević, T.17905-17907.

²³²⁷ Đaković, T.26389-26390; 6D716.

²³²⁸ P1990, p.1.

²³²⁹ 5D276; Lazarević, T.17922, 18612-18616.

²³³⁰ P1967; P2031; P1968; P1969; Lazarević, T.18619.

²³³¹ P1967; P2616, p.1; P2031; P2042, pp.1-2; P2616, pp.1-9; P1968; P2043, p.1; P2045, p.1; P2046, pp.1-2; P1969; Jelić, T.19028-19031; 6D231; IC-144.

²³³² 5D338; Lazarević, T.17977-17978.

²³³³ 5D825, item 2.

²³³⁴ Lazarević, P950, pp.43-45; T.17980; P1938; 5D215; 5D392.

²³³⁵ Gergar, T.21504; Mandić, T.20954; Jelić, T.19075-19076; Delić, T.19582, 19596, 19667; P984, Art.8.

Kosovo from the reception centres in Belgrade and Niš.²³³⁶ The 549th Mbr also received Russian and Ukrainian volunteers.²³³⁷ Between April and June 1999, Delić had several hundred volunteers within his brigade.²³³⁸ Volunteers were admitted and deployed to Kosovo,²³³⁹ and volunteer groups were actively engaged in combat operations with VJ forces.²³⁴⁰

(ii) Lazarević shared the intent to carry out the common plan

953. Lazarević shared the intent to carry out the common criminal purpose of the JCE. His actions including his orders and his participation in coordinating bodies such as the Joint Command 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.

954. Lazarević 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 the same units and employ the same tactics.²³⁴¹ By continuing the same pattern of engagement, Lazarević demonstrated his approval of the crimes and his intent to commit them.

955. Moreover, although he had the power to do so, as Commander of the PrK, Lazarević deliberately refrained from intervening against the perpetrators of crimes because he intended these crimes to occur. 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.

956. 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 the possible consequence of the implementation of the common purpose during 1999.

a. Lazarević knew of the crimes committed by forces of the FRY and Serbia operating Kosovo in 1998

²³³⁶ Delić, T.19596.

²³³⁷ Delić, T.19596.

²³³⁸ Delić, T.19582.

²³³⁹ 5D591, item 2; 5D911; P2021, p.7.

²³⁴⁰ P2021, p.10 (entry for 3 April 1999).

²³⁴¹ See e.g. P2603; P1503.

957. As Chief of Staff of the PrK in 1998, Lazarević received information and daily reports on events on the ground. He stated that “in those days the Corps Command had [at] its disposal great number of information [...]”²³⁴² From the end of April to December 1998, Lazarević was regularly at the forward command post in Đakovica, and in contact with PrK units; he also travelled to Priština to meet with the Pavković.²³⁴³ He participated in meetings with Pavković, MUP officers and state officials of the FRY and Serbia.²³⁴⁴

958. From July 1998, Lazarević was aware that the use of excessive and indiscriminate force by PrK units led to the commission of crimes against the civilian population.²³⁴⁵ Through the VJ reporting system, Lazarević knew of the massive displacement of the civilian population.²³⁴⁶ Although Lazarević denied personal knowledge of the crimes against the Kosovo Albanian civilian population,²³⁴⁷ his assertions are not credible. UN Resolutions,²³⁴⁸ concerns expressed by the international community, and reports by international human rights organisations,²³⁴⁹ must have alerted him to this.

959. Lazarević also had frequent contacts with the representatives of the international community in Kosovo. PrK liaison teams held approximately 180 meetings with representatives of the OSCE mission and KDOM.²³⁵⁰ In November and December 1998, Lazarević also had personal contacts with the OSCE mission.²³⁵¹

b. Lazarević knew of the crimes committed by forces of the FRY and Serbia operating Kosovo in 1999

960. Lazarević knew that the common plan could only be implemented by the use of force. He had detailed knowledge that crimes were being committed pursuant to the common plan. Lazarević was informed that MUP and VJ operations in Kosovo caused the massive displacement of Kosovo Albanians and the perpetration of numerous crimes.

²³⁴² Lazarević, P950, pp.106-109.

²³⁴³ Lazarević, T.17815.

²³⁴⁴ Lazarević, T.17816.

²³⁴⁵ P969.

²³⁴⁶ P1430; P1434, p.2.

²³⁴⁷ Lazarević, T.18560-18561.

²³⁴⁸ P456.

²³⁴⁹ P540; P541; P542; P543; P544; P545; P546; P441; P437; Abrahams, P2227, pp.2-3.

²³⁵⁰ Lazarević, T.17838.

²³⁵¹ Lazarević, T.17835.

961. Lazarević was present in Kosovo throughout the Indictment period. He toured PrK units daily²³⁵² and was “practically on the first front line [...] where the highest risk and greatest danger were.”²³⁵³ Through his regular visits to his units, he had first-hand knowledge of operations and saw the results of combat actions on the ground.²³⁵⁴ He also had regular contact with the Third Army Commander, Pavković.²³⁵⁵

962. The reporting and monitoring system in the PrK chain of command functioned well during the Indictment period.²³⁵⁶ Thus, Lazarević received information on the situation on the ground.

963. Lazarević claimed that the PrK was only involved in legitimate anti-terrorist actions in 1999.²³⁵⁷ He was however fully aware that the heavy-handed tactics used by his units were resulting in civilian casualties. In his “Analysis of the results in crushing STS” of 25 April 1999, Điković complained to the PrK Command about some weaknesses of those operations, such as the engagement of large forces to fight “small terrorist groups (‘using an elephant to kill a fly’),” thus concluding:

[...]It would have been more effective if a series of low-intensity [...] actions were carried out, instead of conducting “large scale mopping up” operations just to “take a walk” through the area.²³⁵⁸

964. Lazarević was aware of the massive displacement of thousands of Kosovo Albanians. For example:

- A PrK regular combat report of 31 March 1999 stated that the MUP and the VJ VTOs were “channelling the *Šiptar* refugees to the Republic of Albania.”²³⁵⁹
- Delić’s report of 3 April 1999 to the PrK Command stated that a large number of refugees was leaving the territory: from 24 March to 2 April, 290,000 people crossed the border at the Vrbnica village, and 20,000 to 25,000 at Čafa Prušit.²³⁶⁰
- The combat report of the 211th Armoured Brigade dated 26 April 1999 referred to the urgent need of humanitarian aid and food for the Albanian refugees.²³⁶¹
- Another combat report of the same brigade dated 2 May 1999 referred to a convoy of Albanian refugees arriving from the direction of Priština.²³⁶²

²³⁵² Lazarević, P950, p.207. See also P633.

²³⁵³ P1523, p.2.

²³⁵⁴ P1523; P1355; P1903, item 4, p.3.

²³⁵⁵ Lazarević, T.17877.

²³⁵⁶ P2603, p.16; Peraj, P2253, p.14, para.91; Vasiljević, T.8659-8664.

²³⁵⁷ Lazarević, T.17851, 17870-17872, 17996-17997, 18010, 18281.

²³⁵⁸ P2591, p.2.

²³⁵⁹ P2930, item 4.

²³⁶⁰ 5D885, p.1.

²³⁶¹ 5D615, p.2, item 9.

²³⁶² 5D618, p.1.

965. The information contained in the war diaries of PrK brigades was reported up to Lazarević.

[REDACTED]

[REDACTED]

[REDACTED]

- War Diaries of the 15th Armoured Brigade stated that on 22 April 1999 “a large number of refugees arrived in Vučitrn area,”²³⁶⁴ and that, on 1 and 2 May 1999, a large number of refugees were coming down from the Bajgora area and Albanian civilians were moving in tractors.²³⁶⁵

966. Lazarević knew of the Izbica massacre. He stated that he learnt about the mass grave in Izbica through the “foreign media.”²³⁶⁶

967. On 26 April 1999, Lazarević sent to the SC Staff and the Third Army Command an urgent “Request for the engagement of a forensic pathologist.”²³⁶⁷ With regard to the “demonstrated need for exhumation and professional processing of bodies buried in graves on the PrK territory”, Lazarević recognised that “there are indications that members of the Army were responsible.”²³⁶⁸ The information was reported up the VJ chain of command by 26 April 1999.²³⁶⁹

968. Lazarević knew of crimes committed in Kosovo by the PrK and subordinated units through PrK reports. On 3 April 1999, at the SC Staff briefing, Gajić reported that volunteers had been looting.²³⁷⁰ At another briefing on 18 April 1999, a report by the 52nd Anti-Aircraft Defence Artillery Rocket Brigade concerning cases of rape and looting in the Đakovica area was noted.²³⁷¹ This information had been sent by the PrK up the chain of command.²³⁷²

969. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

²³⁶⁴ P2619,p.4 (entry dated 22 April 1999).

²³⁶⁵ P2572,pp.62-63 (entries dated 1 and 2 May 1999).

²³⁶⁶ Lazarević,P950,pp.482-484.

²³⁶⁷ 5D379.

²³⁶⁸ 5D379.

²³⁶⁹ 4D293.

²³⁷⁰ 3D721,p.2;3D1125,pp.45-46.

²³⁷¹ 3D589,p.1,item 2;3D1125,p.103.

²³⁷² Stojanović,T.19813-19814.

[REDACTED]

970. On 30 April 1999, Lazarević issued an order instructing subordinated units to undertake investigative procedures into suspected crimes.²³⁷⁶ In May 1999 Lazarević knew of incidents of murder, rape, looting and robbery committed by the MUP against the civilian population.²³⁷⁷ Stefanović confirmed that he received information, both orally and in written form, from Điković about crimes, looting and other problems with MUP members in his AOR,²³⁷⁸ and that he informed the Corps Commander of that.²³⁷⁹

971. Field commanders testified that they reported serious crimes committed by members of their brigades.²³⁸⁰ PrK reports indicate that Lazarević was aware that his units were committing crimes.²³⁸¹

972. Lazarević was also aware of the criminal behaviour of volunteers incorporated into PrK units. Although Defence witnesses claimed that only a small number of volunteers committed criminal offences such as theft,²³⁸² there were frequent problems with volunteers.²³⁸³ Complaints against the volunteers included, lack of discipline, looting, murder, and other “renegade behaviour.”²³⁸⁴ These problems persisted through late April and into May 1999.²³⁸⁵ Although Lazarević knew that volunteers had committed crimes, he continued to incorporate and use them until June 1999.²³⁸⁶

(iii) Conclusion of JCE

973. For the reasons above, Lazarević is responsible for the crimes charged in the Indictment pursuant to Article 7(1) of the Statute as a co-perpetrator. Many of the members of the VJ, MUP and other armed organisations who directly perpetrated the crimes shared the common intention of the JCE. Where they did not, Lazarević used them to commit the crimes charged.

²³⁷⁵ 3D1061,p.1. *See also* Mladenović,T.21260.

²³⁷⁶ P1268.

²³⁷⁷ P1458,p.1;P1723.

²³⁷⁸ Stefanović,T.21721;P1458;5D1041.

²³⁷⁹ Stefanović,T.21728.

²³⁸⁰ Zivanović,T.20490-20491;P954;P955;Delić,T.19305;Điković,T.19913-19916,19920;5D1041;5D1057,p.2,item 10; 5D1061,p.2,item 5.

²³⁸¹ P1210;P1182;5D1132,p.2 item5;Savić,5D1392,para.36;T.20972-20973;5D889;P962;Delić,T.19409-19410.

²³⁸² Jelić,T.19080-19081.

²³⁸³ P2082;Delić,T.19290-19291;5D1351,p.1.

²³⁸⁴ P1943;Lazarević,T.17980-1798;4D501;Kostić,T.17543;Gajić,T.15332-15333.

²³⁸⁵ P1943;P1996.

²³⁸⁶ Mandić,T.20954 (saying that he had volunteers until 12 June 1999).

974. Should the Trial Chamber find any of these crimes to be outside the common purpose, Lazarević is nevertheless liable for these crimes as they were the natural and foreseeable consequences of implementing the JCE. Lazarević, with the awareness that these crimes were a possible consequence of its execution willingly took that risk and decided to participate in the enterprise.

(iv) Other forms of participation under Article 7(1)

975. If the Trial Chamber were to find that the evidence does not establish beyond reasonable doubt that Lazarević participated in the JCE, Lazarević bears individual criminal responsibility pursuant to Article 7(1) for ordering, planning, instigating, or aiding and abetting the crimes charged in the Indictment.

976. The evidence set out above establish the criminal responsibility of Lazarević on the basis of planning and ordering under Article 7(1) of the Statute. This evidence combined with Lazarević's failure to punish units that committed crimes, establish his criminal responsibility on the basis of instigating.

977. In the alternative, Lazarević aided and abetted the commission of the crimes charged in the Indictment. He permitted and facilitated the involvement of VJ and MUP forces in combat activities in Kosovo. By implementing instructions received from Pavković, and the Joint Command, Lazarević provided material and moral support to the perpetrators of crimes. By abstaining from taking any substantive disciplinary measures against VJ members who had committed crimes in Kosovo, he encouraged and supported the direct perpetrators of crimes against the Kosovo Albanian population. Lazarević knew of the commission of widespread crimes by the forces of the FRY and Serbia and was aware that he was assisting to the commission of such crimes.

(b) Vladimir Lazarević's Individual Criminal Responsibility under Article 7(3) of the Statute

(i) Superior-Subordinate Relationship

978. As the Commander of the PrK, Lazarević had *de jure* and *de facto* control over the PrK units engaged in Kosovo, and other subordinate or attached units.

979. Lazarević had effective control over his subordinates. He had both the authority and the material ability to prevent crimes from being committed as well as to punish crimes of the PrK and subordinate units.

980. There were three main structures through which it was possible to detect and prosecute perpetrators and to prevent crimes: the PrK system of command and control; the organs of the

military security service and military police; and the military judiciary organs established during the war (military prosecutor's office, military corps at the Priština Military District and the PrK Command).²³⁸⁷ A system for conducting military trials in wartime was activated on 25 March 1999.²³⁸⁸

981. Orders and warnings issued by Lazarević on abiding by the VJ Rules of Service and international humanitarian law²³⁸⁹ confirm Lazarević's authority and material ability in preventing and punishing crimes.

982. While Lazarević had the material ability to prevent and punish crimes committed by his subordinates, he did not take reasonable and necessary measures, although he knew of the crimes that were committed and of their scale.

(ii) Lazarević knew or had reason to know that his subordinates were about to commit crimes or had done so

983. The evidence in paragraphs 960 to 972 demonstrates that Lazarević had overwhelming information that put him on notice that the PrK and subordinate units were about to or had committed crimes. He was also aware that the tactics employed during operations in 1998 could lead to serious violations of international law.

984. Lazarević had access to various sources of information, including media reports, during the war. Therefore, he should have been fully aware of the concerns voiced by international observers over crimes committed by the forces under his command.

(iii) Failed to take measures to prevent or punish

985. Lazarević failed to take the necessary and reasonable measures to prevent crimes or punish the perpetrators.

986. While Lazarević issued orders and instructions to his subordinates on the necessity of respecting international humanitarian law and VJ regulations to protect the civilian population,²³⁹⁰ these were insufficient. The mere issuance of orders without ensuring their implementation does not fulfil the responsibility of a Corps Commander.

²³⁸⁷ Lazarević, T.18115.

²³⁸⁸ P1470;P1011,p.79.

²³⁸⁹ See e.g. P2074;5D365;5D198. See also Lazarević, T.18085-18086.

²³⁹⁰ 5D201;5D412.

987. Although Lazarević had direct knowledge of the crimes committed in Izbica in March/April 1999,²³⁹¹ he failed to take adequate measures to investigate those crimes. Lazarević claims that towards the end of March-beginning of April 1999, he ordered the 125th Mbr which was the unit closest to the village of Izbica, to carry out reconnaissance and an on-site investigation in Izbica; the unit reported that there was no information leading to the conclusion that a mass grave existed in Izbica.²³⁹² However, Diković who was involved in a joint VJ-MUP operation in Izbica during the time of the massacre, testified that he did not conduct any investigations into allegations of killings at Izbica as he was not authorised to do so.²³⁹³ The investigating judge on the case, Radosaljević, testified that there was no evidence that the VJ had been involved, and that he sent the case to the civilian courts.²³⁹⁴ PrK units did not participate in the investigation.²³⁹⁵

988. [REDACTED]

Lazarević continued to use that Brigade in combat operations in April and May 1999, as evidenced by his order of 25 May 1999.²³⁹⁷

989. Crimes committed by VJ members remained unpunished. For example, K82, a VJ insider, stated that he was never punished or disciplined for shooting civilians in the village of Trnje (Suva Reka municipality) at the end of March 1999.²³⁹⁸ Soldiers were instigated by their superiors to commit crimes.²³⁹⁹ K82 was ordered by his Sergeant to shoot at a group of civilians.²⁴⁰⁰

990. The criminal proceedings that were brought against VJ perpetrators are insufficient to discharge Lazarević's duties to prosecute perpetrators.²⁴⁰¹ Lazarević testified that during the war, approximately 245 criminal reports dealing with violations of international humanitarian law were filed: 20 of those criminal reports concerned murder, 5 assaults against integrity and morale, and the remainder (about 200), had to do with property crimes such as looting and theft.²⁴⁰² Proceedings instituted against VJ members, mainly concerned military crimes.²⁴⁰³ For example, a PrK Command report dated 14 May 1999 stated that "most of the (319) criminal reports filed were for

²³⁹¹ Lazarević,P950,pp.482-484.

²³⁹² Lazarević,P950,pp.483-485.

²³⁹³ Diković,T.19986.

²³⁹⁴ Radosaljević,T.17494-17495.

²³⁹⁵ Lazarević,P950,pp.483-487.

²³⁹⁷ P2014,item 5.1.

²³⁹⁸ K82,P2863,p.10,para.39, *see also* paras.17-19;T.11747-11748.

²³⁹⁹ K89,T.9151-9152 (private session);K54,T.10514-10516 (private session).

²⁴⁰⁰ K82, [REDACTED] P2863 (redacted version),pp.3-5,paras.7-19;K82,T.11748-11749, 11777.

See also P1981.

²⁴⁰¹ P962,pp.4-8, 27,no.103;K90,T.9342.

²⁴⁰² Lazarević,T.18120.

²⁴⁰³ 5D1290;5D130.

the crime pursuant to Article 217, paragraph 1, of the Criminal Code of the FRY. This is the crime of wilful abandonment and desertion of the unit.”²⁴⁰⁴

991. As Commander of the PrK, Lazarević should have taken strong and specific measures *vis-à-vis* the criminal behaviour of his subordinates. Appropriate measures would have included immediate action against subordinates responsible of crimes and extensive investigations into allegations of crimes involving his subordinates. Some measures were taken to remove Commanders who were responsible for omissions or deficiencies in their work, as in the case of the Commander of the 175th Infantry Brigade, Nikola Petrović²⁴⁰⁵ and the Commander of the 58th Light Infantry Brigade.²⁴⁰⁶ They were both removed from their positions. However, those were only sporadic episodes and unrelated to crimes committed by troops. Thus such measures are not sufficient to relieve Lazarević from criminal responsibility under Article 7(3).

Conclusion

992. Lazarević exercised effective control over VJ 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 these units. Lazarević 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.

6. Sreten Lukić

(a) Sreten Lukić’s Individual Criminal Responsibility under Article 7(1) of the Statute

(i) Lukić is responsible for the crimes charged in the Indictment as a member of the JCE

993. The evidence proves beyond reasonable doubt that Sreten Lukić was a member of the JCE in the Indictment and that he significantly contributed to its implementation.

994. Lukić was appointed Head of the MUP Staff on 11 June 1998 by a decision signed by the Head of the RJB, General Vlastimir Đorđević.²⁴⁰⁷ Lukić remained in this position until June of

²⁴⁰⁴ 5D1290,p.1.

²⁴⁰⁵ Lazarević,T.18110-18112;5D533;5D388.

²⁴⁰⁶ Lazarević,T.18109.

²⁴⁰⁷ P1252.Although the date of P1252 is illegible, a related document, P1505, indicates that the date of this decision is 11 June 1998 (P1505,para.6). *See also* P948,pp.10,20-21,32;Cvetić,T.8030.

1999.²⁴⁰⁸ As Head of the MUP Staff, Lukić was the highest-ranking MUP officer assigned to Kosovo in the Indictment period.

995. As Head of the MUP Staff, Lukić exercised authority over MUP units and attached units engaged in combat operations. He exercised this authority pursuant to a decision issued by MUP Minister Stojiljković on 16 June 1998, which set out the MUP Staff's mandate.²⁴⁰⁹

996. Through his acts and omissions, Lukić significantly contributed to the JCE:

- As Head of the MUP Staff, Lukić coordinated and controlled MUP units engaged in combat actions in Kosovo;
- As a member of the Joint Command, Lukić participated in the planning and coordination of joint VJ-MUP combat operations;
- Lukić was involved in training and arming non-Albanians civilians while disarming Albanian villages;
- Lukić approved the use of paramilitary groups and volunteers; and
- Lukić participated in the concealment of the crime of murder.

997. Lukić shared the intent of other JCE members to change the ethnic balance in Kosovo through the commission of the crimes charged. He 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.

a. Lukić coordinated and controlled MUP units engaged in combat actions in Kosovo

998. Lukić used the MUP Staff to plan, direct and coordinate the operations and activities of the MUP in Kosovo in furtherance of the goals of the JCE. The MUP Staff played a crucial role in coordinating and controlling MUP units engaged in combat actions in Kosovo.²⁴¹⁰ Through his participation in the MUP Staff, Lukić used the MUP to commit crimes.

SUPs and special MUP units

²⁴⁰⁸ P1505;P1811.

²⁴⁰⁹ P1505;P948,p.41.

²⁴¹⁰ See Section III(C)(3)(b)(iv) (MUP Staff).

999. Through the MUP Staff, Lukić exercised authority over the SUP level of command and over special units— PJP, SAJ and JSO— during their engagement in combat actions. This authority is evident from the MUP Staff’s mandate²⁴¹¹ and was confirmed by Lukić himself.²⁴¹²

1000. Lukić’s broad powers included the authority to issue orders to Chiefs of SUPs.²⁴¹³ He exercised this authority by instructing SUPs to plan for upcoming combat actions.²⁴¹⁴ The MUP Staff had to approve combat operations planned by the SUPs involving PJP units.²⁴¹⁵ The minutes of MUP Staff meetings show Lukić’s hands-on involvement in the activities of the SUPs.²⁴¹⁶

1001. Lukić was empowered to issue orders to PJP units operating in Kosovo.²⁴¹⁷ Đaković said that Lukić “had powers to command units of the Ministry of the Interior, primarily the PJPs.”²⁴¹⁸ Illustrative of Lukić’s authority is his order of 26 May 1999 to Colonel Živaljević, the commander of the 122nd Intervention Brigade (a PJP unit), instructing him to take civilians back to their villages and arrest all able-bodied men.²⁴¹⁹ Lukić also had authority to issue orders to the SAJ and the JSO.²⁴²⁰ Lukić received briefings from and issued tasks to SAJ and JSO commanders at MUP Staff meetings.²⁴²¹ Operational commanders would report to the Staff on the fulfilment of the tasks assigned.²⁴²²

1002. Lukić continued to have command authority over the use of MUP units and personnel in Kosovo after a state of war was declared on 24 March 1999. The MUP HQ in Belgrade issued decisions to send PJP units to Kosovo,²⁴²³ where Lukić coordinated their operations on the ground.²⁴²⁴ Although the VJ had a central role in unifying the organisations engaged in defence and planning for combat actions, Lukić was involved in the decision-making on the use of MUP units and personnel in joint operations. He coordinated their engagement in joint actions with the VJ.²⁴²⁵

²⁴¹¹ P1505;P1811.

²⁴¹² P948,p.41.

²⁴¹³ See P2804;P2528;6D773;6D778;6D808;6D874;6D876;Adamović,T.25003.

²⁴¹⁴ 5D476,p.1.

²⁴¹⁵ See P1996,p.11;P1993,p.7.

²⁴¹⁶ 6D798,p.1;P3121,pp.3-4,8;P3130;P3122,p.4,6-8;P1990,pp.1-2;P1996,p.10,12.

²⁴¹⁷ Cvetić,T.8073-8075;P1505.

²⁴¹⁸ Đaković,T.26386.

²⁴¹⁹ 5D1418.

²⁴²⁰ Cvetić,T.8073-8075;P1505.

²⁴²¹ See P1989,pp.3-4.

²⁴²² P948,p.57.

²⁴²³ See e.g. 6D682;6D683;6D684;6D685;6D686;6D687.

²⁴²⁴ P948,p.41;Cvetić,T.8073-8075; Đaković,T.26397;K25,P2439,pp.20-21;P1990,p.2.

²⁴²⁵ See Section III(C)(3)(b)(iv) (MUP Staff).

1003. Special police units were engaged in combat actions across Kosovo during the Indictment period.²⁴²⁶ Lukić actively supervised their operations. For example, the minutes of the MUP Staff meeting of 4 April 1999 record PJP commanders reporting to Lukić and Stevanović on the completion of the first phase of anti-terrorist actions.²⁴²⁷ Lukić chaired a MUP Staff meeting on 11 May 1999, where he requested reports on completed operations and issued instructions to PJP commanders.²⁴²⁸

1004. As Assistant Minister and Head of the Police Administration in the RJB, General Stevanović had overall responsibility for PJP units.²⁴²⁹ Lukić shared responsibility for those engaged in Kosovo. Lukić said that PJP units had parallel responsibility: “to the commander and, at the same time, to the head of the Staff, or rather, the Staff itself.”²⁴³⁰ Referring to the summer of 1998, Lukić said:

Effectively, from mid July until the end of September or beginning of October, the Chief of the Department, Mr Đorđević and Obrad Stefanović, the Assistant Minister and commander of special units, were with me constantly in Priština.... As of mid July, until the end of September, beginning of October, that year, I was in more or less permanent company of Mr. Đorđević, and Mr. Stevanović. They were always with me. In the hierarchy structure they are by all means above the chief of staff, because they are ministers. That is why I say that they had parallel responsibility in performing their tasks.²⁴³¹

1005. Lukić’s role in the implementation of the JCE was as important, and his contribution to the JCE as significant, as that of Đorđević and Stevanović.

Reporting

1006. Lukić’s subordinates regularly informed him of events on the ground. One specific channel through which Lukić was kept informed was at MUP Staff meetings. Lukić chaired meetings during which special unit commanders and SUP Chiefs reported on their activities, many of which took place with the VJ or VTOd.²⁴³²

1007. The MUP in Kosovo had effective and well-established reporting structures in place. The Serbian MUP’s internal regulations dictated how units were to report information.²⁴³³ Lukić took measures to ensure that he and his staff at the MUP HQ in Priština received updated reports.

²⁴²⁶ See e.g. P1968,p.5;6D704,p.3;P1981,pp.2-4,paras.5.4,5.5;P1995,p.3,para.2;P1993,pp.2,4;P2014,item 5;P1993;P1989.

²⁴²⁷ P1989,pp.2-4.

²⁴²⁸ P1993,pp.2,8.

²⁴²⁹ P948,pp.24,26.

²⁴³⁰ P948,p.41.

²⁴³¹ P948,pp.41-42.

²⁴³² See e.g. P1993;P2805;6D798;6D800;6D802;P3122;P1991;P3130;P1996.

²⁴³³ P1044,p.3.

- In October 1998, he ordered police stations throughout Kosovo to send daily reports to the MUP Staff on any significant events in their areas of responsibility, including on police operations carried out and on the movement of police units.²⁴³⁴ These instructions were adhered to.²⁴³⁵
- In February 1999, police stations throughout Kosovo were ordered to report significant incidents without delay to the MUP Operations Centre in the MUP HQ in Belgrade and to the MUP Staff for Kosovo, thereby reinforcing Lukic's level of awareness and control of the situation.²⁴³⁶
- Once the state of war was declared in March 1999, MUP Minister Stojiljković instructed all organisational units in Kosovo to report any incident that may affect the security situation to the MUP Staff in Priština.²⁴³⁷
- On 1 April 1999, Lukić issued similar instructions to all SUPs.²⁴³⁸
- At the MUP Staff meeting of 4 April 1999, Lukić reminded SUP chiefs and PJP detachment commanders of their duty to report to the MUP Staff.²⁴³⁹

1008. Lukić was duty-bound to report to the MUP Minister.²⁴⁴⁰ He relayed information up the MUP chain-of-command to Belgrade.²⁴⁴¹

Lukić regularly met with other JCE members

1009. Lukić was in regular contact with other JCE members. MUP Staff meetings were often attended by Stojiljković, Đorđević, and Stevanović.²⁴⁴² Milutinović also participated in two MUP Staff meetings in September and November 1998.²⁴⁴³ Šainović attended two meetings during the 1999 conflict.²⁴⁴⁴

1010. Lukić was the natural focal point of information flow between the MUP Staff and the Joint Command. He collaborated closely with his colleagues from the VJ, Pavković and Lazarević, to coordinate joint VJ-MUP actions. Any relevant information was exchanged at Joint Command meetings, allowing its members to work cooperatively.

²⁴³⁴ P2528.

²⁴³⁵ Cvetić, T.8096-8099; Mijatović, 6D1492, para. 11.

²⁴³⁶ P1092.

²⁴³⁷ 6D238. *See also* 6D269, item 20.

²⁴³⁸ 6D808.

²⁴³⁹ P1989, p.4.

²⁴⁴⁰ P1505, item 3; P948, pp.126-127.

²⁴⁴¹ P1693; P1228; P1100; P1693; 6D1208; 6D1154; 6D1232; 6D1236; 6D1239; 6D1244; 6D1256; 6D1257; 6D1261.

²⁴⁴² 6D798; P3121; 6D800; P2805; P1991; P1990; P1989; P1996; P1993.

²⁴⁴³ Cvetić, T.8188-8189; P2805.

²⁴⁴⁴ P1996; P1989.

1011. Lukić had direct and regular contacts with Šainović and met with him every time he was in Priština.²⁴⁴⁵ At a meeting held in Lukić's office on 12 November 1998, Šainović made it clear that Lukić was to continue reporting any major incidents to him first, and then to Stojiljković, as had been the practice thus far.²⁴⁴⁶

b. Lukić participated in the planning and coordination of joint VJ-MUP combat operations

1012. Lukić was intimately involved in the work of the Joint Command. He was a member of the Joint Command from its inception. Đaković said that the term "Joint Command" initially denoted "the command of the MUP staff and the command of the Priština Corps, no one else. General Lukić and General Pavković, no one else."²⁴⁴⁷

1013. Lukić attended Joint Command meetings, briefing others on MUP-related matters and taking part in discussions on upcoming operations. His active participation at these meetings in 1998 is reflected in the notes of meetings of the Joint Command.²⁴⁴⁸ Lukić confirmed that he attended Joint Command meetings during the period of the NATO bombing.²⁴⁴⁹ The Joint Command continued to function until at least 1 June 1999.²⁴⁵⁰

1014. 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 carry out the aim of the JCE.

1015. Joint operations could not have taken place without the direct involvement of the Head of the MUP Staff, Lukić. Using the MUP Staff, Lukić implemented the decisions and tasks adopted by the Joint Command down the MUP chain of command.²⁴⁵¹ Through his participation in the MUP Staff, Lukić used the MUP to commit crimes.

²⁴⁴⁵ Lončar, P2521, paras. 38, 53.

²⁴⁴⁶ Lončar, T. 7652-7654.

²⁴⁴⁷ Đaković, T. 26381-26382.

²⁴⁴⁸ P1468, pp. 9, 14, 129, 139. See P948, pp. 35-36.

²⁴⁴⁹ P948, pp. 86.

²⁴⁵⁰ Vasiljević, P2600, paras. 77-84.

²⁴⁵¹ Cvetić, T. 8080, 8194-8195; Đaković, T. 26397-26398; Adamović, T. 24978.

c. Lukić trained and armed non-Albanians civilians while disarming Albanian villages

1016. The arming of non-Albanian civilians began in the summer of 1998.²⁴⁵² Lukić endorsed this policy and participated in its realisation. It should have been obvious to Lukić that arming one ethnic group while disarming another in an atmosphere of mutual hostility and ethnic tensions was likely to facilitate crimes based on ethnicity. That must have been the intended consequence of the arming.

1017. On 30 June 1998, the MUP Staff sent a dispatch to all SUPs to assess the need of weapons for reserve police squads or stations (RPOs).²⁴⁵³ In the beginning of July 1998, SUPs began setting up RPOs to defend villages.²⁴⁵⁴ The scope of the work of these units was set out in instructions issued by the Joint Command in early July 1998.²⁴⁵⁵

1018. On 28 July 1998, at a MUP Staff meeting attended by Stojiljković, Captain Blagoje Pešić from the Priština SUP summarized the situation as to that date:

We formed 243 reserve police stations. RPO members are citizens from local villages and towns who are organised to defend them. Weapons have been issued to 54,683 persons. The MUP of the Republic of Serbia issued weapons to 12,170 persons and the Yugoslav Army issued weapons to 34,716 persons...When all of this is finished, about 60,000 persons will have been issued weapons.²⁴⁵⁶

Stojiljković commented that “Chiefs of reserve police stations should be from the respective villages.” General Lukić added that “We are also arming citizens in towns and plans for defending towns have been drawn up. Chiefs of secretariats have the duty to organise the defence of towns in agreement with the Yugoslav Army, reserve police stations and other bodies.”²⁴⁵⁷

1019. The arming of non-Albanians was an integral part of the 1998 Plan to Suppress Terrorism.²⁴⁵⁸ The progress made in the implementation of this policy was discussed at Joint Command meetings, which Lukić attended.²⁴⁵⁹

1020. On 29 October 1998, at the meeting of the Operations Inter-Departmental Staff for the Suppression of Terrorism in Belgrade, Lukić submitted a report on the work of the Joint Command.

²⁴⁵² See Section II(C)(2)(b).

²⁴⁵³ P1114,p.1;Cvetić,T.8059;P2804;Filić,T.23922.

²⁴⁵⁴ P1114. See P948,p.132.

²⁴⁵⁵ P1064;P2086;Cvetić,T.8051. See 4D521.

²⁴⁵⁶ P3121,p.8.

²⁴⁵⁷ P3121,p.8. See P1115. An accompanying page covering only the Kosovska Mitrovica SUP notes that 7436 weapons were assigned to the six municipalities covered by that SUP. P1115. Cvetić,T.8049-8051.

²⁴⁵⁸ P2166,p.4.

²⁴⁵⁹ See e.g. P1468,pp.20,24,29,66. See also P2086;P1064.

Addressing the highest civilian and military leadership, he reported that 12,500 reservists had undergone training in July and that in the final stages of the offensive, 14,500 reservists were trained.²⁴⁶⁰

1021. After the signing of the October agreements, the MUP was under the obligation to scale down its personnel in Kosovo.²⁴⁶¹ The MUP Staff, however, continued to arm the local non-Albanian population. Additionally, it allowed the MUP to circumvent the restrictions imposed by the international community.

1022. Lukić sought to mislead the KVM about the actual strength of the police. The conclusions of a meeting held with SUP chiefs and PJP detachment commanders at the MUP Staff on 2 November 1998 include the following:

Make sure that Serbs and members of the RPO do not misuse weapons, let off guns at weddings, celebrations of *slava*, farewell parties and so on, do not carry weapons or show them in public in the presence of members of the Mission. When on guard duty, use one weapon and prevent individuals bringing in the weapons they have been issued. *Tell them not to state the fact that Serbs are armed and to explain this fact, if they must, using the excuse that it is only members of the guard who are armed.*²⁴⁶²

1023. The MUP continued to form RPOs in 1999. Their existence is confirmed by references to reserve MUP forces, and their role, in the minutes of the MUP Staff meetings of 2 and 21 December 1998.²⁴⁶³ This is corroborated by a list of reserve policemen issued weapons through the Vucitrn OUP in January 1999.²⁴⁶⁴

1024. On 16 February 1999, Pešić prepared a report for Lukić, which detailed the number of RPOs and weapons issued in each municipality.²⁴⁶⁵ The following day at the MUP Staff, Lukić reported that “RPOs in nearly all villages inhabited by Serbs are very active.”²⁴⁶⁶ Stojiljković issued this warning: “Tell the RPO and the people that a civil war must be avoided at all cost, but that in case of a conflict, women and children should not be killed, only the aggressor.”²⁴⁶⁷

1025. Despite the risks associated with utilising armed civilians in the local defence, Lukić continued to support the formation of RPOs. On 24 March 1999, at a TEC meeting attended by Pavković, Lazarević and Stevanović, Lukić emphasised the need to train and strengthen the local

²⁴⁶⁰ P2166,p.8.

²⁴⁶¹ P395,pp.2-3;6D800.

²⁴⁶² P3130,p.3 (emphasis added).

²⁴⁶³ P3122,pp.6,8;P1991,pp.5.

²⁴⁶⁴ P1582.

²⁴⁶⁵ P2803,p.8

²⁴⁶⁶ P1990,p.1.

²⁴⁶⁷ P1990,p.3.

defence in villages to act against the KLA.²⁴⁶⁸ While Defence witnesses maintained that the RPOs were disbanded before the war,²⁴⁶⁹ the minutes of the MUP Staff meetings of 7 and 11 May 1999 record Lukić referring to the uniforms to be worn by RPOs engaged in MUP reserve or VJ units,²⁴⁷⁰ thus proving that these units continued to operate in that period.

1026. Lukić was also involved in the disarming of predominantly Albanian villages. The disarming was also part of the 1998 Plan to Suppress Terrorism.²⁴⁷¹ Joint Command members monitored the progress of the disarming in 1998.²⁴⁷² Several Joint Command Operative reports from October and November 1998 indicate that VJ and MUP units were collecting weapons “in *Šiptar* villages.”²⁴⁷³

d. Lukić used paramilitary groups and volunteers

1027. Lukić significantly contributed to the JCE by using paramilitary groups and volunteers to carry out crimes. At the 17 February 1999 meeting of the MUP Staff in Priština, Stojiljković instructed those present to “approach and engage volunteers carefully, linking their engagements through the reserve police force when assessed as necessary.”²⁴⁷⁴ The following day Stojiljković issued a dispatch addressed to all SUP chiefs, the MUP Staff and other MUP organs, requiring them to take measures to establish complete control over volunteer and paramilitary units and their members.²⁴⁷⁵

1028. On 17 March 1999 at a MUP Staff meeting, Lukić ordered SUP chiefs to retain any volunteers that arrived in Kosovo, since such men were to be engaged in MUP operations once the war began.²⁴⁷⁶ Once the state of imminent threat of war was declared, Stojiljković issued a dispatch reinforcing the measures ordered on 18 February 1999: “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.”²⁴⁷⁷ The contents of Stojiljković’s instructions are unambiguous. These instructions were not intended to prevent paramilitaries from entering Kosovo.

²⁴⁶⁸ P1200,p.3.

²⁴⁶⁹ Filić,T.24019-24020;Vojvonić,T.24162;6D1532,para.51;Bogunović,T.25124-25125.

²⁴⁷⁰ 6D802,p.2;P1996,p.12;P1993,pp.8-9. See P1989,p.3.

²⁴⁷¹ P2166,p.4.

²⁴⁷² See, P1468,pp.50,57,62,86,88,89,94,96,120.

²⁴⁷³ P1203,p.5;P1197,p.6;P2623,p.8;P1198,p.4.

²⁴⁷⁴ P1990,p.3.

²⁴⁷⁵ 6D269,p.3,item 7.

²⁴⁷⁶ Cvetić,T.8100.

²⁴⁷⁷ 6D238.

1029. MUP units were supplemented by paramilitary formations that had been active in the Bosnian and Croatian conflicts. One example is the Skorpions, a unit that was deployed to Kosovo in late March 1999 and attached to the SAJ.²⁴⁷⁸ Days after their deployment, members of the Skorpions executed a group of women and children in Podujevo.²⁴⁷⁹ The unit was sent back to Serbia, but some 18 days later members of this unit were redeployed with the SAJ.²⁴⁸⁰ The Skorpions operated in Kosovo until May 1999 and were engaged in “cleaning out” Albanian villages.²⁴⁸¹

1030. Members of Arkan’s Tigers operated in Kosovo in 1998 and during the Indictment period. They were incorporated into the JSO. Legija, a former member of Arkan’s Tigers, commanded the JSO in Kosovo.²⁴⁸² Lukić was fully aware of Legija’s participation in MUP actions. On 27 July 1998 at the Joint Command, Lukić reported that “Legija again cleaned Kotore today.”²⁴⁸³ Lukić also referred to Legija when speaking about a reconnaissance action at a Joint Command meeting of 13 September 1998.²⁴⁸⁴ At the MUP Staff meeting of 11 May 1999, the commander of the 37th PJP Detachment reported to Lukić that “ the leadership of Legija in the final operations was felt, particularly when some equipment was used which helped us a lot.”²⁴⁸⁵

1031. The Wolves from the Drina led by Nedeljko Karašek, a former SAJ commander, were also based in Kosovo Polje during the war.²⁴⁸⁶ They wore SAJ uniforms.²⁴⁸⁷

1032. Given Lukić’s authority over the SAJ and the JSO,²⁴⁸⁸ the integration of paramilitaries into these units could only have been carried out with his knowledge and approval.

e. Lukić participated in the concealment of the crime of murder

1033. Lukić contributed to the JCE by attempting to conceal the truth about the murders committed by the forces of the FRY and Serbia in Kosovo. During the course of the 1999 conflict,

²⁴⁷⁸ Stoparić, P2224, paras. 41-42, 49; T. 699-701.

²⁴⁷⁹ Stoparić, P2224, paras. 50-52, 55-56.

²⁴⁸⁰ Stoparić, P2224, para. 63; T. 783; 3D1055; Gajić, T. 15273-15274, 15370.

²⁴⁸¹ Stoparić, P2224, paras. 67-68; T. 703-704.

²⁴⁸² Vasiljević, T. 8703-8705; P2600, paras. 33, 40-42.

²⁴⁸³ P1468, p. 20.

²⁴⁸⁴ P1468, p. 109.

²⁴⁸⁵ P1993, p. 6.

²⁴⁸⁶ Vasiljević, P2600, para. 39; Gajić, T. 15364, 15372, 15376-15377; Farkaš, T. 16351.

²⁴⁸⁷ Gajić, T. 15373.

²⁴⁸⁸ Cvetic, T. 8073-8075; P1505.

members of the MUP transported truckloads of bodies of Kosovo Albanians from Kosovo to different clandestine mass grave sites in Serbia proper.²⁴⁸⁹ Lukić participated in this operation.

1034. Božidar Protić, a MUP driver, testified that he travelled on three occasions to Kosovo to collect bodies and transported them to different localities in Serbia proper.²⁴⁹⁰ On his first trip, Protić's chief, General Zeković, gave him a Belgrade phone number to call for further instructions once in Priština.²⁴⁹¹ Protić dialled this number from a landline at the Priština MUP building and spoke to a person whom he believes was Lukić.²⁴⁹² He recognised Lukić's voice as he had been Lukić's driver in 1990, when Lukić was on mission in Kosovo.²⁴⁹³

1035. Lukić instructed Protić on how to proceed and where to meet his contact person.²⁴⁹⁴ Protić followed these instructions and drove behind a car to a location outside Janjevo, where unknown individuals loaded bodies onto his truck. Protić transported the bodies to Petrovo Šelo, where members of the MUP dumped them into a freshly-dug pit.²⁴⁹⁵ Protić made two further trips to Kosovo to collect bodies. On each occasion, he received instructions over the phone from a person he is convinced was Lukić.²⁴⁹⁶

1036. Protić was interviewed on several occasions regarding his involvement in the transport of bodies,²⁴⁹⁷ but he only mentioned Lukić for the first time in connection with this operation in June 2006, when he was questioned by the Deputy War Crimes Prosecutor Stanković.²⁴⁹⁸ Protić later confirmed his testimony before the Belgrade War Crimes Chamber in February 2007.²⁴⁹⁹

1037. The Defence claims that Protić cannot be believed because he did not mention Lukić in his earlier interviews. Protić explained why he had not done so. When the Working Group interviewed Protić in 2001,²⁵⁰⁰ Lukić wielded considerable power. He was the assistant minister of the RJB. Protić testified that he was afraid that if he spoke out against Lukić, his family members working for the MUP would suffer the repercussions. Protić himself was forced into early retirement after the news broke of the refrigerator truck found in the Danube.²⁵⁰¹

1038. Multiple witnesses corroborate fundamental aspects of Protić's evidence:

²⁴⁸⁹ See Section II(D)(5).

²⁴⁹⁰ Protić, T.11322-11323; P2816, pp.3-5; P2817, pp.3,15.

²⁴⁹¹ Protić, T.11324-11325.

²⁴⁹² Protić, T.11324-11326; P2817, p.2; P2824, pp.19,27

²⁴⁹³ Protić, T.11130-11131,11380,11399-11402; P2817, p.2.

²⁴⁹⁴ Protić, T.11326; P2817, p.2.

²⁴⁹⁵ Protić, T.11322,11326-11327; P2816, pp.3-4; P2817, pp.3.

²⁴⁹⁶ Protić, T.11327-11328; P2817, p.2; P2824, p.27.

²⁴⁹⁷ P586; P3134; P2816; P2817; P2824.

²⁴⁹⁸ P2817, p.2.

²⁴⁹⁹ P2824.

- That there was a large-scale operation to transport bodies from Kosovo to Serbia proper;²⁵⁰²
- That Protić was one of the MUP drivers involved in this operation;²⁵⁰³
- That MUP drivers transported the bodies in refrigerated lorries from Kosovo to the SAJ firing range in Batajnica and to Petrovo Selo;²⁵⁰⁴ and
- That members of the MUP buried the bodies in mass graves at these sites.²⁵⁰⁵

1039. Defence witness Sakić said he escorted Protić on four trips to Kosovo.²⁵⁰⁶ Sakić claimed that he was with Protić at all times and that Protić never called anyone from a landline.²⁵⁰⁷ Sakić's testimony, particularly that he had Protić in his line of vision at all times during these trips ought to be regarded with grave suspicion. He said that on the first trip he escorted Protić to Priština where he picked up the truck at Pijaca (actually, the square of the public company) and returned to Belgrade where they parted company at Velika Plana.²⁵⁰⁸ On cross-examination, Sakić said that they arrived at Pijaca at around 8.30 in the morning. It took them five hours to travel from Pijaca to Velika Plana as there were no delays and they arrived at Velika Plana sometime after 5:00 or 6:00 in the afternoon.²⁵⁰⁹ Yet if it took them five hours to get to Velika Plana from Pijaca they should have arrived there at approximately 1:40 in the afternoon because, according to Sakić, they spent no more than ten minutes for Protić to collect the truck at Pijaca.²⁵¹⁰ When confronted with the four hours that were not accounted for in his story, Sakić sought to escape by claiming that there was confusion between the first and the second trip. A careful review of the record shows that there could be no doubt that he was speaking about the first.

1040. The transport of hundred of bodies from Kosovo to Serbia proper required high-level planning and coordination within the MUP. The involvement of high-level MUP officials in this operation was an open secret.²⁵¹¹ An operation of such a scale could not have been carried out

²⁵⁰⁰ P586.

²⁵⁰¹ Protić, T.11336-11337,11342,11352.

²⁵⁰² Radojković, T.7448-7452; Golubović, T.7412-7423; Dunjić, T.5248-5264; [REDACTED] K88, [REDACTED] T.10448-10450.

²⁵⁰³ Sakić, T.22079.

²⁵⁰⁴ Golubović, T.7413; Radojković, T.7449; [REDACTED]

²⁵⁰⁵ K87, [REDACTED] P2847, pp.18-22; K88, [REDACTED] P2800, para.23.

²⁵⁰⁶ Sakić, T.22078.

²⁵⁰⁷ Sakić, T.22082,22084,22092,22100,22152-4.

²⁵⁰⁸ Sakić, T.22083. "This was the first time."

²⁵⁰⁹ Sakić, T.22149. "Q. Are you speaking now about the first time you went to Kosovo with Mr. Protić?

A. The first one."

²⁵¹⁰ Sakić, T.22134-5. "Remind me, on the first outing that you made ..."

²⁵¹¹ See Section II(D)(5).

without the involvement of MUP members on the ground, including Lukić, to arrange for individuals to be transporting bodies from Kosovo. Lukić furthered the common purpose by concealing the scale of the murders committed by the forces of the FRY and Serbia in Kosovo.

(ii) Lukić shared the intent to carry out the common plan

1041. Lukić shared the intent to carry out the common criminal purpose of the JCE. His actions including controlling MUP units engaged in combat operations and his participation in the coordinating bodies as the MUP Staff and the Joint Command 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.

1042. Lukić 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 the same units and employ the same tactics. By continuing the same pattern of engagement, Lukić demonstrated his approval of the crimes and his intent to commit them.

1043. Moreover, although he had the power to do so, as Head of the MUP Staff, he deliberately refrained from intervening against the perpetrators of crimes because he intended these crimes to occur. 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. Lukić also participated in the concealment of the crime of murder.

1044. 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 the possible consequence of the implementation of the common purpose during 1999.

a. Lukić knew of the crimes committed by forces of the FRY and Serbia operating in Kosovo in 1998

1045. Throughout the summer offensive of 1998, Lukić knew that MUP and VJ operations in Kosovo were resulting in the massive displacement of the Kosovo Albanian population and the perpetration of widespread crimes against Kosovo Albanians.

1046. Lukić was in Priština from June 1998 onwards. He regularly attended Joint Command meetings at which the implementation of the Plan to Suppress Terrorism was coordinated. All Joint Commander members, including Lukić, were kept informed at all stages of the operations and their aftermath. His participation at the 21 July 1998 meeting in Belgrade, where the summer offensive

was planned, shows his direct knowledge of and support for the Serb military intervention in Kosovo.

1047. Lukić learned of the crimes committed by Serb forces against Kosovo Albanians at Joint Command meetings. The refugee crisis resulting from VJ and MUP operations was frequently discussed at Joint Command meetings that Lukić attended.²⁵¹² Arson was also frequently discussed at these meetings. At a Joint Command meeting of 7 August 1998 Šainović pointed out that “The greatest damage to us is caused by burning houses without any need, which could cause the pressures to the country.”²⁵¹³ At a meeting on 12 August 1998 Minić ordered that “Setting houses on fire has to stop.”²⁵¹⁴ On 1 September 1998, Šainović said that “The tasks have to be accomplished in a disciplined manner, in order to avoid arson.”²⁵¹⁵ On 7 September 1998, Đorđević said: “Artillery actions should be reduced. Measures should be taken against the persons that subsequently set houses on fire.”²⁵¹⁶

1048. At the Joint Command meeting of 26 September 1998, both he and Pavković reported on the completion of the VJ-MUP action in Donje Obrinje and Gornje Obrinje.²⁵¹⁷ A PrK report dated 24 September 1998 shows that two PJP units, the JSO, and combat groups from the 125th Motorised Brigade and the 243rd Mechanised Brigade took part in this action.²⁵¹⁸ After the news of the massacre of civilians at Gornje Obrinje reached the international media, authorities in Belgrade requested that the incident be investigated.²⁵¹⁹ At the Joint Command meeting of 4 October 1998 Šainović referred to the need “to initiate an investigation into Obrinje.”²⁵²⁰ In his report dated 5 October 1998, Pavković denied the incident and put the blame on the MUP: “unidentified members of the MUP that were carrying out combat operations in the village of Gornje Obrinje had executed persons taken into custody.”²⁵²¹

1049. Shaun Byrnes, the head of US KDOM, confronted Lukić with credible evidence of serious crimes by MUP forces. In the summer of 1998, Byrnes met frequently with Lukić, often on a daily basis.²⁵²² Throughout August and September 1998, Byrnes’ team observed PJP units forcibly expelling Kosovo Albanians from their villages, destroying property and torching villages. This

²⁵¹² P1468, pp.36,40,41,44-45, 51,68,75,86,88,89,121-122.

²⁵¹³ P1468, p.46.

²⁵¹⁴ P1468, p.52.

²⁵¹⁵ P1468, p.125.

²⁵¹⁶ P1468, p.96.

²⁵¹⁷ P1468, p.129.

²⁵¹⁸ 6D700, p.3.

²⁵¹⁹ P2827;4D402.

²⁵²⁰ P1468, p.136; IC-199, p.7.

²⁵²¹ P1440, p.4.

²⁵²² Byrnes, T.12140-12141.

kind of activity happened almost daily.²⁵²³ Whenever Byrnes had information about such activity, he would bring it to Lukić's attention.²⁵²⁴ He appealed to Lukić to stop the police from forcing Kosovo Albanians villagers from their homes.²⁵²⁵

1050. In one instance in September 1998, Byrnes toured western Kosovo and saw PJP units leaving an Albanian village located south of Kijevo. The village was empty and in flames.²⁵²⁶ He raised this incident with Lukić.²⁵²⁷

1051. Lukić's reaction to Byrnes' complaints was always the same: he either dismissed them as untrue or claimed that MUP actions were a legitimate response to KLA attacks.²⁵²⁸ In September 1998, MUP special forces conducted a sweep operation against the KLA in a number of Albanian villages in the Peć area, driving villagers from their homes.²⁵²⁹ The international press reported on the operation and the refugee crisis. In response, MUP forces were sent to the area and herded the refugees onto police buses, transporting them back to their villages. Byrnes' team photographed much of what happened.²⁵³⁰ Byrnes complained to Lukić about the unnecessary force used by the MUP in handling the refugees. Lukić cynically replied: "This was a humanitarian operation."²⁵³¹

1052. At a meeting on 24 December 1998, Drewienkiewicz informed Lukić that the KVM had received unconfirmed reports of the use of excessive force in police searches in Kosovo Polje. He also complained about the excessive police presence in Mališevo and the ongoing VJ-MUP operation in Podujevo, noting that heavy-handed police activity was only inflaming an already volatile situation. Lukić replied that the MUP's reaction was appropriate and took no further action.²⁵³²

1053. At meetings with Lukić, Šainović and Lončar in late 1998 and early 1999, KVM representatives raised their concerns about the disproportionate use of force by Serbian forces. Small arms-fire by the KLA was met with artillery rounds.²⁵³³

1054. United Nations,²⁵³⁴ human rights organizations,²⁵³⁵ and foreign media publicly and prominently condemned the excessive use of force by the forces of the FRY and Serbia in 1998,

²⁵²³ Byrnes,T.12141,12149-12150,12152-12153.

²⁵²⁴ Byrnes,T.12152.

²⁵²⁵ Byrnes,T.12153.

²⁵²⁶ Byrnes,T.12148-12149.

²⁵²⁷ Byrnes,T.12148-12151.

²⁵²⁸ Byrnes,T.12153.

²⁵²⁹ Byrnes,T.12153-12154.

²⁵³⁰ Byrnes,T.12154.

²⁵³¹ Byrnes,T.12154-12155.

²⁵³² P2544;Drewienkiewicz,T.7785-7786.

²⁵³³ Philips,T.11829,11831,11845-11846. Although Philips did not recall the specific dates of meetings, he recalled that Lukić was present at more than one meeting.T.11989.

which resulted in numerous civilian casualties and the displacement of hundreds of thousands of ethnic Albanian civilians.

b. Lukić knew of the crimes committed by forces of the FRY and Serbia operating Kosovo in 1999

1055. Lukić knew that the common plan could only be implemented by the use of force. He had detailed knowledge that crimes were being committed pursuant to the common plan. That he shared the intent to further the JCE can be inferred from his continued participation in planning and ordering operations through the Joint Command despite his knowledge of crimes.

1056. Information was available to Lukić through various channels: the reporting systems within the MUP; his participation at MUP Staff meetings; his participation at Joint Command meetings; and his meetings with senior MUP, VJ and civilian leadership.

1057. Lukić was in daily contact with his SUP chiefs. As stated above, the reporting systems within the MUP in Kosovo functioned properly during the 1999 conflict. Lukić met with and heard the reports of SUP chiefs and special unit commanders at MUP Staff meetings. He was informed about their operations conducted with VJ units. Lukić was privy to the information received from the field by other Joint Command members. His contacts with senior officials, such as Šainović, enhanced his level of awareness of the situation.

1058. The VJ also had a functional reporting system, which would have ensured that those in regular and close contact with the VJ, such as Lukić, had an increased level of awareness of the situation on the ground.

1059. By early April 1999 Lukić had information that scores of refugees were fleeing the province. In his order of 3 April 1999, Lukić instructed all SUPs chiefs and PJP detachment commanders to prevent “any forcible eviction of the population belonging to the *Šiptar* ethnic minority.”²⁵³⁶ This dispatch was followed up by another sent twelve days later:

Even though an order was issued to prevent civilians from leaving their places of residence and to ensure their safety and take measures to protect the population, it has come to our attention that some of the said commanders have not been obeying the order and that they have been tolerating massive-scale departures of civilian population.²⁵³⁷

²⁵³⁴ P456.

²⁵³⁵ P441.

²⁵³⁶ 6D666.

²⁵³⁷ 6D778.

1060. On 11 May 1999, Lukić addressed PJP commanders at a MUP Staff meeting on 11 May 1999 and said: “The mass exodus of civilians is to be urgently prevented, of which we informed you a month ago. When planning operations make sure you foresee the measures and treatment of civilians in the zone of action and operations.”²⁵³⁸ Given that the population was fleeing from areas where police units were actively engaged, and that the refugees were mostly of ethnic Albanian origin, Lukić knew or would have known that their departure was not voluntary.

1061. Lukić’s daily situation reports to the MUP in Belgrade provided a daily count of the total number of Kosovo Albanian refugees leaving the province.²⁵³⁹ In his report of 1 May 1999, Lukić gave an overview of the situation as to that date: “Between 24 [March] and 30 April 1999, a total of 715,158 persons belonging to the *Šiptar* national minority left the territory of the SRJ: 517,063 via the Vrbnica border crossing; 23,622 via Čafa Prušit border crossing; 19,805 via Globičica GP, and 154,668 via Đeneral Janković/ Hani I Elezit border crossing.”²⁵⁴⁰

1062. The measures taken to suppress crimes were discussed at a MUP Staff meeting on 7 May 1999. Šainović opened the meeting and reminded the police of their obligation to protect the population: “The MUP must ensure stable public law and order and the security of citizens and property, because we cannot allow the Serbs to be stigmatized as those who torch, loot and swagger about in abandoned and deserted villages.”²⁵⁴¹ Lukić showed his knowledge of the situation by referring to the number of on-going investigations: “the number of 27 crimes of murder is not realistic as we have information that a greater number of on-site investigations has been conducted and that the number of criminal reports for this crime is greater.”²⁵⁴² Several SUP chiefs blamed VJ soldiers for perpetrating crimes.²⁵⁴³ Referring to the Vucitrn and Srbica, Bogunović, the deputy SUP chief of Kosovksa Mitrovica, reported: “There have been reports that paramilitary forces were also present and since movement by military forces and convoys has been exceptionally extensive through this area, buildings were torched on a large scale, other damage was caused and murders were perpetrated in passing.”²⁵⁴⁴

1063. Lukić had specific notice of one of the incidents of murder alleged in the Indictment, the Izbica massacre. He said he heard about the existence of a mass grave in Izbica from the media.²⁵⁴⁵

²⁵³⁸ P1993,p.8.

²⁵³⁹ See e.g. 6D1255,p.3;6D1259,p.4;6D1260,p.4;6D1261,p.5;6D1208,p.4;6D1154,p.4;6D1232,p.5;6D1236,p.6; 6D1239,p.6;6D1244,p.4;6D1256,p.5;6D1257,p.4.

²⁵⁴⁰ P1693,p.8. This exhibit says, in error, “Between 24 April and 30 April 1999 [...]”. See 6D1261.

²⁵⁴¹ P1996,p.3.

²⁵⁴² P1996,p.10

²⁵⁴³ P1996,pp.5-7.

²⁵⁴⁴ P1996,p.6.

²⁵⁴⁵ P948,pp.160-161.

He also knew that the bodies exhumed from this village had been buried in many different graves.²⁵⁴⁶

1064. Lukić could get specific items of information when he wanted to. For example:

- On 1 April 1999, he sent out a dispatch to all SUP chiefs requesting them to send daily reports to the Staff on several topics, including information on serious crimes.²⁵⁴⁷
- On 6 May 1999, the MUP Staff sent out a dispatch bearing Lukić's name stating that: "Since the NATO aggression against our country, because of the specific and general security conditions, crimes and other unlawful acts have been committed in a new way in the area of Kosovo and Metohija."²⁵⁴⁸ SUP chiefs were instructed to collect information on the most serious crimes (including murders, rapes, ill-treatment, and arson) in their areas and to supply that data to the MUP Staff twice a month.²⁵⁴⁹
- On 15 May 1999, Lukić's staff sent out a dispatch to all SUP chiefs requiring them to send information with a table showing the "crime situation" for the period since the NATO bombing began.²⁵⁵⁰
- On 28 May 1999, the MUP Staff convened a meeting for the next day and instructed all SUP chiefs and OKP chiefs to bring information on all the crimes committed in their areas for which reports had been filed and information on unidentified bodies found.²⁵⁵¹

1065. Lukić was aware that units operating with the MUP were committing crimes against the civilian population. Lukić knew that groups of armed non-Albanians were being utilised in actions with the MUP. He also knew that volunteers and paramilitary units with a record of past criminal behaviour, such as the Skorpions and Arkan's Tigers, were subordinated to regular MUP units. Lukić was aware that Legija, a former member of Arkan's Tigers and a notorious criminal, was commanding the JSO and directly involved in MUP actions. Given the criminal propensity of these units, Lukić knew that serious crimes were likely.

1066. On 24 May 1999 the ICTY Indictment against Milošević *et. al.*, was made public.²⁵⁵² This indictment contained detailed allegations about serious crimes —such as deportation, murder, and rape— committed by MUP forces across Kosovo, putting Lukić on direct notice that forces under his command were alleged to be responsible for war crimes against ethnic Albanian civilians.

²⁵⁴⁶ P948,p.162.

²⁵⁴⁷ 6D808.

²⁵⁴⁸ 6D874,p.1.

²⁵⁴⁹ 6D874.

²⁵⁵⁰ 6D876.

²⁵⁵¹ P1188.

²⁵⁵² P968.

1067. Based on the evidence above, there is no doubt that Lukić knew about the crimes committed by MUP forces against the ethnic Albanian population. The sheer scale of the crimes, the protracted period over which these crimes occurred and the widespread reporting must have made such crimes common knowledge.

(iii) Conclusion of the JCE

1068. For the reasons above, Lukić is responsible for the crimes charged in the Indictment pursuant to Article 7(1) of the Statute as a co-perpetrator. Many of the members of the VJ, MUP and other armed organisations who directly perpetrated the crimes shared the common intention of the JCE. Where they did not, Lukić used them to commit the crimes charged.

1069. Should the Trial Chamber find that any of these crimes were outside the common purpose, Lukić is nevertheless liable for these crimes as they were natural and foreseeable consequences of the implementation of the JCE. Lukić, with the awareness that these crimes were a possible consequence of its execution, willingly took that risk and decided to participate in the enterprise.

(iv) Other forms of participation under Article 7(1)

1070. If the Trial Chamber were to find that the evidence does not establish beyond reasonable doubt that Lukić participated in the joint criminal enterprise, Lukić is responsible pursuant to Article 7(1) for ordering, planning, instigating or aiding and abetting the crimes charged in the Indictment.

1071. The evidence set out above establishes the criminal responsibility of Lukić on the basis of planning and ordering under Article 7(1) of the Statute. This evidence combined with Lukić's failure to discipline units who committed crimes, establish his criminal responsibility on the basis of instigating. Despite his knowledge of the crimes committed by MUP units during the Indictment period, Lukić failed to take substantive measures to prevent his subordinates from committing further crimes, or punish them for the crimes they had committed.

1072. Lukić aided and abetted the commission of such crimes. Lukić permitted and facilitated the involvement of MUP personnel and resources in combat activities in Kosovo. By implementing instructions received from the MUP Minister in Belgrade and from the Joint Command, Lukić lent material and moral support to the perpetrators of crimes. By abstaining from taking any substantive disciplinary measures against MUP members or others who had committed crimes in Kosovo, he encouraged and morally supported the direct perpetrators of crimes against the Kosovo Albanian population. Lukić knew of the commission of widespread crimes by the forces of the FRY and Serbia and was aware that he was assisting to the commission of such crimes.

(b) Sreten Lukić's Individual Criminal Responsibility under Article 7(3) of the Statute

(i) Superior-subordinate relationship

1073. Lukić exercised *de jure* and *de facto* authority over MUP units, including PJP units.²⁵⁵³

1074. Lukić had effective control over his subordinates. He had the material ability to prevent crimes from being committed as well as to punish and enforce discipline among members of MUP units, in compliance with MUP regulations.

1075. As Head of the MUP Staff, Lukić had the authority to issue orders to subordinate officers, including commanders of special units.²⁵⁵⁴ His orders and instructions on the protection of the civilian population and compliance with the law confirm his authority and material ability to prevent.²⁵⁵⁵

1076. During the Indictment period, a functioning justice system existed to ensure respect for the law within the MUP. Like the VJ, the MUP had disciplinary regulations setting out the responsibilities of superiors and subordinates for both their own actions and the actions of others. The Law on Internal Affairs restricted the use of force by the MUP and established a framework for disciplining MUP official who breached their professional duties.²⁵⁵⁶

1077. Crimes committed in connection with official duties, including war crimes and crimes against humanity, would constitute a breach of duty and thus provide grounds for disciplinary action.²⁵⁵⁷

1078. The Decree on Disciplinary Responsibility regulated the duties of MUP superiors to investigate and conduct preliminary proceedings against subordinates who had breached the law.²⁵⁵⁸ Like the Military Discipline Courts for the VJ, the Disciplinary Courts for the MUP existed to establish both disciplinary responsibility and an internal system of justice. Coupled with the Law on Internal Affairs, the Decree on Disciplinary Responsibility at the Ministry of the Interior thus created the legal mechanisms for enforcing discipline in the MUP.

1079. The Decree on Internal Affairs During the State of War, issued pursuant to the Declaration of War on 24 March 1999, provided MUP officials with some latitude in their activities. The

²⁵⁵³ See paragraphs 996-100 and Section II(C)(3)(b)(iv) (MUP Staff).

²⁵⁵⁴ See paragraphs 996-100 and Section II(C)(3)(b)(iv) (MUP Staff).

²⁵⁵⁵ P1989,p.3;6D778;6D666;P1993,p.8;P1996,p.10.

²⁵⁵⁶ P1737,Arts.3,14,15,23.

²⁵⁵⁷ P1737,Arts.50-57.

²⁵⁵⁸ P1016,Arts.11-33.

Decree gave MUP officials greater powers to detain suspects,²⁵⁵⁹ restrict their movements,²⁵⁶⁰ and perform searches of persons and property.²⁵⁶¹ It also obliged them to carry out orders from superiors, unless those orders required a criminal act.

1080. The Decree simplified the disciplinary system by authorising the head of a sector of the MUP or a person designated by him to discipline without resort to the usual procedures.²⁵⁶² The Decree does not suggest, however, that commanding officers had the discretion not to investigate or punish serious violations of professional duties and responsibilities.

1081. MUP disciplinary courts and higher disciplinary courts were in place to deal with cases. 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.²⁵⁶³ Various legal procedures were thus in place, allowing for efficient investigations and prosecutions of alleged crimes.

1082. Whenever police officers committed serious violations, SUP Chiefs had the duty to initiate disciplinary proceedings against them and to inform the Ministry in Belgrade of such breaches.²⁵⁶⁴

1083. Defence witnesses maintained that Lukić could not take any measures against MUP employees to punish them for criminal acts.²⁵⁶⁵ It is inconceivable that in a well-regulated system, such as the one of the MUP, an officer of Lukić's rank, that of Lieutenant General, was unable to take measures when notified of the commission of serious crimes. As any member of the MUP, he, too, was bound by the legal duty to protect the civilian population.²⁵⁶⁶

(ii) Lukić knew or had reason to know that his subordinates were about to commit crimes or had done so

1084. The evidence in paragraphs 1055 to 1067 demonstrates that Lukić knew or had reason to know that members of the MUP were involved in serious crimes against ethnic Albanian civilians during the Indictment period. His knowledge of the criminal behaviour of MUP units derived from various sources, including from the regular reporting within the MUP, his participation at meetings of the MUP Staff, the Joint Command and with senior Serb leadership, and from complaints voiced

²⁵⁵⁹ P993, Art. 2.

²⁵⁶⁰ P993, Art. 3.

²⁵⁶¹ P993, Art. 4.

²⁵⁶² P993, Art. 9.

²⁵⁶³ See e.g. P1020, Arts. 47-48.

²⁵⁶⁴ Cvetić, T. 8152-8153, 8156. See P1016, Arts. 8-10; P1737, Arts. 50-57.

²⁵⁶⁵ [REDACTED] Mijatović, 6D1492, para. 53; T. 22212-22213.

²⁵⁶⁶ P1569.

by international observers and foreign diplomats. He was also aware that the tactics employed during operations in 1998 could lead to serious violations of international law.

(iii) Failure to take measures to prevent or punish

1085. Despite his knowledge of the criminality of units under his command, Lukić failed to take reasonable and necessary measures to prevent crimes or to punish the perpetrators.

Failure to prevent

1086. Throughout the Indictment period, Lukić issued orders and instructions on the need of the MUP to respect the law and MUP regulations. The mere issuing of reminders was, however, insufficient to discharge his legal obligation to protect the civilian population. He had the duty to intervene upon receiving notice that serious crimes were occurring.

1087. Lukić's responses to crimes committed by his subordinates was grossly inadequate. Although he issued token reminders to the members of the MUP to respect the law, he never backed his words with any punitive actions. In this way he indicated that criminality was permitted notwithstanding his general orders to the contrary. At the 4 April 1999 meeting of the MUP Staff, Lukić reminded SUP chiefs that they should continue to carry out their tasks: "treatment of perpetrators of crimes is the same as in peacetime regardless of their nationality... Take rigorous measures towards paramilitaries."²⁵⁶⁷ In his dispatch of 15 April 1999, he instructed SUP chiefs and PJP commanders: "All the measures members of the police were ordered to take with regard to the treatment of the civilian population must be enforced consistently. Any members of the police who do not obey the issued order shall be held accountable."²⁵⁶⁸ Three weeks later, at the 7 May 1999 meeting of the MUP Staff, Lukić again told SUP chiefs:

You must not wait in cases of arson and murder; the suspects must be handed over together with a criminal report to the competent judge.... These sorts of problems have still not been cleared up, especially in Kosovo Polje and Podujevo, or rather Prizren and Đakovica, while Gnjilane has clearly resolved some problems.²⁵⁶⁹

1088. On 11 May 1999, he reminded PJP detachment commanders of their obligation to prevent the mass exodus of civilians "of which we informed you a month ago."²⁵⁷⁰ Given that he continued to receive reports that serious crimes were being perpetrated on a large-scale, it should have been clear to Lukić that his orders were not complied with. Lukić issued these orders after most of the population had been expelled and large-scale VJ-MUP operations had been concluded. These orders

²⁵⁶⁷ P1989,p.3.

²⁵⁶⁸ 6D778.

²⁵⁶⁹ P1996,p.10.

²⁵⁷⁰ P1993,p.8.

show a lack of urgency and concern - by May the majority of the Kosovo Albanians had been expelled.

1089. Having had notice of the criminality among members of the MUP, Lukić should have ensured a strict enforcement of his orders. His failure to prevent the commission of crimes by police units, where he had the ability to do so, cannot simply be remedied by subsequently issuing reminders to respect the law. At the very least, when informed of conduct of MUP officers amounting to serious offences, such as murders, he had the obligation to notify the respective SUP Chief of such acts and request that steps be taken to initiate an investigation.²⁵⁷¹ He could have also notified the MUP Ministry in Belgrade in his daily dispatches that serious crimes were occurring and requested that measures be taken against perpetrators.

Failure to punish

1090. As a high-ranking officer of the MUP whose duty it was to protect the civilian population—and especially as an officer with many years of service with the MUP, Lukić was fully aware of the procedures available to him to punish crimes. Lukić failed to take reasonable and necessary measures to punish MUP members for crimes.

1091. Lukić claimed that all crimes were investigated and perpetrators prosecuted.²⁵⁷² His daily situation reports to MUP authorities in Belgrade paint a different picture. They show that the MUP in Kosovo was mainly concerned with investigating crimes against property or activities related to terrorism. Under the heading “Serious Crimes”, he mostly reported on the measures taken by the SUPs to discipline police officers for incidents of theft and looting.²⁵⁷³ For example, on 27 March 1999, the day after the killing of Berisha family by the police in Suva Reka, Lukić only reported two incidents of aggravated theft.²⁵⁷⁴ In his report of 3 April 1999, Lukić recorded around 10 incidents of theft, including several cases of theft of toiletries.²⁵⁷⁵ His report contains no mention of the massacre of 20 civilians by the police on Miloš Gilos Street, in Đakovica town, which occurred the previous day.

1092. On 17 May 1999, Milošević, Ojdanić, Pavković, Farkaš, Vasiljević, Šainović, Gajić and Rade Marković met at the command post of the SC.²⁵⁷⁶ The crimes against civilians perpetrated by members of the VJ and the MUP were discussed. Mention was made to 326 bodies found in the

²⁵⁷¹ Cvetic, T.8156.

²⁵⁷² P948, pp.151-152

²⁵⁷³ P1100, p.5; 6D1251, pp.4-5; P1693, pp.5-86; 6D1232, p.4; 6D1233, p.5; 6D1238, p.3; 6D1239, p.5; 6D1241, p.3; 6D1254, p.3; 6D1255, p.3.

²⁵⁷⁴ P1100.

²⁵⁷⁵ 6D1239, pp.4-6.

²⁵⁷⁶ Vasiljević, P2600, paras.63-64; P2589, pp.48-49; Gajić, T.15290.

area of MUP operations.²⁵⁷⁷ According to Vasiljević, Pavković told Ojdanić that he had proposed to Lukić that they form a joint commission to establish who was responsible for each incident, but Lukić had refused.²⁵⁷⁸

1093. The few investigations that were carried out during the Indictment period were initiated only after information on specific incidents became public. A prime example is the investigation into the Izbica massacre. Lukić claimed that all measures were taken to investigate this incident in compliance with the law.²⁵⁷⁹ The Kosovska Mitrovica district public prosecutor was notified and a judge appointed to investigate the incident.²⁵⁸⁰ Forensic experts were called to conduct external examinations on the bodies exhumed from Izbica, and these bodies were later buried.²⁵⁸¹ The fact that some of these bodies were later discovered in clandestine mass graves in Serbia shows that this investigation was not really aimed at establishing the truth.

1094. In late May 1999, having had notice of the crimes charged in the *Milošević et al* case,²⁵⁸² Lukić failed to issue instructions to SUP chiefs to initiate investigations into the alleged crimes. The number of killings alleged in this indictment was significantly higher than those reported at the 7 May 1999 MUP Staff meeting. This fact alone should have alerted Lukić that urgent measures were required. An obvious first step would have been to request reports from SUP chiefs about the specific crimes alleged.

1095. Although his knowledge was limited to the area of the Kosovska Mitrovica SUP, Cvetić said that, during his tenure in Kosovo,²⁵⁸³ he did not know of any cases where police officers were prosecuted for serious crimes against the ethnic Albanian population, such as cases of murder of Kosovo Albanians, arson of Kosovo Albanian property or forcible expulsion of Kosovo Albanians from their homes. He did not recall hearing about any such prosecutions at MUP Staff meetings.²⁵⁸⁴

1096. On the basis of information on relevant investigations and prosecutions requested from the MUP,²⁵⁸⁵ an OSCE report on the prosecution of war crimes came to the conclusion that, 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.” According to the OSCE, these few investigations conducted against Serbian police or security

²⁵⁷⁷ Vasiljević, P2600, para. 62.

²⁵⁷⁸ Vasiljević, P2600, para. 62.

²⁵⁷⁹ P948, p. 161.

²⁵⁸⁰ P948, p. 161.

²⁵⁸¹ P948, p. 161.

²⁵⁸² P968.

²⁵⁸³ Cvetić was the Chief of the Kosovska Mitrovica SUP from January 1997 until mid-April 1999.

²⁵⁸⁴ Cvetić, T.8112-8113.

²⁵⁸⁵ P831.

forces were initiated only when and because the public had learnt about the crimes and the MUP had no choice but to conduct investigations.²⁵⁸⁶

1097. By failing to adequately report or investigate crimes, and by failing to punish or discipline criminal elements within the MUP, Lukić encouraged and gave legitimacy to crimes committed by MUP units against Kosovo Albanians.

Conclusion

1098. Lukić exercised effective control over MUP units, including special units, operating in Kosovo during the Indictment period. Lukić 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 an affirmative duty to investigate these allegations. Lukić, 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.

V. SENTENCING

1099. The accused 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.

1100. The accused, all occupying high leadership positions, did not allow themselves 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. They were not even restrained by the warning of the ICTY Prosecutor. Having regard to the high level of leadership of each of the accused as well as the scope of the crimes, lengthy prison sentences would be warranted if the accused were 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 sentences ranging from 20 years to life imprisonment.

²⁵⁸⁶ P846,p.13.

VI. ANNEXES

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

Case No. IT-05-87-T

IN THE TRIAL CHAMBER

**Before: Judge Iain Bonomy, Presiding
Judge Ali Nawaz Chowhan
Judge Tsvetana Kamenova
Judge Janet Nosworthy, Reserve**

Registrar: Mr. Hans Holthuis

Date Filed: 15 July 2008

THE PROSECUTOR

v.

**MILAN MILUTINOVIĆ
NIKOLA ŠAINOVIĆ
DRAGOLJUB OJDANIĆ
NEBOJŠA PAVKOVIĆ
VLADIMIR LAZAREVIĆ
SRETEN LUKIĆ**

ANNEX A

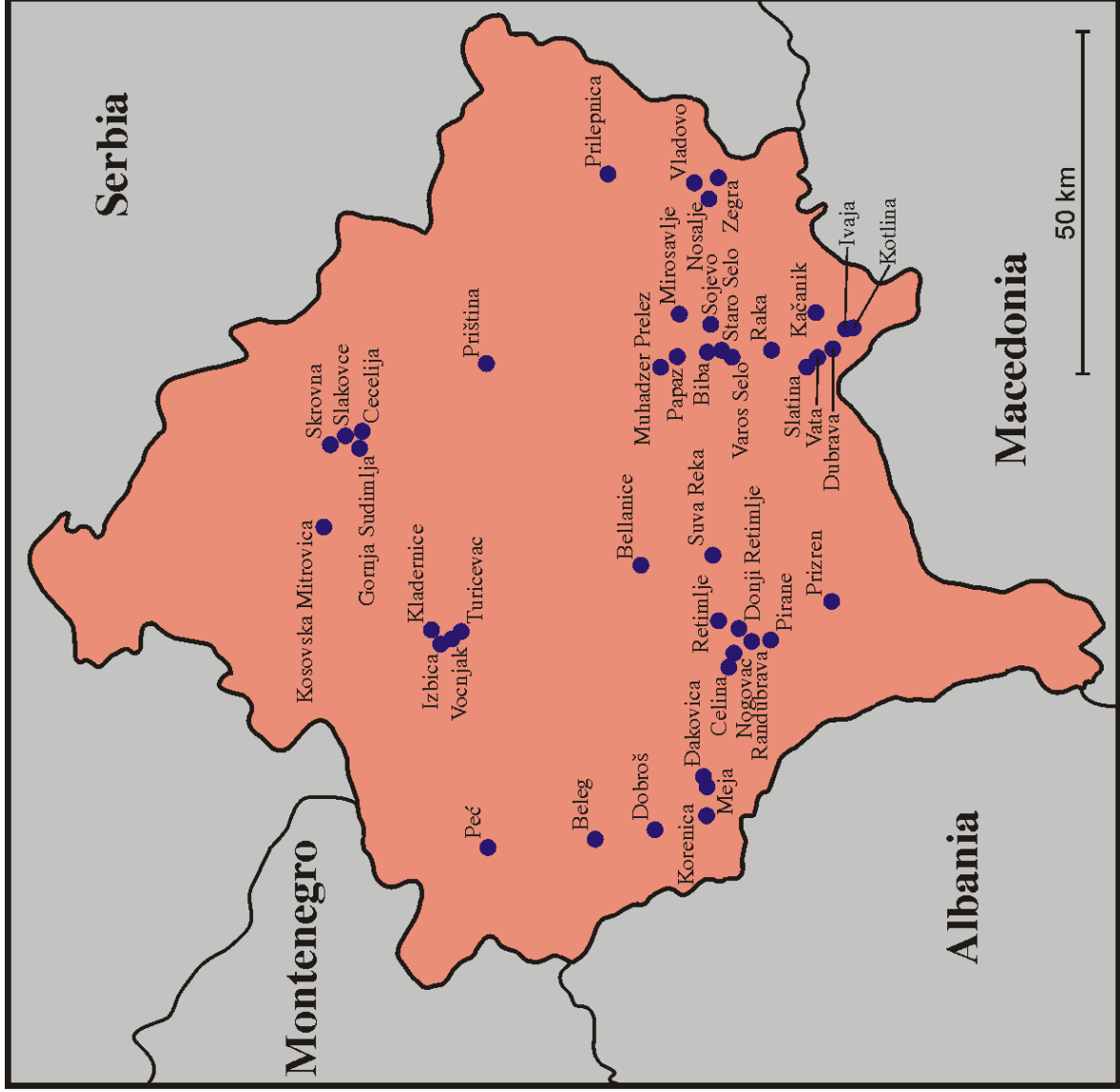
The Office of the Prosecutor:

Mr. Thomas Hannis
Mr. Chester Stamp
Ms. Daniela Kravetz

Counsel for the Accused:

Mr. Eugene O'Sullivan and Mr. Slobodan Zečević for Milan Milutinović
Mr. Toma Fila and Mr. Vladimir Petrović for Nikola Šainović
Mr. Tomislav Višnjić and Mr. Norman Sepenuk for Dragoljub Ojdanić
Mr. John Ackerman and Mr. Aleksander Aleksić for Nebojša Pavković
Mr. Mihaljo Bakrac and Mr. Đuro Čepić for Vladimir Lazarević
Mr. Branko Lukić and Mr. Dragan Ivetić for Sreten Lukić

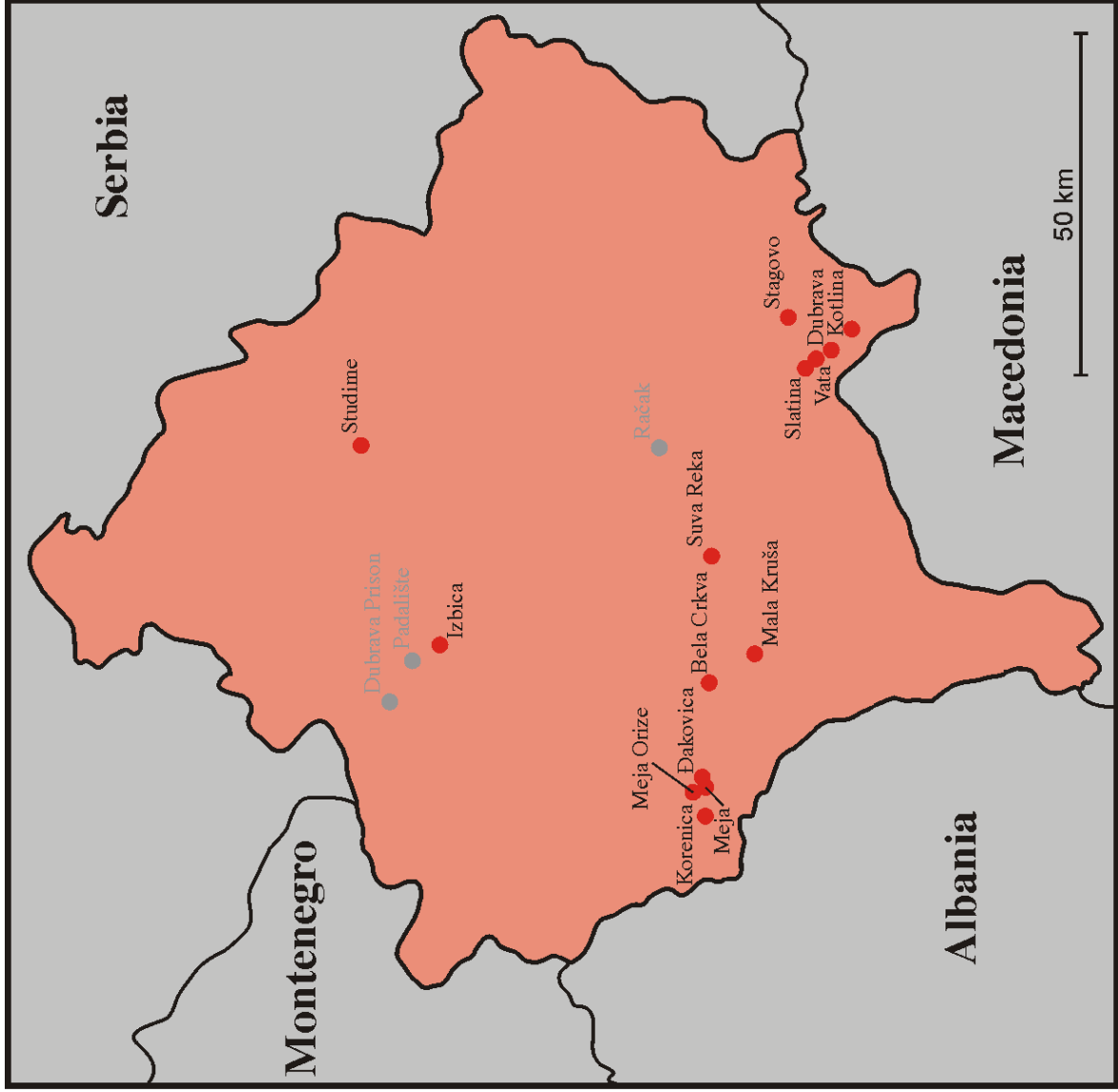
Locations from Count 1 (Deportation) of the 3rd Amended Indictment



Count 1 Deportation - Paragraphs 71-72
(IT-05-87 3rd Amended Indictment)



Locations from Counts 3-4 (Murder) of the 3rd Amended Indictment



■ Counts 3-4 Murder - Paragraphs 74-75 (IT-05-87 3rd Amended Indictment)
■ Removed Sites

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VLADIMIR LAZAREVIĆ
SRETEN LUKIĆ**

ANNEX B (Based on Exhibit P2615)

The Office of the Prosecutor:

Mr. Thomas Hannis
Mr. Chester Stamp
Ms. Daniela Kravetz

Counsel for the Accused:

Mr. Eugene O'Sullivan and Mr. Slobodan Zečević for Milan Milutinović
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Mr. Mihaljo Bakrac and Mr. Đuro Čepić for Vladimir Lazarević
Mr. Branko Lukić and Mr. Dragan Ivetić for Sreten Lukić

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 P02031

Joint Command Order 455-56 & 455 56/1
Start Date: 24-Mar-1999
Exhibit P01966 & P01967

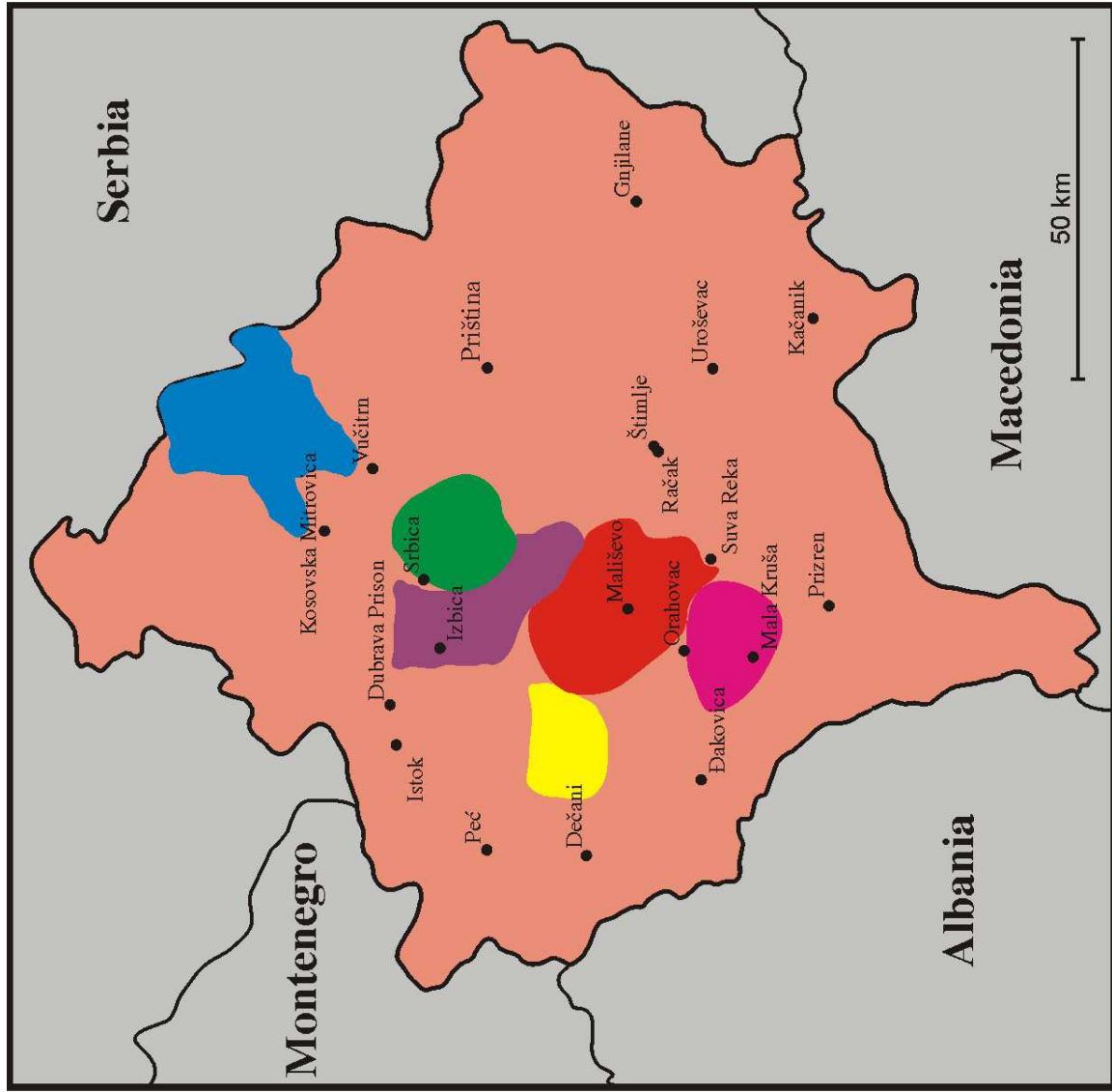
Joint Command Order 455-63
Start Date: 25-Mar-1999
Exhibit P02015

Joint Command Order 455-73
Start Date: 26-Mar-1999
Exhibit P01968

Joint Command Order 455-90
Start Date: 30-Mar-1999
Exhibit P01969










Joint Command Order 455-115
Start Date: 03-Apr-1999
Exhibit P02003

* based on Table 1 and supporting documents in the Addendum to Exhibits 5.1271 and 5.1272 - Expert Report of Philip/Coö Parts I and II

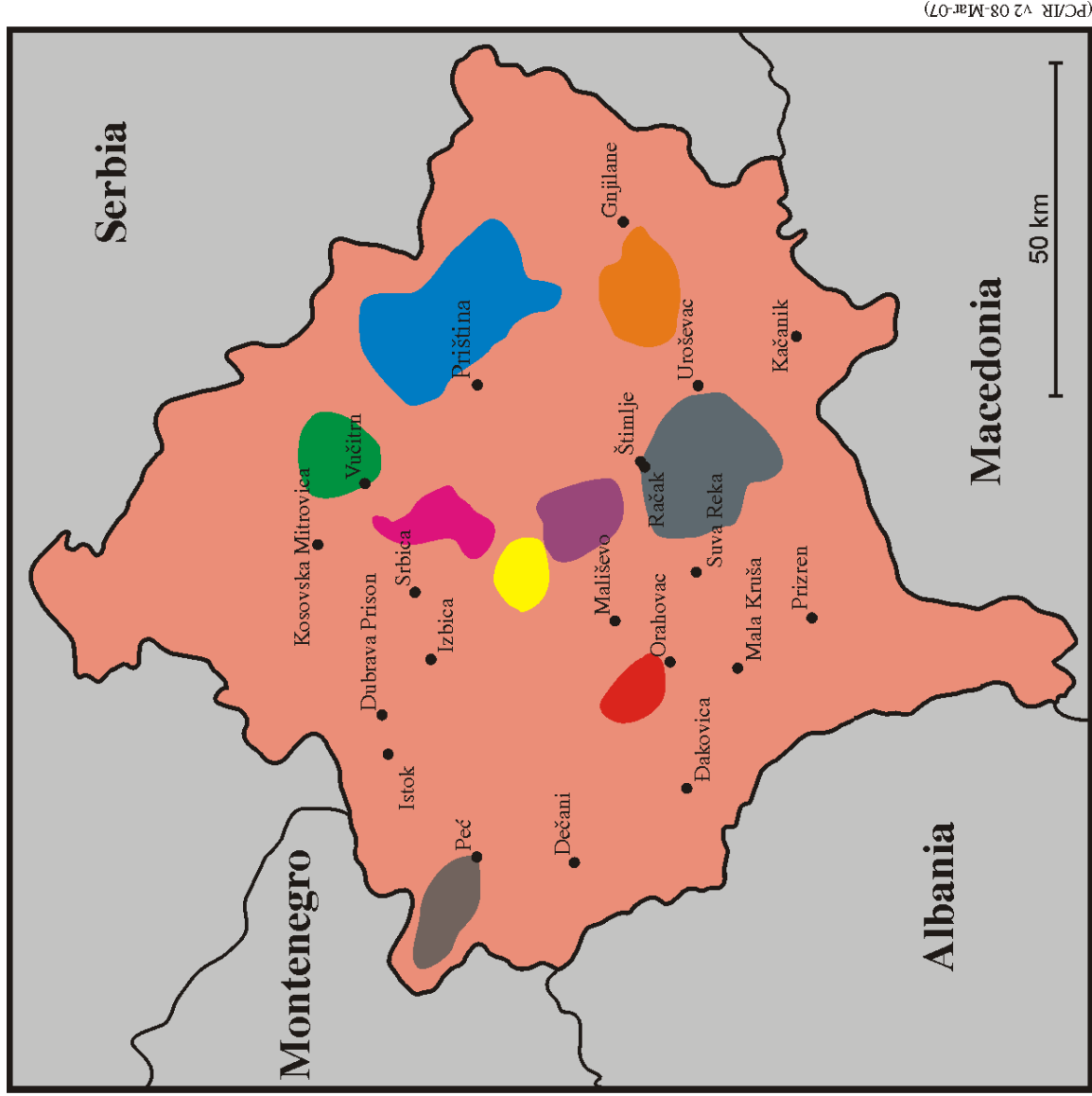


(FCIR v2 08-Mar-07)

Appendix 2: Approximate areas of Combat Operations ordered by the Joint Command and conducted during the period of mid-April - May 1999 *

- | | |
|---|---|
|  | K052-0054 Joint Command Order
Start Date: 10-13 April 1999
Exhibit P01970 |
|  | K052-0059 Joint Command Order
Start Date: 15-Apr-99
Exhibit P01971 |
|  | K052-0069 Joint Command Order
Start Date: 16-Apr-99
Exhibit P01974 |
|  | K052-0094 Joint Command Order
Start Date: 17-Apr-1999
Exhibit P01977 |
|  | K036-8502 Joint Command Order
Start Date: 18-Apr-1999
Exhibit P01878 |
|  | K052-0074 Joint Command Order
Start Date: 18-Apr-99
Exhibit P01973 |
|  | K052-0064 Joint Command Order
Start Date: 18-Apr-99
Exhibit P01972 |
|  | K052-0089 Joint Command Order
Start Date: 23-Apr-1999
Exhibit P01976 |
|  | K052-0084 Joint Command Order
Start Date: 25-Apr-99
Exhibit P01975 |

* based on Table 1 and supporting documents in the Addendum to Exhibits 5.1271 and 5.1272 - Expert Report of Philip Coe Parts I and II



(FC/IR v2 08-Mar-07)

**THE INTERNATIONAL CRIMINAL TRIBUNAL
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VLADIMIR LAZAREVIĆ
SRETEN LUKIĆ**

ANNEX C

The Office of the Prosecutor:

Mr. Thomas Hannis
Mr. Chester Stamp
Ms. Daniela Kravetz

Counsel for the Accused:

Mr. Eugene O'Sullivan and Mr. Slobodan Zečević for Milan Milutinović
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Mr. Mihaljo Bakrac and Mr. Đuro Čepić for Vladimir Lazarević
Mr. Branko Lukić and Mr. Dragan Ivetić for Sreten Lukić

Bela Crkva (Schedule B) Proof of Death Chart

Name	Site Reference Code	Testimony	OMPF list of missing persons P02798	SM government forensic reports	DNA reports	Identification	Cause of Death
BEGAJ, Abdullah		Isuf ZHUNIQA,27-09-2006, P02331,p.5					
BERISHA, Murat	JB-G/29SR	Isuf ZHUNIQA,27-09-2006, P02331,p.5; Sabri POPAJ,1&2-11-2006,P02446,p.7				P00097,p.41	Multiple gunshot wounds (P00097,p.63)
GASHI, Fadil (last name also spelt GASHA)	JB-G/32SR	Isuf ZHUNIQA,27-09-2006, P02331,p.5; Sabri POPAJ,1&2-11-2006,P02446,p.7				P00097,p.42	Gunshot wound to the neck (P00097,pp.65-66)
MORINA, Musa		Isuf ZHUNIQA,27-09-2006, P02331,p.5					
POPAJ, Abdullah	CAD/5SR	Isuf ZHUNIQA,27-09-2006, P02331,p.6; P00094,p.3; Sabri POPAJ,1&2-11-2006, P02446,p.7				P00097,p.49	Multiple gunshot wounds (P00097,pp.85-86)
POPAJ, Agon	CAD/9SR	Isuf ZHUNIQA,27-09-2006, P02331,p.5;P00094,p.1; Sabri POPAJ,1&2-11-2006, P02446,p.7.				P00097,p.49	Multiple gunshot wounds (P00097,pp.89-90)
POPAJ, Alban		Isuf ZHUNIQA,27-09-2006, P02331,p.5; P00094,p.2					

Bela Crkva (Schedule B) Proof of Death Chart

POPAJ, Bedrush	CAD/6SR	Isuf ZHUNIQI,27-09-2006, P02331,p.6; P00094,p.4; Sabri POPAJ,1&2-11-2006, P02446,p.7				P00097,p.49	Multiple gunshot wounds (P00097,pp.86-87)
POPAJ, Belul (first name also spelt Behlul)	CAD/3SR	Isuf ZHUNIQI,27-09-2006, P02331,p.5; Sabri POPAJ,1&2-11-2006, P02446,p.7				P00097,p.49	Gunshot wound to the head (P00097,p.84)
POPAJ, Ethem	CAD/8SR	Isuf ZHUNIQI,27-09-2006, P02331,p.5; P00094,p.5; Sabri POPAJ,1&2-11-2006, P02446,p.7				P00097,p.49	Multiple gunshot wounds (P00097,pp.88-89)
POPAJ, Hazer	JB-G/61SR	Isuf ZHUNIQI,27-09-2006, P02331,p.5; P00094,p.6				P00097,p.45	Multiple gunshot wounds (P00097,pp.81-82)
POPAJ, Hysni		Isuf ZHUNIQI,27-09-2006, P02331,p.6					
POPAJ, Irfan (first name also spelt Irfon)	JB-G/56SR	Isuf ZHUNIQI,27-09-2006, P02331,p.5; P00094,p.7				P00097,p.44	Multiple gunshot wounds (P00097,pp.75-76)
POPAJ, Isuf Haxhi	CAD/13SR	Isuf ZHUNIQI,27-09-2006, P02331,p.6; Sabri POPAJ,1&2-11-2006, P02446,p.7				P00097,p.49	Multiple gunshot wounds (P00097,pp.93-94)

Bela Crkva (Schedule B) Proof of Death Chart

POPAJ, Kreshnik	CAD/7SR	Isuf ZHUNIQA,27-09-2006, P02331,p.5; P00094,p.8; Sabri POPAJ,1&2-11-2006, P02446,p.7				P00097,p.49	Multiple gunshot wounds (P00097,pp.87-88)
POPAJ, Lindrit		Isuf ZHUNIQA,27-09-2006, P02331,p.6					
POPAJ, Mehmet	CAD/14SR	Isuf ZHUNIQA,27-09-2006, P02331,p.6 Sabri POPAJ,1&2-11-2006,P02446,p.7				P00097,p.49	Multiple gunshot wounds,(P00097,pp.94-95)
POPAJ, Mersel	CAD/2SR	Isuf ZHUNIQA,27-09-2006, P02331,p.5; Sabri POPAJ,1&2-11-2006, P02446,p.7				00097,p.49	Multiple gunshot wounds,(P00097,p.83)
POPAJ, Nazmi	CAD/12SR	Isuf ZHUNIQA,27-09-2006, P02331,p.5; P00094,p.9 Sabri POPAJ,1&2-11-2006, P02446,p.7.				P00097,p.49	Multiple gunshot wounds,(P00097,pp.92-93)
POPAJ, Nisim (first name also spelled Nesim)	CAD/11SR	Isuf ZHUNIQA,27-09-2006, P02331,p.4 P00094,p.10; Sabri POPAJ,1&2-11-2006, P02446.p.7				P00097,p.49	Multiple gunshot wounds,(P00097,pp.91-92)

Bela Crkva (Schedule B) Proof of Death Chart

POPAJ, Rustem (first name also spelt Rustem and Rusten)	JB-G/33SR	Isuf ZHUNIQI,27-09-2006, P00094,p.11; Sabri POPAJ,1&2-11-2006, P02446,p.7				P00097,p.42	Multiple gunshot wounds,(P00097,pp.66-67)
POPAJ, Sahid (first name also spelt as Sahit)	CAD/4SR	Isuf ZHUNIQI,27-09-2006, P02331,p.5; Sabri POPAJ,1&2-11-2006 P02446,p.7				P00097,p.49	Multiple gunshot wounds,(P00097,pp.84-85)
POPAJ, Sedat	JB-G/55SR	Isuf C21ZHUNIQI,27-09+C30-2006, P02331,p.5; P00094,p.12; Sabri POPAJ,1&2-11-2006, P02446 p.7				P00097,p.44	Multiple gunshot wounds,(P00097,pp.74-75)
POPAJ, Shendet	CAD/10SR	Isuf ZHUNIQI,27-09-2006, P02331p.4; P00094,p.13; Sabri POPAJ,1&2-11-2006, P02446,p.7				P00097,p.49	Gunshot wound to the head,(P00097,pp.90-91)
POPAJ, Vehap	CAD/15SR	Isuf ZHUNIQI,27-09-2006, P02331,p.6; Sabri POPAJ,1&2-11-2006, P02446,p.7				P00097,p.49	Multiple gunshot wounds,(P00097,pp.95-96)
POPAJ, Xhavit	JB-G/39SR	Isuf ZHUNIQI,27-09-2006, P02331,p.6; Sabri POPAJ,1&2-11-2006, P02446,p.7				P00097,p.42	Multiple gunshot wounds,(P00097,pp.72-73)

Bela Crkva (Schedule B) Proof of Death Chart

SPAHIU, Marigona	JB-G/72SR	Isuf ZHUNIQA,27-09-2006,P02331,p.3				P00097,p.47	Gunshot wound to the chest,(P00097,p.105)
SPAHIU, Iliriana	JB-G/70SR	Isuf ZHUNIQA,27-09-2006,P02331,p.3				P00097,p.47	Gunshot wound to the chest,(P00097,p.104)
SPAHIU, Lirim	JB-G/73SR	Isuf ZHUNIQA,27-09-2006,P02331,p.3				P00097,p.47	Gunshot wound to the chest,(P00097,p.106)
SPAHIU, Qamile	JB-G/68SR	Isuf ZHUNIQA,27-09-2006,P02331,p.3				P00097,p.47	Multiple gunshot wounds,(P00097,p.102)
SPAHIU, Xhemal (first name also spelt Gjeman)	JB-G/66SR	Isuf ZHUNIQA,27-09-2006,P02331,p.3				P00097,p.47	Gunshot wounds to the neck,(P00097,p.101)
ZHUNIQA, Abein (first name also spelt Abedin)	JB-G/28SR	Isuf ZHUNIQA,27-09-2006,P02331,p.5; P00094,p.14; Sabri POPAJ,1&2-11-2006, P02446,p.7				P00097,p.41	Multiple gunshot wounds,(P00097,pp.61-62)
ZHUNIQA, Agim	JB-G/58SR	Isuf ZHUNIQA,27-09-2006,P02331,p.5,P00094,p.15				P00097,p.45	Multiple gunshot wounds (P00097, pp.78-79)
ZHUNIQA, Bajram	JB-G/34SR	Isuf ZHUNIQA,27-09-2006,P02331,p.5;P00094,p.16; Sabri POPAJ,1&2-11-2006, P02446,p.7				P00097,p.42	Multiple gunshot wounds (P00097,pp.67-68)
ZHUNIQA, Bilall (first name also spelt Biladh)	JB-G/36SR	Isuf ZHUNIQA,27-09-2006,P02331,p.5; P00094,p.17; Sabri POPAJ,1&2-11-2006, P02446,p.7				P00097,p.42	Multiple gunshot wounds (P00097,pp.69-70)

Bela Crkva (Schedule B) Proof of Death Chart

ZHUNIQI, Clirim (first name also spelt Qlirim and Shrilim)	JB-G/62SR	Isuf ZHUNIQI,27-09-2006, P02331 p.3; P00094,p.18				P00097,p.46	Gunshot wounds to the back (P00097,pp.98-99)
ZHUNIQI, Dardan	JB-G/64SR	Isuf ZHUNIQI,27-09-2006,P02331, p.3; P00094,p.20				P00097,p.46	Multiple gunshot wounds (P00097,p.100)
ZHUNIQI, Dardane	JB-G/67SR	Isuf ZHUNIQI,27-09-2006, P02331 p.3; P00094,p.20				P00097,p.47	Gunshot wound to the head,(P00097,pp.101-102)
ZHUNIQI, Destan	JB-G/30SR	Isuf ZHUNIQI,27-09-2006, P02331,p.5; Sabri POPAJ,1&2-11-2006, P02446,p.7				P00097,p.42	Gunshot wound to the left side of the chest,(P00097,pp.63-64)
ZHUNIQI, Eshref (last name also spelt ZHUNIOJ)	CAD/1SR	Isuf ZHUNIQI,27-09-2006, P02331,p.5; P00094,p.21 Sabri POPAJ,1&2-11-2006, P02446,p.7				P00097,p.49	Multiple gunshot wounds,(P00097,p.82)
ZHUNIQI, Fatos	JB-G/41SR	Isuf ZHUNIQI,27-09-2006, P02331,p.5; P00094,p.22 Sabri POPAJ,1&2-11-2006, P02446,p.7				P00097,p.42	Gunshot wound to the chest,(P00097,p.74)
ZHUNIQI, Dhurata	JB-G/65SR	Isuf ZHUNIQI,27-09-2006, P02331 p.3; P00094,p.19				P00097,p.47	Gunshot wound to the back of the head,(P00097,pp.100-101)
ZHUNIQI, Lumnie	JB-G/63SR	Isuf ZHUNIQI,27-09-2006, P02331, p. 3; P00094,p.18				P00097,p.46	Multiple gunshot wounds to the head and back (P00097,p.99)

Bela Crkva (Schedule B) Proof of Death Chart

ZHUNIQI, Labinot	JB-G/40SR	Isuf ZHUNIQI,27-09-2006, P02331, p.3; P00094,p.23; Sabri POPAJ,1&2-11-2006, P02446,p.7				P00097,p.42	Multiple gunshot wounds (P00097,pp.73-74)
ZHUNIQI, Hysni	JB-G/60SR	Isuf ZHUNIQI,27-09-2006, P02331,p.5; P00094,p.24				P00097,p.45	Multiple gunshot wounds (P00097,pp.80-81)
ZHUNIQI, Ibrahim	JB-G/31SR	Isuf ZHUNIQI,27-09-2006, P02331,p.5; Sabri POPAJ,1&2-11-2006, P02446,p.7				P00097,p.42	Multiple gunshot wounds (P00097,pp.64-65)
ZHUNIQI, Kasim	JB-G/22SR	Isuf ZHUNIQI,27-09-2006 P02331,p.5; Sabri POPAJ,1&2-11-2006, P02446,p.7				P00097,p. 41	Gunshot wound to the chest (P00097,p.58)
ZHUNIQI, Medi	JB-G/57SR	Isuf ZHUNIQI,27-09-2006, P02331,p.5				P00097,p.45	Multiple gunshot wounds (P00097,pp.77-78)
ZHUNIQI, Muhammet		Isuf ZHUNIQI,27-09-2006, P02331,p.5					
ZHUNIQI, Muharrem	JB-G/21SR	Isuf ZHUNIQI,27-09-2006, P02331,p.5; P00094,p.25; Sabri POPAJ,1&2-11-2006, P02446,p.7				P00097,p.41	Gunshot wound to the chest (P00097,p.57)

Bela Crkva (Schedule B) Proof of Death Chart

ZHUNIQL, Qamil	JB-G/23SR	Isuf ZHUNIQL,27-09-2006, P02331,p.5;P00094 ,p.26; Sabri POPAJ,1&2-11-2006, P02446,p.7				P00097,p.41	Gunshot wound to the chest (P00097,pp.58-59)
ZHUNIQL, Qemal	JB-G/37SR	Isuf ZHUNIQL,27-09-2006, P02331,p.5; P00094,p.27; Sabri POPAJ,1&2-11-2006, P02446,p.7				P00097,p.42	Multiple gunshot wounds (P00097,pp.70-71)
ZHUNIQL, Reshit (first name also spelt Rehit)	JB-G/38SR	Isuf ZHUNIQL,27-09-2006, P02331,p.5; Sabri POPAJ,1&2-11-2006, P02446,p.7				P00097,p.42	Gunshot wound to the chest (P00097,pp.71-72)
ZHUNIQL, Shemsi	JB-G/35SR	Isuf ZHUNIQL,27-09-2006, P02331,p.5; P00094,p.28; Sabri POPAJ,1&2-11-2006, P02446,p.7				P00097,p.42	Multiple gunshot wounds (P00097,pp.68-69)

UNSCHEDULED VICTIMS							
FETOSHI, Ardian	JB-G/24SR	Sabri POPAJ,1&2-11-2006, P02446,p.7				P00097,p.41	Inconclusive (P00097,pp59-60)
FETOSHI, Fatmir	JB-G/27SR	Sabri POPAJ,1&2-11-2006, P02446,p.7				P00097,p.41	Multiple gunshot wounds (P00097,pp.60-61)
FETOSHI, Hysni	JB-G/25SR	Sabri POPAJ,1&2-11-2006, P02446,p.7				P00097,p.41	Multiple gunshot wounds (P00097,p.60)

Bela Crkva (Schedule B) Proof of Death Chart

FETOSHI, Halim		Sabri POPAJ,1&2-11-2006 P02446,p.4; T5656:2-5656:4;					
SPAHIU, Fiqriq	JB-G/69SR	Isuf ZHUNIQUI,27-09-2006, P02331,p.3; Sabri POPAJ, 1&2-11-2006, P02446,p.3				P00097,p.47	Multiple gunshot wounds,(P00097,pp.103-104)
SPAHIU, Labinot	JB-G/71SR	Isuf ZHUNIQUI,27-09-2006, P02331,p.3; Sabri POPAJ, 1&2-11-2006, P02446,p.3				P00097,p.47	Gunshot wound to the chest,(P00097,p.105)

Mala Kruša / Velika Kruša (Schedule C) Proof of Death Chart

Name		Testimony	OMPF list of missing persons P02798	SM government forensic reports	DNA reports	Identification	Cause of Death
ASLLANI, Adem		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 10	Place:Mala Kruša Date: 26-03-1999				
ASLLANI, Asim		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 10					
ASLLANI, Feim (first name also spelled Fehim)		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 10	Place:Mala Kruša Date: 26-03-1999				
ASLLANI, Muharrem (first name also spelled Muharremi)		Lutfi RAMADANI, P02357, p. 3; Mehmet AVDYLI, P02341, p. 10	Place:Mala Kruša Date: 26-03-1999				
ASLLANI, Nexhat		Lutfi RAMADANI, P02357, p. 3; Mehmet AVDYLI, P02341, p. 10	Place:Mala Kruša Date: 26-03-1999				
ASLLANI, Nisret (first name also spelled "Nysret")		Lutfi RAMADANI, P02357, p. 3; Mehmet AVDYLI, P02341, p. 10	Place:Mala Kruša Date: 26-03-1999				

ASLLANI, Perparim		Lutfi RAMADANI, P02357, p. 3; Mehmet AVDYLI, P02341, p. 10	Place:Mala Kruša Date: 26-03-1999				
AVDYLI, Bali		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 10	Place:Mala Kruša Date: 26-03-1999				
AVDYLI, Enver		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 10	Place:Mala Kruša Date: 26-03-1999				
BATUSHA, Ahmet		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 10	Place:Mala Kruša Date: 26-03-1999				
BATUSHA, Amrush (first name also spelled "Emrush")		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 10	Place:Mala Kruša Date: 26-03-1999				
BATUSHA, Asllan		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 10	Place:Mala Kruša Date: 26-03-1999				

BATUSHA, Avdi		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 10	Place:Mala Kruša Date: 26-03-1999				
BATUSHA, Bekim		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 10	Place:Mala Kruša Date: 26-03-1999				
BATUSHA, Beqir		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 10	Place:Mala Kruša Date: 26-03-1999				
BATUSHA, Burim		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 10	Place:Mala Kruša Date: 26-03-1999				
BATUSHA, Enver		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 10	Place:Mala Kruša Date: 26-03-1999				
BATUSHA, Feim/Fehim		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 10	Place:Mala Kruša Date: 26-03-1999				
BATUSHA, Mergim		Lutfi RAMADANI, P02357, p. 2	Place:Mala Kruša Date: 26-03-1999				

Mala Kruša / Velika Kruša (Schedule C) Proof of Death Chart

BATUSHA, Haxhi (first name also spelled "Hagji")		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 10	Place:Mala Kruša Date: 26-03-1999				
BATUSHA, Lirim		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 10	Place:Mala Kruša Date: 26-03-1999				
BATUSHA, Milaim		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 10	Place:Mala Kruša Date: 26-03-1999				
BATUSHA, Muharrem (first name also spelled Muharem)		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 10	Place:Mala Kruša Date: 26-03-1999				
BATUSHA, Njazi (first name also spelled "Njhazi")		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 10	Place:Mala Kruša Date: 26-03-1999				
BATUSHA, Osman		Lutfi RAMADANI, P02357, p. 2, Mehmet AVDYLI, P02341, p. 10	Place:Mala Kruša Date: 26-03-1999				

BATUSHA, Sefer		This person is alive. (Mehmet AVDYLI, 29-09-2006, T. 4376; P02341, p. 16)					
BATUSHA, Sejdi		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 10	Place:Mala Kruša Date: 26-03-1999				
BATUSHA, Skifer (first name also spelled "Skifter")		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 10	Place:Mala Kruša Date: 26-03-1999				
BATUSHA, Sulejman (first name also spelled Sylejman)		Mehmet AVDYLI, P02341, p. 10	Place:Mala Kruša Date: 26-03-1999				
BATUSHA, Zaim		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 10	Place:Mala Kruša Date: 26-03-1999				
HAJDARI, Abaz		Lutfi RAMADANI, P02357, p. 3; Mehmet AVDYLI, P02341, p. 11	Place:Mala Kruša Date: 26-03-1999				
HAJDARI, Abedin		Lutfi RAMADANI, P02357, p. 3; Mehmet AVDYLI, P02341, p. 11	Place:Mala Kruša Date: 26-03-1999				

HAJDARI, Halil		Lutfi RAMADANI, P02357, p. 3; Mehmet AVDYLI, P02341, p. 11	Place:Mala Kruša Date: 26-03-1999				
HAJDARI, Halim		Lutfi RAMADANI, P02357, p. 3; Mehmet AVDYLI, P02341, p. 11	Place:Mala Kruša Date: 26-03-1999				
HAJDARI, Hysni		Mehmet AVDYLI, P02341, p. 11	Place:Mala Kruša Date: 26-03-1999				
HAJDARI, Marsel (first name also spelled Myrsel or Mursel)		Lutfi RAMADANI, P02357, p. 3; Mehmet AVDYLI, P02341, p. 11	Place:Mala Kruša Date: 26-03-1999				
HAJDARI, Nazim (first name also spelled "Nasim")		Lutfi RAMADANI, P02357, p. 3; Mehmet AVDYLI, P02341, p. 11	Place:Mala Kruša Date: 26-03-1999				
HAJDARI, Qamil		Lutfi RAMADANI, P02357, p. 3; Mehmet AVDYLI, P02341, p. 11	Place:Mala Kruša Date: 26-03-1999				
HAJDARI, Rasim		Lutfi RAMADANI, P02357, p. 3; Mehmet AVDYLI, P02341, p. 11	Place:Mala Kruša Date: 26-03-1999				

Mala Kruša / Velika Kruša (Schedule C) Proof of Death Chart

HAJDARI, Sahit		Lutfi RAMADANI, 28- 09-2006, T. 4296; P02357, p. 3; Mehmet AVDYLI, P02341, p. 11	Place:Mala Kruša Date: 26-03-1999				
HAJDARI, Selajdin (first name also spelled "Salajdin")		Lutfi RAMADANI, P02357, p. 3; Mehmet AVDYLI, P02341, p. 11	Place:Mala Kruša Date: 26-03-1999				
HAJDARI, Shani		Lutfi RAMADANI, P02357, p. 3; Mehmet AVDYLI, P02341, p. 11	Place:Mala Kruša Date: 26-03-1999				
HAJDARI, Vesel		Lutfi RAMADANI, P02357, p. 3; Mehmet AVDYLI, P02341, p. 11	Place:Mala Kruša Date: 26-03-1999				
HAJDARI, Zenun		Lutfi RAMADANI, P02357, p. 3; Mehmet AVDYLI, P02341, p. 11	Place:Mala Kruša Date: 26-03-1999				
LIMONI, Avdyl (surname also spelled "LIMANI")		Lutfi RAMADANI, P02357, p. 3; Mehmet AVDYLI, P02341, p. 11	Place:Mala Kruša Date: 26-03-1999				

LIMONI, Limon (also spelled Liman, LIMANI)		Lutfi RAMADANI, P02357, p. 3; Mehmet AVDYLI, P02341, p. 11	Place:Mala Kruša Date: 26-03-1999				
LIMONI, Luan (surname also spelled "LIMANI")		Lutfi RAMADANI, P02357, p. 3; Mehmet AVDYLI, P02341, p. 11	Place:Mala Kruša Date: 26-03-1999				
LIMONI, Nehbi (surname also spelled LIMANI; first name also spelled Nebi)		Lutfi RAMADANI, P02357, p. 3; Mehmet AVDYLI, P02341, p. 11	Place:Mala Kruša Date: 26-03-1999				
RAMADANI, Afrim		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 10	Place:Mala Kruša Date: 26-03-1999				
RAMADANI, Asllan		Lutfi RAMADANI, P02357, p. 3; Mehmet AVDYLI, P02341, p. 11	Place:Mala Kruša Date: 26-03-1999				
RAMADANI, Bajram		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 10	Place:Mala Kruša Date: 26-03-1999				
RAMADANI, Sabit		Lutfi RAMADANI, P02357, p. 3	Place:Mala Kruša Date: 26-03-1999				

RAMADANI, Hysen		Lutfi RAMADANI, P02357, p. 3; Mehmet AVDYLI, P02341, p. 11	Place:Mala Kruša Date: 26-03-1999				
RAMADANI, Murat		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 10	Place:Mala Kruša Date: 26-03-1999				
RAMADANI, Ramadan		Lutfi RAMADANI, P02357, p. 3; Mehmet AVDYLI, P02341, p. 11	Place:Mala Kruša Date: 26-03-1999				
RAMADANI, Selajdin (first name also spelled "Salajdin")		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 10	Place:Mala Kruša Date: 26-03-1999				
RASHKAJ, Kadri (surname also spelled "RASHA")		Lutfi RAMADANI, P02357, p. 3; Mehmet AVDYLI, P02341, p. 11	Place:Mala Kruša Date: 26-03-1999				

RASHKAJ, Demir		Mehmet AVDYLI, P02341, p. 11; Lutfi RAMADANI, P02357, p. 4; T. 4308 (Ramadani lists Demir RASHKAJ as one of the nine persons killed in the streets or in the houses).	Place:Mala Kruša Date: 26-03-1999				
RASHKAJ, Refki		Lutfi RAMADANI, P02357, p. 3; Mehmet AVDYLI, P02341, p. 11					
SHEHU, Adnan		Lutfi RAMADANI, P02357, p. 1; Mehmet AVDYLI, P02341, p. 11	Place:Mala Kruša Date: 25-03-1999				
SHEHU, Arben		Lutfi RAMADANI, P02357, p. 1; Mehmet AVDYLI, P02341, p. 12	Place:Mala Kruša Date: 26-03-1999				
SHEHU, Arif		Lutfi RAMADANI, P02357, p. 1; Mehmet AVDYLI, P02341, p. 12	Place:Mala Kruša Date: 26-03-1999				

SHEHU, Bekim		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 12	Place:Mala Kruša Date: 25-03-1999				
SHEHU, Burim		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 12	Place:Mala Kruša Date: 26-03-1999				
SHEHU, Destan		Mehmet AVDYLI, P02341, p. 11	Place:Mala Kruša Date: 26-03-1999				
SHEHU, Din		Mehmet AVDYLI, P02341, p. 11					
SHEHU, Dritan (first name also spelled "Driton")		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 12	Place:Mala Kruša Date: 25-03-1999				
SHEHU, Fadil		Lutfi RAMADANI, P02357, p.1; Mehmet AVDYLI, P02341, p. 11	Place:Mala Kruša Date: 26-03-1999				
SHEHU, Flamur		Lutfi RAMADANI, P02357, p. 2	Place:Mala Kruša Date: 26-03-1999				
SHEHU, FNU (son of Haziz)		Mehmet AVDYLI, P02341, p. 11					
SHEHU, FNU (son of Sinan)		Mehmet AVDYLI, P02341, p. 12					

SHEHU, Haxhi (first name also spelled "Hagij")		Lutfi RAMADANI, P02357, p. 1; Mehmet AVDYLI, P02341, p. 12	Place:Mala Kruša Date: 26-03-1999				
SHEHU, Haziz (first name also spelled "Aziz")		Lutfi RAMADANI, P02357, p. 1; Mehmet AVDYLI, P02341, p. 11					
SHEHU, Ismail (first name also spelled Ismajl)		Lutfi RAMADANI, P02357, p. 1; Mehmet AVDYLI, P02341, p. 12	Place:Mala Kruša Date: 26-03-1999				
SHEHU, Ismet		Lutfi RAMADANI, P02357, p. 1; Mehmet AVDYLI, P02341, p. 12	Place:Mala Kruša Date: 26-03-1999				
SHEHU, Mehmet		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 12	Place:Mala Kruša Date: 26-03-1999				
SHEHU, Mentor		Lutfi RAMADANI, P02357, p. 1; Mehmet AVDYLI, P02341, p. 12	Place:Mala Kruša Date: 26-03-1999				

SHEHU, Myftar (first name also spelled "Miftar")		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 11	Place:Mala Kruša Date: 26-03-1999				
SHEHU, Nahit (first name also spelled "Nait")		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 12	Place:Mala Kruša Date: 25-03-1999				
SHEHU, Nehat		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 12	Place:Mala Kruša Date: 26-03-1999				
SHEHU, Nexhat		Mehmet AVDYLI, P02341, p. 12; Lutfi RAMADANI, P02357, p. 4; T. 4308 (Ramadani lists Nexhat SHEHU as one of the nine persons killed in the streets or in the houses).	Place:Mala Kruša Date: 25-03-1999				
SHEHU, Sahit		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 12	Place:Mala Kruša Date: 25-03-1999				

SHEHU, Sali		Mehmet AVDYLI, P02341, p. 12; Lutfi RAMADANI, P02357, p. 4; T. 4308 (Ramadani lists Sali SHEHU as one of the nine persons that was killed in the streets or in the houses).	Place:Mala Kruša Date: 24-03-1999				
SHEHU, Sami		Lutfi RAMADANI, P02357, p. 1; Mehmet AVDYLI, P02341, p. 11	Place:Mala Kruša Date: 26-03-1999				
SHEHU, Sefer		Lutfi RAMADANI, P02357, p. 1; Mehmet AVDYLI, P02341, p. 11	Place:Mala Kruša Date: 26-03-1999				
SHEHU, Shani		Lutfi RAMADANI, P02357, p. 1; Mehmet AVDYLI, P02341, p. 12	Place:Mala Kruša Date: 26-03-1999				
SHEHU, Shefqet		Lutfi RAMADANI, P02357, p. 1; Mehmet AVDYLI, P02341, p. 11	Place:Mala Kruša Date: 26-03-1999				

SHEHU, Sinan		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 12	Place:Mala Kruša Date: 26-03-1999				
SHEHU, Veli		Lutfi RAMADANI, P02357, p. 1; Mehmet AVDYLI, P02341, p. 12	Place:Mala Kruša Date: 26-03-1999				
SHEHU, Vesel		Lutfi RAMADANI, P02357, p. 1; Mehmet AVDYLI, P02341, p. 11	Place:Mala Kruša Date: 26-03-1999				
SHEHU, Xhafer		Lutfi RAMADANI, P02357, p. 1; Mehmet AVDYLI, P02341, p. 11	Place:Mala Kruša Date: 26-03-1999				
SHEHU, Xhavit		Lutfi RAMADANI, P02357, p. 2; Mehmet AVDYLI, P02341, p. 12	Place:Mala Kruša Date: 25-03-1999				
SHEHU, Xhelal		Lutfi RAMADANI, P02357, p. 1; Mehmet AVDYLI, P02341, p. 11	Place:Mala Kruša Date: 26-03-1999				

ZYLFIU, Afrim		Lutfi RAMADANI, P02357, p. 3; Mehmet AVDYLI, P02341, p. 12	Place:Mala Kruša Date: 26-03-1999				
ZYLFIU, Halim		Mehmet AVDYLI, P02341, p. 12	Place:Mala Kruša Date: 26-03-1999				
ZYLFIU, Hamdi		Mehmet AVDYLI, P02341, p. 12	Place:Mala Kruša Date: 26-03-1999				
ZYLFIU, Hamit		Mehmet AVDYLI, P02341, p. 12	Place:Mala Kruša Date: 26-03-1999				
ZYLFIU, Hysen		Mehmet AVDYLI, P02341, p. 12	Place:Mala Kruša Date: 26-03-1999				
ZYLFIU, Njazim (first name also spelled "Nazim")		Lutfi RAMADANI, P02357, p. 3; Mehmet AVDYLI, P02341, p. 12	Place:Mala Kruša Date: 26-03-1999				
ZYLFIU, Xhelal			Place:Mala Kruša Date: 26-03-1999				

UNSCHEDULED VICTIMS

SHEHU, Nuredin Qazim		Lutfi RAMADANI, 28- 09-2006, T. 4306; P02357, p. 1	Place:Mala Kruša Date: 26-03-1999				
SHEHU, Ajvaz Nuredin		Lutfi RAMADANI, 28-09-2006, T. 4306; P02357, p. 1					

SHEHU, Visar Fadil		Lutfi RAMADANI, 28-09-2006, T. 4306; P02357, p. 1	Place:Mala Kruša Date: 26-03-1999				
SHEHU, Shefqet Destan		Lutfi RAMADANI, 28-09-2006, T. 4306; P02357, p. 1	Place:Mala Kruša Date: 26-03-1999				
SHEHU, Selami Aziz		Lutfi RAMADANI, 28-09-2006, T. 4306; P02357, p. 1	Place:Mala Kruša Date: 26-03-1999				
ZYLFIU, Cene Magjun		Lutfi RAMADANI, 28-09-2006, T. 4306; P02357, p. 3					
QOLLAKU, Halim Hagji		Lutfi RAMADANI, 28-09-2006, T. 4306; P02357, p. 3					
QOLLAKU, Xhelal Halim		Lutfi RAMADANI, 28-09-2006, T. 4306; P02357, p. 3					
QOLLAKU, Hamdi Dalip		Lutfi RAMADANI, 28-09-2006, T. 4306; P02357, p. 3					
QOLLAKU, Hamit Hamdi		Lutfi RAMADANI, 28-09-2006, T. 4306; P02357, p. 3					

PRENKAJ, Nikolle		Lutfi RAMADANI, 28-09-2006, T. 4306; P02357, p. 3					
PRENKAJ, Anton		Lutfi RAMADANI, 28-09-2006, T. 4306; P02357, p. 3					
BERISHA, Mehmet		Lutfi RAMADANI, 28-09-2006, T. 4306; P02357, p. 3	Place:Mala Kruša Date: 26-03-1999				
HAJDARI, Halil Mamut or HAJDARI, Isni Halil Mamut		Lutfi RAMADANI, 28-09-2006, T. 4306; P02357, p. 3	Place:Mala Kruša Date: 26-03-1999				
HAJDARI, Liman		Lutfi RAMADANI, 28- 09-2006, T. 4296					

Suva Reka (Schedule D) Proof of Death Chart

Name	Site Reference Code	Testimony	OMPF list of missing persons P02798	SM government forensic reports	DNA reports	Identification	Cause of Death
BERISHA, Afrim	Ba09	Hysni BERISHA, P02351, p.1	Place: Suva Reka Date: 26-03-99	P00139; P00140; P02407, pp. 11-14	P02486, pp. 7-8		
BERISHA, Altin		Shyhrete BERISHA, 25-09 2006, T. 3869-3871; P02346; Hysni BERISHA, P02351, p.1	Place: Suva Reka Date: 26-03-99				
BERISHA, Arta	Ba13/Ba23/Ba54	Hysni BERISHA, P02351, p.1	Place: Suva Reka Date: 26-03-99	P02407, pp. 58-60, 110-113, 149-151	P02559, p.21; P02486, p. 8		
BERISHA, Avdi		Shyhrete BERISHA, 25-09 2006, T. 3869-3871; P02346; Hysni BERISHA, P02351, p.1	Place: Suva Reka Date: 26-03-99				
BERISHA, Besim	Ba21a & Ba28b	Shyhrete BERISHA, 25-09 2006, T. 3869-3871; P02346; Hysni BERISHA, P02351, p.2	Place: Suva Reka Date: 26-03-99	P00181	P02559, p.22; P02486, pp.6-7		Unascertained (P00943, p.387)

Suva Reka (Schedule D) Proof of Death Chart

BERISHA, Bujar	SCR/33D/SR	Shyhrete BERISHA, 25-09- 2006, T. 3869- 3871, 3892-3894; P02346; Hysni BERISHA, P02351, p.1; P02282, p. 14; Halit BERISHA, P02326, p.3;					
BERISHA, Dafina		Shyhrete BERISHA, 25-09- 2006, T. 3869- 3871; P02346; Hysni BERISHA, P02351, p.1	Place: Suva Reka Date: 26-03-99				
BERISHA, Dorentina		Shyhrete BERISHA, 25-09- 2006, T. 3869- 3871; P02346; Hysni BERISHA, P02351, p.2	Place: Suva Reka Date: 26-03-99				
BERISHA, Drilon	Ba40	Shyhrete BERISHA, 25-09- 2006, T. 3869- 3871; P02346; Hysni BERISHA, P02351, p.1	Place: Suva Reka Date: 26-03-99	P00185	P02559, p.22; P02486, p. 5		Injury to the trunk (P02394, pp. 165-167)

Suva Reka (Schedule D) Proof of Death Chart

BERISHA, Edon		Shyhrete BERISHA, 25-09-2006, T. 3869-3871; P02346; Hysni BERISHA, P02351, p.2	Place: Suva Reka Date: 26-03-99				
BERISHA, Eron		Shyhrete BERISHA, 25-09-2006, T. 3869-3871; P02346; Hysni BERISHA, P02351, p.1	Place: Suva Reka Date: 26-03-99				
BERISHA, Fatime		Shyhrete BERISHA, 25-09-2006, T. 3869-3871; P02346; Hysni BERISHA, P02351, p.1	Place: Suva Reka Date: 26-03-99				
BERISHA, Fatime	SCG/28/SR	Shyhrete BERISHA, 25-09-2006, T. 3869-3871; P02346; Hysni BERISHA, P02351, p.1; P02282, pp. 8, 14	Place: Suva Reka Date: 26-03-99				Gunshot wound to the head (P00130; P02682, p.3; P01809, pp. 76-78)
BERISHA, Fatmire	Ba37 & Ba29	Shyhrete BERISHA, 25-09-2006, T. 3869-3871; P02346; Hysni BERISHA, P02351, p.2	Place: Suva Reka Date: 26-03-99	P00147; P00148; P00183	P02559, p.22; P02486, p.6		Gunshot to the head and chest (two shots to the chest), gunshot to the left leg (P02394, pp. 154-157)

Suva Reka (Schedule D) Proof of Death Chart

BERISHA, Faton	SCG/27/SR	Shyhrete BERISHA, 25-09- 2006, T. 3869- 3871; P02346; Hysni BERISHA, P02351, p.1; P02282, pp. 8, 14					Gunshot wound to torso (P00129; P02682, p.1; P01809, pp. 76-78)
BERISHA, Flora		Shyhrete BERISHA, 25-09- 2006, T. 3869- 3871; P02346; Hysni BERISHA, P02351, p.2	Place: Suva Reka Date:26-03-99				
BERISHA, Hajbin (first name also spelled Hajdin)	Ba21a & Ba28b	Shyhrete BERISHA, 25-09- 2006, T. 3869- 3871; P02346; Hysni BERISHA, P02351, p.2		P02407, pp. 139- 142, 161-163	P02559, p. 22		Unascertained (P00943, p.387)
BERISHA, Hamdi	Ba16/Ba47	Hysni BERISHA, 26-09- 2006, T. 4012; P02351, p.1	Place: Suva Reka Date:26-03-99	P00145; P00146; P00149; P00150; P00171; P02407, pp. 124-128	P02486, p. 9		

Suva Reka (Schedule D) Proof of Death Chart

BERISHA, Hanumusha	Ba13/Ba23/Ba54	Hysni BERISHA, 26-09- 2006, T. 4014; P00125, p.17; P02351, p.1; Shyhrete BERISHA, 25-09- 2006, T. 3905; P02344, p.1; P02346	Place: Suva Reka Date:26-03-99	P02407, pp. 58-60, 110-113, 149-151	P02559, p.21; P02486, p. 8		
BERISHA, Hanumusha		Hysni BERISHA, 26-09- 2006, T. 4015; P00125, p.18; P02351 p.1; Shyhrete BERISHA, 25-09- 2006, T. 3905; P02344, p.2; P02346	Place: Suva Reka Date:26-03-99			P02282, p. 9	
BERISHA, Hava	Ba2 &Ba57	Hysni BERISHA, P02351, p.1	Place: Suva Reka Date:26-03-99	P00178	P02486, p. 5		
BERISHA, Herolinda	Ba20 &Ba48	Shyhrete BERISHA, 25-09- 2006, T. 3869- 3871; P02346; Hysni BERISHA, P02351, p.1	Place: Suva Reka Date:26-03-99	P00180	P02486, pp. 5-6		
BERISHA, Ismet		Shyhrete BERISHA, 25-09- 2006, T. 3869- 3871; P02346; Hysni BERISHA, P02351, p.1	Place: Suva Reka Date:26-03-99				

Suva Reka (Schedule D) Proof of Death Chart

BERISHA, Kushtrin		Shyhrete BERISHA, 25-09 2006, T. 3869- 3871; P02346; Hysni BERISHA, P02351, p.1	Place: Suva Reka Date:26-03-99				
BERISHA, Lirije	Ba12	Shyhrete BERISHA, 25-09 2006, T. 3869- 3871; P02346; Hysni BERISHA, P02351, p.2	Place: Suva Reka Date:26-03-99	P00179	P02559, p.21; P02486, p. 7		Gunshot to the head (P2394, p. 148-150)
BERISHA, Majlinda	Ba20 &Ba48	Shyhrete BERISHA, 25-09 2006, T. 3869- 3871; P02346; Hysni BERISHA, P02351, p.1	Place: Suva Reka Date:26-03-99	P00180	P02486, pp. 5-6		
BERISHA, Merita	Ba13/Ba23/Ba54	Shyhrete BERISHA, 25-09 2006, T. 3906; P02344, p.3; P02346; P00125, p. 24; Hysni BERISHA, P02351, p.1	Place: Suva Reka Date:26-03-99	P02407, pp. 58-60, 110-113, 149-151	P02559, p.21; P02486, p. 8	P02282, p. 9	
BERISHA, Mevlude		Shyhrete BERISHA, 25-09 2006, T. 3869- 3871; P02346; Hysni BERISHA, P02351, p.2	Place: Suva Reka Date:26-03-99				

Suva Reka (Schedule D) Proof of Death Chart

BERISHA, Mihrije	Ba30	Shyhrete BERISHA, 25-09- 2006, T. 3869- 3871; P02346; Hysni BERISHA, P02351, p.2;	Place: Suva Reka Date:26-03-99	P00188	P02558, p. 35		Gunshot wound to the head and neck (P00943, p.388)
BERISHA, Mirat		Hysni BERISHA, 26-09- 2006, T. 4012; P00122, p.5-6; P02351, p.1	Place: Suva Reka Date:26-03-99			P02282, p.9	
BERISHA, Musli	Ba25	Hysni BERISHA, 26-09- 2006, T. 4015; P00125, p.28; P02351, p.1; Shyhrete BERISHA, 25-09- 2006, T. 3906; P02344, p.4; P2346	Place: Suva Reka Date:26-03-99	P00155; P00156; P02407, pp. 156- 160	P02559, p.22; P02486, p.6	P02282, p.9	
BERISHA, Nefije		Hysni BERISHA, P02351, p.1	Place: Suva Reka Date:26-03-99				
BERISHA, Nexhat		Shyhrete BERISHA, 25-09- 2006, T. 3869- 3871, 3895-3897; P02346; Hysni BERISHA, P02351, p.1; P02282, p. 14; Halit BERISHA, P02326, p.3;	Place: Suva Reka Date:26-03-99				

Suva Reka (Schedule D) Proof of Death Chart

BERISHA, Nexhmedin	Ba-19	Shyhrete BERISHA, 25-09- 2006, T. 3869- 3871, 3895-3897; P02346; Hysni BERISHA, P02351, p.2; P02282, p. 14		P00141; P00142; P00169	P02486, p.7		
BERISHA, Redon	Ba46	Shyhrete BERISHA, 25-09- 2006, T. 3869- 3871; P02346; Hysni BERISHA, P02351, p.1	Place: Suva Reka Date:26-03-99	P00186	P02486, p. 5 (the name is incorrectly indicated as Redon Nexhat)		
BERISHA, Sait							
BERISHA, Sebahate		Shyhrete BERISHA, 25-09- 2006, T. 3869- 3871; P02346; Hysni BERISHA, P02351, p.1	Place: Suva Reka Date:26-03-99				
BERISHA, Sedat	SCG/33C/SR	Shyhrete BERISHA, 25-09- 2006, T. 3869- 3871, 3896; P02346; Hysni BERISHA, P02351, p.1; P02282, p. 14; Halit BERISHA, P02326, p.3;					Unascertained (P00136; P00137; P02683; P01809, pp. 76-78)

Suva Reka (Schedule D) Proof of Death Chart

BERISHA, Sherine		Shyhrete BERISHA, 25-09 2006, T. 3869- 3871; P02346; Hysni BERISHA, P02351, p.1	Place: Suva Reka Date:26-03-99				
BERISHA, Sofia	Ba32	Shyhrete BERISHA, 25-09 2006, T. 3869- 3871; P02346; Hysni BERISHA, P02351, p.2	Place: Suva Reka Date:26-03-99	P00184, pp. 2-4	P02559, p.22; P02486, pp. 4-5	P02282, p.9	Unascertained (P02394, pp.158-161)
BERISHA, Vesel	Ba22 &Ba59	Shyhrete BERISHA, 25-09 2006, T. 3869- 3871; P02346; Hysni BERISHA, P02351, p.2	Place: Suva Reka Date:26-03-99	P00151; P00152; P00182	P02559, p.21; P02486, p. 5	P02282, p.9	Gunshot wound to the spine (P00943, p.390)
BERISHA, Vlorjan		Shyhrete BERISHA, 25-09 2006, T. 3869- 3871; P02346; Hysni BERISHA, P02351, p.2	Place: Suva Reka Date:26-03-99				
BERISHA, Zana	Ba13/Ba23/Ba54	Hysni BERISHA, P02351, p.1	Place: Suva Reka Date:26-03-99	P02407, pp. 58-60, 110-113, 149-151	P02559, p.21; P02486, p. 8		

Suva Reka (Schedule D) Proof of Death Chart

BERISHA, Zelihe		Shyhrete BERISHA, 25-09 2006, T. 3869-3871; P02346 Hysni BERISHA, 26-09 2006, T. 4012; P00122, p. 5-6; P02351, p.1	Place: Suva Reka Date:26-03-99				
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UNSCHEDULED VICTIMS							
BERISHA, Genc	Ba52a	Shyhrete BERISHA, 25-09 2006, T. 3869-3871; P02346; Hysni BERISHA, P02351, p.2	Place: Suva Reka Date:26-03-99	P00173	P02486, p. 7		Unascertained (P00944, p.443-444)
BERISHA, Graniti	Ba34	Shyhrete BERISHA, 25-09 2006, T. 3869-3871; P02346; Hysni BERISHA, P02351, p.2	Place: Suva Reka Date:26-03-99	P00172	P02486, p. 7		Possible gunshot wound (P00943, p.386)

Suva Reka (Schedule D) Proof of Death Chart

BERISHA, Jashar	Ba11/Ba50/ Ba55	Hysni BERISHA, P02282, p. 9; P02351, p.2; Halit BERISHA, 20-09-2009, T. 3611-3614; P00133, p. 6; P02326, p. 3; K83, 26-09-2006, T. 3959-3962	Place: Suva Reka Date:26-03-99	P02407, pp. 48-51, 81-82	P02559, p.21; P02486, p. 9	P02282, p.9	
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Izbica (Schedule F) Proof of Death Chart

Name	Site Reference Code	Testimony	OMPF list of missing persons P02798	SM government forensic reports	DNA reports	Identification	Cause of Death
ALUSHI, Jetullah			Place: Izbica Date: 28-03-1999				
AMRUSHI, Asllan (Q or H)							
BAJRA, Asslan		Liri LOSHI, P02436, p. 30	Place: Izbica Date: 31-03-1999			P00231, pp. 135-136	
BAJRA, Bajram (H)		Liri LOSHI, P02436, p. 8	Place: Izbica Date: 31-03-1999			P00231, pp. 137-138	
BAJRA, Bajram C.		Liri LOSHI, P02436, p. 8					
BAJRA, Bajram S.		Liri LOSHI, P02436, pp. 8, 29	Place: Izbica Date: 31-03-1999			P00231, pp. 131-132	
BAJRA, Brahim		Liri LOSHI, P02436, pp. 18, 29	Place: Izbica Date: 31-03-1999			P00231, pp. 127-128	
BAJRA, Fazli		Liri LOSHI, P02436, pp. 8, 23, 30	Place: Izbica Date: 31-03-1999			P00231, pp. 133-134	
BAJRA, Ilaz or BAJRA, Iljaz		Liri LOSHI, P02436, pp. 8, 29	Place: Izbica Date: 31-03-1999			P00231, pp. 129-130	
BAJRA, Sami or BAJRAJ, Sami		Liri LOSHI, P02436, pp. 8, 32	Place: Izbica Date: 31-03-1999			P00231, pp. 163-164	
BAJRAKTARI, Bislim			Place: Izbica Date: 31-03-1999				
BAJRAKTARI, Hajdar		Liri LOSHI, P02436, p. 8	Place: Izbica Date: 31-03-1999				
BEHRAMI, Demush			Place: Izbica Date: 31-03-1999				
BEHRAMI, Muhamet	PSII-27		Place: Izbica Date: 31-03-1999	P02606			Multiple gunshot wound to the chest (P00943, p. 361)
BEHRAMI, Nuredin			Place: Izbica Date: 28-03-1999				
DAJAKU, Asllan		Liri LOSHI, P02436, p. 8					
DANI, Dibran (A) or PANI, Dibran	PSII-20		Place: Izbica Date: 31-03-1999	P00223, P00224			

Izbica (Schedule F) Proof of Death Chart

DERVISHI, Sali or DERVISHI, Salih		Liri LOSHI, P02436, pp. 8, 32	Place: Izbica Date: 31-03-1999			P00231, pp. 159-160	
DERVISHI, Bajram	PSII-30	Liri LOSHI, P02436, p. 18	Place: Izbica Date: 31-03-1999	P02431			Gunshot wound to the head (P00943, p. 362)
DERVISHI, Ilaz		Liri LOSHI, P02436, pp. 8, 32	Place: Izbica Date: 31-03-1999			P00231, pp. 165-166	
DOCI, Musli or Doqi, Musli		Liri LOSHI, P02436, p. 8	Place: Izbica Date: 31-03-1999				
DOQI, Hamdi		Liri LOSHI, P02436, pp. 8, 24	Place: Izbica Date: 31-03-1999				
DRAGA, Ali or DRAGAJ, Ali		Mustafa DRAGA, P02244, p. 4; Liri LOSHI, P02436, pp. 8, 30	Place: Izbica Date: 31-03-1999			P00231, pp. 143-144, P00248, pp. 306-309	
DRAGA, Cen (surname also spelled DRAGAJ; given name also spelled Cene)		Mustafa DRAGA, P02244, p. 4; Liri LOSHI, P02436, pp. 8, 30	Place: Izbica Date: 31-03-1999			P00231, pp. 141-142	
DRAGA, Hajriz or DRAGAJ, Hajriz		Mustafa DRAGA, 25-08- 2006, T.2354- 2358; P02244, p. 4, Liri LOSHI, P02436, pp. 8, 31				P00231, pp. 148-149	
DRAGA, Ismet		Mustafa DRAGA, P02244, p. 4; Liri LOSHI, P02436, p. 8	Place: Izbica Date: 31-03-1999				

Izbica (Schedule F) Proof of Death Chart

DRAGA, Murat or DRAGAJ, Murat		Mustafa DRAGA, P02244, p. 4; Liri LOSHI, P02436, pp. 8, 30				P00231, pp. 145	
DRAGA, Rahim							
DRAGA, Rrustem (surname also spelled DRAGAJ; given name also spelled Rustem)		Mustafa DRAGA, P02244, p. 4; Liri LOSHI, P02436, pp. 8, 30	Place: Izbica Date: 31-03-1999				
DRAGAJ, Zade or DRAGA, Zade	PSII-29	Liri LOSHI, P02436, p. 8	Place: Izbica Date: 31-03-1999	P02607			Gunshot wound to the head and trunk (P00943, p. 441)
DURAKU, Avdullah			Place: Izbica Date: 28-03-1999				
DURAKU, Bel (A)			Place: unspecified Date: unspecified				
DURAKU, Dibran			Place: unspecified Date: unspecified				
DURAKU, Rexhep or DURAKU, Rexhe	PSII-2/PSII-6		Place: Izbica Date: 31-03-1999	P2419, pp.7-10, P02604			
EMRA, Muhamet or KADRIU Muhamet	PSII-46	Liri LOSHI, P02436, p. 8	Place: Izbica Date: 31-03-1999	P02611			
FETAHU, Lah (first name also spelled Hajrulllah)	PSII-33	Liri LOSHI, P02436, p. 8	Place: Izbica Date: 31-03-1999	P02608			
GASHI, Ibrahim							
GASHI, Ram or GASI, Rame			Place: Izbica Date: 31-03-1999				
HAJDARI, Halil			Place: Izbica Date: 28-03-1999				
HAJRA, Mehmet	PSII-1/ PSII-4	Liri LOSHI, P02436, p. 8	Place: Izbica Date: 31-03-1999	P02419, pp. 1-4, 16-19			Gunshot wound to the neck (P00943, p. 368, P02454, pp. 203-204)
HALITI, Haliti (surname also spelled HALJITI; given name also spelled Haljit or Halit)	PII-41		Place: Izbica Date: 28-03-1999				Gunshot wound to the head (P00943, pp. 99-100, 443)
HAXHA, Fejz							
HOTI, Hazir		Liri LOSHI, P02436, p. 8	Place: Izbica Date: 31-03-1999				

Izbica (Schedule F) Proof of Death Chart

HOTI, Qerim	PSII-9	Liri LOSHI, P02436, p. 8	Place: Izbica Date: 31-03-1999	P02428			Gunshot wound to the chest (P00943, p. 369)
HOTI, Rifat		Liri LOSHI, P02436, p. 8	Place: Izbica Date: 31-03-1999				
HOTI, Rrustem or HOTI, Rustem		Liri LOSHI, P02436, p. 8	Place: Izbica Date: 28-03-1999				
HOTI, Tahir		Liri LOSHI, P02436, p. 8	Place: Izbica Date: 28-03-1999				
HOTI, Muhamet		Liri LOSHI, P02436, p. 28					
HOTI, Sadik		Liri LOSHI, P02436, p. 25	Place: Izbica Date: 31-03-1999				
HOTI, Shefqet (A)			Place: Izbica Date: 31-03-1999				
HOTI, Vehbi			Place: Izbica Date: 31-03-1999				
ISUFI, ZeneI		Liri LOSHI, P02436, p. 8	Place: Izbica Date: 28-03-1999				
JETULLAHU, Beqir			Place: Izbica Date: 04-03-1999				
KAJTAZDI, Kajtaz Z or KAJTAZI, Kajtaz		Liri LOSHI, P02436, p. 8	Place: Izbica Date: 31-03-1999				
KELMENDI, Bajram			Place: Izbica Date: 28-03-1999				
KELMENDI, Jetullah			Place: Izbica Date: 28-03-1999				
KOTOORI/KOTORRI, Ram/Rame			Place: Vojnike Date: unspecified				
KOTOORI/KOTORRI, Brahim			Place: Izbica Date: 28-03-1999				
KOTOORI/KOTORRI, Hajzer	PSII-22		Place: Izbica Date: 28-03-1999	P02605			
KRASNIQI, Deli			Place: Izbica Date: 28-03-1999				
KRASNIQI, Mustaf or KRASNIQI, Mustafe			Place: Izbica Date: 28-03-1999				
KRASINIQI, Rrahim			Place: Izbica Date: 28-03-1999				
KUQICA, Azem or KUCICA, Azem		Liri LOSHI, P02436, p. 8	Place: Izbica Date: 28-03-1999				

Izbica (Schedule F) Proof of Death Chart

LOSHI, Sami (surname also spelled IJASHAJ or IJŠAJ)	PSII-34	Liri LOSHI, P02436, pp. 8, 36	Place: Izbica Date: 28-03-1999	P00221, P00222			
LOSHI, Jashar (surname also spelled LOSHAJ or LOŠAJ; given name also spelled Jašar)	PSII-25	Liri LOSHI, P02436, pp. 8, 36	Place: Izbica Date: 28-03-1999	P00217, P00218			
LOSHI, Selman	PSII-39	Liri LOSHI, P02436, pp. 8, 19, 36	Place: Izbica Date: 21-03-1999	P02609			Multiple firearm injuries (P02454, pp. 220-223)
MORINA, Halil		Liri LOSHI, P02436, p. 8	Place: Izbica Date: 28-03-1999				
MURSELI, Sokol (H)			Place: Izbica Date: 28-03-1999				
MUSLIU, Beqir		Liri LOSHI, P02436, p. 8	Place: Izbica Date: 28-03-1999			P00248, pp. 199-202	
MUSLIU, Ilaz	PSII-42	Liri LOSHI, P02436, p. 8	Place: Izbica Date: 28-03-1999	P02610			
MUSLIU, Shaban		Mustafa DRAGA, 25-08-2006, T.2361; Liri LOSHI, P02436, p. 8					
MUSLIU, Halit		Liri LOSHI, P02436, p. 8	Place: Izbica Date: 31-03-1999				
MUSLIU, Naim		Liri LOSHI, P02436, p. 8	Place: Izbica Date: 28-03-1999				
MUSLIU, Mehmet or MUSLIU, Muhamet		Liri LOSHI, P02436, p. 8	Place: Izbica Date: 28-03-1999				
MUSTAFA, Hasan		Liri LOSHI, P02436, p. 8					
OSMANI, Azem		Liri LOSHI, P02436, p. 8	Place: Izbica Date: 28-03-1999			P00248, pp. 310-313	
OSMANI, Fatmir or OSMANAJ, Fatmir	PSII-18	Liri LOSHI, P02436, p. 8	Place: Izbica Date: 31-03-1999	P00213, P00214			
OSMANI, Hetem or OSMANI, Etem		Liri LOSHI, P02436, p. 8	Place: Izbica Date: 31-03-1999				
OSMANI, Muharrem		Liri LOSHI, P02436, p. 8	Place: Izbica Date: 31-03-1999				
QAKA, Pajazit (D)							
QALLAPEKU, Sabit		Liri LOSHI, P02436, p. 8	Place: Izbica Date: 28-03-1999				

Izbica (Schedule F) Proof of Death Chart

QELAJ, Ismajl (surname also spelled CELA or CELAJ; given name also spelled Ismail)		Liri LOSHI, P02436, p. 8	Place: Izbica Date: 31-03-1999				
QELAJ, Rexhep (surname also spelled CELA OR CELAJ; given name also spelled Rexhe and Rexh)		Mustafa DRAGA, P02244, p. 4, Liri LOSHI, P02436, pp. 8, 23, 32	Place: Izbica Date: 31-03-1999			P00231, pp. 167-168	
QELAJ, Metush (surname also spelled CELA or CELAJ)	PSII-45	Mustafa DRAGA, P02244, p. 4; Liri LOSHI, P02436, pp. 8, 22, 32	Place: Izbica Date: 31-03-1999	P02433		P00231, pp. 169-170	Most probable gunshot wound to the head and thorax (P00943, p. 370)
QUPEVA, Hamz or QUEPVA, Hamzi		Liri LOSHI, P02436, p. 27	Place: Izbica Date: 28-03-1999				
RACI, Ramadan		Liri LOSHI, P02436, p. 8	Place: Izbica Date: 29-03-1999				
RAMAJ, Halit		Liri LOSHI, P02436, p. 8	Place: Izbica Date: 28-03-1999				
REXHEPI, Muj or REXHEPI, Muje		Liri LOSHI, P02436, p. 8	Place: Izbica Date: 28-03-1999				
SEJDIU, Mustaf or SEJDIU, Mustafa			Place: Izbica Date: 31-03-1999				
SHABANI, Azem							
SHALA, Hysen A		Liri LOSHI, P02436, pp. 8,	Place: Izbica Date: 31-03-1999				
SHALA, Idriz		Mustafa DRAGA, P02244, p. 4; Liri LOSHI, P02436, p. 8	Place: Izbica Date: 28-03-1999				
SHALA, Isuf		Liri LOSHI, P02436, pp. 8, 22	Place: Izbica Date: 31-03-1999			P00231, p. 153	
SHALA, Muj or SHALA, Muje		Liri LOSHI, P02436, pp. 8, 32	Place: Izbica Date: 31-03-1999			P00231, pp. 157-158	

Izbica (Schedule F) Proof of Death Chart

SHALA, Sali or SHALA, Salih		Mustafa DRAGA, P02244, p. 4; Liri LOSHI, P02436, p. 8	Place: Izbica Date: 28-03-1999			P00231, p. 156	
SHALA, Zymer		Mustafa DRAGA, P02244, p. 4; Liri LOSHI, P02436, p. 8	Place: Izbica Date: 28-03-1999			P00231, pp. 154-155	
SHALA, Halim		Mustafa DRAGA, P02244, p. 4; Liri LOSHI, P02436, p. 8	Place: Izbica Date: 28-03-1999			P00231, p. 152	
SHALA, Hijraz or SHALA, Hajriz		Liri LOSHI, P02436, p. 8	Place: Izbica Date: 31-03-1999				
SHERIFI, Sadik							
SHPATI, Zeqir or ZHPATI, Zeqir		Liri LOSHI, P02436, p. 8	Place: Izbica Date: 28-03-1999				
SPAHIU, Rizah							
SYLA, Ram or SYLA, Rame		Liri LOSHI, P02436, p. 8	Place: Izbica Date: 28-03-1999				
TAHIRI, Brahim			Place: Vojnike Date: 04-01-1999				
TEMAJ, Gani			Place: Izbica Date: 31-03-1999				
TEMAJ, Hamdi	PSII-32		Place: Izbica Date: 31-03-1999	P00219, P00220			
THAQI, Hamit B.		Liri LOSHI, P02436, p. 8	Place: Izbica Date: 28-03-1999				
THAQI, Ram H. or THAQI, Rame H.		Liri LOSHI, P02436, p. 8	Place: Izbica Date: 28-03-1999				
THAQI, Ajet (D)			Place: Izbica Date: 28-03-1999				
THAQI, Sheremet			Place: Izbica Date: 28-03-1999				
UKA, Uke		Liri LOSHI, P02436, p. 8					
VELIQI, Zenel or VELIOJ, Zenel	PSII-5	Liri LOSHI, P02436, p. 8		P2419, pp. 20-22			

Izbica (Schedule F) Proof of Death Chart

XHEMAJLI, Idriz		Liri LOSHI, P02436, p. 8	Place: Izbica Date: 31-03-1999			P00248, pp. 325-328	
XHEMAJLI, Qazim							
ZEKA, Jahir			Place: Izbica Date: 28-03-1999				
ZEKA, Milazim			Place: Izbica Date: 28-03-1999				
Unidentified Male							
FEJZA, Zyre or FEJZA, Zyhre			Place: Izbica Date: 31-03-1999				
OSMANI, Zoje or OSMANA, Zoje	PSII-13	Mustafa DRAGA, 25-08- 2006, T.2360- 2361	Place: Izbica Date: 31-03-1999	P02429			Unascertained (P00943, p. 366)
UNSCHEDULED VICTIM							
DRAGAJ Sofije or (surname also spelled DRAGOJ)	PSII-8 & 8A	Liri LOSHI, P02436, p. 8, 31		P00215, P00216		P00231, pp. 150-151	

Djakovica (Schedule G) Proof of Death Chart

Name	Site Reference Code	Testimony	OMPF list of missing persons P02798	SM government forensic reports	DNA reports	Identification	Cause of Death
CAKA, Dalina		Hani HOXHA,11-08-2006, P02230,p. 5-6; Dren CAKA ,31-08-2006, T2644:23; Lulzim VEJSA,27-09-2006, P02350,p.4					Unascertained(P00249,pp.1-11)
CAKA, Delvina		Hani HOXHA,11-08-2006, P02230,p.5-6; Lulzim VEJSA,27-09-2006, P02350,p.4					Unascertained (P00249,pp.1-11)
CAKA, Diona		Hani HOXHA,11-08-2006, P02230,p. 5-6; Dren CAKA ,31-08-2006, T.2644-2645; Lulzim VEJSA,27-09-2006, P02350,p.4					Unascertained (P00249,pp.1-11)
CAKA, Valbona		Hani HOXHA,11-08-2006, P02230,pp. 5-6; Dren CAKA, 31-08-2006, T2645:12; Lulzim VEJSA,27-09-2006,P02350,p.4					Unascertained (P00249,pp.1-11)
GASHI, Hysen		Hani HOXHA,11-08-2006, P02230,pp. 5-6 Lulzim VEJSA,27-09-2006, P02350,p.4					Unascertained (P00249,pp.1-11)
HAXHIAVDIJA, Doruntina (surname also spelled HAXHIAVDIA)		Hani HOXHA,11-08-2006, P02230,pp. 5-6 Lulzim VEJSA,27-09-2006,P02350,p.4					Unascertained (P00249,pp.1-11)
HAXHIAVDIJA, Egzon (surname also spelled HAXHIAVDIA)		Hani HOXHA,11-08-2006, P02230,pp. 5-6; Lulzim VEJSA,27-09-2006,P02350,p.4					Unascertained (P00249,pp.1-11)
HAXHIAVDIJA, Rina (surname also spelled HAXHIAVDIA)		Hani HOXHA,11-08-2006, P02230,pp. 5-6; Lulzim VEJSA,27-09-2006,P02350,p.4					Unascertained (P00249,pp.1-11)

HAXHIAVDIJA, Valbona (surname also spelled HAXHIAVDIA)		Hani HOXHA,11-08-2006, P02230,pp. 5-6 ; Lulzim VEJSA,27-09-2006,P02350,p.4					Unascertained (P00249,pp.1-11)
HOXHA, Flaka		Hani HOXHA, 11-08-2006, P02230,pp.5-6; Dren CAKA, 31-08-2006, T2644:10 - 2644:12; Lulzim VEJSA, 27-09-2006,P002350,p.4					Unascertained (P00249,pp.1-11)
HOXHA, Shahindere		Hani HOXHA,11-08-2006,P02230,pp. 5-6; Dren CAKA, 31-08-2006,T2644:12; Lulzim VEJSA,27-09-2006,P02350,p.4					Unascertained (P00249,pp.1-11)
NUÇI, Manushe		Hani HOXHA,11-08-2006, P02230,pp. 5-6; Lulzim VEJSA,27-09-2006, P02350,p.4					Unascertained (P00249,pp.1-11)
NUÇI, Shirine		Hani HOXHA,11-08-2006, P02230,p.5-6; Lulzim VEJSA,27-09-2006, P02350,p4					Unascertained (P00249,pp.1-11)
VEJSA, Arlind		Hani HOXHA , 11-08-2006, P02230 ,pp.5-6; Dren CAKA, 31-08-2006, T2645:7-T2645:10, T2644:23; Lulzim VEJSA,27-09-2006, P02350,p.4					Unascertained (P00249,pp.1-11)
VEJSA, Dorina		Hani HOXHA,11-08-2006, P02230,pp. 5-6; Lulzim VEJSA,27-09-2006, P02350,p.4					Unascertained (P00249,pp.1-11)

Djakovica (Schedule G) Proof of Death Chart

VEJSA, Fetije		Hani HOXHA,11-08-2006, P02230,pp. 5-6; Lulzim VEJSA,27-09-2006, P02350,p.4					Unascertained (P00249,pp.1-11)
VEJSA, Marigona		Hani HOXHA,11-08-2006, P02230,pp. 5-6; Lulzim VEJSA,27-09-2006, P02350,p.4					Unascertained (P00249,pp.1-11)
VEJSA, Rita		Hani HOXHA,11-08-2006, P02230,pp. 5-6; Lulzim VEJSA,27-09-2006, P02350,p.4					Unascertained (P00249,pp.1-11)
VEJSA, Sihana		Hani HOXHA,11-08-2006, P02230,pp. 5-6; Lulzim VEJSA,27-09-2006, P02350,p.4					Unascertained (P00249,pp.1-11)
VEJSA, Tringa		Hani HOXHA,11-08-2006, P02230,pp. 5-6; Lulzim VEJSA,27-09-2006, P02350,p.4					Unascertained (P00249,pp.1-11)

Meja (Schedule H) Proof of Death Chart

Name	Site Reference Code	Testimony	OMPF list of missing persons P02798	SM government forensic reports	DNA reports	Identification	Cause of Death
ABAZI, Mark	Ba05-31T		Place:Meja/Meje, Date: 27-04-1999	P02415,pp.24-33	P02559.p.15		Gunshot injury to the spine (P2454, pp. 241-243)
ABAZI, Pashk	Ba05-156		Place:Meja/Meje, Date: 27-04-1999	P02414,pp.54-62	P02559,p.15		
ABAZI, Pjeter	Ba05-107T		Place:Meja/Meje, Date: 27-04-1999	P02416,pp.8-17	P02559,p.15		
ADEMAJ, Bekim	2Ba-80		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 446-449	P02559,p.15		Unascertained (P00944, pp. 120-122; P00943, p. 586)
ADEMAJ, Shemsi	2Ba-107		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 583-586	P02559,p.15		Multiple gunshot to the head (P00944, pp. 172-174)
ADEMI, Isuf	2Ba-90		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 449-501	P02559,p.15		Unascertained (P00944, pp. 141-143)
ADEMI, Mazllum	2Ba-188		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 1024-1032	P02559,p.15		Gunshot to the trunk (P02394, pp. 25-28)
AHMETAJ, Liridon	2Ba-17		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 116-119	P02559, p.15		Unascertained (P00944, pp. 19-21)
AHMETI, Ahmet	Ba05-76T		Place:Meja/Meje, Date: 27-04-1999	P02415, pp. 67-74	P02559, pp. 15-16		Gunshot to the head (P00943, pp. 201-202)
AHMETI, Ahmet	2Ba-148		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 819-824	P02559,p.16		Gunshot injury to the chest and both upper arms (P02394, pp. 269-271)
AHMETI, Blerim	2Ba-61		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 355-357	P02559, p. 15		Unascertained (P00943, pp. 191-192, 504-505)
AHMETI, Hysen	2Ba-176		Place:Meja/Meje, Date: 27-04-1999	P00942,pp. 955-959	P02559,p.16		Unascertained (P00944, pp. 290-292)
AHMETI, Male			Place:Meja/Meje, Date: 27-04-1999				
ALIAJ, Adem (last name also spelled ALIJAJ)	2Ba-22		Place:Meja/Meje, Date: 27-04-1999	P00942, pp.145-149	P02559, p. 16		Multiple gunshot injuries (to the head, trunk and limbs) (P00943, pp. 189-190)
ALIAJ, Agron (last name also spelled ALIJAJ)	2Ba-152		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 840-847	P02559, p. 16		Multiple gunshot injuries (P02394, pp. 272-275)
ALIAJ, Ali (last name also spelled ALIJA)	2Ba-37		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 227-230	P02559,p.16		Unascertained (P00944, pp. 51-54)
ALIAJ, Sali (last name also spelled ALIJAJ)	2Ba-222		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 1207-1210	P02559,p.16		Unascertained (P00944, pp. 368-370)
ALIAJ, Zenun (last name also spelled ALIJAJ)	2Ba-44		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.254-257	P02559,p.16		Unascertained (P00944, pp. 64-67)

Meja (Schedule H) Proof of Death Chart

ALIAJ, Arben (last name also spelled ALIJAJ)	2Ba-146		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 808-813	P02559,p.16		Unascertained (P02394, pp. 266-268)
AVDULLAHU, Ymer	2Ba-123		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 666-673	P02559,p.17		Possible gunshot to the head (P02454, pp. 28-30)
AVDYLI, Avdyl	Ba05-141T		Place:Meja/Meje, Date: 27-04-1999	P02414, pp. 32-41	P02559, p. 17		Gunshot wound to the head (P00943, pp. 193-194)
AVDYLI, Afrim			Place:Meja/Meje, Date: 27-04-1999				
AVDYLI, Bajrush	2Ba-198		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 1075-1078	P02559,p.17		Unascertained (P00944, pp. 322-324)
AVDYLI, Hysen	2Ba-205		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 1113-1121	P02559,p.17		Gunshot injury to the head, chest, left hip (P02454, pp. 61-64)
AVDYLI, Mehmet			Place:Meja/Meje, Date: 27-04-1999				
AVDYLI, Muhedin	2Ba-45		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 269-276	P02559,p.17		Gunshot injury to the chest and pelvis (P02454, pp. 4-6)
AVDYLI, Pajazit			Place:Meja/Meje, Date: 27-04-1999			Remains identified by OMPF	
BAJRAKTARI, Lavdim	2Ba-126		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 683-692	P02559,p.17		Gunshot injuries to the trunk (P02454, pp. 34-36)
BAJRAMI, Ali	2Ba-92		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 502-506	P02559,p.18		
BAJRAMI, Shaban	2Ba-160		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 880-886	P02559, p.18		
BAJRAMI, Syle	2Ba-223		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 1211-1215	P02559,p.17		Gunshot injuries to the chest (P02454, pp. 69-71)
BAJRAMI, Xhafer	2Ba-128		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 704-709	P02559,p.17		Multiple gunshot wounds to the head (P00944, pp. 209-212)
BAJRAMI, Xhavit	2Ba-91/103		Place:Meja/Meje, Date: 27-04-1999	P00942,pp. 558-562	P02559,p.17		Unascertained (P00944, pp. 144-146)
BALA, Ali	Ba05-139T		Place:Meja/Meje, Date: 27-04-1999	P02414,pp.25-31	P02559,p.18		Unascertained (P00944, pp. 476-478)
BALA, Bajram	Ba05-144DT/146T		Place:Meja/Meje, Date: 27-04-1999	P02414,pp.42-46	P02559,p.18		Gunshot to the chest, possible gunshot to the right hip (P02394, pp. 197-200)
BALA, Mehmet	Ba05-116T/209DT		Place:Meja/Meje, Date: 27-04-1999	P02414,pp.1-7	P02559,p.18		Gunshot injury to the head (P02454, pp. 268-270)
BALA, Perparim	Ba05-213DT/155T		Place:Meja/Meje, Date: 27-04-1999		P02559,p.18		

Meja (Schedule H) Proof of Death Chart

BALIU, Ragip (last name also spelled BALJA)	2Ba-48		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 286-290	P02559,p.18		Multiple gunshot injury to the chest (P00943, pp.203-204, 498-499)
BARDHECI, Demush	2Ba-36		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.223-226	P02559,p.18		Unascertained (P00944, pp. 48-50)
BARDHECI, Idriz	2Ba-40		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 239-245	P02559,p.18		Unascertained (P02394, pp. 249-251)
BATUSHA, Haki	2Ba-238		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 1310-1318	P02559,p.18		Gunshot to the chest (two shots) (P02454, pp. 75-77)
BEQAJ, Armend	2Ba-125		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.678-682	P02559,p.19		Gunshot injury to cervical, thoracic spine (P02454, pp. 31-33)
BEQAJ, Bajram	2Ba-163		Place:Meja/Meje, Date: 27-04-1999		P02559,p.20		Firearm injury to lower thoracic area and the pelvis (P02394, pp. 180-183)
BEQAJ, Bedri	2Ba-34		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 212-217	P02559,p.19		Gunshot injuries to the chest, left hip and both thighs (P02454, pp. 1-3)
BEQAJ, Brahim	2Ba-161		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.887-891	P02559,p.19		Multiple gunshot wounds to the head, through the pelvis and lower abdomen (P00944, pp. 260-263)
BEQAJ, Dritan	2Ba-38		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 231-234	P02559, p. 19		Unascertained (P00943, pp. 207-208)
BEQAJ, Emin	2Ba-159		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 876-879	P02559, p. 19		Unascertained (P02454, pp. 46-48)
BEQAJ, Kujtim	2Ba-43		Place:Meja/Meje, Date: 27-04-1999	P00942, pp.258-262	P02559,p.19		Unascertained (P00944, pp. 61-63)
BEQAJ, Mentor			Place:Meja/Meje, Date: 27-04-1999				
BEQAJ, Milazim	2Ba-S-4/S-6		Place:Meja/Meje, Date: 27-04-1999		P02559,p.19		
BEQAJ, Ramadan	Ba08-001DT/005DT		Place:Meja/Meje, Date: 27-04-1999		P02559,p.19		
BEQAJ, Rasim	2Ba-79		Place:Meja/Meje, Date: 27-04-1999	P00942,pp. 442-445	P02559,p.19		Unascertained (P00944, pp. 116-119)
BEQAJ, Tafe	2Ba-42		Place:Meja/Meje, Date: 27-04-1999	P00942,pp. 254-257	P02559,p.19		Unascertained (P00944, pp. 58-60)
BEQAJ, Ymer	2Ba-192		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.1052-1054	P02559,p.19		Unascertained (P00944, pp. 311-313)

Meja (Schedule H) Proof of Death Chart

BEQIRAJ, Albert	2Ba-05		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.49-52	P02559,p.20		
BEQIRAJ, Arsim	2Ba-118		Place:Meja/Meje, Date: 27-04-1999	P00942,pp. 644-647	P02559,p.20		Gunshot wound to left thigh- lethal if untreated (P00944, pp. 193-196; P00943, p. 578)
BEQIRAJ, Syle	2Ba-120		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.654-657	P02559,p.20		Multiple gunshot wounds (P00944, pp. 197-199)
BEQIRAJ, Tahir	2Ba-154		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.852-855	P02559,p.20		Gunshot wound to the lower abdomen (P00944, pp. 253-255)
BERISHA, Ahmet			Place:Meja/Meje, Date: 27-04-1999				
BERISHA, Halil	2Ba-162		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 892-895	P02559, p. 21		Gunshot injury to lumbar spine (P00943, pp. 205-206, 526)
BINAKU, Avni	Ba05-149T		Place:Meja/Meje, Date: 27-04-1999	P02414,pp.47-53	P02559,p.22		Unascertained (P02454, pp.277-280)
BINAKU, Binak	Ba05-442T		Place:Meja/Meje, Date: 27-04-1999	P02417,pp.1-7	P02559,p.22		
BINAKU, Ismail	Ba05-442T		Place:Meja/Meje, Date: 27-04-1999	P02417,pp.1-7	P02559,p.22		
BOBI, Ismet	2Ba-111		Place:Meja/Meje, Date: 27-04-1999	P00942,pp. 601-607	P02559,p.23		Possible gunshot to the trunk, blunt force trauma to the chest (P02394, pp. 15-18)
CUNI, Fihxri (first name also spelled Fiqruh)	2Ba-231		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 1263-1270	P02559,p.24		
CUNI, Muharrem	2Ba-254		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.1402-1405	P02559,p.24		Gunshot wound to the head (P00944, pp. 412-414)
CUNI, Sutki	2Ba-233		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.1279-1282	P02559,p.24		Gunshot wound to the chest (P00944, pp. 381-383)
CURRI, Istref			Place:Meja/Meje, Date: 27-04-1999				
CURRI, Izet			Place:Meja/Meje, Date: 27-04-1999				
DEDA, Linton (last name also spelled DEDAJ)	Ba05-83T	Merita DEDA,10-08-2006, P02233,p.3	Place:Meja/Meje, Date: 27-04-1999	P02416,pp.1-7	P02559,p.25		

Meja (Schedule H) Proof of Death Chart

DEDA, Mark (last name also spelled DEDAJ)	Ba05-129T	Merita DEDA,10-08-2006, P02233,p.3	Place:Meja/Meje, Date: 27-04-1999	P02414,pp.16-24	P02559,p.25		Unascertained (P00944, pp. 472-475)
DEDA, Martin			Place:Meja/Meje, Date: 27-04-1999				
DEDA, Pashk (last name also spelled DEDAJ)	Ba05-267T/306DT	Merita DEDA,10-08-2006, P02233,p.3	Place:Meja/Meje, Date: 27-04-1999	P02416, pp. 91-97	P02559, p. 25		Gunshot wound through right arm-lethal if untreated (P00943, p. 409, P02394, pp. 207-210)
DEDAJ, Frrok	Ba05-328T		Place:Meja/Meje, Date: 27-04-1999		P02559,p.25		Gunshot to the chest and the head (P02394, pp. 211-214)
DEDAJ, Gjon	Ba05-324T		Place:Meja/Meje, Date: 27-04-1999	P02602, pp. 1-9	P02559, p. 25		Gunshot to the chest (P00943, pp. 233-234, 465)
DEDAJ, Mikel	Ba05-334T		Place:Meja/Meje, Date: 27-04-1999	P02602,pp.10-15 & 37 - 42	P02559,p.25		Gunshot to the chest (P02454, pp. 113-115)
DEDAJ, Pjeter	Ba05-16T		Place:Meja/Meje, Date: 27-04-1999	P02415,pp.15-23	P02559,p.25		
DELIU, Deli (last name also spelled DELIJA)	2Ba-6		Place:Meja/Meje, Date: 27-04-1999	P00942,pp. 53-63	P02559,p.25		Gunshot to the head, chest and to the right arm (P02394, pp. 1-4)
DEMAJ, Ali	2Ba-31		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.193-199	P02559, p. 26		Gunshot injuries to the chest and right arm (P00943, pp. 249-250)
DUZHMANI, Agron	2Ba-62		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.358-361	P02559,p.26		Gunshot wound to lower abdomen (P00944, pp. 91-93)
DUZHMANI, Frane	2Ba-252		Place:Meja/Meje, Date: 27-04-1999	P00942, pp.1388-1394	P02559,p.26		Gunshots to the head and to the chest (multiple shots) (P02394, pp. 294-297)
DUZHMANI, Gezim	2Ba-200		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.1083-1087	P02559,p.26		Gunshot wounds to the head (P00944, pp. 325-328; P00943, p. 574)
DUZHMANI, Gostin	2Ba-220		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 1193-1201	P02559,p.26		Gunshot injuries to the head, neck and chest (P02394, pp. 279-282)
DUZHMANI, Manuel (first name also spelled Manol)	2Ba-216		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.1173-1177	P02559,p.26		Gunshot wounds to the head (P00944, pp. 350-353)
DUZHMANI, Marjan (first name also spelled Marijan)	2Ba-255		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.1406-1412	P02559,p.26		Firearm injury to the lower abdomen (P02394, pp. 191-193)

Meja (Schedule H) Proof of Death Chart

DUZHMANI, Mikel	2Ba-250		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 1380-1383	P02559,p.26		Multiple gunshot injuries to the head (P02394, pp. 290-293)
DUZHMANI, Pal	2Ba-82		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.455-462	P02559,p.26		Multiple projectile wounds (P00944, pp. 126-128)
DUZHMANI, Pashk	2Ba-175		Place:Meja/Meje, Date: 27-04-1999	P00942,pp. 951-954	P02559,p.26		Multiple gunshot wounds (P00944, pp. 286-289; P00943, p. 567)
FAZLIJAJ, Male (name also spelled FAZLIJA, Mal)	2Ba-167		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.910-912	P02559,p.27		Multiple gunshot wounds to chest, spine and lower abdomen (P00944, pp. 267-269)
FAZLIJAJ, Shani			Place:Meja/Meje, Date: 27-04-1999				
FETAJ, Haxhi	2Ba-64		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.366-369	P02559,p.27		Unascertained (P00944, pp.94-96)
GASHI, Lulzim	MJ01-003B		Place:Meja/Meje, Date: 27-04-1999	Found in Kosovo			
GASHI, Robert	2Ba-235		Place:Meja/Meje, Date: 27-04-1999	P00942,pp. 1290-1293	P02559,p.28		Gunshot injuries to the head, neck and the chest (P02394, pp. 29-32)
GAXHERRI, Brahim (first name also spelled Ibrahim)	2Ba-246		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 1359-1365	P02559,p.28		Firearm injury to the neck and the upper chest (P02394, pp. 187-190)
GAXHERI, Hasan			Place:Meja/Meje, Date: 27-04-1999				
GAXHERI, Xhafer (last name also spelled GAXHERRI)	2Ba-187		Place:Meja/Meje, Date: 27-04-1999	P00942,pp. 1020-1023	P02559,p.28		Gunshot wounds to the chest (P00944, pp. 308-310)
GJOCAJ, Deme	2Ba-84		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.467-470	P02559,p.29		Unascertained (P00944, pp. 132-134)
GJOKAJ, Ardian (first name also spelled Ardijan)	2Ba-100		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.544-547	P02559,p.29		Gunshot wound to the chest (P00944, pp. 162-165; P00943, p. 592)
GOLAJ, Asllan	2Ba-26		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.163-167	P02559,p.29		Gunshot wound to the chest and possible gunshot wound to the head (P00944, pp. 34-36; P00943, p. 496)
GOLAJ, Avdi	2Ba-208		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.1130-1134	P02559, p. 29		Gunshot to the chest (P00943, pp. 77-78, 511)

Meja (Schedule H) Proof of Death Chart

GOLAJ, Idriz	2Ba-77		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.432-436	P02559,p.29		Gunshot wounds to the spine and pelvis (P00944, pp. 110-112; P00943, p. 582)
GOLAJ, Musa (first name also spelled Muse)	2Ba-9		Place:Meja/Meje, Date: 27-04-1999	P00942,pp. 74-78	P02559,p.29		Gunshot wound to the trunk (P00944, pp. 10-12)
GOLAJ, Rame	2Ba-56		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.323-332	P02559,p.29		Gunshot injuries to the head, neck and the pelvis (P02394, pp. 176-179)
GOLAJ, Rexhe (last name also spelled GOLAJ)	2Ba-13		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 94-98	P02559, p. 29		Gunshot injuries to the head, chest and legs (P00943, pp. 75-76, 502)
HADERGJONAJ, Skender	K2Ba-196-K1-2/K2Ba-191-K1-2		Place:Meja/Meje, Date: 27-04-1999		P02559,p.29		
HAJREDINI, Faik	2Ba-190		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 1040-1044	P02559, p. 29		Gunshots to the head, chest and right arm (P00943, pp. 95-96, 540-541)
HAJREDINI, Hysni (first name also spelled Isni)	2Ba-114		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.622-626	P02559,p. 29		Multiple gunshot wounds (P00944, pp. 183-185)
HAJREDINI, Qamil	2Ba-158		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 872-875	P02559, p. 29		Gunshot injuries to the trunk and left thigh (P00943, pp. 93-94, 538-539)
HASANAJ, Elson			Place:Meja/Meje, Date: 27-04-1999				
HASANAJ, Gjon	2Ba-206		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.1121-1125	P02559,p.30		Unascertained (P00944, pp. 329-331)
HASANAJ, Luan	2Ba-170		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.928-933	P02559,p.30		Multiple gunshot wounds to the chest (P00944, pp. 274-276)
HASANAJ, Mitër			Place:Meja/Meje, Date: 27-04-1999				
HASANAJ, Ndue			Place:Meja/Meje, Date: 27-04-1999				
HASANAJ, Shyt	2Ba-221		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.1202-1206	P02559,p.30		Gunshot to abdominal cavity (P00944, pp. 365-367; P00943, p. 575)
HAXHA, Mentor (last name also spelled HAXHAJ)	2Ba-211		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.1147-1151	P02559,p.30		Gunshot wound to the chest (P00944, pp. 340-343)
HAXHIU, Afrim (last name also spelled HAXHIAVDYLLI)	Ba05-171T		Place:Meja/Meje, Date: 27-04-1999	P02414,pp.63-72	P02559,p.30		Multiple gunshot wounds (P02454, pp. 281-283)

Meja (Schedule H) Proof of Death Chart

HAXHIU, Avdi	2Ba-191		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.1045-1051	P02559,p.31		
HAXHIU, Florim (last name also spelled HAXHIJA)	2Ba-4		Place:Meja/Meje, Date: 27-04-1999	P00942,pp. 44-48	P02559,p.31		Gunshot wound to the head (P00944, pp. 4-6)
HAXHIU, Tahir	2Ba-20		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.132-137	P02559,p.31		Gunshot wound to the trunk (P00944, pp. 25-27)
HOXHA, Ardian	2Ba-149		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 825-827	P02559, p.32		Unascertained (P02454, pp.43-45)
HOXHA, Bajram	2Ba-256		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 1413-1417	P02559, p. 32		Gunshot injuries to the chest (P02454, pp. 78-80)
HOXHA, Blendian	2Ba-197		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 1070-1074	P02559, p. 32		Gunshot injury to the chest (P02454, pp. 58-60)
HOXHA, Fadil			Place:Meja/Meje, Date: 27-04-1999				
HOXHA, Fitim	2Ba-106		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.579-582	P02559,p.32		Gunshot wound to the head (P00944, pp. 169-171; P00943, p. 577)
HOXHA, Hajrullah			Place:Meja/Meje, Date: 27-04-1999		P02559,p.32		
HOXHA, Naim	2Ba-105/S-5		Place:Meja/Meje, Date: 27-04-1999	P00942,pp. 573-578	P02559,p.32		Multiple gunshot wounds (P02394, pp. 11-14)
HOXHA, Ramiz	2Ba-74		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 420-424	P02559, p. 32		Gunshot injury to the head and chest (P02454, pp. 16-18)
HOXHA, Rifat	2Ba-98		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.536-539	P02559,p.32		Gunshot to the head (P00944, pp. 156-158)
HYKOSMANAJ, Gafurr			Place:Meja/Meje, Date: 27-04-1999				
HYSENI, Binak	2Ba-108		Place:Meja/Meje, Date: 27-04-1999	P00942, pp.587-591	P02559, p. 33		Gunshot injury to the head (P00943, pp. 97-98, 515)
IBRAHIMI, Ali			Place:Meja/Meje, Date: 27-04-1999				
IBRAHIMI, Hysni (name also spelled Isni IBRAHIMAJ)	2Ba-117		Place:Meja/Meje, Date: 27-04-1999	P00942,pp. 639-643	P02559,p.33		Multiple gunshots (P00944, pp. 189-192)
IDRIZI, Masar	2Ba-104		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 563-572	P02559, p. 33		Gunshot to the left thigh (P.2454, pp. 25-27)
ISLAMAJ, Demë	2Ba-249		Place:Meja/Meje, Date: 27-04-1999	P00942,pp. 1376-1379	P02559,p.34		Gunshots to the chest (P00944, pp. 427-429)
ISUFI, Bajram	2Ba-168		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 913-922	P02559,p.34		

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ISUFI, Isa	2Ba-226		Place:Meja/Meje, Date: 27-04-1999	P00942, pp.1226-1234	P02559,p.34		
KABASHI, Andrush	Ba05-235T	Lizane MALAJ,09-10-08- 2006,P02232,pp . 10-12	Place:Meja/Meje, Date: 27-04-1999		P02559,p.35		
KABASHI, Arben	Ba05-6T/10DT	Lizane MALAJ,09-10-08- 2006,P02232,pp . 10-12	Place:Meja/Meje, Date: 27-04-1999	P02415,pp.10-14	P02559,p.35		Unascertained (P02394, pp. 37-39)
KABASHI, Nikoll	Ba05-109T	Lizane MALAJ,09-10-08- 2006,P02232,pp . 10-12	Place:Meja/Meje, Date: 27-04-1999	P02416,pp.18-24	P02559,p.35		
KACOLI, Pjeter			Place:Meja/Meje, Date: 27-04-1999				
KACOLI, Tom			Place:Meja/Meje, Date: 27-04-1999				
KAMERI, Besim	Ba05-227T		Place:Meja/Meje, Date: 27-04-1999		P02559,p.36		
KAMERI, Gëzim	2Ba-195/K-2Ba-196-K-3		Place:Meja/Meje, Date: 27-04-1999	P00942,pp. 1062-1065	P02559,p.36		
KAMERI, Muharrem (last name also spelled KAMBERI)	2Ba-234		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 1283-1287	P02559, p. 35		Gunshot injuries to the head and chest (P00943, pp. 3-4, 522-523)
KAMERI, Rrustem	2Ba-207		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.1126-1129	P02559,p.36		Unascertained (P00944, pp. 332-334)
KAMERI, Shpend	2Ba-130		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 715-723	P02559,p.36		
KOMANI, Nikolle	2Ba-1		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.28-32	P02559,p.36		Gunshot injury to the head and to the chest (P02394, pp. 241-244)
KOMANI, Fran	K2Ba-134-1		Place:Meja/Meje, Date: 27-04-1999		P02559, p.36		Unascertained (P02454, pp. 40-42)
KOMANI, Pashk	2Ba-93		Place:Meja/Meje, Date: 27-04-1999	P00942,pp. 507-512	P02559,p.36		Gunshot to the chest (P02394, pp. 8-10)
KQIRA, Mikel	Ba05-119T		Place:Meja/Meje, Date: 27-04-1999	P02414, pp. 8-15	P02559, p. 37		Multiple gunshot injuries (P02454, pp. 271-273)

Meja (Schedule H) Proof of Death Chart

KQIRA, Pashk	Ba05-9T		Place:Meja/Meje, Date: 27-04-1999	P02415, pp. 1-9	P02559, p. 37		Gunshot injury to the head (P02454, pp. 229-231)
KQIRAJ, Luz (last name also spelled KQIRA)	Ba05-239T/273DT		Place:Meja/Meje, Date: 27-04-1999	P02416, pp. 25-33	P02559, p. 37		Gunshot injury to the head (P02454, pp. 306-309)
KRASNIQI, Albert	2Ba-129		Place:Meja/Meje, Date: 27-04-1999	P00942,pp. 710-714	P02559,p.37		Possible gunshot wound in the head (P00944, pp. 213-215)
KRASNIQI, Lazer			Place:Meja/Meje, Date: 27-04-1999		P02559,p. 37		
KRASNIQI, Mark (first name also spelled Marko)	2Ba-224		Place:Meja/Meje, Date: 27-04-1999	P00942,pp. 1216-1219	P02559,p.37		Missile injury to the head (P00944, pp. 371-373)
KRASNIQI, Ndue	2Ba-241		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.1331-1335	P02559,p.37		Multiple gunshot wounds (P00944, pp. 388-392)
KRASNIQI, Pjeter	2Ba-171		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.934-938	P02559,p.37		Gunshot wounds to the head (P00944, pp. 277-279)
KUQI, Hasan	2Ba-110		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.597-600	P02559,p.38		Gunshot wound to the pelvis (P00944, pp. 180-182)
KUQI, Shpend	2Ba-52		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 304-306	P02559, p. 38		Gunshot injury to the chest (P02454, pp. 10-12)
KURPALI, Ilmi (first name also spelled Elmi)	2Ba-96		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.527-531	P02559,p.38		Multiple gunshot wounds (P00944, pp. 150-152; P00943, p. 583)
KURTAJ, Haki	2Ba-51		Place:Meja/Meje, Date: 27-04-1999	P00942, pp.300-303	P02559,p.38		Gunshot to the chest (P02454, pp. 7-9)
KURTAJ, Isa	2Ba-184		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.1005-1009	P02559,p.38		Multiple gunshot wounds to the chest and lower abdomen (P00944, pp. 300-303; P00943, p. 568)
KURTAJ, Muhamet	2Ba-S-7		Place:Meja/Meje, Date: 27-04-1999		P02559,p.38		
KURTAJ, Sami	2Ba-76		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.428-431	P02559,p.38		Possible gunshot to right arm and right thigh (P02394, pp. 5-7)
LLESHI, Anton			Place:Meja/Meje, Date: 27-04-1999				
MALA, Kllaudie (first name also spelled Klaudia)	Ba05-263T		Place:Meja/Meje, Date: 27-04-1999	P02416,pp.80-90	P02559,p.39		
MALA, Kol	Ba05-261DT		Place:Meja/Meje, Date: 27-04-1999	P02416,pp.74-79	P02559,p.39		
MALA, Monika (first name also spelled Manike)	Ba05-310T		Place:Meja/Meje, Date: 27-04-1999	P02602,pp. 16-23	P02559,p.39		Unascertained (P00944, pp. 511-513)

Meja (Schedule H) Proof of Death Chart

MALAJ, Blerim	Ba05-77T	Lizane MALAJ,09-10-08-2006,P02232,pp 10-12	Place:Meja/Meje, Date: 27-04-1999	P02415,pp.75-81	P02559,p.39		
MALAJ, Vat (last name also spelled Mala)	Ba05-73T	Lizane MALAJ,09-10-08-2006,P02232, pp. 10-12	Place:Meja/Meje, Date: 27-04-1999	P02415, pp. 59-64	P02559, p. 39		Gunshot wound through the head (P00943, pp. 21-22, 416)
MALAJ, Vilson	CZ 01/051B		Place:Meja/Meje, Date: 27-04-1999	Body found in Kosovo			
MALOKU, Blerim	2Ba-69		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 395-398	P02559, p. 39		Gunshot to the chest (P00943, pp. 45-46, 506)
MALOKU, Burim	2Ba-217		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.1178-1181	P02559,p.40		Unascertained (P00944, pp. 354-357)
MALOKU, Petrit	2Ba-115		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.627-631	P02559,p.40		Unascertained (P00944, pp. 186-188; P00943, p. 584)
MALOKU, Ymer	2Ba-81		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.450-454	P02559,p.40		Unascertained (P00944, pp. 123-125)
MALUSHAJ, Besim	2Ba-137		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 766-769	P02559, p. 40		Unascertained (P00943, pp. 43-44, 513)
MALUSHAJ, Esad			Place:Meja/Meje, Date: 27-04-1999				
MALUSHAJ, Shefki	2Ba-S-145		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.801-807	P02559,p.44		Gunshot to the chest (P02394, pp. 19-21)
MARKAJ, Bekim	Ba05-260T	Merita DEDA,10-08-2006, P02233, p. 3	Place:Meja/Meje, Date: 27-04-1999	P02416, pp. 64-73	P02559, p. 40		Gunshot injury to the chest and right thigh (P00943, pp. 37-38, 413)
MARKAJ, Mark	Ba05-247T/280DT	Merita DEDA,10-08-2006, P02233, p. 3	Place:Meja/Meje, Date: 27-04-1999	P02416, pp. 43-49	P02559, p. 40		Unascertained (P00943, pp. 41-42, 484)
MARKAJ, Dede	2Ba-245		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.1353-1358	P02559,p.40		Multiple gunshot wounds to the chest and head (P00944, pp. 402-404)
MARKAJ, Gezim (name also spelled MARKU, Gezime)	Ba05-35T		Place:Meja/Meje, Date: 27-04-1999	P02415,pp.34-44	P02559,p.41		

Meja (Schedule H) Proof of Death Chart

MARKAJ, Gjovalin (first name also spelled Xhevalin or Xhovalin)	2Ba-242		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.1336-1339	P02559,p.40		Possible gunshot wounds to the head (P00944, pp. 393-395)
MARKAJ, Milan	2Ba-212		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.1152-1156	P02559,p.40		Gunshot wounds to the head and thoracic vertebra (P00944, pp. 344-346)
MARKAJ, Pashk (first name also spelled Pashuk)	Ba05-200T	Merita DEDA,10-08-2006, P02233,p.3	Place:Meja/Meje, Date: 27-04-1999	P02414,pp.73-79	P02559,p.40		Injury to the right lower leg; lethal if untreated (P02394, pp. 201-203)
MARKAJ, Petrit	Ba05-326T/IV	Merita DEDA,10-08-2006, P02233,p.3	Place:Meja/Meje, Date: 27-04-1999	P02602,pp.24-36	P02559,p.40		Gunshot to the trunk and to the right forearm (P02394, pp. 68-70)
MARKAJ, Prend (first name also spelled Pren)	Ba05-255T	Merita DEDA,10-08-2006, P02233,p.3	Place:Meja/Meje, Date: 27-04-1999	P02416,pp.56-63	P02559,p.40		
MARKAJ, Sokol	Ba05-223DT/134T		Place:Meja/Meje, Date: 27-04-1999		P02559,p.40		Gunshot to the head possible, gunshot to the right hip (P02394, pp. 194-196)
MEHMETI, Agron	2Ba-7		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.64-68	P02559,p.41		Gunshot to the chest and head (P02394, pp. 168-171)
MEHMETI, Arben	2Ba-33		Place:Meja/Meje, Date: 27-04-1999	P00942, pp.204-211	P02559,p.41		Gunshot to the trunk (to the chest and lumbar spine) (P02394, pp. 172-175)
MEHMETI, Gani	2Ba-78		Place:Meja/Meje, Date: 27-04-1999	P00942, pp.437-441	P02559,p.41		Gunshot to the head (P00944, pp. 113-115)
MEHMETI, Hysni	2Ba-135		Place:Meja/Meje, Date: 27-04-1999	P00942, pp.748-759	P02559,p.41		Gunshot to the head, trunk and left arm (P02394, pp. 262-265)
MEHMETI, Hysen	2Ba-72		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.407-410	P02559,p.41		Gunshot to the head of the right femur, lethal if untreated (P00944, pp. 101-103; P00943, p. 593)
MEHMETI, Mehmet			Place:Meja/Meje, Date: 27-04-1999				
MEHMETI, Muharrem	2Ba-116		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 632-636	P02559, p. 41		Multiple gunshot injuries to the trunk and right arm (P00943, pp. 53-54, 518-519)
MEHMETI, Quash (first name also spelled Caush)	2Ba-127		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 693-703	P02559, p. 41		Gunshot injury to the chest (P02454, pp. 37-39)

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MEHMETI, Rame	Ba08-3DT		Place:Meja/Meje, Date: 27-04-1999		P02559,p.41		
MEHMETI, Sami	2Ba-102		Place:Meja/Meje, Date: 27-04-1999	P00942, pp.552-557	P02559, p. 41		Gunshot to the chest (at least two shots) (P02454, pp. 22-24)
MERTURI, Marash	2Ba-88		Place:Meja/Meje, Date: 27-04-1999	P00942, pp.485-491	P02559,p.42		
META, Bajram (also spelled METAJ)	2Ba-29		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.179-182	P02559,p.42		Unascertained (P00944, pp. 38-41)
MIFTARI, Ismet	2Ba-214		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.1162-1166	P02559,p.42		Gunshot wound to the chest (P00944, pp. 347-349)
MIROCI, Brahim	2Ba-218		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.1182-1187	P02559,p.43		Gunshot wounds to the chest (P00944, pp. 358-361; P00943, p. 571)
MIROCI, Fahredin	2Ba-73		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.411-419	P02559,p.43		Gunshot to the head (P00944, pp. 104-106)
MIROCI, Isuf	2Ba-68		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.389-394	P02559,p.43		Gunshot to lower abdomen and leg (P00944, pp. 97-100; P00943, p. 585)
MIROCI, Sokol	2Ba-70		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 399-401	P02559, p. 43		Gunshot to the trunk (to pelvis) (P00943, pp. 39-40, 503)
NDREJAJ, Kole (last name also spelled NREJAJ)	2Ba-S-1		Place:Meja/Meje, Date: 27-04-1999		P02559, p. 44		
NDUE, Nue	2Ba-174		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 948-950	P02559, p. 44		Gunshot to the chest (P02454, pp. 49-51)
NEZIRI, Ahmet	2Ba-183		Place:Meja/Meje, Date: 27-04-1999	P00942, pp.996-1004	P02559, p. 44		Gunshot injury to the head and trunk (P02454, pp. 55-57)
NIMANAJ, Naim			Place:Meja/Meje, Date: 27-04-1999				
NDREJAJ, Pashk			Place:Meja/Meje, Date: 27-04-1999				
NREJAJ, Nrec			Place:Meja/Meje, Date: 27-04-1999				
NUO or NDUE Sokol	2Ba-144		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 797-800	P02559, p. 44		Unascertained (P00943, pp. 276-277, 514)
NUZA, Sokol	2Ba-136		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.760-765	P02559,p.45		Unascertained (P00944, pp. 224-226)
OSMANI, Shpend	2Ba-138		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.770-773	P02559,p.45		Gunshot wound to the head (P00944, pp. 227-231)
PAJAZITI, Avdyll	2Ba-166/12		Place:Meja/Meje, Date: 27-04-1999	P00942,pp. 906-909	P02559,p.45		Unascertained (P02394, pp. 22-24)

Meja (Schedule H) Proof of Death Chart

PAJAZITI, Gani	2Ba-S-14		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.99-102	P02559,p.46		
PAJAZITI, Halil			Place:Meja/Meje, Date: 27-04-1999				
PAJAZITI, Haxhi	2Ba-53		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.307-310	P02559,p.45		Possible gunshot injury to the chest (P00944, pp. 75-79)
PAJAZITI, Idriz			Place:Meja/Meje, Date: 27-04-1999		P02559,p.45		
PAJAZITI, Ismet	2Ba-54		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.311-314	P02559,p.46		Gunshot injury to the pelvis and femur (P00944, pp. 80-83; P00943, p. 576)
PAJAZITI, Muje	2Ba-18		Place:Meja/Meje, Date: 27-04-1999	P00942,pp. 120-124	P02559,p.45		Gunshot wound to the abdomen (P00944, pp. 22-24)
PAJAZITI, Qerim	2Ba-24		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.154-157	P02559,p.45		
PAJAZITI, Shkelzen	2Ba-11		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.85-88	P02559,p.45		Unascertained (P00944, pp. 16-18)
PAJAZITI, Shpend	2Ba-109		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.592-596	P02559,p.45		Gunshot to the chest (P00944, pp. 175-179; P00943, p. 594)
PAJAZITI, Smajl	2Ba-166/12		Place:Meja/Meje, Date: 27-04-1999	P00942,pp. 89-93	P02559,p.45		Gunshot injury to the trunk blunt trauma to the head (P02394, pp. 245-248)
PAJAZITI, Zenel	2Ba-185		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.1010-1014	P02559, p.45		Unascertained (P00944, pp. 304-307)
PALOKAJ, Mark			Place:Meja/Meje, Date: 27-04-1999				
PEPAJ, Uke	K2Ba-102-1		Place:Meja/Meje, Date: 27-04-1999		P02559,p.46		
PJETRI, Gasper	Ba05-327T		Place:Meja/Meje, Date: 27-04-1999	P02602,pp.43-49	P02559,p.46		
PJETRI, Ilirian (first name also spelled Ilirjan)	Ba05-240T		Place:Meja/Meje, Date: 27-04-1999	P02416, pp. 34-42	P02559, p. 46		Gunshot to the head (P00943, pp. 183-184)
PJETRI, Skender (first name also spelled Skendu)	RA01-01B	Merita DEDA,10-08-2006,P02233,p.3	Place:Meja/Meje, Date: 27-04-1999	P00309,pp.1-5			
PRELAJ, Ardian (last name also spelled PRELA)	2Ba-251		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.1384-1387	P02559,p.46		Multiple gunshot wounds (P00944, pp. 408-411)
PRELAJ, Driton (last name also spelled PRELA)	2Ba-209		Place:Meja/Meje, Date: 27-04-1999	P00942, pp.1135-1142	P02559, p. 46		Gunshot injuries to the head and chest (P02454, pp. 65-68)

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PRELAJ, Gjergj (last name also spelled PRELA)	2Ba-247		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.1366-1370	P02559,p.46		Multiple gunshot wounds to the head (P00944, pp. 405-407)
PRELAJ, Sokol (last name also spelled PRELA)	2Ba-83		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.463-466	P02559,p.46		Gunshot wound to the head (P00944, pp. 129-131)
PRELAJ, Tome (last name also spelled PRELA)	2Ba-232		Place:Meja/Meje, Date: 27-04-1999	P00942, pp.1271-1278	P02559, p. 46		Gunshot to the head and chest (P02454, pp. 72-74)
PRENDI, Gjergj	2Ba-180/189		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.982-986, 1033-1039	P02559,p.46		
PRENDI, Leonard			Place:Meja/Meje, Date: 27-04-1999				
PRENDI, Mark	2Ba-180/189		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.982-986, 1033-1039	P02559,p.46		
PRENDI, Pal	Ba05-37T		Place:Meja/Meje, Date: 27-04-1999	P02415,pp.45-58	P02559,p.47		Two gunshots to the head (P02394, pp. 40-43)
PRENDI, Prend	Ba05-248T		Place:Meja/Meje, Date: 27-04-1999		P02559,p.47		
PRENDI, Robert	2Ba-180/189		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.982-986, 1033-1039	P02559,p.46		
PRENDI, Sokol	2Ba-199		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 1079-1082	P02559, p. 46		Gunshot to the head, chest and left arm (P0943, pp. 279-280, 534-535)
PRENDI, Viktor (first name also spelled Vitor)	2Ba-172		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.939-943	P02559,p.47		Unascertained (P00944, pp. 280-282)
QESTAJ, Hajdar (surname also spelled CESTAJ)	2Ba-181		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.987-990			Unascertained (P00944, pp. 293-295)
RAMA, Adem	2Ba-S-3		Place:Meja/Meje, Date: 27-04-1999		P02559,p.47		
RAMA, Bujar	2Ba-75		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.425-427	P02559,p.47		Gunshot wound to the head (P00944, pp. 107-109)
RAMA, Nijazi	2Ba-S-8		Place:Meja/Meje, Date: 27-04-1999		P02559,p.47		
RAMA, Sadri	2Ba-101		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.548-551	P02559,p.47		Unascertained (P00944, pp. 166-168)
RAMA, Sezaj	2Ba-186		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 1015-1019	P02559, p. 47		Gunshot injuries to the head and trunk (P0943, pp. 288-289, 509-510)
RAMA, Zenun	2Ba-25		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.158-162	P02559,p.47		Gunshot wound to the head (P00944, pp. 31-33)
RAMA, Zeqir	2Ba-150		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 828-830	P02559, p. 47		Unascertained (P0943, pp. 285-286, 552-553)

Meja (Schedule H) Proof of Death Chart

RAMAJ, Rame (first name also spelled Ram)	2Ba-89		Place:Meja/Meje, Date: 27-04-1999	P00942, pp.492-498	P02559, p. 47		Gunshot injuries to both thighs (one shot to the right, two shots to the left) gunshot to the chest (P02454, pp. 19-21)
RAMAJ, Tahir	2Ba-85		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.471-474	P02559,p.48		Gunshot wound to the left hip (P00944, pp. 135-137; P00943, p. 589)
REXHA, Adem	2Ba-94		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 502-506	P02559, p. 48		Gunshots to the head and chest (P00943, pp. 298-299, 527-528)
REXHA, Anton (last name also spelled REXHAJ)	2Ba-219		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.1188-1192	P02559,p.48		Gunshot to the head (P00944, pp. 362-364; P00943, p.573)
REXHA, Avni	2Ba-16		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 111-115	P02559, p. 48		Multiple gunshot injuries (to the head, neck, chest, right arm) (P00943, pp. 292-293, 556-557)
REXHA, Bashkim	2Ba-139		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 774-778	P02559, p. 48		Gunshots to the head, right leg (P00943, pp. 295-296, 524-525)
REXHA, Iber	2Ba-21		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.138-144	P02559, p. 48		Gunshots to the head and trunk (P00943, pp. 301-302, 507-508)
REXHA, Ruzhdi	2Ba-14		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 99-103	P02559, p. 48		Gunshot injuries to the head, trunk, left leg (P00943, pp. 283-284, 550-551)
REXHAJ, Hamza (last name also spelled REXHA; first name also spelled Hamez)	2Ba-10		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.79-84	P02559,p.48		Multiple gunshot (P00944, pp. 13-15; P00943, p. 579)
REXHAJ, Isuf (last name also spelled REXHA)	2Ba-155		Place:Meja/Meje, Date: 27-04-1999	P00942, pp.856-862	P02559,p.48		
REXHAJ, Tahir			Place:Meja/Meje, Date: 27-04-1999				
REXHAJ, Xhevdet (last name also spelled REXHA)	2Ba-132		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.730-735	P02559,p.48		Gunshot wound to the chest (P00944, pp. 220-223)
RRUSTEMI, Bekim (first name also spelled Besim)	2Ba-49		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 292-295	P02559, p. 49		Gunshot injury to the chest (P00943, pp. 270-271, 542-543)
RRUSTEMI, Dan	2Ba-71		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 402-406	P02559, p. 49		Gunshot to mandible- lethal if untreated (P00943, pp. 273-274, 546)

Meja (Schedule H) Proof of Death Chart

RRUSTEMI, Xhafer	2Ba-46		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 277-280	P02559, p. 49		Gunshot to the head (two shots) (P00943, pp. 267-268, 544-545)
SADIKU, Iber	2Ba-173		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.944-947	P02559,p.49		Gunshot injury to right pelvis (P00944, pp. 283-285)
SADIKU, Ismet	2Ba-S-12		Place:Meja/Meje, Date: 27-04-1999		P02559,p.49		
SADIKU, Osman	2Ba-165		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.902-905	P02559,p.49		Unascertained (P00944, pp. 264-266)
SADIKU, Ramiz	2Ba-S-2		Place:Meja/Meje, Date: 27-04-1999		P02559,p.49		
SADIKU, Sadik	2Ba-237		Place:Meja/Meje, Date: 27-04-1999	P00942, pp.1304-1309	P02559, p. 49		Gunshot injuries to the chest and right hand (P00943, pp. 304-305, 529-530)
SADRIU, Hysni (Last name also spelled SADRIJA; First name also spelled Isni)	2Ba-143		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.793-796	P02559,p.49		Unascertained (P00944, pp. 242-244)
SADRIU, Rexhep (last name also spelled SADRIA)	2Ba-169		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.923-927	P02559,p.49		Gunshot wounds to the head and lower abdomen (P00944, pp. 270-273)
SADRIU, Shaqir (last name also spelled SADRIA)	2Ba-229		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.1247-1251	P02559,p.49		Gunshot wounds to the chest (P00944, pp. 377-380; P00943, p. 572)
SAHITI, Esat			Place:Meja/Meje, Date: 27-04-1999				
SALCAJ, Xhavit			Place:Meja/Meje, Date: 27-04-1999				
SALIHAI, Osman	2Ba-63		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 362-365	P02559, p. 49		Unascertained (P02454, pp. 13-15)
SALIHU, Bajram	2Ba-164		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 896-901	P02559, p. 49		Gunshot injuries to the trunk, right arm, right leg (P00943, pp. 325-326, 536-537)
SALIHU, Nimon			Place:Meja/Meje, Date: 27-04-1999				
SELMANAJ, Beqir (last name also spelled SELMANI)	2Ba-39		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.235-238	P02559,p.50		Gunshot to the right pelvis (P00944, pp. 55-57; P00943, p. 581)
SELMANAJ, Nexhat (last name also spelled SELMANI)	2Ba-67		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.384-388	P02559,p.50		Gunshot wound to the head (P02394, pp. 255-258)

Meja (Schedule H) Proof of Death Chart

SELMANI, Ali	2Ba-28		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 174-178	P02559, p. 50		Multiple gunshot injuries to the head, trunk, and limbs (P00943, pp. 322-323, 516-517)
SELMANI, Baki	2Ba-244		Place:Meja/Meje, Date: 27-04-1999	P00942, pp.1345-1352	P02559,p.50		Three gunshot wounds to the chest (P02394, pp. 184-186)
SELMANI, Burim	2Ba-S-10		Place:Meja/Meje, Date: 27-04-1999		P02559,p.50		
SELMANI, Jonuz	2Ba-121		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.658-661	P02559,p.50		Gunshot to the chest (P00944, pp. 200-202; P0943, p. 591)
SELMANI, Sherif				Found in Kosovo			
SELMANI, Shpend			Place:Meja/Meje, Date: 27-04-1999				
SELMANI, Ujkan	2Ba-32		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.200-203	P02559,p.50		Unascertained (P00944, pp.42-44)
SELMANI, Xheme	2Ba-243		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.1340-1344	P02559,p.50		Multiple gunshot wounds to the chest (P00944, pp. 396-401)
SELMANI, Zenun	2Ba-215		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.1167-1172			
SHALA, Deme	2Ba-122		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.662-665	P02559,p.50		Unascertained (P00944, pp. 203-205)
SHEHU, Agim	2Ba-157/86		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.475-480	P02559,p.52		Possible gunshot to the chest (P02394, pp. 259-261)
SHEHU, Ahmet (SHEHU, Deli Ahmet)	2Ba-239		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.1319-1323	P02559,p.52		Multiple gunshot wounds (P00944, pp. 384-387; P00943, p.570)
SHEHU, Bujar	2Ba-156		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.863-867	P02559,p.52		Gunshot injury to lower abdomen (P00944, pp. 256-259)
SHEHU, Ismet	2Ba-157/86		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.868-871	P02559,p.52		Gunshot injury to the chest (P02394, pp. 276-278)
SHEHU, Mehmet	2Ba-201		Place:Meja/Meje, Date: 27-04-1999	P00942,pp. 1088-1091	P02559, p. 52		Multiple gunshot injuries- to the head, chest, left arm (P00943, pp 310-311, 531-532)
SHEHU, Rame	2Ba-2		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.33-37	P02559,p.52		Gunshot wound to the head (P00944, pp. 1-3; P00943, p. 588)
SHOSHI, Elvis (SHOSHI, Miftar Elvis)	2Ba-35		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.218-222	P02559,p.52		Multiple gunshot wounds (P00944, pp.45-47)

Meja (Schedule H) Proof of Death Chart

SHOSHI, Naser	2Ba-S-15		Place:Meja/Meje, Date: 27-04-1999		P02559,p.52		
SHOSHI, Perparim	2Ba-S-15		Place:Meja/Meje, Date: 27-04-1999		P02559,p.52		
SMAJLI, Gani	2Ba-240		Place:Meja/Meje, Date: 27-04-1999	P00942, pp.1324-1330	P02559,p.53		Gunshot injuries to the head, trunk (left pelvis) and left arm (P02394, pp. 287-289)
SOKOLI, Filip	2Ba-203		Place:Meja/Meje, Date: 27-04-1999	P00942, pp.1096-1102	P02559, p. 53		Multiple gunshot injuries (to the head, trunk, limbs) (P00943, pp. 316-317, 520-521)
SOKOLI, Gjergj	MJ01-005B		Place:Meja/Meje, Date: 27-04-1999				
SOKOLI, Kastriot	2Ba-147		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.814-818	P02559,p.53		Gunshot wound to the head and right arm (P00944, pp. 245-248)
SOKOLI, Kriste (first name also spelled Krist)	2Ba-225		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 1220-1225	P02559, p. 53		Gunshot to the chest (P00943, pp. 313-314, 533)
SOKOLI, Simon	2Ba-177		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 960-964	P02559, p. 53		Gunshot injuries to the chest (P00943, pp. 319-320, 547)
SYLA, Ismet	2Ba-213		Place:Meja/Meje, Date: 27-04-1999	P00942, pp.1157-1161	P02559, p. 53		Multiple gunshot injuries to the trunk, left arm, both legs (P00943, pp. 307-308, 554-555)
SYLA, Rexhep	2Ba-23		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.150-153	P02559,p.53		Unascertained (P00944, pp. 28-30)
SYLAJ, Bajram	2Ba-66		Place:Meja/Meje, Date: 27-04-1999	P00942, pp.377-383	P02559,p.53		
TAHIRAJ, Bajram	2Ba-142		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.789-792	P02559,p.54		Unascertained (P00944, pp. 239-241)
TAHIRAJ, Halil	2Ba-50		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.296-299	P02559,p.54		Gunshot injury (P00944, pp. 72-74)
TAHIRAJ, Isuf	2Ba-97		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.532-535	P02559,p.54		Unascertained (P00944, pp. 153-155)
TAHIRAJ, Osman	2Ba-141		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.785-788	P02559,p.54		Gunshot injuries (P00944, pp. 236-238)
TAHIRAJ, Ramadan	2Ba-182		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.991-995	P02559,p.54		Gunshot injury (P00944, pp. 296-299)
TAHIRAJ, Rustem	2Ba-228		Place:Meja/Meje, Date: 27-04-1999	P00942, pp.1240-1246	P02559,p.54		Gunshot to the head and to the chest (P02394, pp. 283-286)

Meja (Schedule H) Proof of Death Chart

TAHIRAJ, Selman	K2Ba-196-K1&2		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.1066-1069	P02559,p.54		
TAHIRAJ, Xhevdet	2Ba-179		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.973-981	P02559,p.54		Gunshot injury to the chest (P02454, pp. 52-54)
XHEMAJLI, Uke	2Ba-140		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.779-784	P02559,p.55		Multiple gunshot wounds to pelvic - abdominal region and femur (P00944, pp. 232-235)
XHEMAJLI, Alban			Place:Meja/Meje, Date: 27-04-1999				
XHEMAJLI, Hasan (last name also spelled XHEMAJLAJ)	2Ba-47		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.281-285	P02559,p.55		Several defects to pelvis and sacrum consistent with projectile impacts (P00944, pp. 68-71)
XHEMAJLI, Ilija			Place:Meja/Meje, Date: 27-04-1999				
XHEMAJLI, Isa (last name also spelled XHEMAJLAJ)	2Ba-S-16		Place:Meja/Meje, Date: 27-04-1999		P02559,p.55		
XHEMAJLI, Miftar (last name also spelled XHEMAJLAJ)	2Ba-57		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.333-337	P02559,p.55		Unascertained (P00944, pp. 84-87)
XHEMAJLI, Muharrem			Place:Meja/Meje, Date: 27-04-1999				
XHEMAJLI, Rifat (last name also spelled XHEMAJLAJ)	2Ba-133		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 736-741	P02559, p. 55		Gunshot injuries to the chest, left arm (P00943, pp. 328-329, 500-501)
XHEMAJLI, Shkelzen			Place:Meja/Meje, Date: 27-04-1999				
XHEMAJLI, Shpend			Place:Meja/Meje, Date: 27-04-1999		P02559,p.55		
XHEMAJLI, Xhemajl (last name also spelled XHEMAJLAJ; first name also spelled Xhemaji)	2Ba-248		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.1371-1375	P02559,p.55		Multiple gunshot wounds to upper body (P00944, pp. 430-433)
YMERI, Elez (last name aslo spelled IMERI)	2Ba-95		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.523-526	P02559,p.34		Gunshot to the head (P00944, pp. 147-149)
YMERI, Gani			Place:Meja/Meje, Date: 27-04-1999				
YMERI, Halit (last name aslo spelled IMERI)	2Ba-99/99A		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.540-543	P02559,p.34		Unascertained (P00944, pp. 159-161)
YMERI, Hasan (last name aslo spelled IMERI)	2Ba-60		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.349-354	P02559,p.33		Gunshot wound to abdomen (P00944, pp. 88-90)

Meja (Schedule H) Proof of Death Chart

YMERI, Hysen (last name aslo spelled IMERI)	2Ba-194		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.1058-1061	P02559,p.33		Multiple gunshot wounds to the chest (P00944, pp. 317-321)
YMERI, Musa (last name aslo spelled IMERI)	2Ba-193		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.1055-1057	P02559,p.34		Unascertained (P00944, pp. 314-316)
YMERI, Xhafer (last name aslo spelled IMERI)	2Ba-153		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.848-851	P02559,p.33		Gunshot wound to the lower abdomen (P00944, pp. 249-252)
YMERI, Zenel (last name aslo spelled IMERI)	2Ba-87		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.481-484	P02559,p.34		Unascertained (P00944, pp. 138-140)
ZENUNI, Bajram	2Ba-131		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.724-729	P02559,p.56		Gunshot to the chest (P00944, pp. 216-219)
ZENUNI, Xhevat	2Ba-8		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.69-73	P02559,p.56		Gunshot wound to the head (P00944, pp. 7-9)
ZENUNI, Zenel	2Ba-41		Place:Meja/Meje, Date: 27-04-1999	P00942, pp.246-253	P02559,p.56		Unascertained (P02394, pp. 252-254)
ZEQIRI, Hasan	2Ba-210		Place:Meja/Meje, Date: 27-04-1999	P00942,pp. 1143-1146	P02559,p.56		Gunshot wound through the neck (P00944, pp. 335-339)
ZYBERI, Arber	2Ba-227		Place:Meja/Meje, Date: 27-04-1999	P00942,pp. 1235-1239	P02559,p.56		Gunshot wounds to the head (P00944, pp. 374-376)
ZYBERI, Gani	2Ba-124		Place:Meja/Meje, Date: 27-04-1999	P00942,pp.674-677	P02559,p.56		Gunshot injury to the chest (P00944, pp. 206-208)
ZYBERI, Skender	2Ba-59		Place:Meja/Meje, Date: 27-04-1999	P00942, pp. 346-348	P02559, p. 56		Gunshot to right shoulder and right forearm (P00943, pp. 331-332, 512)

Vucitrn (Schedule I) Proof of Death Chart

Name	Site Reference Code	Testimony	OMPF list of missing persons P02798	SM government forensic reports	DNA reports	Identification	Cause of Death
ABAZI, Musa	L2C43	Sabit KADRIU, P02377, p. 21				P00333, p. 7	Death by a transthoracic gunshot wound fired at close range (P00334, pp. 164-166; P00333, pp. 139-141)
ADEMI, H. Rrahman	L2C31	Sabit KADRIU, P02377, p. 21				P00333, p. 7	Death by a cervicofacial gunshot wound fired at close range (P00334, pp. 113-116; P00333, pp. 102-104)
ALIU, Z. Ramadan	L2C81	Sabit KADRIU, P02377, p. 21				P00333, p. 8	Died from a transcervical gunshot wound. The overall aspect suggests that the shot was fired at close range. (P00332, pp. 75-76; P00331, pp. 87-89)
ALIU, B. Remzi	L2C92	Sabit KADRIU, P02377, p. 21				P00333, p. 8	Died from transthoracic gunshot wound fired at close range (P00332, pp. 97-98; P00331, pp. 114-116)
BEKTESHI, M. Afrim	L2C60	Sabit KADRIU, P02377, p. 21				P00333, p. 7	Died from three gunshot wounds, two of which are in the right lateral cervical region and one is in the upper right lateral thoracic region. One shot appears to have been fired at close range (P00332, pp. 32-33; P00331, pp.40-42)
BEQIRI, Nezir	L2C83	Sabit KADRIU, P02377, p. 21				P00333, p. 8	Died from a cranial traumatism caused by a blunt object (P00332, pp. 79-80; P00331, pp. 91-92)
BUNJAKU, M. Hysni		Sabit KADRIU, P02377, p. 21; Shukri GERXHALIU, 28-08-2006, P02275, p. 5					

Vucitrn (Schedule I) Proof of Death Chart

FEJZULLAHU, Qamile	L2C69	Sabit KADRIU, P02377, p. 21				P00333, p. 7	Died from natural causes probably as a result of heart failure with megalocardia (P00332, pp. 51-52; P00331, pp.59-60)
FERATI, Xh. Istref (surname is spelled "FERAM" in the forensic report)	L2C91	Sabit KADRIU, P02377, p. 21				P00333, p. 7	Died from transcranial gunshot wound. The shot was fired at close range (P00322, pp. 95-96; P00331, pp.112-114)
FERATI, Milazim	L2C44	Sabit KADRIU, P02377, p. 21				P00333, p. 7	Death by four gunshot wounds fired in a burst, one in intracranial region and three in thoracic region (P00334, pp. 167-172; P00333, pp. 142-145)
FERATI, Rifat	L2C68	Sabit KADRIU, P02377, p. 22				P00333, p. 7	Died from a cranial trauma caused by a blunt instrument (rifle butt) (P00332, pp. 49-50; P00331, pp.57-58)
FERIZI, M. Bislim		Sabit KADRIU, P02377, p. 21					
FERIZI, B. Mihrije		Sabit KADRIU, P02377, p. 21					
FERIZI, B. Ruzhdi		Sabit KADRIU, P02377, p. 21					
GERGURI, B. Agim		Sabit KADRIU, P02377, p. 21					
GERGURI, Sh. Enver	L1C6	Sabit KADRIU, P02377, p. 21				P00333, p. 7	Death by craniofacial gunshot wound (P00334, pp. 22-25)
GERGURI, S. Musli	L2C19	Sabit KADRIU, P02377, p. 21				P00333, p. 7	Death by intracranial gunshot wound fired at point blank range (P00334, pp. 69-72; P00333, pp. 69-71)
GERXHALIU, Fahri	L2C52	Sabit KADRIU, P02377, p. 21				P00333, p. 7	Died from two intracranial gunshot wounds (P00332, pp. 15-16; P00331, pp.17-20)

Vucitrn (Schedule I) Proof of Death Chart

GERXHALIU, A. Haki	L2C42	Sabit KADRIU, P02377, p. 21; Shukri GERXHALIU, 28-08-2006, P02275, p. 5				P00333, p. 7	Death by transcranial gunshot wound fired at close range (P00334, pp. 160-163; P00333, pp. 136-138; P1809, p. 148)
GERXHALIU, H. Kadri	L2C74	Sabit KADRIU, P02377, p. 21				P00333, p. 8	Transcranial gunshot wound fired at contact range (P00332, pp. 61-62; P00331, pp. 69-70)
GERXHALIU, H. Shaban	L2C54	Sabit KADRIU, P02377, p. 21				P0333, p. 7	Died from three gunshot wounds: one intracraniofacial fired at close range, a second in the thoracic abdominal region, and a third to the arm fired at close range (P00332, pp. 20-21; P00331, pp. 27-30)
GERXHALIU, I. Skender	L2C30	Sabit KADRIU, P02377, p. 21				P00333, p. 7	Death by craniofacial gunshot wound fired at contact range. A second gunshot wound is located in the abdominal region and was fired at short range (P00334, pp. 109-112; P00333, pp. 99-102)
GERXHALIU, H. Zejnullah	L2C23	Sabit KADRIU, P02377, p. 21				P00333, p. 7	Died from transcervical gunshot wound fired at close range (P00334, pp. 85-87; P00333, pp. 82-83)
GERGURI, A Shukri		Sabit KADRIU, P02377, p. 24					
GERGURI, M. Skender	L1C16	Sabit KADRIU, P02377, p. 22				P00333, p. 7	Skull-brain injury (P01809, p. 147; P00334, pp. 61-65; P00333, pp.58-61)
GERGURI, Sh. Naman (first name is spelled "Nanon" in the forensic report)	L1C14	Sabit KADRIU, P02377, p. 22				P00333, p. 7	Death by a left intracranial gunshot wound. The general aspect suggests a shot fired at close range (P00334, pp. 54-57; P0033, pp.54-56)
GERGURI, N. Ramush	L1C1	Sabit KADRIU, P02377, p. 22				P00333, p. 7	Died from intracranial gunshot wound fired at close range (P00334, pp. 4-6; P00333, pp.21-22)

Vucitrn (Schedule I) Proof of Death Chart

GERXHALIU, B. Avdyl	L2C70	Sabit KADRIU, P02377, p. 22				P00333, p. 7	Died from a transthoracic bullet wound (P00332, pp. 53-54; P00331, pp. 61-62)
GERXHALIU, F. Avdyl (first name spelled Abdyl in the forensic report)	L2C26	Sabit KADRIU, P02377, p. 22				P00333, p. 7	Died from thoracic gunshot wound (P00334, pp. 95-97; P00333, pp. 90-91)
GERXHALIU, B. Bajram	L2C27	Sabit KADRIU, P02377, p. 22				P00333, p. 7	Death by two gunshot wound in dorsal region fired at close range (P00334, pp. 98-101; P00333, pp. 92-94)
GERXHALIU, A. Fatmir	L2C28	Sabit KADRIU, P02377, p. 22				P00333, p. 7	Unascertained (P00334, pp. 102-104; P00333, pp. 95-96)
GERXHALIU, U. Fatmir	L2C40 (This reference code is incorrectly assigned to a different victim on page 7 of P00333)	Sabit KADRIU, P02377, p. 22					Death from a left transthoracic gunshot wound. The overall aspect suggests that the shot was fired at close range (P00334, pp. 152-155; P00333, pp. 130-132)
GERXHALIU, I. Imer	L2C29	Sabit KADRIU, P02377, p. 22				P00333, p. 7	Death by thoracic knife wound caused by a bayonet (P00334, pp. 105-108; P00333, pp.96-98)
GERXHALIU, Sh. Nuhi	L2C53	Sabit KADRIU, P02377, p. 22				P00333, p. 7	Died from four shots fired from a distance into dorsal and cervical regions (P00332, pp. 17-19; P00331, pp. 21-26)
GERXHALIU, H. Sejdi	L2C41	Sabit KADRIU, P02377, p. 22				P00333, p. 7	Death by two gunshot wounds to thoracic and cervical regions fired at close range (P00334, pp. 156-159; P00333, pp.132-135)
GERXHALIU, N. Xhevdet (first name spelled Hevdet in the forensic report)	L2C80	Sabit KADRIU, P02377, p. 22				P00333, p. 8	Died from a transcranial gunshot wound. The overall aspect suggests that the shot was fired at close range. (P00332, pp. 73-74; P00331, pp.85-87)

Vucitrn (Schedule I) Proof of Death Chart

GJATA, Meriton (surname is spelled " GJAFa" in the forensic report)	L2C37	Sabit KADRIU, P02377, p. 22				P00333, p. 8	Died from two gunshot wounds to dorsal region fired at close range (P00334, pp. 138-141; P00333, pp. 121-123)
GJATA, Sevdije	L2C84	Sabit KADRIU, P02377, p. 22				P00333, p. 8	Died from a transfacial gunshot wound tangential to the skull fired at close range (P00332, pp. 81-82; P00331, pp. 93-95)
GJATA, Tefik		Sabit KADRIU, P02377, p. 22	Place: Vushtrri/Vucitrn Date: 2-05-99				
HAXHAJ, Bahri (also spelled HAXHA)	L2C55	Sabit KADRIU, P02377, p. 22				P00333, p. 7	Died from two transthoracic gunshot wounds, one shot fired at close range (P00332, pp. 22-23; P00331, pp. 30-32)
HAZIRI, Nafije		Sabit KADRIU, P02377, p. 24					
HYSENI, R. Agim	L2C58	Sabit KADRIU, P02377, p. 22					Non-violent death. Possible respiratory problem (P00332, pp. 28-29; P00331, p.38)
HYSENI, B. Ali	L2C22	Sabit KADRIU, P02377, p. 22				P00333, p. 7	Death by three thoracoabdominal impacts fired with an automatic rifle at close range (P00334, pp. 81-84; P00333, pp. 79-81)
HYSENI, K. Beqir (name spelled Begir in the forensic report)	L2C86	Sabit KADRIU, P02377, p. 22				P00333, p. 8	Died from transthoracic gunshot wound. The overall aspect suggests that the shot was fired at far range. (P00332, pp. 85-86; P00331, pp. 100-102)
HYSENI, Kada (also spelled HASANI)	L2C59	Sabit KADRIU, P02377, p. 22				P00333, p. 7	Natural cause of death, probably cardiac (P00332, pp. 30-31; P00331, p. 39)

Vucitrn (Schedule I) Proof of Death Chart

HYSENI, Q. Hysen (name spelled Hysen Qasim Hyseni in the forensic report)	L1C3 (This reference code is incorrectly assigned to a different victim on page 7 of P00333)	Sabit KADRIU, P02377, p. 23					Death from external bleeding caused by vascular injuries to the neck fired from close range (P00334, pp. 11-13)
HYSENI, D. Qazim		Sabit KADRIU, P02377, p. 22					
HYSENI, Ramadan	L1C13	Sabit KADRIU, P02377, p. 23				P00333, p. 7	Death by an intrathoracic gunshot wound fired at very close range (P00334, pp. 51-53; P00333, pp. 53-54, French version)
HYSENI, Rrahman	L1C17	Sabit KADRIU, P02377, p. 23				P00333, p. 7	Death by a transcranio-facial gunshot wound fired at close range (P00334, pp. 66-68; P00333, pp.61 62, French version)
HYSENI, Q. Xhevdet		Sabit KADRIU, P02377, p. 24					
IBISHI, H. Selman		Sabit KADRIU, P02377, p. 24					
IBISHI, I. Sylejman	L2C85	Sabit KADRIU, P02377, p. 23				P00333, p. 8	Died from an intercranio-facial gunshot wound. The head was tilted forward. A second gunshot wound was recorded. Both shots were fired at close range. (P00332, pp. 83-84; P00331, pp.96-99)
IBISHI, Rahim		Sabit KADRIU, P02377, p. 24					
IBISHI, Tafil (first name is spelled "Fafil" in the forensic report)	L2C65	Sabit KADRIU, P02377, p. 23				P00333, p. 7	Died from a craniofacial gunshot wound fired from point blank range (P00332, pp. 43-44; P00331, pp. 51-53)

Vucitrn (Schedule I) Proof of Death Chart

KURTI, Bajram (first name is misspelled in the forensic report)	L2C57	Sabit KADRIU, P02377, p. 22				P00333, p. 7	Died from transcraniofacial gunshot wound. A second, non-lethal shot is located in thoracic region. Both shots were fired at close range (P00332, pp. 26-27; P00331, pp. 35-38)
KONJUHI, B. Afrim	L1C2	Sabit KADRIU, P02377, p. 24				P00333, p. 7	Died from transthoracic gunshot wound fired from close range (P00334, pp. 7-10; P00333, pp. 23-25, French version)
KONJUHI, Z. Rexhep	L1C4	Sabit KADRIU, P02377, p. 24				P00333, p. 7	Died from two gunshot wound in thoracic region fired at close range (P00334, pp. 14-18; P00333, pp. 28-31)
KRASNIQI, B. Shaban (surname is spelled "RASNIQI" in the forensic report)	L2C73	Sabit KADRIU, P02377, p. 23				P00333, p. 8	Died from a transthoracic gunshot wound (P00332, pp. 59-60; P00331, pp. 68-69)
KRASNIQI, R. Syle		Sabit KADRIU, P02377, p. 23					
LUSHAKU, A. Ibadete		Sabit KADRIU, P02377, p. 24					
LUSHAKU, H. Shehide		Sabit KADRIU, P02377, p. 24					
MAXHUNI, Z. Driton (last name is spelled "MAXHUMI" in the forensic report)	L2C89	Sabit KADRIU, P02377, p. 23				P00333, p. 8	Died from transcranial bullet wound. The shot was fired at very close range (P00332, pp. 91-92; P00331, pp.107-108)
MAXHUNI, F. Sabri		Sabit KADRIU, P02377, p. 23					
MERNICA, Sh. Ali		Sabit KADRIU, P02377, p. 24					
MORINA, Sh. Remzi	L2C32	Sabit KADRIU, P02377, p. 22				P00333, p. 7	Death by a transthoracic gunshot wound fired at short distance (P00334, pp. 117-120; P00333, pp. 105-107, French version)

Vucitrn (Schedule I) Proof of Death Chart

MULAKU, A. Ekrem	L2C25	Sabit KADRIU, P02377, p. 23				P00333, p. 7	Death by thoracic gunshot wound fired at close range (P00334, pp. 91-94; P00333, pp. 86-89, French version)
MULAKU, L. Xhavit	L2C24	Sabit KADRIU, P02377, p. 23				P00333, p. 7	Death by a transthoracic gunshot wound. The wound suggests simultaneous contact shots (P00334, pp. 88-90; P00333, pp. 84-85, French version)
MULI, I. Gani	L2C88	Sabit KADRIU, P02377, p. 23				P00333, p. 8	Died from two gunshot wounds, one right trans-cranio-facial and a second transabdominal (P00332, pp. 89-90; P00331, pp. 104-106)
MULI, N. Asllan	L2C34	Sabit KADRIU, P02377, p. 23				P00333, p. 7	Death by two transthoracic gunshot wound fired at close range (P00334, pp. 125-129; P00333, pp. 110-113)
MULI, N. Hazir	L2C33	Sabit KADRIU, P02377, p. 23				P00333, p. 7	Death by two gunshot wounds to thoracic region fired at close range (P00334, pp. 121-124; P00333, pp. 107-109, French version)
MULIQI, I. Bajram	L2C36	Sabit KADRIU, P02377, p. 23				P00333, p. 7	Death by two thoracic gunshot wounds (P00334, pp. 134-137; P00333, pp. 118-120, French version)
MUSA, F. Islam	L2C62	Sabit KADRIU, P02377, p. 23				P00333, p. 7	Died from transcranial gunshot wound fired from close range (P00332, pp. 36-37; P00331, pp. 43-45)
MUSA, Kadrush (first name spelled Kadri in forensic report)	L2C47	Sabit KADRIU, P02377, p. 23				P00333, p. 7	Died from transabdominal thoracic gunshot wound. Shot appears to have been fired at close range (P00332, pp. 4-5; P00331, pp. 6-9)

Vucitrn (Schedule I) Proof of Death Chart

MUSA, H. Nexhmi	L2C75	Sabit KADRIU, P02377, p. 24	Place: Vushtrri/Vucitrn Date: 02-05-99			P00333, p. 8	Died from intracranial gunshot wound. The shot appears to have been at contact range (P00332, pp. 63-64; P00331, pp. 71-73)
MUSLIU, M. Mehdi	L2C93	Sabit KADRIU, P02377, p. 23				P00333, p. 8	Died from a transthoracic gunshot wound (P00332, pp. 99-100; P00331, pp. 117-119)
MUSLIU, Ragip (name is spelled "Ragop" in the forensic report)	L2C66	Sabit KADRIU, P02377, p. 23				P00333, p. 8	Died from transthoracic gunshot wound fired from close range (P00332, pp. 45-46; P00331, pp. 53-55)
MUZAQI, I. Besim	L2C90	Sabit KADRIU, P02377, p. 23				P00333, p. 8	Died from two gunshot wounds, one transthoracic shot fired at close range and a second intracranial shot fired at contact range (P00332, pp. 93-94; P00331, pp. 109-111)
MUZAQI, H. Salih		Sabit KADRIU, P02377, p. 23	Place: Vushtrri/Vucitrn Date: 05-02-99				
PARDUZI, Shehide		Sabit KADRIU, P02377, p. 23					
PECI, Murat	L2C72	Sabit KADRIU, P02377, p. 23				P00333, p. 8	Died from a transthoracic and a thoraco-abdominal gunshot wound (P00332, pp. 57-58; P00331, pp. 64-67)
POPOVA, A. Ismajl		Sabit KADRIU, P02377, p. 22					
PRRONAJ, Sh. Enver	L2C45	Sabit KADRIU, P02377, p. 23				P00333, p. 7	Death by transcervical gunshot wound fired at contact range (P00334, pp. 173-176; P00333, pp. 146-148, French version)
PRRONAJ, Sh. Zymer	L2C49	Sabit KADRIU, P02377, p. 23				P00333, p. 7	Died from machine-gunning into dorsal region (P00332, pp. 8-9; P00331, pp. 12-14)

Vucitrn (Schedule I) Proof of Death Chart

RASHICA, I. Ali	L1C12	Sabit KADRIU, P02377, p. 22				P00333, p. 7	Death by transoracic gunshot gunshot wound fired at close range (P00334, pp. 47-50; P00333, pp. 47, 52-53, French version)
RASHICA, I. Deli	L1C11	Sabit KADRIU, P02377, p. 22				P00333, p. 7	Died from seven shots to dorsal and lumbar regions and left forearm. Shot from point blank range (P00334, pp. 41-46; P00333, pp. 47-51, French version)
RASHICA, S. Eshref		Sabit KADRIU, P02377, p. 23					
REXHEPI, I. Ahmet (surname is spelled "REXHA" in the forensic report)	L2C21	Sabit KADRIU, P02377, p. 22				P00333, p. 7	Died from craniofacial gunshot wound fired at contact range (P00334, pp. 77-80; P00333, pp. 76-78, French version)
REXHEPI, Ilaz (surname is spelled "REXHA" in the forensic report)	L2C20	Sabit KADRIU, P02377, p. 22				P00333, p. 7	Died from two transthoracic gunshot wounds fired at close range (P00334, pp. 73-76; P00333, pp. 72-75, French version)
REXHEPI, Ismet		Sabit KADRIU, P02377, p. 24					
SADIKU, H. Agim (first name is spelled "Asim" in the forensic report)	L2C67	Sabit KADRIU, P02377, p. 23				P00333, p. 7	Died from a transcraniofacial gunshot wound (P00332, pp. 47- 48; P00331, pp. 55-57)
SHALA, R. Hamdi (first name is spelled "Handi" in the forensic report)	L2C82	Sabit KADRIU, P02377, p. 23				P00333, p. 8	Died from a transcranial gunshot wound. The overall aspect suggests that the shot was fired at point blank range (P00332, pp. 77- 78; P00331, pp.89-90)
SFARQA, Shehide	L2C39	Sabit KADRIU, P02377, p. 23				P00333, p. 7	Natural death by asthma attack (P00334, pp. 149-151; P00333, pp. 128-129, French version)

Vucitrn (Schedule I) Proof of Death Chart

SFARQA, Sh. Sherif (first name is spelled "Sherie" in the forensic report)	L2C64	Sabit KADRIU, P02377, p. 23				P00333, p. 7	Died from transcraniofacial gunshot wound. Two other gunshot wounds to thoracic region were recorded. These shots were fired from close range. The intracranial shot appears to have been the final one and to have been fired from contact range. (P00332, pp. 40-42; P00331, pp. 47-51)
SFARQA, S. Skender (name is spelled "SFARQI Skenser" in the forensic report)	L2C63	Sabit KADRIU, P02377, p. 22				P00333, p. 7	Died from transthoracic gunshot wound fired from close range (P00332, pp. 38-39; P00331, pp. 45-47)
TAHIRI, Fetah	L2C76	Sabit KADRIU, P02377, p. 23				P00333, p. 8	Died from a transthoracic gunshot wound. The overall aspect suggests that the shot was fired at close range (P00332, pp. 65-66; P00331, pp.74-76)
TERNAVA, Fehmi	L2C48	Sabit KADRIU, P02377, p. 23				P00333, p. 7	Died from transcervical gunshot wound fired at close range (P00332, pp. 6-7; P00331, pp. 10-11)
TIKU, A. Sahit (surname is spelled "TIKS" in the forensic report)	L2C35	Sabit KADRIU, P02377, p. 24				P00333, p. 7	Two gunshot wound, one transcraniofacial at contact range and a second to the thoracic region at close range (P00334, pp. 130-133; P00333, pp. 113-117, French version)
VERSHEVCI, Azemine	L2C87	Sabit KADRIU, P02377, p. 24				P00333, p. 8	Died from cranio-cerebral traumatism caused by a blunt object (compaticle with a blow froma rifle butt) (P00332, pp. 87-88; P00331, pp. 102-103)
VIDISHIQI, Faik	L2C51	Sabit KADRIU, P02377, p. 24				P00333, p. 7	Died from transabdominal thoracic gunshot wound. The shot was fired from close range (P00332, pp. 13-14; P00331, pp. 16-17)

Vucitrn (Schedule I) Proof of Death Chart

XHAFa, Driton	L2C46	Sabit KADRIU, P02377, p. 24				P00333, p. 7	Died from transthoracic gunshot wound fired from close range (P00332, pp. 2-3; P00331, pp. 4-6)
XHAFa, Nazif	L2C71	Sabit KADRIU, P02377, p. 24				P00333, p. 7	Died from two gunshot wounds fired at close range (P00332, pp. 55-56; P00331, pp.62-64)
XHAFa, S. Veli	L2C79	Sabit KADRIU, P02377, p. 24				P00333, p. 8	Died from a transcranial gunshot wound. The overall aspect suggests that the shot was fired at close range. It can be thought that the subject had his head tilted forward (P00332, pp. 71-72; P00331, pp.83-85)
ZHEGROVA, R. Naser	L2C56	Sabit KADRIU, P02377, p. 24				P00333, p. 7	Died from a transcranial gunshot wound. The overall appearance suggests a shot fired at close range. (P00332, pp. 24-25; P00331, pp. 33-34)

<u>UNSCHEDULED VICTIMS</u>							
XHAFa, Miran		Fedrije XHAFa, 25-08-2006, T. 2421-2422; P02274, para. 8.					

Kacanik (Schedule K) Proof of Death Chart

Name	Site Reference Code	Testimony	OMPF list of missing persons P02798	SM government forensic reports	DNA reports	Identification	Cause of Death
Kotlina / Kotlinë - 24 March 1999							
KUQI, Idriz		Hazbi LOKU, P02296, p. 5					Gunshot wounds (P00361, p. 39)
KUQI, Ismail		Hazbi LOKU, 11-09-2006, T.3161-3164; P00380,p.5	Place:Kotlina Date: 24-03-1999				Possibly explosion, fire or gunshot wounds (P00361, pp. 24-25)
KUQI, Nexhadi		Hazbi LOKU, 11-09-2006, T.3161-3164; P00380,p.3	Place:Kotlina Date: 24-03-1999				Possibly explosion or fire (P00361, pp. 18-19)
KUQI, Xhemjal			Place:Kotlina Date: 24-03-1999				Possibly explosion or fire (P00361, pp. 12-13)
LOKU, Agim		Hazbi LOKU, 11-09-2006, T.3161-3164; P00380,p.5	Place:Kotlina Date: 24-03-1999				Possibly explosion or fire (P00361, pp. 29-30)
LOKU, Atan		Hazbi LOKU, 11-09-2006, T.3161-3164					
LOKU, Garip		Hazbi LOKU, 11-09-2006, T.3161-3164; P00380,p.4	Place:Kotlina Date: 24-03-1999				Possibly explosion, fire or gunshot wounds (P00361, pp. 22-23)
LOKU, Ibush		Hazbi LOKU, 11-09-2006, T.3161-3164; P00380,p.1	Place:Kotlina Date: 24-03-1999				Possibly explosion, fire or gunshot wounds (P00361, pp. 33-34)
LOKU, Ismajl		Hazbi LOKU, 11-09-2006, T.3161-3164; P00380,p.5	Place:Kotlina Date: 24-03-1999				
LOKU, Izijah							Possibly explosion or fire (P00361, pp. 9-10)

Kacanik (Schedule K) Proof of Death Chart

LOKU, Milaim		Hazbi LOKU, 11-09-2006, T.3161-3164, P02296, p. 3; P00380,p.5					
LOKU, Naser R.		Hazbi LOKU, 11-09-2006, T.3161-3164; P00380,p.1	Place:Kotlina Date: 24-03-1999				Possibly explosion or fire (P00361, pp. 32-33)
LOKU, Sabit		Hazbi LOKU, 11-09-2006, T.3161-3164; P00380,p.4	Place:Kotlina Date: 24-03-1999				
LOKU, Zymer		Hazbi LOKU, 11-09-2006, T.3161-3164, P02296, p. 6; P00380,p.5					External bleeding caused by gunshot wounds (P00361, pp. 39-40)
REXHA, Neshat		Hazbi LOKU, 11-09-2006, T.3161-3164; P00380,p.5	Place:Kotlina Date: 24-03-1999				Possibly explosion or fire (P00361, pp. 15-16)
VLASHI, Sali M.		Hazbi LOKU, 11-09-2006, T.3161-3164 (spelled "VASLIU" in the transcript)					Possibly explosion, fire or gunshot wounds (P00361, pp. 14-15)
VLASHI, Vesel		Hazbi LOKU, 11-09-2006, T.3161-3164, P02296, p. 5; P00380,p.2.					Gunshot wounds (P00361, pp. 40-41)
Slatina / Slatinë 13 April 1999							
CAKA, Ilir Osman		Sejdi LAMI, 12-09-2006, T.3261-3262					Gunshot wounds to the head and the chest (P00364, pp.21-24)
CAKA, Jakup Mustaf		Sejdi LAMI, 12-09-2006, T.3261-3262					Single gunshot wound to the chest (P00364, pp. 17-20)

CAKA, Mahmut Hasan		Sejdi LAMI, 12-09-2006, P02271, p. 4					Gunshot wound to the chest (P00364, pp. 13-16)
DEDA, Qemajl							Gunshot wound to the chest, stab wound to the chest and incised wound to the throat (P00365, pp. 1-7)
ELEZI, Nazmi							Severe injuries to head and neck. Possibly hit in the head by grenade (P00365, pp. 8-14)
ELEZI, Vesel							Multiple gunshot wounds (P00365, pp. 15-21)
LAMA, Brahim		Sejdi LAMI, 12-09-2006, T.3261-3262:17; P02271, p. 4					Multiple gunshot wounds to the chest (P00364, pp. 29-32)
LAMA, Hebib		Sejdi LAMI, 12-09-2006, T.T.3261-3262:17 P02271, p. 4					Multiple gunshot wounds to the chest and the abdomen (P00364, pp. 33-36)
LAMA, Ibrahim		Sejdi LAMI, 12-09-2006, T.T.3261-3262:17; (referred to as Rahim LAMI in the transcript) P02271,p.4					Gunshot wound to the chest (P00364, pp. 25-28)
SALIHU, Izahir Ilaz							Gunshot wound to the back (P00364, pp. 10-12)
SALIHU, Kemajl Ilaz							Gunshot wound to the abdomen (P00364, pp. 6-9)
SALIHU, Sabri Ilaz							Gunshot wounds to the back (P00364, pp. 2-5)
SHIQRIBER, Haliali							Gunshot wound to lower back (P00364, pp. 38-41)
Stagovo / Stagovë - 21 May 1999							

Kacanik (Schedule K) Proof of Death Chart

BELA, Baki		Muharrem DASHI, 11-10-2006, T.4615-4615					Internal bleeding and a skull-brain trauma caused by multiple gunshot wounds (P00368, pp. 494-509)
DASHI, Hamdi		Muharrem DASHI, 11-10-2006, T.4615-4615					Multiple gunshot wounds (P00368, pp. 433-448)
DASHI, Ibrahim Avdi							Gunshot in the head (P00368, pp. 378-387)
DASHI, Ramadan		Muharrem DASHI, 11-10-2006, T.4615-4615					Gunshot in the skull (P00368, pp. 323-334)
ELEZI, Bahrije R.							Gunshots through the thorax (P00368, pp. 271-278)
GUDAQI, Fitim		Muharrem DASHI, 11-10-2006, T.4615-4615					Gunshot through the neck (P00368, pp. 101-114)
GUDAQI, Hanife		Muharrem DASHI, 11-10-2006, T. 4615 (refers to her as "grandmother of Fitim")					Gunshot wounds to the thorax and pelvic area (P00368, pp. 44-55)
GURI, Sevdije							Gunshots in the legs which opened the large arterial blood vessels (P00368, pp. 159-168)
JAHA, Elife							Internal bleeding caused by a gunshot through the thorax (P00368, pp. 214-225)
JAHA, Ramush		Muharrem DASHI, 11-10-2006, T.4616					Gunshot wound to the head (P00369 pp. 6-12)
MANI, Fahri		Muharrem DASHI, 11-10-2006, T.4616					Gunshot wounds to the chest (P00369 pp. 1-5)

Kacanik (Schedule K) Proof of Death Chart

RRUSHI, Ibush		Muharrem DASHI, 11-10-2006, T.4615-4615					Gunshot through the thorax, at least three other shots to limbs (P00368, pp. 553-562)
Dubrava / Lisnaje 25 May 1999							
QORRI, Arton Hajrush		Fadil VISHI, 19-09-2006, P02306, pp.5-6					Multiple gunshot wounds (P00376, pp. 45-48)
QORRI, Fatije Hajrush							Internal bleeding caused by gunshot wounds (P00372, pp. 49-64)
QORRI, Hajrush Mehmet		Fadil VISHI, 19-09-2006, P02284, p. 4; P02306, pp.7-8					Gunshot through thorax (P00378, pp. 46-53)
QORRI, Rexhep Zejnulla		Fadil VISHI, 19-09-2006, P02284, p. 4					Gunshot wound to the head (P00373, pp. 46-51)
TUSHA, Ali		Fadil VISHI, 19-09-2006, P02284, p. 4					Probably internal bleeding caused by gunshot wounds (P00379, pp. 48-51)
TUSHA, Xhemajl		Fadil VISHI, 19-09-2006, P02284, p. 4					Multiple gunshot wounds (P00377, pp. 46-55)
VISHI, Rrahim Beqir		Fadil VISHI, 19-09-2006, P02284, p. 4, P02285, pp. 22					Skull-brain trauma caused by a gunshot (P00375, pp. 48-56)
VISHI, Milaim Misim		Fadil VISHI, 19-09-2006, P02284, p. 4, P02285, pp. 22					Multiple gunshot wounds (P00374, pp. 46-51)
UNSCHEDULED VICTIMS							
KUQI, Minah			Place:Kotlina Date: 24-03-1999				Possibly explosion, fire or gunshot wounds (P00361, pp. 10-11)

Kacanik (Schedule K) Proof of Death Chart

KUQI, Sherif		Hazbi LOKU, 11-09-2006, T.3161-3164	Place:Kotlina Date: 24-03-1999				Possibly explosion, fire or gunshot wounds (P00361, pp. 23-24)
LOKU, Atmir							Possibly explosion or fire (upper body part missing) (P00361, pp. 19-20)
LOKU, Atmir							Possibly explosion, fire or a dull blow to the head (P00361, pp. 29-30)
LOKU, Cen			Place:Kotlina Date: 24-03-1999				Possibly explosion or fire (P00361, pp. 27-28)
LOKU, Ismet		Hazbi LOKU, 11-09-2006, T.3161-3164	Place: unspecified Date: 24-03-1999				Possibly explosion, fire or gunshot wounds (P00361, pp. 25-27)
LOKU, Mahi			Place:Kotlina Date: 24-03-1999				Possibly explosion, fire or gunshot wounds (P00361, pp. 30-31)
LOKU, Naser F.		Hazbi LOKU, 11-09-2006, T.3161-3164					Possibly explosion, fire or gunshot wounds (P00361, pp. 31-32)
RAKA, Sherife		Isa RAKA, 19-09-2006, T.3525-3528; P02301 pp. 3-4					
GURRI, Sylejman		Fadil VISHI, 19-09-2006, P02284, p. 4, P02306, pp.3, 4					
LOKU, Adnan		Hazbi LOKU, 11-09-2006, T.3161-3164	Place:Kotlina Date: 24-03-1999				
KUCI, Mina (also spelled Minah)		Hazbi LOKU, 11-09-2006, T.3161-3164	Place:Kotlina Date: 24-03-1999				
LOKU, Bajram		Hazbi LOKU, 11-09-2006, T.3161-3164	Place:Kotlina Date: 24-03-1999				
LOKU, Zija		Hazbi LOKU, 11-09-2006, T.3161-3164					

Kacanik (Schedule K) Proof of Death Chart

LOKU, Mani		Hazbi LOKU, 11-09-2006, T.3161-3164 (transcript refers to "Mahi")					
KUCI, Danish (also spelled Danush)		Hazbi LOKU, 11-09-2006, T.3161-3164	Place:Kotlina Date: 24-03-1999				
KUCI, Djemal		Hazbi LOKU, 11-09-2006, T.3161-3164					
LOKU, Sabri		Hazbi LOKU, 11-09-2006, T.3161-3164	Place:Kotlina Date: 24-03-1999				
KUCI, Emlah		Hazbi LOKU, 11-09-2006, P02296, p. 3					
XHOKLI, Ramadan		Sejdi LAMI, 12-09-2006, T.3261					
LAMI, Rraman		Sejdi LAMI, 12-09-2006, T.3261 (transcript refers to "Rahim"); P02271, p. 4					
DASHI, Brahim		Muharrem DASHI, 11-10-2006, T. 4615					

Qirez Proof of Death Chart

Name	Site Reference Code	Testimony	OMPF list of missing persons P02798	SM government forensic reports	DNA reports	Identification	Cause of Death
ZYMERI, Lumnije or ZYMBERI, Lumnije	SIP1 C1	K24,12-10-2006, T4780:10-4780:11,P02367,pp 4, 6 Xhevahire RRAHMANI, P02239,pp.6,7				P00383,pp.24, 56	Death by drowning, signs of sexual assault (P00383,p.56; P00384,pp.1-2)
DIBRANI, Bukurije	SIP1 C2	K24,12-10-2006, T4780:4-4780:5,P02367,pp.3, 6 Xhevahire RRAHMANI, P02239,pp.3,4,6,7				P00383,pp.27, 58	Death by drowning, signs of sexual assault (P00383,p.58; P00384,pp.1-2)
DIBRANI, Antigona	SIP1 C3	K24,12-10-2006, T4780:4-4780:5,P02367,pp.3,5 Xhevahire RRAHMANI, P02239,pp.3,4,7				P00383,pp.29, 60	Death by drowning, (P00383,p.60;P00384,p.1)
DIBRANI, Merishahe	SIP1 C4	K24,12-10-2006, T4780:4-4780:5,P02367,pp.3,6 Xhevahire RRAHMANI, P02239,pp.3,4,6,7				P00383,pp.32, 62	Death by drowning, (P00383,p.62; P00384,p.1)
ZAHIDE,Xhema or XHEMA, Zahide	SIP2 C1	K24,12-10-2006, T4780:4-4780:5,P02367,p.5 Xhevahire RRAHMANI, P02239,pp.4,5,7				P00383,pp.41, 64-65	Death by drowning, (P00383,pp.64-65;P00384,p.1)
ADEMI, Fahrije	SIP 3C1	K24,12-10-2006, T4780:4-4780:5,P02367,pp.3,7 Xhevahire RRAHMANI, P02239,pp.4,7				P00383,pp.48, 67	Death by drowning, (P00383,p.67; P00384,p.1)
DIBRANI, Miradije	SIP3 C2	K24,12-10-2006, T4780:4-4780:5,P02367,pp.2,7 Xhevahire RRAHMANI, P02239,pp.3,4,7				P00383,pp.49, 69	Death by drowning, (P00383,p.69; P00384,p.1)
SHALAKU, Tahire or SHALAKU, Tahire	SIP3 C3	K24,12-10-2006, T4780:10-4780:11,P02367,p.7 Xhevahire RRAHMANI, P02239,pp.3,4,6,7				P00383,pp.51, 71	Death by drowning, (P00383,p.71; P00384,p.1)

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

Case No. IT-05-87-T

IN THE TRIAL CHAMBER

**Before: Judge Iain Bonomy, Presiding
Judge Ali Nawaz Chowhan
Judge Tsvetana Kamenova
Judge Janet Nosworthy, Reserve**

Registrar: Mr. Hans Holthuis

Date Filed: 15 July 2008

THE PROSECUTOR

v.

**MILAN MILUTINOVIĆ
NIKOLA ŠAINOVIĆ
DRAGOLJUB OJDANIĆ
NEBOJŠA PAVKOVIĆ
VLADIMIR LAZAREVIĆ
SRETEN LUKIĆ**

ANNEX D (Exhibit P2556)

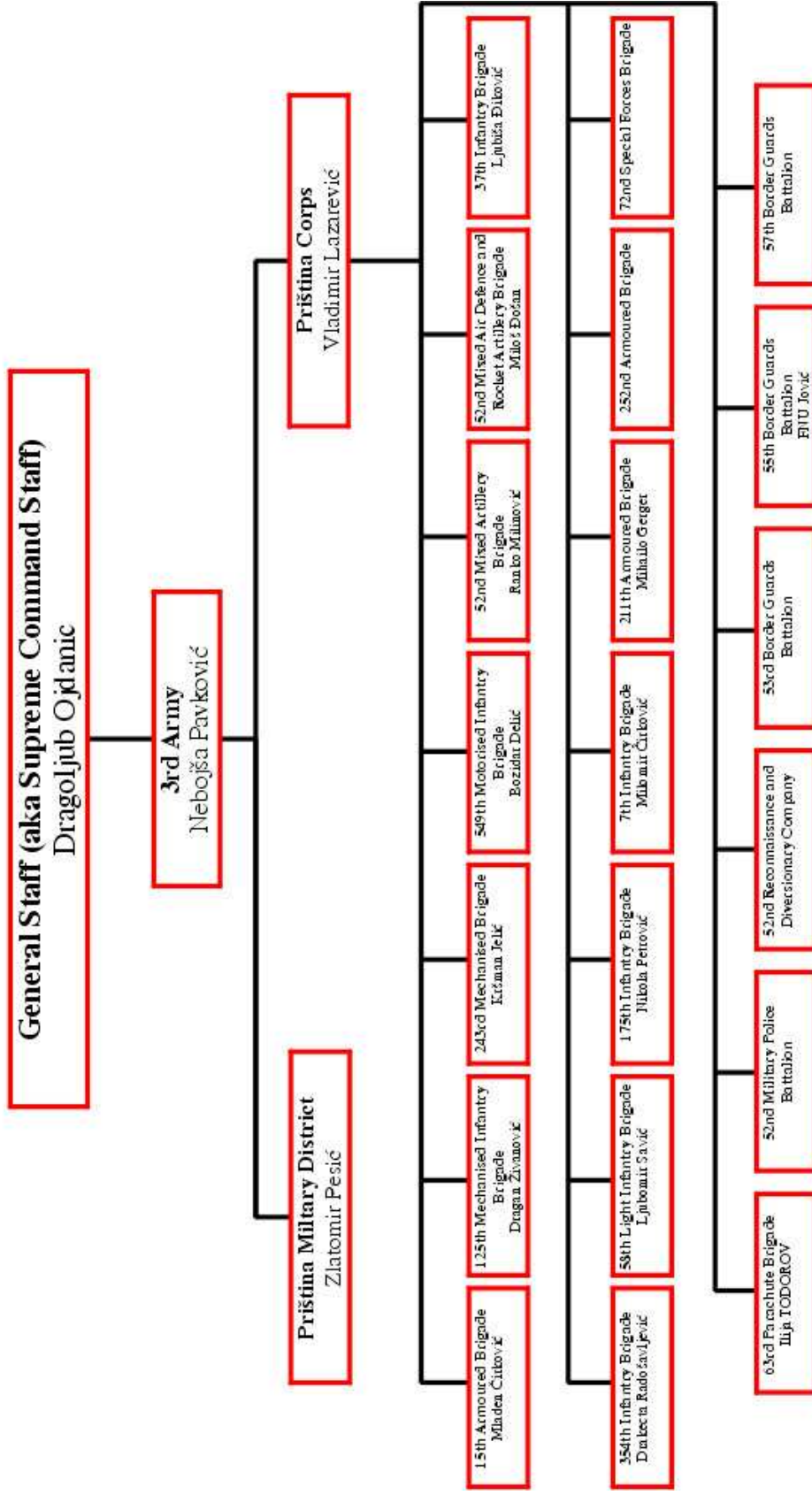
The Office of the Prosecutor:

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Mr. Chester Stamp
Ms. Daniela Kravetz

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Mr. Tomislav Višnjić and Mr. Norman Sepenuk for Dragoljub Ojdanić
Mr. John Ackerman and Mr. Aleksander Aleksić for Nebojša Pavković
Mr. Mihaljo Bakrac and Mr. Đuro Čepić for Vladimir Lazarević
Mr. Branko Lukić and Mr. Dragan Ivetić for Sreten Lukić

Command Structure of the Army of Yugoslavia (VJ)



**THE INTERNATIONAL CRIMINAL TRIBUNAL
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SRETEN LUKIĆ**

ANNEX E (Exhibit P2555)

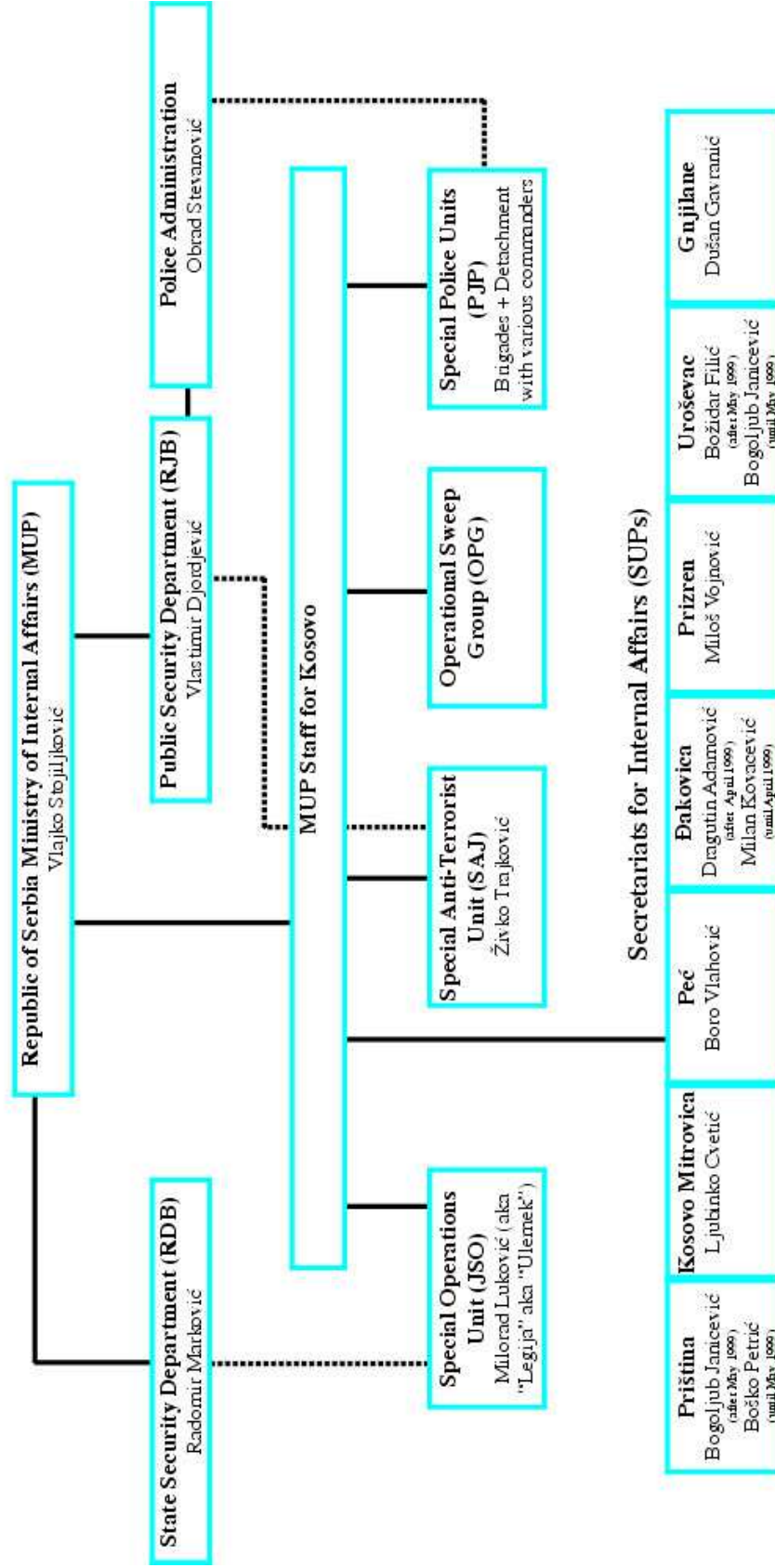
The Office of the Prosecutor:

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Command Structure of the Republic of Serbia Ministry of Internal Affairs (MUP)



**THE INTERNATIONAL CRIMINAL TRIBUNAL
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NEBOJŠA PAVKOVIĆ
VLADIMIR LAZAREVIĆ
SRETEN LUKIĆ**

ANNEX F

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Mr. Mihaljo Bakrac and Mr. Đuro Čepić for Vladimir Lazarević
Mr. Branko Lukić and Mr. Dragan Ivetić for Sreten Lukić

Glossary of Terms

AOR	Area of responsibility
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
CO	Civilian Defence
CZ	Civil Protection
Forces of the FRY and Serbia	The forces set out in paragraph 20 of the Indictment
FRY	Federal Republic of Yugoslavia
HQ	Headquarters
ICC Statute	Rome Statute of the International Criminal Court
ICMP	International Commission on Missing Persons
ICRC	International Committee of the Red Cross
Indictment	<i>Milutinović</i> Third Amended Indictment, 21 June 2006
Indictment period	1 January to 20 June 1999
JCE	Joint Criminal Enterprise
JSO	Jedinica za Specijalne Operacije, Special Operations Unit of Ministry of Interior of Republic of Serbia
KDOM	Kosovo Diplomatic Observation mission
KLA/UÇK	Kosovo Liberation Army/Ushtria Çlirimtare e Kosovës
KVM	Kosovo Verification Mission
LDK	Lidhja Demokratike e Kosovës, Democratic League of Kosovo
LPK	Lëvizja Popullore e Kosovës, Kosovo People's movement
Ltbg	Light Infantry Brigade
Mbr	Mechanized Brigade
MOD	Federal Ministry of Defence
MPBn	Military Police Battalion
Mtbr	VJ Motorized Infantry Brigade, brigade subordinate to the Pristina Corps
MUP	<i>Ministarstvo unutrašnjih poslova</i> , Ministry of the 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-Perišić 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)
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	Municipal Police Station
PJP	Posebne Jedinice Policije, Special Police Unit
PrK	Prištinski korpus, Pristina Corps
RJB	State Security Division of the Ministry of Interior
RPO	Reserve Police Detachment
SAJ	Specijalna anti-teroristička jedinica, Special Anti-terrorist unit of the Ministry of Interior of Republic of Serbia
SC	Supreme Command
SC Staff	Supreme Command Staff
SDC	Supreme Defence Council
SFRY	Socialist Federal Republic of Yugoslavia
SPS	Socialist Party of Serbia
Statute	Statute of the International Tribunal for the former Yugoslavia
SUP	Sekretarijat za Unutrašnje Poslove, Secretariat of Internal Affairs Secretariat of the Interior
TEC	Temporary Executive Council
VJ	Vojska Jugoslavije, Army of Yugoslavia
VJC	VJ Collegium
VJ General Staff	General Staff of the Army of Yugoslavia
VOk	Military Districts
VTO	Military Territorial Detachment
VTOd	Military Territorial Units

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> TJ	<i>Prosecutor v. Vidoje Blagojević & 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>Brđanin</i> TJ	<i>Prosecutor v Radoslav Brđanin</i> , Case No. IT-99-36-T, T. Ch., Judgement, 1 September 2004
<i>Brđanin</i> AJ	<i>Prosecutor v. Radoslav Brđanin</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>Galić</i> AJ	<i>Prosecutor v. Stanislav Galić</i> , Case No. IT-98-29-A, App.Ch., Judgement, 30 November 2006
<i>Hadžihasanović</i> Superior	<i>Prosecutor v. Enver Hadžihasanović and Amir Kubura</i> , Case No.IT-

Responsibility AD	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> 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>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>Krnjelac</i> TJ	<i>Prosecutor v. Milorad Krnjelac</i> , Case No. IT-97-25-T, T.Ch., Judgement, 15 March 2002
<i>Krnjelac</i> AJ	<i>Prosecutor v. Milorad Krnjelac</i> , Case No. IT-97-25-A, App.Ch., Judgement, 17 September 2003
<i>Krstić</i> TJ	<i>Prosecutor v. Radislav Krstić</i> , Case No. IT-98-33-T, T.Ch., Judgement, 2 August 2001
<i>Kunarac</i> AJ	<i>Prosecutor v. Dragoljub Kunarac, Radomir Kovač and Zoran Vuković</i> , Case No. IT-96-23 & IT-96-23/1-A, App.Ch., Judgement, 12 June 2002
<i>Kunarac</i> TJ	<i>Prosecutor v. Dragoljub Kunarac, Radomir Kovač and Zoran Vuković</i> , Case No. IT-96-23 & IT-96-23/1-T, T.Ch., Judgement, 22 February 2001
<i>Kupreškić</i> TJ	<i>Prosecutor v. Zoran Kupreškić, Mirjan Kupreškić, Vlatko Kupreškić, Drago Josipović, Dragan Papić and Vladimir Šantić, a.k.a. "Vlado"</i> , Case No. IT-95-16-T, T.Ch., Judgement, 14 January 2000
<i>Kvočka</i> TJ	<i>Prosecutor v. Miroslav Kvočka, Milojica Kos, Mlado Radić, Zoran Žigić and Dragoljub Prcać</i> , Case No. IT-98-30/1-T, T.Ch., Judgement, 2 November 2001
<i>Kvočka</i> AJ	<i>Prosecutor v. Miroslav Kvočka, Milojica Kos, Mlado Radić, Zoran Žigić and Dragoljub Prcać</i> , Case No. IT-98-30/1-A, App.Ch., Judgement, 28 February 2005
<i>Limaj</i> TJ	<i>Prosecutor v. Fatmir Limaj, Haradin Bala and Isak Musliu</i> , Case No. IT-03-66-T, T.Ch., Judgement, 30 November 2005
<i>Martić</i> TJ	<i>Prosecutor v. Milan Martić</i> , Case No. IT-95-11-T, T.Ch., Judgement, 12 June 2007

<i>Milošević 98bis</i> Decision	<i>Prosecutor v. Slobodan Milošević</i> , Case No. IT-02-54-T, Decision on Motion for Judgement of Acquittal, 16 June 2004
<i>Mrksić</i> TJ	<i>Prosecutor v. Mile Mrksić, Miroslav Radić and Veselin Šljivančanin</i> , Case No. IT-95-13/1-T, T.Ch., Judgement, 27 September 2007
<i>Naletilić</i> TJ	<i>Prosecutor v. Mladen Naletilić and Vinko Martinović</i> , Case No. IT-98-34-T, T.Ch., Judgement, 31 March 2003
<i>Orić</i> TJ	<i>Prosecutor v. Naser Orić</i> , Case No. IT-03-68-T, T.Ch., Judgement, 30 June 2006
<i>Orić</i> AJ	<i>Prosecutor v. Naser Orić</i> , Case No. IT-03-68-A, App.Ch., Judgement, 3 July 2008
<i>Simić</i> TJ	<i>Prosecutor v. Blagoje Simić, Miroslav Tadić, Simo Zarić</i> , Case No. IT-95-9-T, T.Ch., Judgement, 17 October 2003
<i>Stakić</i> TJ	<i>Prosecutor v. Milomir Stakić</i> , Case No. IT-97-24-T, T.Ch., Judgement, 31 July 2003
<i>Stakić</i> AJ	<i>Prosecutor v. Milomir Stakić</i> , Case No. IT-97-24-A, App.Ch. Judgement, 22 March 2006
<i>Strugar</i> TJ	<i>Prosecutor v. Pavle Strugar</i> , Case No. IT-01-42-T, T.Ch., Judgement, 31 January 2005
<i>Tadić</i> Jurisdiction AD	<i>Prosecutor v. Duško Tadić a/k/a “Dule”</i> , Case No. IT-94-1-AR72, App.Ch., Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995
<i>Tadić</i> TJ	<i>Prosecutor v. Duško Tadić a/k/a “Dule”</i> , Case No. IT-94-1-T, T.Ch., Opinion and Judgement, 7 May 1997
<i>Tadić</i> AJ	<i>Prosecutor v. Duško Tadić a/k/a “Dule”</i> , Case No. IT-94-1-A, App.Ch., Judgement, 15 July 1999
<i>Vasiljević</i> TJ	<i>Prosecutor v. Mitar Vasiljević</i> , Case No. IT-98-32-T, T.Ch., Judgement, 29 November 2002
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